

**AMENDED AND RESTATED
AGREEMENT
BETWEEN
THE CITY OF ROHNERT PARK
AND
ROHNERT PARK DISPOSAL, INC.**

FOR

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

JULY 1, 2008

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**AMENDED AND RESTATED AGREEMENT
BETWEEN
THE CITY OF ROHNERT PARK
AND
ROHNERT PARK DISPOSAL, INC.**

FOR REFUSE, RECYCLABLE MATERIALS, AND COMPOSTABLE MATERIALS SERVICES

THIS AMENDED AND RESTATED AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 2008, by and between the City of Rohnert Park ("City") and Rohnert Park Disposal, Inc., a California corporation ("Contractor").

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

Whereas; the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (Act) (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 Refuse Handling within their jurisdiction; and,

Whereas; the State of California has found and declared that the amount of Refuse generated in California, coupled with diminishing Disposal Site space and potential adverse environmental impacts from land filling 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 waste reduction, re-use, recycling and composting options in order to reduce the amount of Refuse that must be disposed of in Disposal Sites; and,

Whereas; under Section 8.12 of the Rohnert Park Municipal Code, the City has the authority to provide for the Collection and Transportation of Refuse, Recyclable Materials, and Compostable Materials, and City residents and businesses are prohibited from storing, burying, transporting or disposing of Refuse and Compostable Materials; and,

Whereas; pursuant to California Public Resources Code Section 40059(a)(2), the City has determined that the public health, safety, and well-being require that an exclusive right be awarded to a qualified contractor for the Collection of Refuse, Recyclable Materials, and Compostable Materials, and other services related to meeting the diversion goal of 50 percent, and other requirements of the Act; and,

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

1
2 **Whereas;** the City desires, having determined that Contractor is qualified to provide for
3 both the Collection of Refuse within the corporate limits of the City and the Transportation of
4 such Refuse to appropriate places of Processing, Recycling, Composting and Disposal, by
5 demonstrated experience, reputation and capacity, that Contractor be engaged to perform such
6 services on the basis set forth in this Agreement; and,
7

8 **Whereas,** the City and Contractor are parties to that certain Refuse, Recyclable Materials,
9 Compostable Materials and Street Sweeping Services Agreement, dated May 29, 2001 ("Original
10 Agreement"); and,
11

12 **Whereas,** the City and Contractor now desire to amend and restate the Original
13 Agreement in its entirety to among other things provide for (i) extending the term; and (ii) the
14 acquisition of new fleet vehicles; and
15

16 **Now, THEREFORE,** in consideration of the mutual promises, covenants, and conditions
17 contained in this Agreement and for other good and valuable consideration, the parties agree as
18 follows:
19

20 **ARTICLE 1.** 21 **DEFINITIONS**

22
23 For purposes of this Agreement, unless a different meaning is clearly required, the following
24 terms shall have the following meanings and be capitalized throughout this Agreement:

25 **1.1 AGREEMENT**

26 **"Agreement"** means this Amended and Restated Agreement between the City and
27 Contractor, for Collection and Transportation of Refuse and Compostable Materials to a City
28 designated Disposal Site or Composting Facility and Collection and Processing of Recyclable
29 Materials, including all exhibits, and any future amendments hereto.

30 **1.2 ALTERNATIVE DAILY COVER (ADC)**

31 **"ADC"** means the use of Compostable Materials to include but not limited to organic
32 materials as an Alternative Daily Cover at a Disposal Site.

33 **1.3 BILLINGS**

34 **"Billings"** means any and all statements of charges for services rendered, howsoever
35 made, described or designated by City or Contractor, to Owners or Occupants of property,
36 including residential property and commercial, Industrial, and institutional property, serviced by
37 Contractor for the Collection of Refuse, Recyclable Materials, and Compostable Materials.

38 **1.4 BIN(S)**

39 **"Bin(s)"** means a metal container with hinged lids and wheels serviced by a front-end
40 loading truck with a capacity of 1 to 8 cubic yards.

1 **1.5 BIN SERVICE**

2 **"Bin Service"** means that service provided to Commercial Businesses, Multi-Family
3 Complexes, or Single-Family Residences generating large volumes of Refuse and which place
4 that Refuse in a Bin or Bins.

5 **1.6 BULKY ITEM**

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

10 **1.7 CART(S)**

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

14 **1.8 CART SERVICE**

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

18 **1.9 CITY**

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

22 **1.10 CLEAN RECYCLABLE MATERIALS**

23 **"Clean Recyclable Materials"** means materials collected in individual components such
24 as, but not limited to cardboard, designated paper grades, mixed containers, scrap metal, and
25 designated plastics.

26 **1.11 COLLECTION**

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

30 **1.12 COMMERCIAL BUSINESS**

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

35 **1.13 COMPACTOR**

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

1 **1.14 COMPLAINT**

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

6 **1.15 COMPOSTABLE CONTAINER**

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

9 **1.16 COMPOSTABLE MATERIALS**

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

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

15 **1.17 COMPOSTING FACILITY**

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

18 **1.18 CONTRACTOR**

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

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

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

26 **1.20 CURBSIDE**

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

30 **1.21 DEBRIS BOX**

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

33 **1.22 DELIVERY**

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

1 **1.23 DESIGNATED WASTE**

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

8 **1.24 DISPOSAL (OR DISPOSE)**

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

12 **1.25 DISPOSAL SITE(S)**

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

15 **1.26 EXTENDED PRODUCER RESPONSIBILITY**

16 **"Extended Producer Responsibility"** or "EPR" is the extension of the responsibility by
17 producers for the environmental impacts of their products and packaging to the entire product life
18 cycle -- and especially for their take-back, recycling, and disposal. EPR is based on the 'polluter
19 pays' principle.

20 **1.27 EXTRAS**

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

25 **1.28 FRANCHISE FEE**

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

28 **1.29 GENERATOR**

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

31 **1.30 GROSS REVENUES**

32 **"Gross Revenues"** means the total amount billed to customers by City on an accrual basis
33 for a specified period of time for Refuse, Recyclable Materials, and Compostable Materials
34 services provided by Contractor. In this Agreement, Gross Revenues are adjusted by subtracting
35 bad debts for the specified period from Gross Revenues to account for amounts included in Gross
36 Revenues for a prior period, which have been determined to be un-collectable in the specified
37 period.

1 **1.31 HANDLING**

2 **"Handling"** means Collection and Transportation of Refuse and Compostable Materials
3 to a City designated Disposal Site or Composting Facility and Collection and Processing of
4 Recyclable Materials.

5 **1.32 HAZARDOUS SUBSTANCE**

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

21 **1.33 HAZARDOUS WASTE**

22 **"Hazardous Waste"** means all substances defined as Hazardous Waste, acutely
23 Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety
24 Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such
25 statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection
26 Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC
27 §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated
28 thereunder.

29 **1.34 HOUSEHOLD HAZARDOUS WASTE**

30 **"Household Hazardous Waste"** means Hazardous Waste generated at residential
31 Premises within the City.

32 **1.35 INDUSTRIAL**

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

34 **1.36 INFECTIOUS WASTE**

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

1 **1.37 LEGISLATION**

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

5 **1.38 MIXED LOADS OF CONSTRUCTION AND DEMOLITION (C&D) MATERIALS**

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

9 **1.39 MULTI-FAMILY RESIDENTIAL COMPLEX**

10 **"Multi-Family Residential Complex"** means any residential complex, other than a
11 Single-Family Residence, used for residential purposes, including but not limited to two to six
12 (2-6) unit complexes, apartment buildings, mobile home parks, condominiums, and large
13 complexes over six (6) units.

14 **1.40 OCCUPANT**

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

16 **1.41 ORGANIC MATERIALS**

17 **"Organic Materials"** means materials that will decompose and/or putrefy. Organic
18 Materials include, but are not limited to, vegetable waste, fruit waste, grain waste, non-recyclable
19 paper waste and yard waste. Additional materials could be included upon mutual agreement.

