

DRAFT
Non-Exclusive Temporary Debris Box and Roll-off
Collection Service Agreement

Executed Between the
City of Rohnert Park
And

This ____ day of ____ 2016



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DRAFT

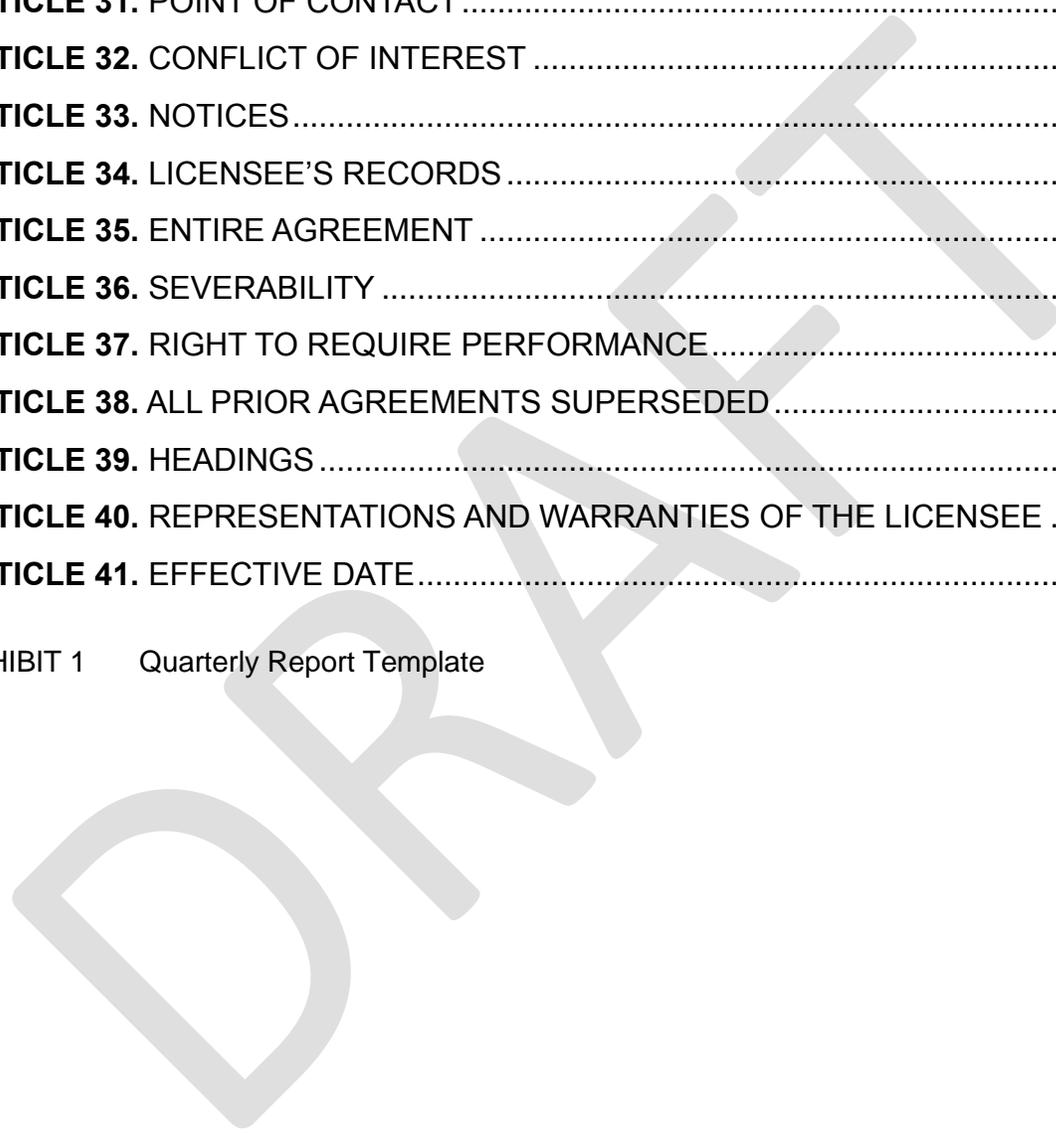
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EXHIBIT 1 Quarterly Report Template



CITY OF ROHNERT PARK

This Agreement made and entered into this ____ day of _____, 2016, by and between the City of Rohnert Park, State of California, hereinafter referred to as "CITY" and _____, a _____ corporation, hereinafter referred to as "LICENSEE."

RECITALS

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

WHEREAS; the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the Act, directed the responsible State agency, and all local agencies, to promote disposal site diversion and to maximize the use of feasible Solid Waste reduction, re-use, recycling, and composting options in order to reduce the amount of Solid Waste that must be disposed of in disposal sites; and,

WHEREAS; the City Council has determined through a competitive procurement process for Non-Exclusive Temporary Debris Box and Roll-off Collection Services that LICENSEE, by demonstrated experience, reputation and capacity, is qualified to provide for the Non-Exclusive Temporary Debris Box and Roll-off Collection Services within the corporate limits of the CITY, the transportation of such material to appropriate places for processing, recycling, composting and/or disposal; and City Council desires that LICENSEE be engaged to perform such services on the basis set forth in this Agreement; and

WHEREAS; the LICENSEE, through its proposal to the CITY, has proposed and represented that it has the ability and capacity to provide for the Non-Exclusive Temporary Debris Box and Roll-off Collection Services within the corporate limits of the CITY; the transportation of such material to appropriate places for processing, recycling, composting and/or disposal; and the processing of materials; and

WHEREAS, this Agreement has been developed by and is satisfactory to the CITY and the LICENSEE,

Now, therefore, in consideration of the mutual covenants, conditions, and consideration contained herein, the CITY and LICENSEE hereby agree as hereinafter set forth:

ARTICLE 1. Definitions

For the purpose of this Collection Service Agreement, hereinafter referred to as "Agreement," the definitions contained in this Article shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Article, the definition of such word or phrase as contained in Division B6 of the CITY Municipal Code shall control. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender.

1.01 AB 939. The California Integrated Waste Management Act (California Public Resources Code Sections 40000 et al.), as amended from time to time.

1.02 Agreement. The written document and all amendments thereto, between the CITY and the LICENSEE, governing the provision of Non-Exclusive Temporary Debris Box and Roll-off Collection Services as provided herein.

1.03 Agreement Year. The first Agreement Year will be the twelve (12) month period from January 1st to December 31st, beginning January 1, 2017. Each subsequent Agreement Year will be the twelve (12) month period from January 1st to December 31st, beginning January 1, 2018.

1.04 Application. The Non-Exclusive Temporary Debris Box and Roll-off Collection License Application submitted by LICENSEE to CITY to provide Non-Exclusive Temporary Debris Box and Roll-off Collection Service.

1.05 Biohazardous or Biomedical Waste. Any waste which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are waste resulting from the operation of medical clinics, hospitals, and other facilities processing wastes which may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves.

1.06 Brown Goods. Electronic equipment such as stereos, televisions, VCR's, Personal Data Assistants (PDAs), telephones, and other similar items not containing cathode ray tubes (CRTs).

1.07 Business Service Unit. All retail, professional, wholesale and industrial facilities, and other commercial enterprises offering goods or services to the public.

1.08 CITY. The City of Rohnert Park, California.

1.09 City Representative. That person, or their designee, designated by the CITY to administer and monitor the provisions of this Agreement.

1.10 Collection. The process whereby Non-Exclusive Temporary Debris Box and Roll-offs materials are removed and transported to a processing facility that has appropriate State and local permits.

1.11 Commercial Service Unit. Business Service Units, and Mixed Use Dwellings that utilize a Garbage Cart or Bin for the accumulation and set-out of Solid Waste.

1.12 Composting. The controlled biological decomposition of Green Waste into a specific mixture of decayed organic matter used for fertilizing or soil conditioning.

1.13 Construction and Demolition Debris. Commonly used or discarded materials removed from construction, remodeling, repair, demolition, or renovation operations on any

pavement, house, commercial building, or other structure, or from landscaping. Such materials include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, rocks, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from Construction, remodeling, renovation, repair and demolition operations on pavements, houses, commercial buildings and other structures. With the exception of soil, dirt, concrete, and asphalt, Construction and Demolition Debris does not include Garbage and Exempt Waste.

1.14 Consumer Price Index (CPI). The Consumer Price Index (CPI) published by the Bureau of Labor Statistics (BLS), series ID: CUURA422SA0, All Urban Consumers, All Items, San Francisco-Oakland-San Jose area.

1.15 County. Sonoma County, California.

1.16 Disposal Facility. The Sonoma County Central Landfill/Transfer Station System, or such other disposal facility as directed by the CITY in writing in the event that CITY's disposal commitments change during the term of this Agreement.

1.17 Diversion. Means activities that reduce or eliminate the amount of solid waste, garbage, green waste, and construction and demolition debris that is disposed of in a solid waste or other permitted landfill.

1.18 Dwelling Unit. Any individual living unit in a single family dwelling (SFD) or multi-family dwelling (MFD) structure or building intended for, or capable of being utilized for, residential living other than a Hotel or Motel.

1.19 E-Waste. Discarded electronics equipment such as cell phones, computers, monitors, televisions, and other items containing cathode ray tubes (CRTs).

1.20 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste, Household Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, and those wastes under the control of the Nuclear Regulatory Commission.

1.21 Garbage. All putrescible waste which generally includes, but is not limited to, kitchen and table food waste, animal, vegetative, food or any other waste that is attendant with, or results from the storage, preparation, cooking or handling of food materials attributed to normal activities of a Service Unit. Garbage must be generated by and at the Service Unit wherein the Garbage is collected. Garbage does not include those items defined herein as Green Waste or Exempt Waste.

1.22 Green Waste. Any vegetative matter resulting from normal yard and landscaping maintenance that is not more than three (3) feet in its longest dimension or six (6) inches in diameter and fits in the Green Waste Cart utilized by the Service Recipient. Green Waste includes plant debris, such as Palm, Yucca and Cactus, grass clippings, leaves, pruning, weeds, branches, brush, Holiday Trees, and other forms of vegetative waste and must be generated by and at the Service Unit wherein the Green Waste is collected. Green Waste does not include items herein defined as Exempt Waste.

1.23 Green Waste Processing Facility. Any facility selected by the LICENSEE that is designed, operated and legally permitted for the purpose of receiving and processing Green Waste, Vegetative Food Waste and Large Green Waste.

1.24 Hazardous Waste. Any material which is defined as a hazardous waste under California or United States law or any regulations promulgated pursuant to such law, as such, law or regulations may be amended from time to time.

1.25 Household Hazardous Waste. Any Hazardous Waste generated at an SFD or MFD Service Unit.

1.26 Large Green Waste. Oversized Green Waste such as tree trunks and branches with a diameter of not less than six (6) inches and not more than two (2) feet and a length of not more than five (5) feet in its longest dimension, which are attributed to the normal activities of a SFD, MFD, or City Service Unit. Large Green Waste must be generated by and at the Service Unit wherein the Large Green Waste is collected.

1.27 LICENSEE. _____

1.28 Materials Recovery Facility (MRF). Any facility, selected by the LICENSEE and approved by the CITY, or specifically designated by the CITY, designed, operated, and legally permitted for the purpose of receiving, sorting, processing, storing, or preparing Recyclable Materials for sale and/or recycling.

1.29 MFD Service Unit. Any combination of Dwelling Units in the Service Area utilizing a common Garbage Bin for the accumulation and set-out of Solid Waste.

1.30 Non-Exclusive Temporary Debris Box and Roll-off Collection License. The License granted by the CITY to the LICENSEE to provide Non-exclusive Temporary Debris Box and Roll-off Collection Service.

1.31 Non-Exclusive Temporary Debris Box and Roll-off Collection Service. Collection utilizing 1 – 8 cubic yard bins serviced by scout trucks (not front-end or rear loaders), or 10 – 40 cubic yard containers serviced by roll-off vehicles that are provided to Service Units for collection of non-putrescible waste and Construction and Debris Materials by a person or company that holds a valid Non-exclusive Temporary Debris Box and Roll-off Collection License from the CITY and the delivery of that material to an appropriate facility.