20 **1.42 OWNER**

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

22 **1.43 PERSON**

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

26 **1.44 PREMISES**

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

29 **1.45 PROCESSING**

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

31 **1.46 PROCESSING FACILITY**

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

1 **1.47 RECYCLING CONTAINER**

2 **"Recycling Container"** means City-approved Cart or Bin used to place Recyclable
3 Materials at a designated Collection location for Collection for the purpose of Recycling.

4 **1.48 RECYCLABLE MATERIALS (ALSO "RECYCLABLES")**

5 **"Recyclable Materials"** means those discarded materials that the City Code permits,
6 directs and/or requires Generators to set out in Recycling Containers for Collection for the
7 purpose of Recycling. No discarded material shall be considered to be Recyclable Materials,
8 however, unless it is separated from Refuse and Compostable Materials. Recyclable Materials
9 may include newspaper, mixed paper, glass, metal and aluminum cans, plastic bottles (numbers
10 1-7), corrugated cardboard, cardboard and used motor oil and filters.

11 **1.49 RECYCLING**

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

16 **1.50 RECYCLING RESIDUE**

17 **"Recycling Residue"** means non-recyclable material removed during the processing of
18 single stream recycling such as wet or food contaminated items, waxed cardboard, plastic film,
19 organic or putrescible wastes, rubber, insulation, garbage or other items not accepted for
20 recycling and placed either inadvertently or intentionally by customers in the single stream
21 collection container.

22 **1.51 REFUSE**

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

- 26 (1) Salvageable Materials set out for Collection in a City-approved container;
27 (2) Hazardous Waste or Hazardous Substance;
28 (3) Infectious Waste;
29 (4) Abandoned automobiles;
30 (5) Unacceptable waste; or
31 (6) Radioactive waste.

32
33 Refuse includes Salvageable Materials only when such materials are commingled with
34 Refuse and included for Collection in a Refuse container. Only discarded materials shall be
35 considered Refuse.

36 **1.52 RELATED PARTY(IES)**

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

1 **1.53 RE-USE VENDOR**

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

5 **1.54 ROLL-OFF/COMPACTOR REFUSE SERVICE**

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

9 **1.55 ROLL-OFF CONTAINER**

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

12 **1.56 SALVAGEABLE MATERIAL**

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

16 **1.57 SINGLE-FAMILY RESIDENCE**

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

18 **1.58 SINGLE RECYCLABLE MATERIAL STREAM**

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

21 **1.59 SMALL COMMERCIAL GENERATOR**

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

24 **1.60 SOURCE SEPARATED CONSTRUCTION AND DEMOLITION (C&D) MATERIALS**

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

28 **1.61 SPECIALTY RECYCLABLE MATERIAL**

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

33 **1.62 TEMPORARY DEBRIS BOX SERVICE**

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

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

1.64 TRANSFER STATION

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

1.65 TRANSPORTATION

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

1.66 UNACCEPTABLE SPILLAGE

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

1.67 WHITE GOODS

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

1.68 ZERO WASTE

"Zero Waste is a goal that is both pragmatic and visionary, to guide people to emulate sustainable natural cycles, where all discarded materials are resources for others to use. Zero Waste means designing and managing products and processes to reduce the volume and toxicity of waste and materials, conserve and recover all resources, and not burn or bury them. Implementing Zero Waste will eliminate all discharges to land, water or air that may be a threat to planetary, human, animal or plant health."¹

ARTICLE 2.
REPRESENTATIONS AND WARRANTIES
OF THE CONTRACTOR

2.1 CORPORATE STATUS

Contractor is a corporation duly organized, validly existing and in good standing under the laws of the State of California. It is qualified to transact business in the State of California

¹ Liss, Gary. Zero Waste International Alliance, November 29, 2004
<http://www.precaution.org/lib/06/prn_zw_principles.041129.htm>.

1 and has the power to own its properties and to carry on its business as now owned and operated
2 and as required by this Agreement.

3 **2.2 CORPORATE AUTHORIZATION (OR PARTNERSHIP, ASSOCIATION OR JOINT**
4 **VENTURE AUTHORIZATION)**

5 Contractor has the authority to enter into and perform its obligations under this
6 Agreement. The Board of Directors of Contractor (or the shareholders, if necessary) has taken all
7 actions required by law, its articles of incorporation, its bylaws, or otherwise, to authorize the
8 execution of this Agreement. The Person signing this Agreement on behalf of Contractor has
9 authority to do so.

10 **2.3 AGREEMENT WILL NOT CAUSE BREACH**

11 To the best of Contractor's knowledge, after reasonable investigation, neither the
12 execution or delivery of this Agreement, nor the performance of this Agreement by Contractor:
13 (i) conflicts with, violates, or results in a breach of any applicable law; or (ii) conflicts with,
14 violates or results in a breach of any term or condition of any judgment, order or decree of any
15 court, administrative agency or other governmental authority, or any agreement or instrument to
16 which Contractor is a party or by which Contractor or any of its properties or assets are bound, or
17 constitutes a default thereunder.

18 **2.4 NO LITIGATION**

19 To the best of Contractor's knowledge, after reasonable investigation, there is no action,
20 suit, proceeding or investigation, at law or in equity, before or by any court or governmental
21 authority, commission, board, agency or instrumentality decided, pending or threatened against
22 Contractor wherein an unfavorable decision, ruling or finding, in any single case or in the
23 aggregate, would materially adversely affect the performance by Contractor of its obligations
24 hereunder or which, in any way, would adversely affect the validity or enforceability of this
25 Agreement or which would have a material adverse effect on the financial condition of
26 Contractor or any surety guaranteeing Contractor's performance under this Agreement, which has
27 not been waived by the City in writing.

28 **2.5 NO ADVERSE JUDICIAL DECISIONS**

29 To the best of Contractor's knowledge, after reasonable investigation, there is no judicial
30 decision that affects the validity of this Agreement and may subject this Agreement to legal
31 challenge.

32 **2.6 ABILITY TO PERFORM**

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

1
2
3 **ARTICLE 3.**
4 **TERM OF AGREEMENT**

5 **3.1 EFFECTIVE DATE**

6 The effective date of this Agreement shall be July 1, 2008 ("Effective Date").

7 **3.2 CONDITIONS TO EFFECTIVENESS OF AGREEMENT**

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

11 **3.2.1 ACCURACY OF REPRESENTATIONS**

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

14 **3.2.2 ABSENCE OF LITIGATION**

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

17 **3.2.3 FURNISHINGS OF INSURANCE AND LETTER OF CREDIT**

18 Contractor has furnished evidence of the insurance and letter of credit required by
19 Sections 9.4 and 9.5.

20 **3.2.4 EFFECTIVENESS OF CITY COUNCIL ACTION**

21 The City's Resolution No. _____, approving this Agreement, shall have become
22 effective pursuant to California law prior to the Effective Date.

23 **3.3 TERM**

24 The Term of this Agreement shall begin July 1, 2008, and end at midnight June 30, 2015,
25 unless extended by City pursuant to Section 3.4.

26 **3.4 OPTION TO EXTEND TERM**

27 The City, at its sole discretion, shall have the option to extend this Agreement, in periods
28 of at least twelve (12) months each, if the Contractor agrees to such an extension of the
29 Agreement. If the City elects to exercise the option, it shall give written notice of its election,
30 specifying the number of months by which it elects to extend the Term, to the Contractor, one
31 hundred eighty (180) days prior to the initial or extended termination date. Contractor shall
32 return a signed Letter Agreement to the City within 30 days of such written notice by City for the
33 extension to become effective.

34
35 **ARTICLE 4.**
36 **SCOPE OF AGREEMENT**

1 **4.1 SCOPE OF AGREEMENT**

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

5 **4.2 LIMITATIONS TO SCOPE**

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

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

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

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

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

35 **E.** Compostable Materials removed from a Premises by a gardening, landscaping, or
36 tree-trimming contractor as an incidental part of a total service offered by that contractor
37 rather than as a hauling service, and for no additional or separate fee, and if such
38 contractor delivers the Compostable Materials to a Compostable Container or
39 Composting Facility and does not dispose of the material as Refuse;

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

- 1 **G.** Animal waste and remains from slaughterhouse or butcher shops for use as tallow;
2 **H.** By-products of sewage treatment, including sludge, sludge ash, grit and
3 screenings; and
4 **I.** Hazardous Waste, Infectious Waste, and Designated Waste, regardless of its
5 source.

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

19 **4.3 COLLECTION OF CITY FACILITIES AND CITY-SPONSORED EVENTS**

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

24 **4.4 COLLECTION AND TRANSPORTATION OF SALVAGEABLE MATERIALS TO**
25 **PROCESSING FACILITY**

26 Contractor shall provide specially designed and painted vehicles for Collection and
27 Transportation of Salvageable Materials to the Processing Facility approved by the City. No
28 Salvageable Materials collected under this Agreement shall be disposed of at a Disposal Site in
29 lieu of diverting the material, without the expressed written approval of the City. If Contractor
30 determines that it cannot re-use or recycle the Salvageable Materials, then it shall prepare a
31 written request for approval to dispose of such material. Such request shall contain the basis for
32 its determination, describe the Contractor's efforts to arrange for the re-use or Recycling of such
33 material, the period required for such Disposal, the incremental costs or cost savings resulting
34 from such Disposal, and any additional information supporting the Contractor's request. The City
35 shall consider and inform Contractor in writing of its decision within thirty (30) days. If the City
36 approves such request, any difference in the cost of such Disposal from its diversion shall be
37 provided for in an adjustment (either increasing or decreasing) to the Contractor's Payment for
38 Services. Should the City designate another Processing Facility, then Contractor's Payment for
39 Services for the change (either increasing or decreasing Contractor's Payment for Services) in its
40 Transportation and Processing fees.

41 Contractor shall transport to and dispose of all Refuse collected under this Agreement at
42 the Disposal Site designated by the City (currently the Sonoma County Central Disposal Site)

1 and shall cooperate with the operator of the Disposal Site. If City approves a Disposal Site other
2 than the Sonoma County Central Disposal Site, then Contractor's Payment for Services for the
3 change shall be adjusted (either increased or decreased).

4 **4.5 ZERO WASTE GOALS**

5 Contractor is pursuing construction of a facility that when fully operational, will divert up
6 to 80% of the City's waste stream. This facility, the North Bay Corporation Center for the
7 Environment, will enable the City to transition toward achieving its Zero Waste goals. Once the
8 construction plans are initiated, City and Contractor shall agree to engage in dialogue regarding
9 the destination and processing of all refuse and recyclable materials generated within the City as
10 defined by this Agreement. Contractor commits to working with the City to adopt operations
11 initiatives to achieve Zero Waste concepts including improving "downstream" reuse/recycling of
12 end-of-life products and materials to ensure highest and best use; pursuing "upstream" re-design
13 strategies to reduce the volume and toxicity of discarded products and material; and fostering and
14 supporting use of discarded products and materials to stimulate local workforce development.
15

16 **ARTICLE 5.**

17 **COLLECTION SERVICES**

18

19 **5.1 GENERAL**

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

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

31 **5.2 REFUSE SERVICES**

32 **5.2.1 SINGLE-FAMILY RESIDENTIAL REFUSE SERVICE**

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

35 **5.2.2 MULTI-FAMILY COMPLEX REFUSE SERVICE**

36 **5.2.2.A MULTI-FAMILY REFUSE CART SERVICE**

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

1 **5.2.2.B MULTI-FAMILY REFUSE BIN SERVICE**

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

5 **5.2.3 COMMERCIAL REFUSE SERVICE**

6 **5.2.3.A COMMERCIAL REFUSE BIN SERVICE**

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

10 **5.2.3.B COMMERCIAL REFUSE CART SERVICE**

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

14 **5.2.4 COMMUNITY CLEAN-UP SERVICES**

15 Contractor shall conduct two (2) one week cleanup events each year, one during the
16 spring, and one in the fall. The dates for cleanups shall be proposed by the Contractor and
17 approved by the City Manager. The Contractor shall pickup authorized cleanup items from all
18 single-family customers at the curbside and properly dispose of such waste. Multi-family
19 Managers, Owners or Homeowner's Associations shall be notified by Contractor (for example,
20 through newspaper ads and/or utility bill inserts) of available cleanup services. Customers that
21 choose to participate in the cleanup shall contact the Contractor to request service. The
22 Contractor shall pickup authorized cleanup items from all multi-family customers at a collection
23 location acceptable to Contractor and the Contractor shall pickup authorized cleanup items from
24 all multi-family customers at a collection location acceptable to Contractor and Manager, Owner
25 or Homeowner's Association.

26 Contractor will provide notice to single-family living units that the residents may place
27 two (2) cubic yards (14 bags, boxes or regular trash cans) at the curb per event, or one bulky item
28 or appliance (e.g., water heater or couch) plus seven (7) bags, boxes or cans, or two bulky items
29 or appliances. Waste will be collected on customer's regular trash collection day. As
30 appropriate, items are to be bagged in thirty-five (35) gallon size trash bags, boxed or placed in
31 32-gallon trash cans provided by customer. Contractor will provide notice to units setting forth
32 that items set at the curb for these cleanups must weigh less than sixty (60) pounds (except bulky
33 items), be less than five (5) feet long and be capable of being easily loaded into standard garbage
34 packer trucks. Cleanup material shall not include dirt, rock, concrete, tires, stumps, mattresses or
35 other items prohibited from disposal; or items not covered by the County Disposal Fee Waiver.
36 No hazardous waste will be collected curbside. Loose material will not be collected. In all
37 circumstances where materials left curbside present a health and safety hazard, Contractor shall
38 immediately notify City staff for disposition.

39 During cleanup events, residents will be advised to contact the Contractor directly to set
40 up an appointment for the collection of used appliances (e.g., washers, dryers, stoves,
41 refrigerators, freezers, etc.) and bulky items (e.g., couches, mattresses, etc.). In the case of pick
42 up of appliances containing Freon, mercury switches, compressor oil, capacitors or other

1 controlled waste, the City will be responsible for the costs associated with removal of Freon or
2 other controlled waste. The Contractor will coordinate with a licensed entity for the removal of
3 the controlled waste and bill the City for costs. The Sonoma County Waste Management Agency
4 provides ten (10) free disposal days per year to the City so there will be no additional cost to
5 customers. Disposal fees for items not accepted by the County of Sonoma as part of the fee
6 waiver, such as mattresses, will be tracked by the Contractor, billed to the City and passed
7 through to residents via their bi-monthly utility bill. If during the term of this Agreement free
8 disposal days are terminated by the County of Sonoma or a private entity in the event that the
9 landfill is sold, Contractor shall renegotiate the terms and conditions of community clean-up
10 services.

11 In the case of multi-family complexes, such as apartment buildings, condominiums and
12 townhouses, where solid waste is collected in centralized bins and individual can service is not
13 provided, Contractor shall notify the person or entity responsible for refuse collection at the
14 complex of the semiannual cleanup events. Such notification shall include instructions for
15 requesting cleanup service from Contractor. The type and quantity of material acceptable for
16 these cleanups shall be the same as that described above for single-family customers. Cleanup
17 event is for residential customers and tenants only and not for businesses, commercial accounts
18 or property managers or owners.