1.32 Permanent Debris Box and Roll-off Service. Permanent Debris Box and Roll-off Service refers to those Service Units receiving collection service by Rohnert Park Disposal, Inc. (the CITY'S exclusive franchised hauler) that receive regularly scheduled cart, bin, debris boxes, roll-off, or compactor collection service. Permanent Debris Box and Roll-off Service also includes Service Units serviced by bins, debris boxes or roll-offs that have been placed and are pulled by Rohnert Park Disposal, Inc. on scheduled or on-call basis as part of the daily, normal activities of the Service Unit receiving the service.

1.33 Processing Facility. The licensed and permitted facility that meets local zoning and land use requirements that has been designated by the LICENSEE for the processing of recyclable materials, green waste, solid waste material, Construction and Demolition Debris, and other materials as appropriate.

1.34 Recyclable Materials. Those materials which are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste. Recyclable Materials include those materials defined by the CITY, including newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; scrap and cast aluminum (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); steel including "tin" cans, aerosol cans (empty, non-toxic products) and small scrap (not exceeding forty (40)

pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; plastic bottles (#1-7); aluminum foil and pans; dry cell household batteries when contained in a sealed heavy-duty plastic bag; and those materials added by the LICENSEE from time to time.

1.35 Roll-off Container. A metal container that is normally loaded onto a motor vehicle and transported to an appropriate facility.

1.36 Rubbish. All refuse, accumulation of paper, excelsior, rags, wooden boxes and containers, sweep-ups and all other accumulations of a nature other than Garbage and Green Waste, resulting from the normal activities of a Service Unit. Rubbish must be generated by and at the Service Unit wherein the Rubbish is collected. Rubbish does not include items herein defined as Exempt Waste.

1.37 Service Area. That area within the corporate limits of the City of Rohnert Park, California.

1.38 Service Recipient. An individual or company receiving Non-Exclusive Temporary Debris Box and Roll-off Collection Service.

1.39 Service Unit. SFD Service Units, MFD Service Units, and Commercial Service Units.

1.40 SFD Service Unit. Any Dwelling Unit in the Service Area utilizing a Garbage Cart, or any combination of Dwelling Units sharing Garbage Carts, for the accumulation and set out of Solid Waste.

1.41 Sludge. The accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects.

1.42 Solid Waste. Garbage and Rubbish resulting from the normal activities of a Service Unit. Solid Waste must be generated by and at the Service Unit wherein the Solid Waste is collected and does not include items defined herein as Exempt Waste.

1.43 Source Separated Recyclable Materials. Recyclable Materials that are separated from all other Solid Waste, Rubbish, or Green Waste at the Service Unit prior to collection by the LICENSEE.

1.44 SCWMA. The Sonoma County Waste Management Agency.

1.45 Transfer Facility. The licensed and permitted facility designated by the LICENSEE for transfer of Construction and Demolition Debris, and other materials as appropriate prior to deliver to a Processing Facility.

1.46 White Goods. Discarded refrigerators, ranges, water heaters, freezers, and other similar household appliances.

1.47 Work Day. Any day, Monday through Saturday that is not a holiday as set forth in Section 3.09 of this Agreement.

ARTICLE 2. Term of Agreement

2.01 Term. The initial term of this Agreement shall be for a three and a half (3.5) year period beginning January 1, 2017 and terminating on June 30, 2020.

2.02 Extensions. At the sole discretion of the CITY, by City administrative action, the CITY may grant LICENSEE one or more extensions to the term of this Agreement for an amount of time up to a maximum total of five (5) additional years, for a total possible term of 8.5 years, ending June 30, 2025.

2.02.1 Notification of Eligibility. Beginning on or about January 1, 2019, provided the City Manager determines that the LICENSEE has met all the requirements of the Agreement, including but not limited to, the Diversion Standards set forth in Article 5 and the Record Keeping and Reporting Requirements set forth in Article 8, the CITY may offer the LICENSEE in writing one or more extensions to the term of this Agreement for an amount of time to be determined by the CITY, but for no more than an additional five (5) years total. LICENSEE shall provide written notice to the CITY as to whether LICENSEE accepts or rejects the CITY'S offer within twenty (20) Work Days of the date of the offer. If the LICENSEE accepts the offer, the LICENSEE shall also submit the Extension Administration Fee payment described in Section 2.02.2 below within twenty (20) Work Days of the offer. If LICENSEE fails to provide either the written notice or the payment to the CITY within twenty (20) Work Days, the CITY's offer of an extension shall be deemed withdrawn.

2.02.2 Extension Administration Fee. If LICENSEE accepts the CITY's offer of extension, the LICENSEE shall make a payment to the CITY of \$2,500 for each year the Agreement is extended, to cover the CITY's administrative costs incurred in extending the Agreement. This payment shall be due to the CITY with the LICENSEE's written notice of acceptance described in Section 2.02.1 above.

2.03 Maximum Term. The maximum term of the Agreement, including all extensions, shall not extend beyond June 30, 2025.

ARTICLE 3. Services Provided by the LICENSEE

3.01 Grant of Non-Exclusive Agreement. Except as otherwise provided in this Agreement, the LICENSEE is herein granted an agreement to provide Non-Exclusive Temporary Debris Box and Roll-off Collection Service within the Service Area. No other solid waste or recycling service shall be provided by the LICENSEE.

3.02 Limitations to Scope of Non-Exclusive Agreement. The service provided by LICENSEE shall exclude the following categories of solid waste:

3.02.1 Garbage, Green Waste or Recycling carts or bins from any Service Unit covered under the separate Franchise Agreement between the CITY and Rohnert Park Disposal, Inc. (the CITY's exclusive franchise hauler);

3.02.2 Collection from any Service Unit that receives Permanent Debris Box and Roll-off Service from Rohnert Park Disposal, Inc. (the CITY'S exclusive franchised hauler);

3.02.3 Large Items removed from a premises by a property cleanup or maintenance company as an incidental part of the total cleanup or maintenance service offered by the company rather than as a hauling service;

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

3.02.5 By-products of sewage treatment, including Sludge, ash, grit and screenings;

3.02.6 Hazardous Waste regardless of its source; and

3.02.7 Residential Waste, Commercial Waste, City Waste, or Recyclable Materials that are removed from a premise by a company through the performance of a service that the LICENSEE has elected not to provide.

3.03 LICENSEE acknowledges and agrees that the CITY may permit other persons besides the LICENSEE to collect any and all types of materials excluded from the scope of this Agreement, as set forth above, without seeking or obtaining approval of LICENSEE. If LICENSEE can produce evidence that other persons are servicing Collection containers or are Collecting Solid Waste, Recyclable Materials, Large Items and/or Green Waste in a manner that is not consistent with the CITY'S Municipal Code or this Agreement, it shall report the location, the name and phone number of the person or company to the CITY along with LICENSEE'S evidence of the violation of the exclusiveness of this Agreement and CITY shall take appropriate action to enforce the Code and this Agreement.

3.03.1 The scope of this Agreement shall be interpreted to be consistent with applicable law, now and during the term of the Agreement. If future judicial interpretations of current law or new laws, regulations, or judicial interpretations limit the ability of the CITY to lawfully provide for the scope of services as specifically set forth herein, LICENSEE 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 LICENSEE to arise out of limitations of the scope of the Agreement set forth herein. In such an event, it shall be the responsibility of LICENSEE to minimize the financial impact of such future judicial interpretations or new laws.

3.04 Service Standards. LICENSEE shall perform all Non-Exclusive Temporary Debris Box and Roll-off Collection Services under this Agreement in a thorough and professional manner. Non-Exclusive Temporary Debris Box and Roll-off Collection Services described in this Agreement shall be performed regardless of weather conditions or difficulty of Collection.

3.05 Hours and Days of Collection.

3.05.1 Non-Exclusive Temporary Debris Box and Roll-off Collection Service shall be provided, commencing no earlier than 7:00 a.m. and terminating no later than 6:00 p.m., Monday through Friday, and commencing no earlier than 8:00 a.m. and terminating no later than 5:00 p.m. on Saturday (except for holiday service as set forth in Section 3.09 of this Agreement in which case normal Collection hours may be utilized), with no service on Sundays. The hours, days, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of the City Representative.

3.05.2 The CITY may direct LICENSEE to reduce the collection hours in areas around schools to 3:00 p.m. and in high traffic areas during peak commute hours. The CITY may direct LICENSEE to reduce the collection hours in areas around schools to 3:00 p.m. and in high traffic areas during peak commute hours. When the CITY is conducting road overlay or slurry projects, the CITY reserves the right to temporarily redirect or restrict LICENSEE from collection in the affected areas or temporarily change the collection hours if needed. The hours of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of the City Representative. In the event that Commercial Service Units are within 100 feet of SFD Service Units, or the CITY or the LICENSEE receives repeated noise complaints from residents, the Hours of collection for Commercial Non-Exclusive Temporary Debris Box and Roll-off Collection Services shall be the same as SFD Non-Exclusive Temporary Debris Box and Roll-off Collection Services as specified in Section 3.05 herein.

3.06 Manner of Collection. The LICENSEE shall provide Non-Exclusive Temporary Debris Box and Roll-off Collection Services with as little disturbance as possible and shall place debris boxes without obstructing alleys, roadways, driveways, sidewalks, or mail boxes.

3.07 Containers.

3.07.1 Ownership of Roll-off Containers. Ownership of Roll-off Containers distributed by the LICENSEE shall rest with the LICENSEE except in the case of the termination of the Agreement prior to the expiration of the initial term or optional extension term due to the default of the LICENSEE. Under such circumstances, the CITY shall have the right to take possession of the containers and shall retain such possession until satisfactory arrangements can be made to provide Non-Exclusive Temporary Debris Box and Roll-off Collection Services using other equipment. Such time of possession shall not be limited and regardless of the time of possession, there shall be no monies owing to the LICENSEE from the CITY for the use of the equipment. Upon the receipt of written notice from the CITY, LICENSEE shall submit to the City Representative an inventory of containers, including their locations.

3.07.2 Inspection and Cleaning. LICENSEE shall inspect all debris boxes and containers prior to delivery. Debris boxes shall be in safe, sanitary, and operable condition with working doors, hinges, locking devices, safety devices, floors and side walls without holes, free of material or material build up, and without broken wheels, welds, or ladders that could cause street damage or harm to users. All containers will have the name of the Licensee and a local toll free phone number visible on all four sides in lettering greater than four (4) inches.

3.07.3 LICENSEE shall remove any and all graffiti within 24 hours of being identified by the LICENSEE or City Representative. LICENSEE shall not deliver a container without LICENSEE information or with any graffiti visible on the container.

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

3.09 Holiday Service. The CITY observes January 1st, Independence Day, Labor Day, Thanksgiving Day, and December 25th as legal holidays. LICENSEE shall not provide Non-Exclusive Temporary Debris Box and Roll-off Collection Services on the designated holidays. In any week in which one of these holidays falls on a Work Day, SFD Non-Exclusive Temporary Debris Box and Roll-off Collection Services for the holiday and each Work Day thereafter will be delayed one Work Day for the remainder of the week with normally scheduled Friday Non-Exclusive Temporary Debris Box and Roll-off Collection Services being performed on Saturday.

3.10 Transfer, Recycling, Processing and Disposal.

3.10.1 Transfer, Recycling, Processing and Disposal Facilities. LICENSEE shall use the Sonoma County Central Landfill/Transfer Station System for disposal of all non-recyclable residual material, consistent with CITY'S disposal commitments. LICENSEE shall select, subject to City's written approval, the transfer, recycling, and processing facilities, provided that any resulting non-recyclable residue from such facilities must be delivered to the Sonoma County Central Landfill/Transfer Station System for disposal, or such other disposal facility as directed by the CITY in writing in the event that CITY'S disposal commitments change

during the term of this Agreement. Material collected under this Non-Exclusive Temporary Debris Box and Roll-off Collection Service Agreement shall be delivered to facilities that comply with the California Department of Resources Recycling and Recovery (CalRecycle) regulations under Title 14, Division 7, Chapter 3, Minimum Standards for Solid Waste Handling and Disposal (Article 5.9 – Sections 17380-17386). Except as set forth below, all material collected as a result of performing Non-Exclusive Temporary Debris Box and Roll-off Collection Services must be transported to, and delivered on the same day as collection, to a properly permitted recycling or processing facility. All material collected will be weighed and documented through a weight ticket using certified scales located at the receiving facility. In the event the recycling or processing or disposal facility is closed on a Work Day, the LICENSEE shall transport the material at such other legally permitted facility. LICENSEE must assure that all recycling and processing facilities are properly permitted to receive material collected under the Non-Exclusive Temporary Debris Box and Roll-Off Services Agreement. Failure to comply with this provision shall result in the levy of Liquidated Damages as specified in Article 11 of this Agreement and may result in the LICENSEE being in default under this Agreement. LICENSEE may deliver Source Separated Recyclables to a recycling facility that is exempt from Title 14, Chapter 3, Minimum Standards for Solid Waste Handling and Disposal (Article 5.9 – Sections 17380-17386), provided that such an exempt recycling facility is approved to accept Source Separated Recyclables, and is fully licensed and permitted and meets local land use and zoning requirements.