19 Contractor shall assist City staff in publicizing the bi-annual cleanup events through
20 articles in the recycling newsletter, the "Rohnert Park Recycling News", utility billing inserts and
21 the Community Voice. The cost of the billing inserts will be paid by the City as part of their
22 regularly scheduled billing. The cost of ads in the Community Voice will be paid by the
23 Contractor and funded out of the \$25,000 set aside in the City Supplemental Education Fund. In
24 addition to providing clear guidelines for materials collection, the Contractor shall provide
25 residents with recycling and reuse information in order to promote waste reduction and the
26 diversion of these materials from the cleanup waste stream.

27 **5.2.5 OIL COLLECTION**

28 The Contractor shall provide used oil collection for Single-Family Residences and Multi-
29 Family Complexes as part of the Recyclable Materials Collection program. Upon request, the
30 Contractor will distribute spill-safe containers for the Collection of used motor oil and plastic
31 bags for used oil filters. In the case of Multi-Family Complexes, tenants will be notified by
32 Contractor that tenants may not request oil collection; only the Manager, Owner or Homeowner's
33 Association is authorized to request such service. Contractor shall collect used motor oil and
34 used filters from Single-Family Residences that are placed at the curb. Contractor shall collect
35 used motor oil and used filters from Multi-Family Complexes at a location that is acceptable to
36 the Contractor and Manager, Owner or Homeowner's Association. The Contractor shall provide
37 replacement containers and filter bags to participants upon each Collection of oil and/or filters.

38 Contractor shall safely store oil and used filters collected at its facility, and arrange for
39 these materials to be properly recycled. Contractor shall provide used motor oil and used filter
40 recycling support through community outreach, educational materials, and their web site

41 **5.3 RECYCLING SERVICES**

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

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

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

5.3.1 SINGLE-FAMILY RESIDENTIAL RECYCLING SERVICE

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

5.3.2 MULTI-FAMILY COMPLEX RECYCLING SERVICE

All Multi-Family Complexes shall receive Recycling service. Each complex shall have the option of Cart Service described in Article 5.3.2.A, Bin Service described in Article 5.3.2.B, or a combination of both types of service. Contractor shall assist each complex by recommending the number and type of containers needed to service occupants and achieve a diversion rate in excess of fifty percent (50%). Contractor shall recommend the most effective locations on site for placement of containers. Contractor shall provide educational materials and signage to reduce contamination

5.3.2.A MULTI-FAMILY RECYCLING CART SERVICE

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

5.3.2.B MULTI-FAMILY RECYCLING BIN SERVICE

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

5.3.3 COMMERCIAL RECYCLING PROGRAM

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

1 to divert greater than 50% of commercial refuse at each site and (4) education and Recycling
2 support.

3 **5.3.3.A COMMERCIAL RECYCLABLE MATERIAL STREAMS FOR COLLECTION**

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

- 6 • Cardboard
- 7 • Office Paper
- 8 • Mixed paper (including cardboard)
- 9 • Mixed containers (glass, plastic, aluminum)

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

12 **5.3.3.B CONTAINER SIZES AND COLLECTION OPTIONS**

13 Contractor shall provide sufficient containers of varying sizes and Collection options
14 to all of the City's businesses to make business Recycling convenient and effective. Each
15 account will require Recycling services with various containers and Collection options (e.g.,
16 centralized Recycling areas around groups of business, Recyclable Materials Carts near trash
17 locations or specific businesses, or Recyclable Materials Bins where space within a trash
18 enclosure allows). Contractor shall offer smaller Recyclable Materials Bins and Carts to
19 address space constraints and convenience at each site, and shall offer more frequent
20 collection than weekly as required by Generator to adequately service such containers.

21 **5.3.4 CHRISTMAS RECYCLING SERVICES**

22 Contractor shall offer to Single Family Residences collection of bundled and/or tied gift
23 boxes, cards, and cardboard placed curbside next to the recycling can on regularly scheduled
24 pickup days for two consecutive weeks following the Christmas Day holiday. The dimension
25 of bundled and/or tied items shall not exceed 2'W X 2'L X 1'H (i.e., two (2) feet in length, by
26 two (2) feet in width, by one (1) foot in height).

27 **5.4 COMPOSTABLE MATERIALS PROGRAM**

28 Contractor agrees to collect and deliver to the local Composting Facility designated by
29 City, Compostable Materials that Generators separate from Refuse in Compostable Containers
30 for Collection. City shall designate the Composting Facility(s) where Compostable Materials
31 shall be delivered. The Processing Facility may process the material as compost or mix the
32 material with bio-solids and process the material as compost.

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

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

Contractor shall be entitled to an adjustment (either an increase or decrease) in its compensation for Transportation in accordance with Section 8.6 if changes in the designated Composting Facility result in increased mileage of more than ten (10) miles one way.

5.4.1 SINGLE-FAMILY RESIDENTIAL COMPOSTABLE MATERIALS WEEKLY SERVICE

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

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

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

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

Contractor shall, upon request of a Generator, provide Cart or Bin Compostable Containers to larger Multi-Family Residential Complexes and Commercial Businesses, and shall collect and transport to the Composting Facility designated by City all Compostable Materials from Carts or Bins placed in the designated areas for such Multi-Family Residential Complexes and Commercial Businesses. Separate service fees will apply for Compostable Materials Cart service. Contractor shall provide service as scheduled with Generator, but a minimum of every other week Collection service.

5.4.3 CHRISTMAS TREE PICKUP

Christmas trees shall be collected in one of three ways: (1) Cut up and placed in Compostable Materials Containers on regular Collection day; (2) collection from Debris Boxes at the City corporation yard (residential drop-off location); or (3) the Generator may pay a non-profit organization designated by the City Council to collect the Christmas trees and bring them to the City corporation yard.

Contractor shall supply a Roll-Off Container, to be placed at a location determined by the City, to provide a drop-off service for Christmas trees. The Roll-Off Container shall be serviced on a regular basis and the surrounding area kept free of any debris. Christmas trees shall be recycled in a manner to count as diversion by the California Integrated Waste Management Board. Trees that are flocked and contain tinsel or other decorations shall be collected separately for Disposal. The Debris Box shall be delivered the following business day after Christmas and serviced until mid-January or in cooperation with the Sonoma County Waste Management Agency Drop-Off Programs.

5.4.4 CURBSIDE CHRISTMAS TREE COLLECTION OPTION

Contractor shall offer to Single-Family Residences and Multi-Family Complex residents Curbside Collection of Christmas trees during a two- (2) week period as agreed upon and

1 approved by the City. Christmas trees will be collected on the regular Collection day during the
2 designated week.

3 **5.5 HOUSEHOLD ALKALINE BATTERY RECYCLING PROGRAM**

4 Contractor shall provide collection services for City-sponsored Household Alkaline
5 Battery Recycling Program. Contractor shall collect recycled Household Batteries from all City
6 locations identified in Exhibit B. City staff shall notify Contractor when battery containers
7 become full to request pickup. Upon such notification, Contractor shall collect and deliver
8 batteries to the Public Works Department located at 600 Enterprise Drive. If requested to do so,
9 Contractor shall accommodate requests from City staff for routine and/or more frequent pickups.

10
11 The City will arrange for the transportation and disposal of batteries at a facility authorized to
12 manage hazardous waste such as the Sonoma County Waste Management Agency Hazardous
13 Waste facility located at the Sonoma County Central Disposal Site. City staff will report annual
14 disposal, by weight, to the California Integrated Waste Management Board.

15 **5.6 CITY FACILITIES AND EVENTS COLLECTION**

16 Contractor shall provide containers and collection of Refuse, Recyclable Materials and
17 Compostable Materials to all City facilities identified in Exhibit A. Contractor shall also provide
18 collection of Refuse disposed of in City-owned cans located throughout the City. Contractor
19 shall provide Refuse, Recycling Materials and Compostable Materials services for special events
20 as set forth in Exhibit C. The size of the bin or cart and the frequency of Collection shall be
21 determined between the City and Contractor. Compostable Materials services are required only at
22 the Department of Public Works, where all City Compostable Materials are deposited. The
23 services required by this section shall be provided at no charge to the City, but the cost of
24 providing such service shall be an allowable expense under Article 8.