3.10.2 LICENSEE must assure that all transfer, recycling, or processing facilities selected by LICENSEE shall possess all existing permits and approvals by local enforcement agencies, planning and land use departments for the transfer, recycling, or processing site to be in full compliance with all regulatory agencies to conduct all operations at the approved location. LICENSEE shall, upon written request from the CITY, arrange for the facilities selected by the LICENSEE, provide copies of facility permits, notices of violations, inspection areas or concerns, or administrative action to correct deficiencies related to the operation. Failure to provide facility information shall result in the levy of Liquidated Damages as specified in Article 11 of this Agreement and may result in the LICENSEE being in default under this Agreement.

3.10.3 Processing and Disposal. LICENSEE shall process and dispose of all material collected from Service Units pursuant to this Agreement in accordance with the following hierarchy:

- Reuse
- Disassemble for reuse or recycling
- Recycle
- Transformation for biomass energy
- Disposal

3.10.4 LICENSEE shall not landfill such collected material unless the material cannot be reused or recycled.

3.10.5 Flow Control – Reservation of Rights. CITY reserves whatever, if any, right it might have or receive to exercise “flow control” (i.e., the right to select transfer, recycling, processing, or disposal facilities to which the material to be collected pursuant to this Agreement is to be taken). The CITY may direct LICENSEE to transport material to a particular facility (or facilities) at any point during the term of this Agreement. In the event CITY directs LICENSEE to

transport material to a particular facility, CITY and LICENSEE agree to use their best efforts to obtain indemnification against CERCLA, RCRA and related claims from the operator of the facility to which material pursuant to this Agreement is taken for processing and/or disposal. In the event that CITY selects a facility, LICENSEE shall be entitled to a rate adjustment, as provided for in Article 4 below, to offset for any substantiated increase or decrease in expenses resulting from the CITY's exercise of flow control.

3.11 Inspections. The CITY shall have the right to inspect the LICENSEE'S facilities or collection vehicles and their contents at any time while operating inside or outside the CITY.

3.12 Spillage and Litter. The LICENSEE shall not litter premises in the process of providing Non-Exclusive Temporary Debris Box and Roll-off Collection Services or while its vehicles are on the road. The LICENSEE shall transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from the LICENSEE'S vehicle. The LICENSEE shall exercise all reasonable care and diligence in providing Non-Exclusive Temporary Debris Box and Roll-off Collection Services so as to prevent spilling or dropping of and material and shall immediately, at the time of occurrence, clean up such spilled or dropped materials. All temporary containers and debris boxes will be tarped or covered transporting on CITY streets.

3.12.1 The LICENSEE shall not be responsible for cleaning up sanitary conditions caused by the carelessness of the Service Recipient; however, the LICENSEE shall clean up any material or residue that are spilled or scattered by the LICENSEE or its employees.

3.12.2 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from the LICENSEE'S operations or equipment repair shall be covered immediately with an absorptive material and removed from the street surface. When necessary, LICENSEE shall apply a suitable cleaning agent to the street surface to provide adequate cleaning. To facilitate such cleanup, LICENSEE'S vehicles shall at all times carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

3.12.3 The above paragraphs notwithstanding, LICENSEE shall clean up any spillage or litter caused by LICENSEE within two (2) hours upon notice from the CITY.

3.12.4 In the event where damage to CITY streets is caused by a hydraulic oil spill, LICENSEE shall be responsible for all repairs to return the street to the same condition prior to the spill. LICENSEE shall also be responsible for all clean-up activities related to the spill. Repairs and clean-up shall be performed in a manner satisfactory to the City Representative and at no cost to the CITY.

3.13 Ownership of Materials. Title to Non-Exclusive Temporary Debris Box and Roll-off material shall pass directly from the generator to LICENSEE at such time as said materials are placed in the LICENSEE'S container that is placed for collection. Nothing in this Agreement shall be construed as giving rise to any inference that City has such title, ownership or possession.

3.14 Hazardous Waste.

3.14.1 Under no circumstances shall LICENSEE'S employees knowingly collect Hazardous Waste, or remove unsafe or poorly containerized Hazardous Waste, from a Collection container. If LICENSEE determines that material placed in any container for Collection is Hazardous Waste, or other material that may not legally be accepted at the Disposal Facility or one of the processing facilities, or presents a hazard to LICENSEE'S

employees, the LICENSEE shall have the right to refuse to accept such material. The generator shall be contacted by the LICENSEE and requested to arrange for proper disposal service. If the generator cannot be reached immediately, the LICENSEE shall, before leaving the premises, leave a Non-Collection Notice, which indicates the reason for refusing to collect the material.

3.14.2 If Hazardous Waste is found in a Collection container that poses an imminent danger to people or property, the LICENSEE shall immediately notify the Rohnert Park Police Department. The LICENSEE shall immediately notify the CITY of any Hazardous Waste that has been identified.

3.14.3 If Hazardous Waste is identified at the time of delivery to the one of the transfer, recycling, processing or disposal facilities and the generator cannot be identified, LICENSEE shall be solely responsible for handling and arranging transport and proper disposition of the Hazardous Waste.

3.15 Regulations and Record Keeping. LICENSEE shall comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations shall be maintained at the LICENSEE'S facility. These records shall include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

ARTICLE 4. Charges and Payments to City

4.01 Non-Exclusive Temporary Debris Box and Roll-off Collection Services. The LICENSEE shall be responsible for all customer rate setting, billing and collection of payments for all Non-Exclusive Temporary Debris Box and Roll-off Collection Services.

NOTE: Sections 4.02 and 4.03 below (regarding customer rates and customer rate adjustments) will only be included in the Agreement in the event that there is only one active LICENSEE in the City or if the facts and circumstances warrant regulation.

4.02 Service Rate Elements. The Maximum Collection Service Rates may be established and adjusted from time to time by the CITY by calculating changes to the following customer rate "elements": a *Collection Element*, a *Processing Element*, a *Franchise Fee Element*, and such other elements as may be added by the CITY during the term of this Agreement.

4.03 Adjustments to Maximum Collection Service Rates.

4.03.1 Adjustments to *Collection Elements* Using the Consumer Price Index (CPI). Beginning on January 1, 2018, and annually thereafter, LICENSEE shall, subject to compliance with all provisions of this Article, receive an annual adjustment in the *Collection Elements* of the Maximum Collection Service Rates as set forth in Section 9 of the Application submitted by LICENSEE which is attached to and included in this Agreement.

4.03.2 CPI Adjustment. Beginning on January 1, 2018, and annually thereafter during the term of this Agreement, the *Collection Elements* of the Maximum Collection Service Rates set forth in Section 4.03.1 above shall be adjusted by the CPI adjustment set forth below. In any year that the calculation of the CPI results in a negative number, there shall be no adjustment of the *Collection Elements*. Instead, the negative CPI number shall be added to the result of the subsequent years CPI calculation and the result shall be the CPI adjustment for that subsequent year.

4.03.2.1 The CPI adjustment shall be equal to the percentage change between the average CPI index value for the prior preceding 12 months ending June 30th and the average CPI index value for the preceding 12 months ending June 30th. Therefore, the first *Collection Element* rate adjustment effective January 1, 2018 will be based on the percentage changes between the 12-month average of the CPI for the prior year ended June 30, 2016 and the 12-month average of the CPI for the year ended June 30, 2017.

4.03.2.2 Annual adjustments shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. The indices shall be truncated at four (4) decimal places for the adjustment calculations.

4.03.2.3 As of November 15, 2017, and annually thereafter during the term of this Agreement, the City Representative shall notify LICENSEE of the CPI adjustment to the affected service rates to take place on the subsequent January 1st.

4.03.3 Adjustments to Processing Elements. The Processing Elements of the Maximum Collection Service Rates are to be adjusted based on the percentage change between the per-ton tip fee charged at the applicable processing facility on the prior January 1st and the tip fee that will be effective on the upcoming January 1st rate adjustment date.

4.03.4 Adjustments to Franchise Fee Elements. The Franchise Fee Elements of the Maximum Collection Service Rates are to be adjusted so as to always equal a fixed percentage of the total customer rate. This percentage shall be equal to the percentage of the Monthly Franchise Fee Payment described in Section 4.04.1.1.

4.04 LICENSEE'S Payments to CITY. LICENSEE shall make payment to the CITY of such fees as may be specified in this Section.

4.04.1 Franchise Fee. To reimburse City for costs associated with administration of the Agreement and the impacts of the operations on City facilities and resources, and in consideration of the franchise granted to LICENSEE by the Agreement, LICENSEE shall make the following Franchise Fee payments to the City:

4.04.1.1 Monthly Franchise Fee Payments. LICENSEE shall pay CITY a monthly Franchise Fee payment ("Monthly Franchise Fee Payment") equal to fifteen percent (15%) of all gross revenue collected under the terms of the Agreement. Payment to CITY shall be due on the fifteenth (15th) day of the month following the month the revenues are collected. Each such payment shall be accompanied by an accounting, which sets forth LICENSEE'S gross revenues collected during the preceding month. Gross revenue shall specifically include revenue received by the LICENSEE from any entity, including Federal, State, County, or other local facilities within the Service Area for the provision of Non-Exclusive Temporary Debris Box and Roll-off Collection Services by the LICENSEE.

4.04.2 Out of County Processing Fees. If the LICENSEE elects not to use Sonoma County's solid waste facilities for transfer or processing of Construction and Demolition Debris Collected by the LICENSEE in accordance with this Agreement, LICENSEE shall pay any and all fees imposed by Sonoma County or the Sonoma County Waste Management Agency levied against the CITY for such non-use of the Sonoma County transfer or processing facilities. Any and all payments due by LICENSEE under this subsection 4.04.2 shall be paid within thirty (30) days' notice by the CITY.

4.04.3 Proposal Development Fee. The City requires the LICENSEE to reimburse the City its proportional share of a total of **Thirty Thousand Dollars (\$30,000)** for the

cost of this procurement, which is determined to be _____. The reimbursement is a one-time payment due within 30 days after execution of this Agreement.

4.04.4 Penalty for Late Payments. Any payments described in this Section 4.04 or elsewhere in the Agreement that are received by the CITY after their due date will be assessed a late penalty equal to twenty-five percent (25%) of the original amount due. Failure by LICENSEE to pay both the original payment amount and the late penalty within thirty (30) days of being notified of the late payment by the CITY will be considered an event of default, and the CITY may terminate the Agreement immediately.

4.05 No acceptance by CITY of any payment shall be construed as an accord that the amount is in-fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim CITY may have against LICENSEE for any additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to independent audit and recompilation by CITY. If, after the audit, such recompilation indicates an underpayment LICENSEE shall pay to CITY the amount of the underpayment and shall reimburse CITY for all reasonable costs and expenses incurred in connection with the audit and recompilation within ten (10) Work Days of receipt of written notice from CITY that such is the case. If, after audit, such recompilation indicates an overpayment, CITY shall notify the LICENSEE in writing of the amount of the overpayment, less costs and expenses incurred in connection with the audit and recompilation. LICENSEE may offset the amounts next due following receipt of such notice by the amount specified therein.