25 **5.7 REMOVAL OF HAZARDOUS WASTE**

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

1 **5.8 TRANSPORTATION OF REFUSE, RECYCLABLE MATERIALS AND COMPOSTABLE**
2 **MATERIALS**

3 Contractor shall transport all Refuse and Compostable Materials collected under this
4 Agreement to the Disposal and Processing Facilities designated by the City, and all Recyclable
5 Materials to the City approved Recycling Facility for Processing. Contractor shall maintain
6 accurate records of the quantities of Refuse, Recyclable Materials, and Compostable Materials
7 transported to the Disposal Site, Processing Facility, or Composting Facility and will cooperate
8 with City in any audits, reporting or investigations of such quantities.

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

15 **5.9 PROCESSING OF REFUSE, RECYCLABLE MATERIALS, AND COMPOSTABLE**
16 **MATERIALS**

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

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

30 Unless and until City otherwise designates a different Recyclable Materials Processing
31 center in writing, the Recyclable Materials Processing center shall be the Timber Cove Recycling
32 Facility on Standish Avenue in Santa Rosa. City reserves the right to redirect Recyclable
33 Materials collected under this Agreement to a Processing Facility determined by the City. If City
34 redirects Recyclable Materials to an alternate Processing Facility, Payment for Services to
35 Contractor shall be adjusted for differences in the cost of Transportation, Disposal, and
36 Processing of the material in accordance with Section 8.6. Contractor shall dispose of all
37 Recycling Residue at a location designated by the City. Unless and until City otherwise
38 designates a different Disposal Site in writing, the Disposal Site shall be the Sonoma County
39 Central Disposal Site. If City redirects Recycling Residue to an alternate Processing Facility,
40 Payment for Services to Contractor shall be adjusted for differences in the cost of Transportation,
41 Disposal, and Processing of the material as determined in accordance with Section 8.6.

42 Unless and until City otherwise designates a different Composting Facility in writing, the
43 Composting Facility shall be the Sonoma County Central Disposal Site. City reserves the right to
44 redirect Compostable and Organic Materials collected under this Agreement to a Composting

Facility determined by the City. If City redirects Compostable and Organic Materials to an alternate Composting Facility, Payment for Services to Contractor shall be adjusted for differences in the cost of Transportation, Disposal, and Processing of the materials in accordance with Section 8.6.

5.10 COLLECTION STANDARDS

5.10.1 CARE OF PRIVATE PROPERTY

Contractor shall use due care when Handling Refuse, Recyclable Materials, and Compostable Materials Containers. Containers shall not be thrown from trucks, roughly handled, damaged or broken. Containers shall be returned to the Collection point upright, with lids properly secured. The City may levy fines for repeat occurrences in accordance with Article 11.5 of this Agreement.

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

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

5.10.2 LITTER ABATEMENT

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

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

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

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

5.10.3 HOURS OF COLLECTION

Scheduled Collection of Refuse, Recyclable Materials, and Compostable Materials in residential areas may occur only between the hours of 6:00 a.m. and 6:00 p.m., and in

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

5.10.4 NOISE

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

5.10.5 HOLIDAY COLLECTION SCHEDULE

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

5.10.6 PERMANENT CHANGES IN SERVICE DAYS

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

5.10.7 REVIEW OF PLANS SUBMITTED TO BUILDING DIVISION

Upon request of City's Building Official, Contractor shall review building and development plans submitted to the Building Division to ensure compliance with California Assembly Bill 2176, Space for Collection and Loading of Recyclable Materials in Development Projects, and to ensure Contractor has adequate access to trash enclosures and trash collection facilities. Contractor shall provide approval, or plan review comments, no later than five (5) business days from the original receipt of plans from the City.

1 **5.11 VEHICLES**

2 **5.11.1 GENERAL**

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

11 **5.11.2 SPECIFICATIONS**

12 Contractor shall service the City with eight (8) new Solid Waste Collection Vehicles
13 ("SWCV") and one (1) Street Sweeper. The Street Sweeper was placed into service in 2007. It is
14 a Model Year 2007. Deployment of the eight (8) new SWCVs and Street Sweeper shall be limited
15 to the City of Rohnert Park. The new SWCVs are to be placed into service no later than October
16 2008. Contractor is obligated to ensure that all SWCVs shall meet or exceed California Air
17 Resources Board standards under the SWCV Rule. The SWCVs shall be equipped with 2007
18 engines certified to new; lower smoke standards and they shall run on bio diesel fuel. All vehicles
19 used by Contractor in providing collection services shall be registered with the California
20 Department of Motor Vehicles. All such vehicles shall have watertight bodies designed to
21 prevent leakage, spillage, or overflow. Vehicles shall also be equipped with safety features that
22 enable drivers to avoid making contact with other vehicles, their passengers and/or pedestrians.

23 **5.11.3 VEHICLE IDENTIFICATION**

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

29 **5.11.4 INVENTORY**

30 Contractor shall furnish sufficient equipment to provide all service required under this
31 Agreement. Contractor shall furnish the City a written inventory of all vehicles, including
32 Collection vehicles, used in providing service, and shall update the inventory whenever there is a
33 change in vehicles used for City services, but at a minimum annually. The inventory shall list all
34 vehicles by manufacturer and model year; all equipment by ID number, date of acquisition, type,
35 capacity and depreciable life.

36 **5.11.5 CLEANING AND MAINTENANCE**

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

40 **B. Cleaning.** Vehicles used in the Collection of Refuse, Recyclable Materials, and
41 Compostable Materials shall be thoroughly washed and thoroughly steam cleaned on a

1 minimum of one (1) time per week or more frequently if necessary so as to present a
2 clean appearance of both the exterior and interior compartment of the vehicle. City may
3 inspect vehicles at any time to determine compliance with sanitation requirements.
4 Contractor shall make vehicles available to any state or federal agency requesting an
5 inspection, at any frequency it requests.

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

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

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

22 **5.11.6 OPERATION**

23 Vehicles shall be operated in compliance with the California Vehicle Code, and all
24 applicable safety and local ordinances. Contractor shall not load vehicles in excess of the
25 manufacturer's recommendations or limitations imposed by state or local weight restrictions on
26 vehicles. Contractor shall have the right to refuse unsafe loads and/or loads containing illegal
27 materials.

28 **5.12 CONTAINERS**

29 **5.12.1 GENERAL**

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

34 Contractor shall provide containers for storage of Refuse, Recyclable Materials, and
35 Compostable Materials, which shall be designed and constructed to be watertight and prevent the
36 leakage of liquids. All containers with a capacity of one cubic yard or more shall meet applicable
37 federal regulations on Refuse Bin safety and be covered with attached lids. All containers shall
38 be painted standard colors and shall prominently display the name and telephone number of the
39 Contractor. Containers shall be designated with specific colors approved by the City to
40 distinguish between Refuse and Recycling containers. Recycling containers shall include labels
41 identifying the type of Recycling Materials to be deposited therein.

1 **5.12.2 REFUSE CART CONTAINERS**

2 **5.12.2.A SINGLE FAMILY RESIDENTIAL REFUSE CART SERVICE**

3 Contractor shall supply each Single Family Residence with a choice of one (1) 20-
4 , 30-, 60-, or 90-gallon (or equivalent size) Cart for the Collection of Refuse. Single-
5 Family Residences may receive multiple Refuse Carts for an additional fee.