ARTICLE 5. Diversion Standards

5.01 Tonnage Data. On or before April 30, 2018 and quarterly thereafter during the term of this Agreement, LICENSEE shall deliver to CITY a quarterly report as specified in Section 8.02.1 listing the actual tonnage delivered by the LICENSEE to the Recycling, Processing, or Transformation Facility (for biomass energy only), the tonnage of material discarded or landfilled including residue, and the tonnage of material recycled, composted, or transformed for the preceding quarter.

5.02 Minimum Diversion Standard. The CITY requires the LICENSEE to achieve the guaranteed diversion rate with a minimum annual diversion rate of seventy percent (70%) for Non-Exclusive Temporary Debris Box and Roll-off Collection Services. The annual diversion rate will be calculated as “the tons of materials Collected by LICENSEE from the provision of Non-Exclusive Temporary Debris Box and Roll-off Collection Services that are sold or delivered to a processing, transformation facility (for biomass energy only), recycler or re-user, net of all residue, as required by this Agreement, divided by the total tons of materials Collected under this Agreement by LICENSEE in each Calendar Year.”

5.02.1 Failure to Meet Minimum Diversion Standard. LICENSEE'S failure to meet the Minimum Diversion Standard set forth above in Section 5.02 may result in immediate termination of this Agreement.

5.03 Guaranteed Diversion Standard. The Guaranteed Diversion Standard will be the percentage that the LICENSEE proposed in the response to the RFP on the License Application. The annual Guaranteed Diversion Standard will be calculated as “the tons of materials Collected by LICENSEE from the provision of Non-Exclusive Temporary Debris Box and Roll-off Collection Services that are sold or delivered to a processing facility transformation facility (for biomass energy only), recycler or re-user, net of all residue, as required by this

Agreement, divided by the total tons of materials Collected under this Agreement by LICENSEE in each Calendar Year.”

Guaranteed Diversion Standard _____%

LICENSEE Initial Here _____

5.03.1 Failure to Meet Guaranteed Diversion Standard. LICENSEE’S failure to meet the Guaranteed Diversion Standard set forth above in Section 5.02 will result in the LICENSEE being required to pay a Franchise Fee of 35 percent of gross revenue for all Non-Exclusive Temporary Debris Box and Roll-off Collection Services that are provided beginning on January 1st of the year following the year that the LICENSEE failed to meet the Guaranteed Diversion Standard. The Franchise Fee of 35 percent of gross revenue will remain in effect until the LICENSEE provides two consecutive quarterly reports that demonstrate compliance with the Guaranteed Diversion Standard. In addition, for failure to meet the Guaranteed Diversion Standard, LICENSEE will also have to pay the CITY the Administrative Fees as specified in Article 11, and LICENSEE will not be eligible to receive term extensions as specified in Article 2.

ARTICLE 6. Collection Equipment

6.01 Equipment Specifications.

6.01.1 General Provisions. All equipment used by LICENSEE in the performance of services under this Agreement shall be of a high quality. The vehicles shall be designed and operated so as to prevent collected materials from escaping from the vehicles. All collection boxes or containers while driving on city streets shall be tarped, covered, or enclosed with screening material to prevent collected materials from leaking, blowing, or falling from the vehicles. All trucks and containers shall be watertight and shall be operated so that liquids do not spill during Collection or in transit.

6.01.2 Clean Air Vehicles. During the term of this Agreement, to the extent required by law, LICENSEE shall provide its Collection vehicles to be in full compliance with local, State and federal clean air requirements that were adopted or proposed to be adopted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in CCR Title 13, Section 2020 et seq; the Federal EPA’s Highway Diesel Fuel Sulfur regulations and any other applicable air pollution control laws.

6.01.3 Safety Markings. All Collection equipment used by LICENSEE shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, clearance lights, and warning flags. All such safety markings shall be subject to the approval of the CITY and shall be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time.

6.01.4 Vehicle Signage and Painting. Collection vehicles, except reserve equipment used on a temporary basis, shall be painted and numbered consecutively without repetition and shall have the LICENSEE’S name, LICENSEE’S customer service telephone number, and the number of the vehicle painted in letters of contrasting color, at least four (4) inches high, on each side and the rear of each vehicle. No advertising shall be permitted other than the name of the LICENSEE. LICENSEE shall repaint or discontinue the use of a vehicle at the request of the City Representative to maintain a positive public image as reasonably determined by the City Representative.

6.01.5 Container Signage, Painting, and Cleaning. Temporary Boxes and Containers, shall be painted and numbered consecutively without repetition and shall have the

LICENSEE'S name, LICENSEE'S customer service telephone number, and the number of the vehicle painted in letters of contrasting color, at least four (4) inches high, on each side and the rear of each debris box or containers. No advertising shall be permitted other than the name of the LICENSEE. Such containers as are provided by the LICENSEE shall be steam cleaned by the LICENSEE as frequently as necessary so as to maintain them in a sanitary condition. LICENSEE shall repaint or discontinue the use of a container at the request of the City Representative to maintain a positive public image as reasonably determined by the City Representative.

6.01.6 Vehicle Noise Level. All Collection operations shall be conducted as quietly as possible and must comply with U.S. EPA noise emission regulations currently codified at 40 CFR Part 205, and other applicable State, County and CITY noise control regulations.

6.01.7 Collection Vehicle Size Limitations. Debris Box collection trucks must not exceed a maximum GVWR of 53,000 pounds, no more than 3 axles, and a total load capacity of 40 yards. LICENSEE shall not haul any load over 22,000 pounds net weight.

6.02 Vehicle Registration, Licensing and Inspection. On or before January 1, 2017, and on or before March 15th annually thereafter during the term of this Agreement (i.e., as part of LICENSEE's Annual Reports as described in Section 8.02.2), LICENSEE shall submit documentation to the City Representative to verify that each of the LICENSEE'S Collection vehicles are in compliance with all registration, licensing and inspection requirements of the California Highway Patrol, the California Department of Motor Vehicles, and any other applicable laws or regulations. LICENSEE shall not use any vehicle to perform Non-Exclusive Temporary Debris Box and Roll-off Collection Services that is not in compliance with applicable registration, licensing, and inspection requirements.

6.03 Equipment Maintenance. LICENSEE shall maintain Collection equipment in a clean condition and in good repair at all times. All parts and systems of the Collection equipment shall operate properly and be maintained in a condition satisfactory to CITY. LICENSEE shall wash all Collection vehicles at least once a week.

6.04 Maintenance Log. LICENSEE shall maintain a maintenance log for all Collection vehicles. The log shall at all times be accessible to CITY by physical inspection upon request of City Representative, and shall show, at a minimum, each vehicles' LICENSEE assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

6.04.1 Equipment Inventory. On or before January 1, 2017, LICENSEE shall provide to CITY an inventory of Collection vehicles and major equipment used by LICENSEE for Collection or transportation and performance of services under this Agreement. The inventory shall indicate each Collection vehicle by LICENSEE assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance status. LICENSEE shall submit to the City Representative, either by Fax or e-mail, an updated inventory quarterly to the CITY as part of the Quarterly Reports described in Section 8.02.1.

6.04.2 Reserve Equipment. The LICENSEE shall have available to it, at all times, reserve Collection equipment which can be put into service and operation within one (1) hour of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the LICENSEE to perform the contractual duties.

ARTICLE 7. LICENSEE'S Office

7.01 LICENSEE'S Office. The LICENSEE shall maintain an office that provides toll-free telephone access to residents and businesses of the CITY and is staffed by trained and experienced Customer Service Representatives (CSRs). Such office shall be equipped with sufficient telephones that all Collection Service related calls received during normal business hours are answered by an employee within five (5) rings, and shall have responsible persons in charge during Collection hours and shall be open during such normal business hours, 8:00 a.m. to 6:00 p.m. on all Work Days. The LICENSEE shall provide either a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when the office is closed. Calls received after normal business hours shall be addressed the next Work Day morning.

7.01.1 Emergency Contact. The LICENSEE shall provide the City Representative with an emergency phone number where the LICENSEE can be reached outside of the required office hours.

7.01.2 Multilingual/TDD Service. LICENSEE shall at all times maintain the capability of responding to telephone calls in English and one (1) other language (Spanish) as the CITY may direct. LICENSEE shall at all times maintain the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

7.01.3 Service Recipient Calls. During office hours, LICENSEE shall maintain a telephone answering system capable of accepting at least five (5) incoming calls at one (1) time. LICENSEE shall record all calls including any inquiries, service requests, and complaints into a customer service log.

7.01.4 Incoming Calls. All incoming calls will be answered within five (5) rings. Any call "on-hold" in excess of one and one-half (1.5) minutes shall have the option to remain "on-hold" or to be switched to a message center where Service Recipient can leave a message. LICENSEE'S customer service representative shall return Service Recipient calls.

ARTICLE 8. Record Keeping & Reporting Requirements

8.01 Record Keeping.

8.01.1 Accounting Records. LICENSEE shall maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Non-Exclusive Temporary Debris Box and Roll-off Collection Services provided under this Agreement, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records shall be subject to audit, copy, and inspection. LICENSEE shall report gross revenues received from provision of the Non-Exclusive Temporary Debris Box and Roll-off Collection Services. LICENSEE shall maintain and preserve all cash, billing and disposal records for a period of not less than five (5) years following the close of each of the LICENSEE'S fiscal years.

8.01.2 Agreement Materials Records. LICENSEE shall maintain records of the quantities of City Waste Collected and disposed under the terms of this Agreement, and (ii) Recyclable Materials, by type, Collected, processed, sold, donated or given for no compensation, and residue disposed.

8.01.3 Other Records. LICENSEE shall maintain all other records reasonably related to provision of Non-Exclusive Temporary Debris Box and Roll-off Collection Services, whether or not specified in this Article 8 or elsewhere in the Agreement.

8.02 Reporting Requirements. Quarterly reports shall be submitted no later than thirty (30) calendar days after the end of the reporting quarter and annual reports shall be submitted no later than thirty (30) calendar days after the end of each Agreement Year. Quarterly and annual reports shall be submitted in hard copy, and shall be provided electronically via e-mail, or a compact disc using software acceptable to the CITY. All quarterly and annually reports must be submitted to the CITY separately from any reports submitted to the CITY for other contracts, and the information contained in the quarterly and annual reports shall pertain solely to the scope of services covered by this Agreement.

8.02.1 Quarterly Reports. Exhibit 1, attached to and included as part of this Agreement, includes a template that shall form the basis of all quarterly reports submitted to the CITY. As shown in Exhibit 1, quarterly reports to the CITY shall include:

8.02.1.1 Financial Information. The amount of gross revenues, summarized by month, and a listing of all payments made to the CITY during the reporting period.

8.02.1.2 Operational Problems and Actions Taken. Indicate instances of property damage or injuries, and any loads rejected, reason for rejection and disposition of load after rejection.

8.02.1.3 Service Supervisor. The name and contact information of the supervisor in charge of the Collection Service within the Service Area.

8.02.1.4 Equipment Inventory. Updated complete inventory of vehicles, containers and major collection / processing equipment, including stationary, rolling stock and collection containers by type and size. The inventory shall indicate each Collection vehicle by its LICENSEE-assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance status.

8.02.1.5 Tonnage Summary. The total tons Collected from all Non-Exclusive Temporary Debris Box and Roll-off Collection Services, diverted and disposed by the LICENSEE at the Processing, Recycling, Transformation (for biomass energy only), and Disposal Facilities for the preceding quarter, and the LICENSEE's diversion rate for the preceding quarter.

8.02.1.6 Facility Tonnage Breakdown. For each facility used by LICENSEE in the preceding quarter, indicate: the total tons delivered to the facility, total tons diverted at the facility, type of diversion/processing, total tons of residue resulting from processing at the facility, and location of residue disposal.

8.02.2 Annual Reports. The annual report to the CITY shall include all quarterly reports in Articles 8.02.1 through 8.02.1.3 summarized by quarter and totaled for the year. The LICENSEE shall include a historical comparison of the last Agreement Year and prior years with a brief explanation on any increases or decreases in tonnage and diversion figures of all Agreement Years. In addition, LICENSEE shall include shall submit documentation verifying that each of the LICENSEE'S Collection vehicles are in compliance with all registration, licensing and inspection requirements of the California Highway Patrol, the California Department of Motor Vehicles, and any other applicable laws or regulations, as required by

Section 6.02. Annual reports shall be submitted to CITY each Agreement Year by March 15th, beginning on March 15, 2018.