6 **5.12.2.B MULTI-FAMILY RESIDENTIAL COMPLEXES REFUSE CART SERVICE**

7 Contractor shall supply each Multi-Family Residential Complex resident with a
8 choice of one (1) 20-, 30-, 60-, or 90-gallon (or equivalent size) Cart for the Collection of
9 Refuse. Multi-Family Residents may receive multiple Refuse Carts for an additional fee.

10 **5.12.2.C SMALL COMMERCIAL GENERATOR CART SERVICE**

11 Contractor shall supply each Small Commercial Generator with one (1) 90-gallon
12 Cart (or equivalent size) for the Collection of Refuse, upon request. Small Commercial
13 Generators may receive multiple Refuse Carts for an additional fee.

14 **5.12.3 REFUSE BIN CONTAINERS**

15 Contractor shall supply each Bin Service Generator with a choice of size (1 to 6 yard) and
16 number of Bins for the Collection of Refuse. Large quantity Generators shall be offered the
17 option of selecting a Roll-Off Container or Compactor for Collection of Refuse (for permanent
18 Refuse service only).

19 **5.12.4 RECYCLING CONTAINERS**

20 **5.12.4.A SINGLE-FAMILY RESIDENTIAL RECYCLING CART SERVICE**

21 Contractor shall supply each Single-Family Residence with a choice of a 60-, or
22 90-gallon (or equivalent size) Cart for the Collection of Single Stream Recyclable
23 Materials in one Cart.

24 **5.12.4.B MULTI-FAMILY RESIDENTIAL COMPLEXES RECYCLING CART**

25 Contractor shall supply each Multi-Family Residential Complex resident with a
26 choice of a 60-, or 90-gallon (or equivalent size) Cart for the Collection of Single Stream
27 Recyclable Materials in one container. Multi-family residents may receive multiple
28 Refuse Carts at no additional fee.

29 **5.12.4.C COMMERCIAL RECYCLING CONTAINERS**

30 Contractor shall supply each Commercial Business with the option of Bin and/or
31 Cart Recycling Service. Bin Service Generators shall have the option of size (1 to 6 yard
32 Bins) and number of Bins for the Collection of Recyclable Materials. Cart Service
33 Generators shall have the option of 90-gallon Carts for the Collection of Recyclable
34 Materials.

35 **5.12.5 COMPOSTABLE MATERIALS CART SERVICE CONTAINERS**

36 **5.12.5.A SINGLE-FAMILY RESIDENTIAL COMPOSTABLE MATERIALS CART**
37 **SERVICE**

Contractor shall supply each Single-Family Residence with a 90-gallon Cart (or equivalent size) for the Collection of Compostable Materials, and additional containers at no extra cost.

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

Contractor shall provide as an option 90-gallon (or equivalent size) Carts for the Collection of Compostable Materials.

5.12.6 CLEANING, PAINTING, MAINTENANCE

Contractor shall steam clean and repaint all containers (other than Carts) so as to present a clean appearance. All containers shall be maintained in a functional condition.

5.12.7 REPAIR AND REPLACEMENT

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

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

5.12.7.B CART REPAIR AND REPLACEMENT

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

5.12.8 CITY-SPONSORED EVENT CONTAINERS

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

5.13 EDUCATION AND RECYCLING/RE-USE SUPPORT

Throughout the Term of the Agreement Contractor shall use best efforts to engage in activities that support the City's commitment to achieve the transition to Zero Waste. Contractor will work both independently and with City staff to develop and implement effective recycling and reuse programs, produce and distribute useful educational materials that incorporate Zero Waste goals, perform public outreach, provide incentives to businesses and individuals that reward and promote recycling and re-use, partner with organizations that conduct recycle/re-use drop-off events, and advocate for legislated Extended Producer Responsibility (EPR) Programs. Contractor shall adopt their own operations initiatives to achieve zero-waste from refuse collection activities.

5.13.1 NEW CUSTOMER START-UP PACKET

Contractor shall provide an information packet for new customers. Materials printed and distributed shall contain the highest levels of recycled content, with a minimum of 20 percent post-consumer content. Contractor shall include the following items, where applicable, in the packet to new customers:

- An initial mailing describing the specific collection day and holiday service schedule.

- A "how to" brochure explaining the overall Recyclable and Compostable Materials programs and the materials to be collected.
- The most recent semi-annual newsletter.

5.13.2 CONTINUING EDUCATIONAL ACTIVITIES

Throughout the term of this agreement Contractor shall provide information to Single-Family Residences, Multi-Family Residential Complexes, and Commercial Businesses through media including, but not limited to, newsletters, utility billing inserts, flyers, door hangers, notification tags and direct contact. At the request of City staff, Contractor shall generate educational articles for publication in the Community Voice.

The Contractor shall conduct the following activities on a quarterly, semi-annual, annual and/or "as needed" basis through the Term of the contract:

5.13.2.A SINGLE FAMILY RESIDENTIAL CUSTOMERS

- A semi-annual newsletter to be distributed to all residents promoting and explaining the programs and including Recycling education materials.
- Semi-annual utility billings insert promoting and explaining the community cleanup events.
- A corrective actions notice for use in instances where the resident sets out inappropriate materials.
- Semi-annual distribution of non-program related information on source reduction, re-use and Recycling (e.g., junk mail reduction, Household Hazardous Waste events, grass cycling, composting, etc.). Contractor may distribute materials as utility billing inserts as space permits.

5.13.2B MULTI-FAMILY COMPLEX CUSTOMERS

- A semi-annual newsletter to be distributed to all residents promoting and explaining the programs and including Recycling education materials.
- Semi-annual utility billings insert promoting and explaining the community cleanup events.
- A corrective actions notice for use in instances where tenants set out inappropriate materials shall be provided to the Manager or Owner.
- Semi-annual distribution of non-program related information on source reduction, re-use and Recycling (e.g., junk mail reduction, Household Hazardous Waste events, grass cycling, composting, etc.).

5.13.2C COMMERCIAL BUSINESS CUSTOMERS

- Semi-annual printing and distribution of educational materials targeting commercial waste streams (e.g. office paper, other paper and cardboard).
- Printing and maintaining clear container labels describing the contents that shall be placed in the recycling bin.

- Contractor shall attend a minimum of four (4) business association groups (e.g., Chamber of Commerce and other such organizations) to educate businesses on the Recycling programs, answer questions, and provide information for signing businesses up for services.
- Contractor shall provide a semi-annual newsletter to be distributed to all businesses promoting and explaining the programs. The newsletter shall be reviewed and approved by City staff.
- Contractor shall provide a corrective actions notice for use in instances where the business includes inappropriate materials, has contamination of Recyclables, or has inadequate Refuse or Recycling services (e.g., overflow or excessive debris).

5.13.3 RECYCLING VISITS AND EDUCATION

The Contractor shall provide a qualified Recycling Specialist to provide Recycling education to Commercial Businesses, Multi-Family Residential Complexes, and Single-Family Residences. The Recycling Specialist shall devote a minimum of eight (8) hours per week or 416 hours per year solely to the City throughout the term of the contract.

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

The Recycling Specialist shall also work with Multi-Family Residential Complexes to encourage Recycling services. The Recycling Specialist shall be available to new and existing complexes throughout the Term of the contract for approximately four (4) hours per week. The Recycling Specialist shall assist multi-family building Managers, Owners or Homeowner Associations in adding or changing services; they shall provide one-on-one education about Recycling, offer assistance with implementing or enhancing Recycling programs, and shall work with complexes to ensure that their residents are aware of, and may participate in, the Community Clean-up Events and Christmas Tree Pick-up Program. A minimum of 100 Multi-Family Complexes shall be visited annually.

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

1 **5.13.4 CITY'S SUPPLEMENTAL EDUCATION**

2 **A.** The City will include an annual budget of \$25,000 in the Contractor's Payment for
3 Services to fund supplemental education program(s), an annual E-Waste event, and a variety
4 of ads and/or concise articles that, upon request by City, are to be written and placed in the
5 Community Voice by Contractor. This annual budget will be added on as a pass-through of
6 diversion fees to the cost presented and will be funded from Refuse rates.