8.03 Additional Reporting. The LICENSEE shall furnish the CITY with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period.

ARTICLE 9. Nondiscrimination

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

ARTICLE 10. Service Inquiries and Complaints

10.01 LICENSEE'S Customer Service. All service inquiries and complaints shall be directed to the LICENSEE. A representative of the LICENSEE shall be available to receive the complaints during normal business hours. All service complaints will be handled by the LICENSEE in a prompt and efficient manner. In the case of a dispute between the LICENSEE and a Service Recipient, the matter will be reviewed and a decision made by the City Representative.

10.01.1 The LICENSEE will utilize the Customer Service Log to maintain a record of all inquiries and complaints in a manner prescribed by the CITY.

ARTICLE 11. Quality of Performance of LICENSEE

11.01 Intent. LICENSEE acknowledges and agrees that one of CITY'S primary goals in entering into this Agreement is to ensure that the Non-Exclusive Temporary Debris Box and Roll-off Collection Services are of the highest caliber, that Service Recipient satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent feasible.

11.02 Service Supervisor. By January 1, 2017, and quarterly thereafter as part of the Quarterly Reports described in Section 8.02.1, LICENSEE shall provide the CITY with the name and contact information of the supervisor to be in charge of the Collection Service within the Service Area. At least thirty (30) calendar days prior to replacing the designated supervisor, LICENSEE shall notify CITY in writing of the name and qualifications of the new service supervisor. LICENSEE shall insure that such replacement is an individual with like qualifications and experience. The supervisor shall be available to the City Representative through the use of telecommunication equipment at all times that, LICENSEE is providing Non-Exclusive Temporary Debris Box and Roll-off Collection Services. In the event the supervisor is unavailable due to illness or vacation, LICENSEE shall designate an acceptable substitute who shall be available and who has the authority to act in the same capacity as the supervisor. The service supervisor shall provide the CITY with an emergency phone number where the supervisor can be reached outside of normal business hours.

11.03 Administrative Fees. The parties further acknowledge that consistent and reliable Collection Service is of utmost importance to CITY and that CITY has considered and relied on Licensee's representations as to its quality of service commitment in awarding the Agreement to

it. The parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The parties further recognize that if LICENSEE fails to achieve the performance standards, or fails to submit required documents in a timely manner, CITY, and CITY'S residents and businesses will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages. Therefore, without prejudice to CITY'S right to treat such non-performance as an event of default under Article 16, the parties agree that the Liquidated Damages amount defined in this Article represent reasonable estimates of the amount of such damages considering all of the circumstances existing on the effective date of this Agreement, including the relationship of the sums to the range of harm to CITY, customers and the community as a whole that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the Liquidated Damages provisions at the time that the Agreement was made.

LICENSEE Initial Here _____

LICENSEE agrees to pay (as Liquidated Damages and not as penalty) the following amounts:

Liquidated Damages		
Item		Amount
a.	Failure or neglect to resolve each complaint within the time set forth in this Agreement.	\$100.00 per incident per Service Recipient.
b.	Failure to clean up spillage or litter caused by LICENSEE.	\$300.00 per incident per location (in addition to covering the cost of repair).
c.	Failure to repair damage to customer property caused by LICENSEE or its personnel.	\$500.00 per incident per location (in addition to covering the cost of repair).
d.	Failure to repair damage to CITY property caused by LICENSEE or its personnel.	\$1,500.00 per incident (in addition to covering the cost of repair).
e.	Damage to CITY streets caused by LICENSEE or equipment of LICENSEE.	\$3,000.00 per incident and the actual cost of repair to CITY'S satisfaction—no cost to CITY.
f.	Failure to maintain equipment in a clean, safe, and sanitary manner.	\$500.00 per incident per day.
g.	Failure to have a vehicle operator properly licensed.	\$2,500.00 per incident per day.

Liquidated Damages		
Item		Amount
h.	Failure to maintain office hours as required by this Agreement.	\$500.00 per incident per day.
i.	Failure to maintain or timely submit to CITY all documents and reports required under the provisions of this Agreement.	\$250.00 per incident per day (in addition to covering the cost of repair).
j.	Failure to properly cover materials in Collection vehicles.	\$500.00 per incident.
k.	Failure to display LICENSEE'S name and customer service phone number on Collection vehicles and Debris boxes or containers.	\$500.00 per incident per day.
l.	Failure to comply with the hours of operation as required by this Agreement.	\$1,000.00 per incident per day.
m.	Failure to remove graffiti within 24 hours or delivering a debris box with graffiti on it to a customer.	\$500.00 per incident.
n.	Failure to have LICENSEE personnel in proper uniform.	\$250.00 per incident per day.
o.	Operating a vehicle over 53,000 gross vehicle weight, or hauling a box or container over 22,000 net weight.	\$500.00 per incident
p.	Failure to deliver any Collected materials to a properly permitted Transfer, Recycling, or Processing Facility, as appropriate (except as otherwise expressly provided in this Agreement), or failure to deliver residue to the Disposal Facility as directed by the CITY, in accordance with Section 3.10.1.	\$2,500.00 first failure \$5,000.00 second failure. 30 day notice of Termination for third failure.
q.	Failure to meet vehicle noise requirements.	\$250.00 per incident per day.
r.	Failure to provide facility information requested by the CITY within five days	\$250.00 per incident per day
s.	Failure to meet Guaranteed Diversion Standard rate.	\$2,500.00 first failure \$5,000.00 each subsequent failure
t.	Failure to deliver all Collected materials to a Recycling or Processing Facility prior to Disposal or Transfer Facility for disposal.	\$15,000 first failure Immediate termination of Agreement second failure

11.04 Procedure for Review of Liquidated Damages. The City Representative may assess Liquidated Damages pursuant to this Article 11 on a monthly basis. At the end of each

month during the term of this Agreement, the City Representative shall issue a written notice to LICENSEE ("Notice of Assessment") of the Liquidated Damages assessed and the basis for each assessment.

11.04.1 The assessment shall become final unless, within ten (10) calendar days of the date of the notice of assessment, LICENSEE provides a written request for a meeting with the City Manager to present evidence that the assessment should not be made.

11.04.2 The City Representative shall schedule a meeting between LICENSEE and the City Manager or the Manager's designee as soon as reasonably possible after timely receipt of LICENSEE'S request.

11.04.3 The City Manager or the Manager's designee shall review LICENSEE'S evidence and render a decision sustaining, reversing, or modifying the Liquidated Damages as soon as reasonably possible after the meeting. Written notice of the decision shall be provided to LICENSEE.

11.04.4 In the event LICENSEE does not submit a written request for a meeting within ten (10) calendar days of the date of the Notice of Assessment, the City Representative's determination shall be final and LICENSEE shall submit payment to CITY no later than that tenth (10th) day. Or if monies are owed to LICENSEE and not paid within 10 days of a second notice, CITY may terminate the License without any additional notice.

11.04.5 CITY'S assessment or collection of Liquidated Damages shall not prevent CITY from exercising any other right or remedy, including the right to terminate this Agreement, for LICENSEE'S failure to perform the work and services in the manner set forth in this Agreement.

ARTICLE 12. Billing Audit and Performance Review

12.01 Selection and Cost. The CITY may conduct billing audit and performance reviews ("reviews") of the LICENSEE'S performance during the term of this Agreement, including extensions. At the discretion of the CITY, reviews may occur every two years. The review(s) will be performed by a qualified firm under contract to the CITY. The CITY shall have the final responsibility for the selection of the firm but shall seek and accept comments and recommendations from the LICENSEE. The LICENSEE shall be responsible for the cost of the review up to a maximum of **Ten Thousand Dollars (\$10,000.00)** per review.

12.02 Purpose. The review shall be designed to meet the following objectives:

12.02.1 Verify that Franchise Fees, and other fees required under this Agreement have been properly calculated and paid to the CITY.

12.02.2 Verify LICENSEE'S compliance with the reporting requirements and performance standards of the Collection Service Agreement.

12.02.3 Verify the diversion percentages reported by the LICENSEE.

12.03 LICENSEE'S Cooperation. LICENSEE shall cooperate fully with the review and provide all requested data, including operational data, financial data, and other data requested by the CITY within thirty (30) Work Days. Failure of the LICENSEE to cooperate or provide the requested documents in the required time shall be considered an event of default.

ARTICLE 13. Performance Bond

13.01 Performance Bond. The Agreement must be executed and bond furnished by the LICENSEE within fifteen (15) calendar days of notification to the LICENSEE that they are the successful bidder; otherwise, the bid bond shall be forfeited to the CITY. The LICENSEE shall furnish to the CITY, and keep current, a performance bond in a form that is acceptable to the CITY, for the faithful performance of this Agreement and all obligations arising hereunder in an amount of **Ten Thousand Dollars (\$10,000.00)**.

13.01.1 The performance bond shall be executed by a surety company that is acceptable to the CITY; an admitted surety company licensed to do business in the State of California; has an "A: VII" or better rating by A. M. Best or Standard and Poor's; and is included on the list of surety companies approved by the Treasurer of the United States.

13.02 Letter of Credit. As an alternative to the performance bond required by Section 13.01, at CITY'S option, LICENSEE may deposit with CITY an irrevocable letter of credit in an amount as set forth in Section 13.01. If allowed, the letter of credit in a form and with terms acceptable to the CITY issued by an FDIC insured banking institution chartered to business in the state of California, in the CITY'S name, and be callable at the discretion of the CITY. Nothing in this Article shall, in any way, obligate the CITY to accept a letter of credit in lieu of the performance bond.

ARTICLE 14. Insurance

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

14.02 Minimum Scope of Insurance. Insurance coverage shall be at least this broad:

14.02.1 Insurance Services Office Form No. G0 0002 or, if approved by CITY, its equivalent, covering Comprehensive General Liability and Insurance Services Office Form No. GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).

14.02.2 Insurance Services Office Form No. CA 0001 covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage shall also include code 8, "hired autos" and code 9 "non-owned autos."

14.02.3 Workers' Compensation Insurance as required by the California Labor Code and Employers Liability Insurance and/or Errors and Omissions.

14.02.4 Hazardous Waste and Environmental Impairment Liability Insurance.

14.02.5 Employee Blanket Fidelity Bond.

14.03 Minimum Limits of Insurance. LICENSEE shall maintain insurance limits no less than:

14.03.1 Comprehensive General Liability: **Ten Million Dollars (\$10,000,000.00)** combined single limit per occurrence for bodily injury, personal injury, and property damage.

14.03.2 Automobile Liability: **Ten Million Dollars (\$10,000,000.00)** combined single limit per accident for bodily injury and property damage.

14.03.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of **Three Million Dollars (\$3,000,000.00)** per accident.

14.03.4 Hazardous Waste and Environmental Impairment Liability: **Three Million Dollars (\$3,000,000.00) each occurrence/Ten Million Dollars (\$10,000,000.00)** policy aggregate covering liability arising from the release of waste materials and/or irritants, contaminants or pollutants. Such coverage shall, if commercially available without involvement of CITY, automatically broaden in its form of coverage to include legislated changes in the definition of waste material and/or irritants, contaminants or pollutants. This policy shall stipulate this insurance is primary and no other insurance carried by CITY will be called upon to contribute to the loss suffered by the LICENSEE hereunder and waive subrogation against the CITY and other additional insured's.

14.03.5 Employee Blanket Fidelity Bond. Employee Blanket Fidelity Bond in the amount of **Five Hundred Thousand Dollars (\$500,000.00)** per employee covering dishonesty, forgery, alteration, theft, disappearance, and destruction (inside or outside).

14.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to, and approved by, CITY.

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

14.05.1 The CITY, its officials, officers, employees, agents and volunteers are to be covered as additional insured's with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of LICENSEE; products and completed operations of LICENSEE; and with respect to liability arising from work or operations performed by or on behalf of the LICENSEE including material parts or equipment furnished in connection with such work or operations; Pollution and/or Asbestos Pollution.

14.05.2 LICENSEE'S insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall be excess of the LICENSEE'S insurance and shall not contribute with it.

14.05.3 Each insurance policy required by this clause shall be occurrence-based, or an alternative form as approved by the CITY and shall be endorsed to state that coverage shall not be cancelled by the Insurer except after thirty (30) days prior written notice has been given to the CITY.

14.05.4 The LICENSEE'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.

14.05.5 The limits of insurance are the minimum required limits and if LICENSEE maintains higher limits, CITY shall be entitled to coverage for the higher limits maintained by LICENSEE.

14.05.6 The Automobile Liability policy shall be endorsed to delete the Pollution and/or the Asbestos exclusion and add the Motor Carrier act endorsement (MCS-90) TL 1005, TL 1007 and /or other endorsements required by federal or state authorities.

14.05.7 Worker's Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the CITY, its officers, officials, employees, and volunteers for losses arising from work performed by the Grantee for the CITY. LICENSEE agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the CITY for all work performed by LICENSEE, its employees, agents, and subcontractors.

14.05.8 All Coverage's. Each insurance policy required by this clause shall be occurrence-based or an alternate form as approved by the CITY and endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.

14.05.8.1 Any failure to comply with reporting provisions of the policies shall not affect LICENSEE'S obligations to CITY, its officers, officials, employees, agents, or volunteers.

14.05.8.2 The CITY, it's officers, officials, agents, employees and volunteers shall be named as additional insured's on all policies.

14.06 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII if admitted. If pollution and or Environmental Impairment and/or errors and omission coverage are not available from an "Admitted" insurer, the coverage may be written with the CITY'S permission, by a NON-admitted insurance company. A Non-admitted company should have an A.M. Best's rating of A: X or higher.

14.07 Verification of Coverage. LICENSEE shall furnish CITY with original certificates of insurance and with amendatory endorsements effecting coverage required by this clause. The endorsements are to be signed by a persons authorized by the Insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the CITY, unless the insurer will not use the CITY'S forms. All endorsements are to be received and approved by the CITY before work commences. As an alternative to the CITY'S forms, the Licensee's insurer may provide complete copies of all required insurance policies, including endorsements effecting coverage required by these specifications.

14.08 Subcontractors. LICENSEE shall include all subcontractors as insured's under its policies or shall obtain separate certificates and endorsements for each subcontractor.

14.08.1 Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the CITY.

**Don Schwartz
City of Rohnert Park
130 Avram Avenue
Rohnert Park, CA 94928**

14.09 Modification of Insurance Requirements. The insurance requirements provided in this Agreement may be modified or waived by the CITY, in writing, upon the request of LICENSEE if the CITY determines such modification or waiver is in the best interest of CITY considering all relevant factors, including exposure to CITY.

14.10 Rights of Subrogation. All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against CITY with the express intention of the

parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. LICENSEE shall ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree that they shall have no recourse against CITY for payment or assessments in any form on any policy of insurance. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which CITY is named as an additional insured shall not apply to CITY.

ARTICLE 15. Indemnification

15.01 Indemnification of the CITY. LICENSEE shall protect, defend, with counsel acceptable to CITY, indemnify and hold harmless, to the fullest extent allowed by law, CITY, its officers, officials, employees, volunteers, agents and assignees and any successor or successors to the CITY's interest (collectively, INDEMNITIES), from and against any and all claims, damages (including but not limited to special, consequential, natural resources and punitive damages) injuries, response mediation and removal costs, losses, demands, depts., liens, liabilities, causes of action, suits, legal or administrative proceedings, in law or in equity (including, but not limited to, injury to and death of any person and damage to property, or for contribution or indemnity claimed by third parties), interest, fines, forfeitures, charges, penalties, attorney's fees for the adverse party and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or enforcing this indemnity) of any kind whatsoever (hereinafter, CLAIMS) paid, imposed, incurred or suffered by, or asserted against any of the INDEMNITIES relating to, arising or resulting from or in any way connected with: (i) the operation of the LICENSEE, it agents, employees, contractors, and/or subcontractors, in excising the privileges granted to it by this Agreement; (ii) the failure of the LICENSEE, it agents, employees, contractors, and/or subcontractors to comply in all respects with the provisions and requirements of this Agreement, applicable laws, ordinances and regulations, and/or applicable permits and licenses; and (iii) the acts of LICENSEE, its agents, employees, contractors, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law.

15.02 Hazardous Substances Indemnification. LICENSEE shall protect, defend, with counsel acceptable to CITY, indemnify, and hold harmless, to the fullest extent allowed by law, INDEMNITIES from and against any and all CLAIMS paid, imposed, incurred or suffered by, or asserted against any of the INDEMNITIES relating to, arising or resulting from or in any way connected with: (including but not limited to) any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertake due to governmental action) concerning any hazardous substance or hazardous wastes at any place where LICENSEE transports, stores, or disposes of Solid Waste pursuant to this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. sections 9607(c) and California Health and Safety Code Section 25364, to defend insure, protect, hold harmless and indemnify the CITY from liability.

15.03 Environmental Indemnification. LICENSEE shall protect, defend, with counsel acceptable to CITY, indemnify, and hold harmless, to the fullest extent allowed by law, INDEMNITIES from and against any and all CLAIMS paid, imposed, incurred or suffered by, or asserted against any of the INDEMNITIES relating to, or arising or resulting from or in any way connected with: LICENSEE's alleged failure or actual failure to comply with environmental laws and regulations.

15.04 Waste Management Board Indemnification. LICENSEE shall protect, defend, with counsel acceptable to CITY, indemnify, and hold harmless, to the fullest extent allowed by law, INDEMNITIES from and against any and all CLAIMS paid, imposed, incurred or suffered by, or asserted against any of the INDEMNITIES relating to, or arising or resulting from or in any way connected with: the California Integrated Waste Management Board if the diversion goals specified in California Public Resources Code Section 41780 as of the date hereof and hereafter throughout are not met by the CITY with respect to the materials Collected by LICENSEE and if the lack in meeting such goals are attributable to the failure of the LICENSEE to implement and operate the recycling or diversion programs or undertake the related activities required by this Agreement.

15.05 City Approvals Indemnification. LICENSEE shall protect, defend, with counsel acceptable to CITY, indemnify, and hold harmless, to the fullest extent allowed by law, INDEMNITIES from and against any and all CLAIMS paid, imposed, incurred or suffered by, or asserted against any of the INDEMNITIES relating to, or arising or resulting from or in any way connected with: the CITY'S approval and/or implementation of this Agreement, including but not limited to CITY's compliance (or lack thereof) with the California Environmental Quality Act, and/or regulation of Maximum Collection Service Rates for Non-Exclusive Temporary Debris Box and Roll-off Collection Services under this Agreement and/or in connection with the application of Article XIIC and Article XIID of the California Constitution to the imposition, payment, or collection of Service Rates and fees for services provided by LICENSEE under this Agreement, and/or in connection with the imposition or payment of Franchise Fees under this Agreement.

15.06 Scope. The LICENSEE's obligation to protect, defend, indemnify and hold harmless under this Article 15 shall not be excused because of the Licensee's inability to evaluate Liability or because the LICENSEE evaluates Liability and determines that the LICENSEE is not liable the claimant. The LICENSEE must respond within thirty (30) days to the tender of a claim for defense and indemnity by the CITY, unless this time has been extended by the CITY. If the LICENSEE fails to accept or reject a tender of defense and indemnity within thirty (30) days, in addition to any other remedy authorized by law, so much of the money due the LICENSEE under the by virtue of this Agreement as shall reasonably be considered necessary by the CITY, may be retained by the CITY until disposition has been made or the claim or suit for damages, or until the LICENSEE accepts or ejects the tender of defense, whichever occurs first. With respect to third party claims against the LICENSEE, the LICENSEE waives any and all rights of any type to express or implied indemnity against the INDEMNITIES. The foregoing indemnity obligations shall apply regardless of whether such CLAIMS are also caused in part by any of the indemnities' negligence.

15.07 Consideration. It is specifically understood and agreed that the consideration inuring to the LICENSEE for the execution of this Agreement consists of the promises, payments, covenants, rights, and responsibilities contained in this Agreement.

15.08 Obligation. The execution of this Agreement by the LICENSEE shall obligate the LICENSEE to comply with the foregoing indemnification provisions, which are in addition to all other provisions in this Agreement and are intended to survive the end of the term of this Agreement. LICENSEE's performance security shall extend to the indemnification obligations hereunder. The collateral obligation of providing insurance must also be complied with as set forth in Article 14 above.

15.09 Subcontractors. The LICENSEE shall require all subcontractors to enter into an Agreement containing the provisions set forth in the preceding subsection in which Agreement the subcontractor fully indemnifies the CITY in accordance with this Agreement.

15.10 Exception. LICENSEE'S obligation to protect, defend, indemnify, hold harmless under this Article 15 shall not extend to any loss, liability, penalty, plain, damage, action or suit arising or resulting from acts or omissions constituting willful misconduct or sole negligence on the part of the CITY its officers or employees.

15.11 Damage by LICENSEE. If LICENSEE'S employees or subcontractors cause any injury, damage, or loss to CITY property, including but not limited to CITY streets or curbs, LICENSEE shall reimburse CITY for CITY'S cost of repairing such injury, damage, or loss. Such reimbursement is not in derogation of any right of CITY to be indemnified by LICENSEE for any such injury, damage, or loss. With the prior written approval of CITY, LICENSEE may repair the damage at LICENSEE'S sole cost and expense.

ARTICLE 16. Default of Contract

16.01 Termination. The CITY may terminate this Agreement, except as otherwise provided below in this Article, by giving the LICENSEE thirty (30) calendar days' advance written notice, to be served as provided in Article 33, upon the happening of any one of the following events:

16.01.1 The LICENSEE shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

16.01.1.1 By order or decree of a Court, the LICENSEE shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the LICENSEE, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) calendar days after the entry thereof, any notice of default shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or

16.01.2 By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the LICENSEE, and such possession or control shall continue in effect for a period of sixty (60) calendar days; or

16.01.3 The LICENSEE has defaulted, by failing or refusing to pay in a timely manner the Liquidated Damages or other monies due the CITY and said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so; or

16.01.4 The LICENSEE has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and said default is not cured within thirty (30) calendar days of receipt of written notice by CITY to do so; or

16.01.5 In the event that the monies due the CITY under Article 4 above or an unpaid Liquidated Damages under Article 11 above is the subject of a judicial proceeding, the CITY may, at its option call the Performance Bond, or hold the LICENSEE in default of this Agreement. All bonds shall be in the form acceptable to the City Attorney; or

16.01.6 The LICENSEE has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement, including satisfactory conformance with the requirements of Article 3 or Article 11, the service levels prescribed herein, or any of the rules and regulations promulgated by the CITY pursuant thereto or has wrongfully failed or refused to comply with the instructions of the City Representative relative thereto; provided that said default is not cured within thirty (30) calendar days of receipt of written notice by the CITY to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by the LICENSEE of written demand from the CITY to do so, the LICENSEE fails to commence the remedy of such default within said thirty (30) calendar days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof. In any dispute concerning failure to remedy or diligence in pursuing a cure, the LICENSEE shall have the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time. However, notwithstanding anything contained herein to the contrary, for the failure of the LICENSEE to provide Non-Exclusive Temporary Debris Box and Roll-off Collection Services for a period of three (3) consecutive Work Days, on the fourth (4th) Work Day the CITY may secure the LICENSEE'S equipment, records and other property used or useful in providing Non-Exclusive Temporary Debris Box and Roll-off Collection Services under this Agreement in order to provide interim Non-Exclusive Temporary Debris Box and Roll-off Collection Services until such time as the matter is resolved and the LICENSEE is again able to perform pursuant to this Agreement; provided, however, if the LICENSEE is unable for any reason or cause to resume performance at the end of thirty (30) calendar days all liability of the CITY under this Agreement to the LICENSEE shall cease and this Agreement may be deemed terminated by the CITY, and the CITY shall retain equipment, records and other property used in providing Non-Exclusive Temporary Debris Box and Roll-off Collection Services on an interim basis until the CITY has made other suitable arrangements for the provision of Non-Exclusive Temporary Debris Box and Roll-off Collection Services, which may include award of the Agreement to another LICENSEE.