7 1) Annually, the City and Contractor will agree on one or more supplemental
8 education programs that target large generators of waste. For example, supplemental
9 programs may include, but not be limited to, augmenting source reduction and
10 Recycling practices among those generators known to contribute significant levels of
11 divertable materials to landfills or generators known to contaminate Garbage and/or
12 Recycling. Contractor shall report progress, problems encountered, actions taken, and
13 recommendations for future actions quarterly.

14 2) Contractor shall organize and manage an annual E-Waste event with a
15 certified E-waste recycler. Contractor's responsibilities shall include, but not be
16 limited to: (a) initiating contact with a certified E-waste recycler; (b) establishing a
17 date and time for the event that is acceptable to both the City and certified E-waste
18 recycler; (c) working with City staff to secure a location for the event; (d) working
19 with certified E-waste recycler to secure adequate staffing and transportation of E-
20 waste; and (e) coordinating all activities throughout the event to ensure its success.
21 Contractor shall be responsible for ensuring that the total number of pounds collected
22 at the event is reported to the City within 60 days of the event.

23 3) Contractor shall place ads in the Community Voice for Christmas Tree
24 Collection Services, Christmas Recycling Services, the Curbside Community Clean-
25 up Events, the annual E-waste Event and other events as requested by City. At the
26 request of City staff, Contractor shall generate 2-3 brief educational articles for
27 publication in the Community Voice (e.g., Composting leaves in the fall, proper
28 disposal of medications). The content for these articles may be taken directly from
29 Contractor's bi-annual newsletter if previously published and approved by the City.

30 **B.** Annually, the City shall set-aside \$25,000 for special projects that will enhance source
31 reduction and recycling education. The City may hire an educational contractor to conduct
32 additional education and outreach to support multi-family and commercial Recycling
33 programs. This annual budget will be added on as a pass-through of diversion fees to the cost
34 presented and will be funded from Refuse rates.

35 **C.** Annually, the City shall set-aside \$10,000 for enforcement activities. The City will
36 utilize its Code Enforcement Officer to initiate and carry-out corrective measures to address
37 non-compliance with the Rohnert Park Municipal Code; to enforce our contractual obligation
38 to our Contractor that grants them exclusivity in the collection, hauling, and disposal of all
39 refuse, recyclable materials and compostable materials; and to monitor the activities of
40 Contractors granted a franchise for the provision of Temporary Debris Box services. This
41 annual budget will be added on as a pass-through of diversion fees to the cost presented and
42 will be funded from Refuse rates.

1 **5.13.5 COMPOSTABLE MATERIALS SPECIFICATIONS**

2 Contractor shall prepare a flyer describing how to prepare Compostable Materials for
3 Collection. Contractor shall print a sufficient number of flyers to distribute to each new
4 customer. Contractor shall instruct Single-Family Residences, Multi-Family Residential
5 Complexes, and Commercial Businesses as to any necessary preparation and description of
6 acceptable Compostable Materials. Compostable Materials Specifications shall be published in
7 the Contractor's bi-annual newsletter.

8 **5.13.6 RECYCLABLE MATERIALS SPECIFICATIONS**

9 Contractor shall prepare a flyer describing how to prepare Recyclable Materials for
10 Collection. Contractor shall print adequate numbers of flyers and other educational materials to
11 distribute to each new customer. Contractor shall inform Single-Family Residences, Multi-
12 Family Residential Complexes, and Commercial Businesses as to any contaminants in the
13 Recyclables and describe the acceptable materials that can be included in the Recyclable
14 Materials Containers, by placing notices on containers. Recyclable Materials Specifications shall
15 be published in the Contractor's bi-annual newsletter.

16 **5.13.7 CHRISTMAS TREE COLLECTIONS**

17 Contractor shall notify all service recipients in writing of the dates, time, and places of all
18 Christmas tree Collections. Written notification shall be in the form of an ad placed in the
19 Community Voice. In addition to Christmas Tree Collections, Contractor shall incorporate
20 information about Christmas Recycling Services into the ad (i.e., 5.3.4 Christmas Recycling
21 Services). The ad shall be published one week prior to the Christmas Day holiday.

22 **5.14 PERSONNEL**

23 **5.14.1 GENERAL**

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

27 **5.14.2 DRIVER QUALIFICATIONS**

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

31 **5.14.3 SAFETY TRAINING**

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

37 **5.14.4 NO GRATUITIES**

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

1 **5.14.5 EMPLOYEE CONDUCT AND COURTESY**

2 Contractor shall use its best efforts to assure that all employees present a neat appearance
3 and conduct themselves in a courteous manner. Contractor shall regularly train its employees in
4 customer courtesy, shall prohibit the use of loud or profane language, and shall instruct
5 Collection crews to perform the work as quietly as possible. If any employee is found not to be
6 courteous, to be driving in a dangerous or reckless manner, or not to be performing services in
7 the manner required by this Agreement, Contractor shall take all appropriate corrective measures.

8 **5.14.6 UNIFORMS**

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

13 **5.14.7 PROVISION OF FIELD SUPERVISION**

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

17 **5.14.8 CUSTOMER SERVICE REPRESENTATIVES**

18 The customer service representatives shall be trained on specific Rohnert Park service
19 requirements, a minimum of once per quarter. A Rohnert Park information sheet shall be
20 provided to each customer service representative for easy reference to Rohnert Park
21 requirements. Information sheet, training agenda, and associated documentation shall be
22 forwarded to the City each quarter after the training.

23 **5.14.9 CUSTOMER SERVICE/BILLING LIAISON**

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

27 **5.15 STREET SWEEPING SERVICES**

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

31 Contractor shall amend the Street Sweeping schedule and modify routes upon request by
32 City. Contractor shall coordinate with City staff to ensure that modifications to existing Street
33 Sweeping Services do not adversely impact City Operations, Public Health and/or Public Safety.

34 **5.15.1 GENERAL STREET SWEEPING REQUIREMENTS**

35 **A.** Contractor shall supply street sweeping equipment, including all parts and
36 accessories. Contractor shall be solely responsible for the licensing, operation,
37 maintenance, and repairs of its street sweeping equipment. Contractor shall clean and
38 maintain equipment as described in Section 5.11.5, Cleaning and Maintenance.

39 **B.** Equipment must be equipped with an efficient water spray system for dust control,
40 and the spray system must be maintained in good operating condition.

1 C. Equipment must be property registered and insured in accordance with the motor
2 vehicle laws of the State of California.

3 D. All equipment used by the Contractor shall be kept in a neat and clean appearance,
4 maintained in top mechanical condition and properly adjusted, from an operational
5 standpoint and from a safety standpoint. All sweepers shall be equipped with an
6 operational rotating amber dome light and flashing lights.

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

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

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

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

15 I. Equipment operators are required to have the proper licenses to operate the
16 equipment.

17 **5.15.2 HOURS OF STREET SWEEPING**

18 Street sweeping in residential areas may occur, only between the hours of 6:00 a.m. and
19 6:00 p.m., and in commercial areas, only between the hours of 2:00 a.m. and 6:00 p.m. or as
20 otherwise posted.

21 **5.15.3 HOLIDAYS**

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

24 **5.15.4 CITY OBLIGATIONS**

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

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

30 **5.15.5 CONTRACTOR OBLIGATIONS**

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

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

34 C. The Contractor shall amend the street sweeping schedule and modify routes upon
35 request by City.

36 **5.16 CONTINGENCY PLAN**

37 Contractor shall submit to City on or before the Effective Date, a written contingency
38 plan demonstrating Contractor's arrangements to provide uninterrupted service during
39 mechanical breakdowns or other "non-catastrophic" emergencies.