16.01.7 In the event that the Agreement is terminated, LICENSEE shall furnish the CITY with immediate access to all of its business records related to its customer and billing accounts for collection services.

16.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that the LICENSEE'S record of performance show that the LICENSEE has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by the LICENSEE, in the opinion of the CITY and regardless of whether the LICENSEE has corrected each individual condition of default, the LICENSEE shall be deemed a "habitual violator", shall be deemed to have waived the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The CITY shall thereupon issue the LICENSEE a final warning citing the circumstances therefore, and any single default by the LICENSEE of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of the Agreement. A history of Administrative Fees imposed

pursuant to Article 11 may be used as a basis for deeming the LICENSEE to be a habitual violator; however, any failure to have imposed Liquidated Damages where applicable shall not prevent use of the LICENSEE'S underlying failures from consideration for determining a habitual violator. In the event of any such subsequent default, the CITY may terminate this Agreement upon giving of written final notice to the LICENSEE, such cancellation to be effective upon the date specified in the CITY'S written notice to the LICENSEE, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and the LICENSEE shall have no further rights hereunder. Immediately upon the specified date in such final notice, the LICENSEE shall proceed to cease any further performance under this Agreement.

16.03 Effective Date. In the event of the aforesaid events specified above, and except as otherwise provided in said subsections, termination shall be effective upon the date specified in the CITY'S written notice to the LICENSEE and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of the CITY under this Agreement to the LICENSEE shall cease, and the CITY shall have the right to call the performance bond and shall be free to negotiate with other Licensees for the operation of the herein specified services. The LICENSEE for failure to perform shall reimburse the CITY all direct and indirect costs of providing interim Non-Exclusive Temporary Debris Box and Roll-off Collection Services.

16.04 Immediate Termination. CITY may terminate this Agreement immediately upon written notice to LICENSEE in the event LICENSEE fails to provide and maintain the performance bond as required by this Agreement, LICENSEE fails to obtain or maintain insurance policies endorsements as required by this Agreement, LICENSEE fails to provide the proof of insurance as required by this Agreement, LICENSEE offers or gives any gift prohibited by CITY administrative policy, or LICENSEE fails to meet the Minimum Diversion Standard as required by Section 5.02 of this Agreement.

16.05 Termination. Delivery of material to a facility that is not properly permitted to accept material. The CITY may terminate this Agreement with 30 day written notice in the event the LICENSEE delivers material collected under this agreement to a facility that is not properly permitted to accept the material collected under this Collection Service Agreement.

16.06 Termination Cumulative. CITY'S right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

16.07 Reinstatement after Termination. Should this Agreement be terminated by the CITY, the LICENSEE or any company acquired by, or sold to the LICENSEE shall not be eligible to re-apply for reinstatement for a minimum of five years from the date of termination.

ARTICLE 17. Modifications to the Agreement

17.01 Agreement Modifications and Changes in Law. The CITY and the LICENSEE understand and agree that the California Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. The LICENSEE agrees that the terms and provisions of the Municipal Code, as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Agreement and the Service Recipients of the LICENSEE located within the Service Area. In the event any future change in law, modifications to the CITY Municipal Code, or directed changes by the CITY

materially alters the obligations of the LICENSEE, then the affected compensation as established under this Agreement shall be adjusted. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law. The CITY and LICENSEE agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, the CITY and the LICENSEE shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the LICENSEE due to any modification in the Agreement under this Article. The CITY and the LICENSEE shall not unreasonably withhold agreement to such compensation adjustment.

17.01.1 LICENSEE acknowledges and agrees that CITY may permit other contractors or companies besides LICENSEE to provide additional Non-Exclusive Temporary Debris Box and Roll-off Collection Services.

ARTICLE 18. Legal Representation

18.01 Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that a contract or Agreement shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

ARTICLE 19. Financial Interest

19.01 Representation. LICENSEE warrants and represents that no elected official, officer, agent or employee of the CITY has a financial interest, directly or indirectly, in this Agreement the compensation to be paid under it and, further, that no CITY employee who acts in the CITY as a "purchasing agent" as defined in the appropriate Section of California Statutes, nor any elected or appointed officer of the CITY, nor any spouse or child of such purchasing agent, employee or elected or appointed officer, is a partner, officer, director or proprietor of the LICENSEE and, further, that no such CITY employee, purchasing agent, CITY elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in the LICENSEE. Material interest means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of the LICENSEE.

ARTICLE 20. Licensee's Personnel

20.01 Personnel Requirements. The LICENSEE shall employ and assign qualified personnel to perform all services set forth herein. The LICENSEE shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, state, and local requirements related to their employment and position.

20.01.1 The CITY may request the transfer of any employee of the LICENSEE who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.

20.01.2 LICENSEE'S field operations personnel shall be required to wear a clean uniform shirt bearing the LICENSEE'S name. LICENSEE'S employees, who normally come into direct contact with the public, including drivers, shall bear some means of individual photographic identification such as a name tag or identification card.

20.01.3 Each driver of a Collection vehicle shall at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

20.01.4 Each driver of a Collection vehicle shall at all times comply with all applicable state and federal laws, regulations, and requirements.

20.01.5 LICENSEE'S employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of the CITY.

20.01.6 The LICENSEE'S name and the Customer Service telephone number shall be properly displayed on all Collection vehicles.

ARTICLE 21. Exempt Waste

21.01 The LICENSEE shall not be required to Collect or dispose of Exempt Waste, but may offer such services. All such Collection and disposal of Exempt Waste is not regulated under this Agreement, but if provided by the LICENSEE shall be in strict compliance with all federal, state, and local laws and regulations.

ARTICLE 22. Independent LICENSEE

22.01 In the performance of services pursuant to this Agreement, LICENSEE shall be an independent LICENSEE and not an officer, agent, servant or employee of CITY. LICENSEE shall have exclusive control of the details of the services and work performed and over all persons performing such services and work. LICENSEE shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Neither LICENSEE nor its officers, employees, agents, contractors, or subcontractors shall obtain any right to retirement benefits, Workers Compensation benefits, or any other benefits which accrued to CITY employees and LICENSEE expressly waives any claim it may have or acquire to such benefits.

ARTICLE 23. Laws to Govern

23.01 The law of the State of California shall govern the rights, obligations, duties, and liabilities of CITY and LICENSEE under this Agreement and shall govern the interpretation of this Agreement.

ARTICLE 24. Consent to Jurisdiction

24.01 The parties agree that any litigation between CITY and LICENSEE concerning or arising out of this Agreement shall be filed and maintained exclusively in the Municipal or Superior Courts of Sonoma County, State of California, or in the United States District Court for the Northern District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

ARTICLE 25. Assignment

25.01 No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or in part by the LICENSEE without the express written consent of the CITY. The CITY shall have full discretion to approve or deny, with or without cause, any

proposed or actual assignment by the LICENSEE. Any assignment of this Agreement made by the LICENSEE without the express written consent of the CITY shall be null and void and shall be grounds for the CITY to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to the LICENSEE, and upon the date of such notice this Agreement shall be deemed immediately terminated, and upon such termination all liability of the CITY under this Agreement to the LICENSEE shall cease, and the CITY shall have the right to call the performance bond and shall be free to negotiate with other contractors, the LICENSEE, or any other person or company for the service which is the subject of this Agreement. In the event of any assignment, the assignee shall fully assume all the liabilities of the LICENSEE.

25.02 The use of a subcontractor to perform services under this Agreement shall not constitute delegation of LICENSEE'S duties provided that LICENSEE has received prior written authorization from the City Representative to subcontract such services and the City Representative has approved a subcontractor who will perform such services. LICENSEE shall be responsible for directing the work of LICENSEE'S subcontractors and any compensation due or payable to LICENSEE'S subcontractor shall be the sole responsibility of LICENSEE. The City Representative shall have the right to require the removal of any approved subcontractor for reasonable cause.

25.03 For purposes of this Article when used in reference to LICENSEE, "assignment" shall include, but not be limited to (i) a sale, exchange or other transfer of at least fifty-one percent (51%) of LICENSEE'S assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of outstanding common stock of LICENSEE to a third party provided said sale, exchange or transfer results in a change of control of LICENSEE (with control being defined as ownership of more than fifty percent (50%) of LICENSEE'S voting securities); (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation, subcontracting or lease-back payments, or other transaction which results in a change of control of LICENSEE; (iv) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of LICENSEE'S property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of control of LICENSEE.

25.04 LICENSEE acknowledges that this Agreement involves rendering a vital service to CITY'S residents and businesses, and that CITY has selected LICENSEE to perform the services specified herein based on (i) Licensee's experience, skill and reputation for conducting its Solid Waste management operations in a safe, effective and responsible fashion, at all times in keeping with applicable environmental laws, regulations and best Solid Waste management practices, and (ii) LICENSEE'S financial resources to maintain the required equipment and to support its indemnity obligations to CITY under this Agreement. CITY has relied on each of these factors, among others, in choosing LICENSEE to perform the services to be rendered by LICENSEE under this Agreement.

ARTICLE 26. Compliance with Laws

26.01 In the performance of this Agreement, LICENSEE shall comply with all applicable laws, regulations, ordinances, and codes of the federal, state, and local governments, including without limitation the Municipal Code of the City of Rohnert Park.

26.02 CITY shall provide written notice to LICENSEE of any planned amendment to the CITY's Municipal Code that would substantially affect the performance of LICENSEE'S services pursuant to this Agreement. Such notice shall be provided at least thirty (30) calendar days prior to the City Council's approval of such an amendment.

ARTICLE 27. Permits and Licenses

27.01 LICENSEE shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. LICENSEE shall provide proof of such permits, licenses, or approvals and shall demonstrate compliance with the terms and conditions of such permits, licenses and approvals upon the request of the City Representative.

27.02 LICENSEE shall ensure that all facilities selected by the LICENSEE obtain, at their own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. LICENSEE shall ensure that facilities used by the LICENSEE provide proof of such permits, licenses, or approvals and shall demonstrate compliance with the terms and conditions of such permits, licenses, and approvals upon the request of the City Representative.

27.03 LICENSEE shall obtain and maintain, at its own expense, a business registration with the CITY throughout the term of this Agreement. LICENSEE shall provide proof of such business registration upon the request of the City Representative.

27.04 LICENSEE shall obtain and maintain, at its own expense, a membership in the Rohnert Park Chamber of Commerce throughout the term of this Agreement. LICENSEE shall provide proof membership upon the request of the City Representative

ARTICLE 28. Ownership of Written Materials

28.01 All reports, documents, brochures, public education materials, and other written, printed, electronic or photographic materials developed by CITY or LICENSEE in connection with the services to be performed under this Agreement, whether developed directly or indirectly by CITY or LICENSEE shall be and shall remain the property of CITY without limitation or restrictions on the use of such materials by CITY. LICENSEE shall not use such materials in connection with any project not connected with this Agreement without the prior written consent of the City Representative. This Article 28 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

ARTICLE 29. Waiver

29.01 Waiver by CITY or LICENSEE of any breach for violation of any term covenant or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant, or condition. The subsequent acceptance by CITY of any fee, tax, or any other monies which may become due from LICENSEE to CITY shall not be deemed to be a waiver by CITY of any breach for violation of any term, covenant, or condition of this Agreement.

ARTICLE 30. Prohibition Against Gifts

30.01 LICENSEE represents that LICENSEE is familiar with CITY'S prohibition against the acceptance of any gift by a CITY officer or designated employee. LICENSEE shall not offer any CITY officer or designated employee any gifts prohibited by the CITY.

ARTICLE 31. Point of Contact

31.01 The day-to-day dealings between the LICENSEE and the CITY shall be between the LICENSEE and the City Representative.

ARTICLE 32. Conflict of Interest

32.01 LICENSEE shall comply with CITY requirements for conflict of interest and will file all required disclosure statements.

ARTICLE 33. Notices

33.01 Except as provided herein, whenever either party desires to give notice to the other, it must be given by written notice addressed to the party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the CITY:

Don Schwartz
City of Rohnert Park
130 Avram Avenue
Rohnert Park, CA 94928
Phone Number: (707) 588-2242
E-mail: dschwartz@rpcity.org

As to the LICENSEE:

Name	_____
Title	_____
Company	_____
Address	_____
City, State, Zip Code	_____
Phone	_____
Fax:	_____
E-Mail:	_____

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

33.03 Notice by CITY to LICENSEE of a Collection or other Service Recipient problem or complaint may be given to LICENSEE orally by telephone at LICENSEE'S local office with confirmation sent as required above by the end of the Work Day.

ARTICLE 34. Licensee's Records

34.01 LICENSEE shall maintain any and all letters, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to Service Recipients for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to LICENSEE pursuant to this Agreement.

34.02 LICENSEE shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

34.03 Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Representative, the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at the CITY offices when it is practical to do so. Otherwise, unless an alternative site is mutually agreed upon, the records shall be available at LICENSEE'S address indicated for receipt of notices in this Agreement.

34.04 Where CITY has reason to believe that such records or documents may be lost or discarded due to the dissolution, disbandment or termination of LICENSEE'S business, CITY may, by written request or demand of any of the above named officers, require that custody of the records be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by LICENSEE, LICENSEE'S representatives, or LICENSEE'S successor-in-interest.

ARTICLE 35. Entire Agreement

35.01 This Agreement and the Exhibits attached hereto constitute the entire Agreement and understanding between the parties hereto, and it shall not be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties hereto.

ARTICLE 36. Severability

36.01 If any provision of this Agreement or the application of it to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected, shall continue in full force and effect, and shall be enforced to the fullest extent permitted by law.

ARTICLE 37. Right to Require Performance

37.01 The failure of the CITY at any time to require performance by the LICENSEE of any provision hereof shall in no way affect the right of the CITY thereafter to enforce same. Nor shall waiver by the CITY of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

ARTICLE 38. All Prior Agreements Superseded

38.01 This document incorporates and includes all prior negotiations, correspondence, conversations, Agreements, contracts and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, Agreements, contracts or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations, Agreements, or contracts, whether oral or written.

ARTICLE 39. Headings

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

ARTICLE 40. Representations and Warranties of the LICENSEE

The LICENSEE, by acceptance of this Agreement, represents and warrants the conditions presented in the Article.

40.01 Corporate Status. The LICENSEE is a {corporation} duly organized, validly existing and in good standing under the laws of the State of California ("State"). It is qualified to transact business in the State 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.

40.02 Corporate Authorization. LICENSEE has the authority to enter this Agreement and perform its obligations under this Agreement. The Board of Directors of LICENSEE (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 LICENSEE represents and warrants that they have the authority to do so. This Agreement constitutes the legal, valid, and binding obligation of the LICENSEE.

40.03 Agreement Will Not Cause Breach. To the best of LICENSEE'S knowledge after responsible investigation, the execution or delivery of this Agreement or the performance by LICENSEE of its obligations hereunder does not conflict with, violate, or result in a beach: (i) of any law or governmental regulation applicable to LICENSEE; or (ii) any term or condition of any judgment, order, decree, of any court, administrative agency, or other governmental authority, or any Agreement or instrument to which LICENSEE is a party or by which LICENSEE or any of its properties or assets are bound, or constitutes a default hereunder.

40.04 No Litigation. To the best of LICENSEE'S knowledge after responsible investigation, there is no action, suite, 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 LICENSEE wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate would:

40.04.1 Materially adversely affect the performance by LICENSEE of its obligations hereunder;

40.04.2 Adversely affect the validity or enforceability of this Agreement; or

40.04.3 Have a material adverse effect on the financial conditions of LICENSEE, or any surety or entity guaranteeing LICENSEE'S performance under this Agreement.

40.05 No Adverse Judicial Decisions. To the best of LICENSEE'S knowledge after responsible investigation, there is no judicial decision that would prohibit this Agreement or subject this Agreement to legal challenge.

40.06 No Legal Prohibition. To the best of LICENSEE'S knowledge after reasonable investigation, there is no Applicable Law in effect on the date LICENSEE signed this Agreement that would prohibit the LICENSEE'S performance of its obligations under this Agreement and the transactions contemplated hereby.

40.07 LICENSEES Statements. The LICENSEES proposal and other supplemental information submitted to the City, which the City has relied on in awarding and entering this Agreement, do not: (i) contain any untrue statement of a material fact, or (ii) omit to state a material fact that is necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.

40.08 LICENSEE'S Investigation. LICENSEE has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement and the work to be performed hereunder. LICENSEE has taken such matters into consideration in entering this Agreement to provide services in exchange for the compensation provided for under the terms of this Agreement.

40.09 Ability to Perform. LICENSEE possesses the business, professional, and technical expertise to Collect, Transport, and Process the Non-Exclusive Temporary Debris Box and Roll-off material generated in the CITY. LICENSEE possesses the ability to secure equipment, facility(ies), and employee resources required to perform its obligations under this Agreement.

40.10 Voluntary Use of Disposal Location. The LICENSEE, without constraint and as a free-market business decision in accepting this Agreement, agrees to use the Disposal Facility for the purposes of Disposing of all residue from Construction and Demolition Debris Collected in the CITY. Such decision by LICENSEE in no way constitutes a restraint of trade notwithstanding any change in law regarding flow control limitations or any definition thereof.

40.11 Recognizing Labor Rights. LICENSEE recognizes, and agrees to continue to recognize, the right of its employees to peacefully organize and to file a valid petition seeking a lawful election conducted by the National Labor Relations Board. Such secret ballot election would determine if a majority of the subject employees want a labor organization to be their exclusive representative in collective bargaining with the LICENSEE. LICENSEE agrees to engage in good faith negotiations with any current and duly elected labor organization of the subject employees, and to meet at reasonable times to discuss wages, hours and other terms and conditions of employment. LICENSEE also represents that during negotiations with such duly elected labor organization, if necessary, it would support the use of a federal mediator and a reasonable cooling off period, if requested in writing by either party.

ARTICLE 41. Effective Date

This Agreement shall become effective at such time as it is properly executed by the CITY and the LICENSEE and the LICENSEE shall begin Non-Exclusive Temporary Debris Box and Roll-off Collection Services, as covered herein, as of January 1, 2017.

DRAFT

IN WITNESS WHEREOF, the CITY and the LICENSEE have executed this Agreement on the day and year first written above.

CITY OF ROHNERT PARK

LICENSEE Company Name

City Manager

Date

Company Representative/Title

Date

Rohnert Park Business License Number

The foregoing Agreement has been reviewed and approval is recommended:

Resolution No. 2016 - _____
Approved by City Council

Approved as to Form:

City Attorney

Date

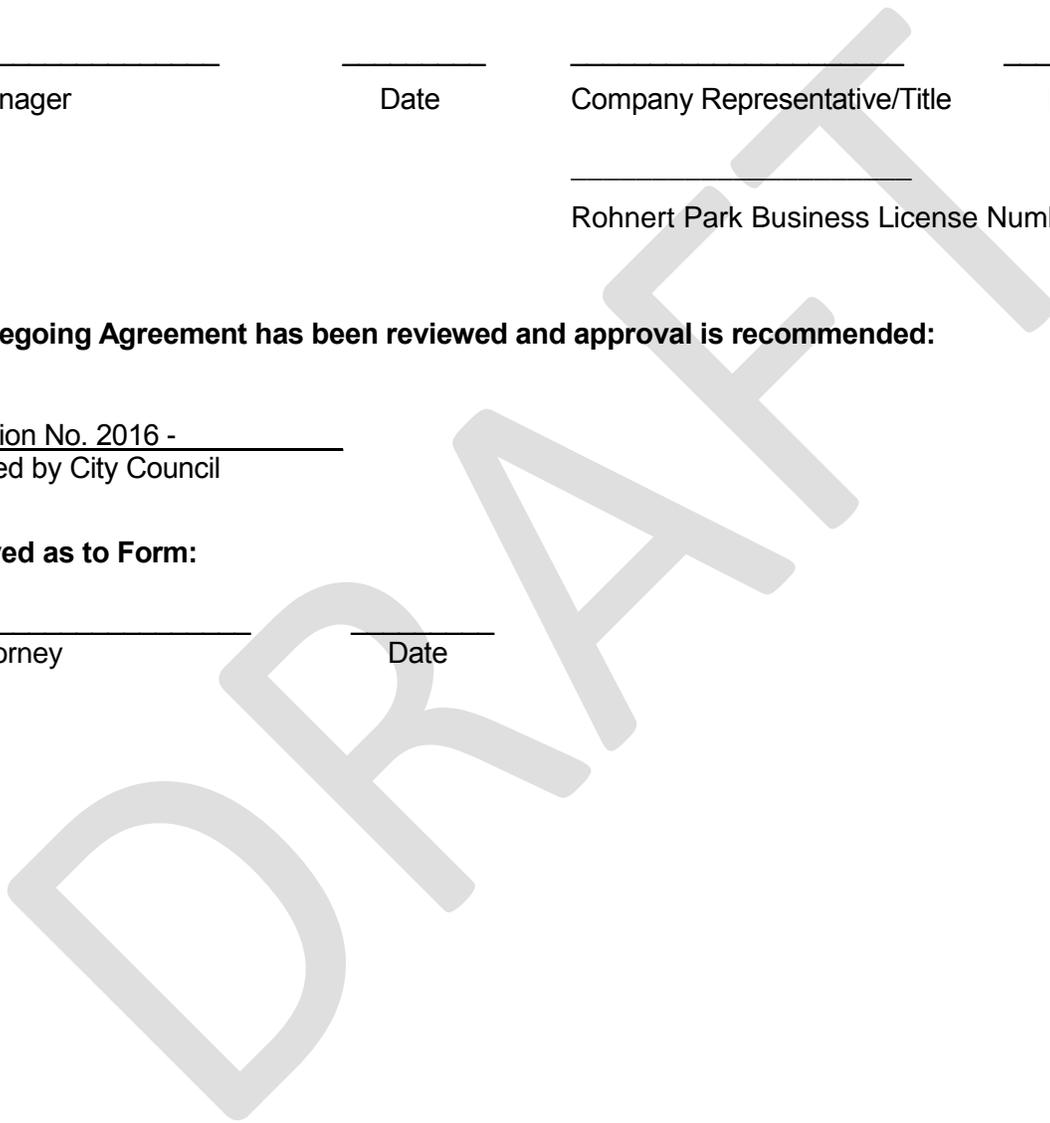


Exhibit 1
City of Rohnert Park, CA
QUARTERLY REPORT TEMPLATE

Reporting time period: _____

FINANCIAL INFORMATION

Month 1: _____

Gross Revenue: _____

Monthly Franchise Fee Payment to City: _____

Other Payments (if any): _____

Month 2: _____

Gross Revenue: _____

Monthly Franchise Fee Payment to City: _____

Other Payments (if any): _____

Month 3: _____

Gross Revenue: _____

Monthly Franchise Fee Payment to City: _____

Other Payments (if any): _____

OPERATIONAL PROBLEMS AND ACTIONS TAKEN

[Insert narrative summary of operational problems and actions taken.]

SERVICE SUPERVISOR

Name: _____ Phone: _____ Email: _____

Business Mailing Address: _____

EQUIPMENT INVENTORY

[Insert or attach an updated complete inventory of vehicles, containers and major collection / processing equipment, including stationary, rolling stock and collection containers by type and size. The inventory shall indicate each Collection vehicle by its LICENSEE-assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance status.]

Exhibit 1
City of Rohnert Park, CA
QUARTERLY REPORT TEMPLATE

TONNAGE SUMMARY

- A. Total tons collected: _____
- B. Total tons diverted: _____
- C. Total tons disposed: _____
- D. Diversion rate (B / A): _____

FACILITY TONNAGE BREAKDOWN

Facility 1: _____
Total tons delivered to facility: _____
Total tons diverted at facility: _____
Type of diversion / processing: _____
Total tons of residue resulting from processing: _____
Location of residue disposal: _____

Facility 2: _____
Total tons delivered to facility: _____
Total tons diverted at facility: _____
Type of diversion / processing: _____
Total tons of residue resulting from processing: _____
Location of residue disposal: _____

Facility 3: _____
Total tons delivered to facility: _____
Total tons diverted at facility: _____
Type of diversion / processing: _____
Total tons of residue resulting from processing: _____
Location of residue disposal: _____

[Repeat for additional facilities as necessary]