40 Contractor shall work with City to develop a written plan detailing the manner in which
41 they will operate and provide assistance to City recovery efforts following a natural disaster.

1 **5.17 CITY-DIRECTED CHANGES**

2 City may direct Contractor to perform additional services (including new diversion
3 programs (e.g., food waste composting, billing services, etc.) or modify the manner in which it
4 performs existing services. Pilot programs and innovative services, which may entail new
5 Collection methods, targeted routing, different kinds of services and/or new requirements for
6 Generators are included among the kinds of changes, which City may direct. Contractor shall be
7 entitled to an adjustment in its compensation in accordance with Section 8.8 for providing such
8 additional or modified services but not for the preparation of its proposal.

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

- 12 A. Collection methodology to be employed (equipment, manpower, etc.).
13 B. Equipment to be utilized (vehicle number, types, capacity, age, etc.).
14 C. Labor requirements (number of employees by classification).
15 D. Type of materials containers to be utilized.
16 E. Provision for program publicity/education/marketing.
17 F. Estimated diversion to be achieved by volume or weight as applicable.

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

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

27
28 **ARTICLE 6.**
29 **OTHER RELATED SERVICES AND**
30 **STANDARDS**
31 _____

32 **6.1 BILLING**

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

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

1 mailed to customers every other month (in even months) in the arrears of the provision of
2 service.

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

15 **6.1.1 SERVICE BILLING TICKETS**

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

22 **6.1.2 REVIEW OF BILLINGS**

23 Contractor shall review City's Billings to customers under Section 6.1 against route and
24 service level records. The purpose of the review is to determine that the amount which the City
25 is billing each customer is correct in terms of the level of service (i.e., frequency of Collection,
26 size of container, location of container) being provided to such customer by Contractor.
27 Contractor shall review customer accounts not less than annually, unless City shall direct
28 Contractor to do so semi-annually. For exceptions found, Contractor shall verify their records
29 with drivers to confirm actual service being provided. Contractor shall submit to City a written
30 report on that review, noting any and all exceptions needing correction, by the first day of July,
31 commencing July 1, 2002. The intent of this section is for the City to receive reports on an
32 annual basis that will cover the entire list of customers. The scope of the review and the
33 Contractor's work plan shall be submitted to the City for approval no later than May 1, 2002.
34 The City reserves the right to perform this review itself or through use of an agent.

35 **6.2 GENERAL**

36 Contractor shall maintain such accounting, statistical and other records related to its
37 performance under this Agreement as shall be necessary to develop the financial statements and
38 other reports required by this Agreement. Also, Contractor agrees to conduct data collection,
39 information and record keeping, and reporting activities needed to comply with and to meet the
40 reporting and program management needs of Contractor and AB 939 and other federal and state
41 and local laws and regulations and the requirements of this Agreement. To the extent, such
42 requirements are set out in this and other articles of this Agreement, they shall not be considered
43 limiting or necessarily complete. In particular, this article is intended to only highlight the

1 general nature of records and reports and their minimum content and is not meant to
2 comprehensively define what the records and reports are to be and their content. Further, with
3 the written direction or approval of Contractor, the records and reports to be maintained and
4 provided by Contractor in accordance with this and other articles of the Agreement shall be
5 adjusted in number, format, or frequency.

6 **6.3 RECORDS**

7 **6.3.1 GENERAL**

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

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

18 **6.3.2 MAINTENANCE OF FINANCIAL AND OPERATIONAL RECORDS**

19 **A. General.** In order to effectuate the periodic rate review contemplated by Article
20 8, it is necessary for Contractor to maintain accurate, detailed financial and operational
21 information in a consistent format and to make such information available to the City in a
22 timely fashion.

23 **B. Contractor's Accounting Records.** Contractor shall maintain accurate and
24 complete accounting records containing the underlying financial and operating data
25 relating to and showing the basis for computation of all costs associated with providing
26 services under this Agreement. The accounting records shall be prepared in accordance
27 with Generally Accepted Accounting Principles (GAAP) consistently applied. The
28 purpose, method of calculation and support for all cost allocations shall be documented
29 and maintained.

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

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

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

39 Records and data required to be maintained that are not specifically directed to be
40 retained that are, in the sole opinion of the City, material to the rate review or to a

determination of the Contractor's performance under this Agreement, shall be retrieved by Contractor and made available to the City upon request.

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

6.3.3 REFUSE RECORDS

Records shall be maintained by Contractor for City relating to:

- A. Service recipient services.
- B. Weight and volume by type (e.g., Refuse, Recyclable Materials, and Compostable Materials). Where possible, information is to be separated among Single-Family Residences, Multi-Family Complexes, Commercial Businesses, and City-event services.
- C. Routes.
- D. Facilities, equipment and personnel used.
- E. Facilities and equipment operations, maintenance and repair.
- F. Disposal and Processing Facility weight tickets for Refuse, Recyclable Materials, and Compostable Materials. Residue will be allocated as a percent of all materials processed by Contractor.

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

6.3.4 RECYCLABLE MATERIALS AND COMPOSTABLE MATERIALS COLLECTION SERVICE RECORDS

Records shall be maintained by Contractor that relate to:

- A. Recyclable Materials and Compostable Materials Collection participation especially as related to determining participation and set-out rates and implementing programs to increase existing participation and to expand diversion (names, addresses, contacts made, etc.);
- B. Recyclable Materials and Compostable Materials sales value;
- C. Weight of material by type; and
- D. End-use markets.

6.3.5 TRANSFER AND DISPOSAL RECORDS

Contractor shall maintain records of transfer, Disposal and Processing of all Refuse, Residue, Recyclable Materials, and Compostable Materials collected by Contractor for the period of this Agreement plus five (5) years after its termination. Records shall be in chronological and

1 organized form and readily and easily interpreted. In the event City requests, Contractor shall
2 provide all records of transfer and Disposal or Processing of all Refuse, Residue, Recyclable
3 Materials, and Compostable Materials collected by Contractor within thirty (30) days of
4 discontinuing service.

5 **6.3.6 EQUIPMENT RECORDS**

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

- 11 A. Vehicles used exclusively for servicing City
- 12 B. Spare vehicles shared with other jurisdictions
- 13 C. Equipment
- 14 D. Containers purchased for City services
- 15 E. Furniture and fixtures.

16 **6.3.7 OTHER PROGRAMS' RECORDS**

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

- 19 A. Plans, tasks, and milestones; and
- 20 B. Accomplishments in terms such as dates, activities conducted, quantities of
21 products used, produced or distributed, and numbers of participants and responses.

22 **6.3.8 CERCLA DEFENSE RECORDS**

23 City views the ability to defend against Comprehensive Environmental Response,
24 Compensation and Liability Act (CERCLA), and related litigation as a matter of great
25 importance. For this reason, the City regards the ability to prove where Refuse and Residue
26 collected in the City was taken for transfer or Disposal, as well as where it was not taken, to be
27 matters of concern. Contractor shall maintain, retain, and preserve records, which can establish
28 where Refuse and Residue collected in the City was disposed (and therefore establish where it
29 was not). This provision shall survive the expiration of the period during which Collection
30 services are to be provided under this Agreement. Contractor shall maintain these records for a
31 minimum of ten (10) years. Contractor shall provide these records to City in an organized and
32 indexed manner rather than destroying or disposing of them.

33 **6.3.9 CUSTOMER SERVICE RECORDS**

34 Contractor shall maintain records for City related to:

- 35 A. Number of calls received;
- 36 B. Length of time to answer and time on hold;
- 37 C. Categories (missed pickups, extra pickups, complaints, damage, compliments,
38 etc.) of calls;
- 39 D. Individual call and resolution log (including initial call date and resolution date);

1 E. Training records;

2 E. New Recycling account log and increased Recycling services.

3 **6.4 REPORTS**

4 **6.4.1 GENERAL**

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

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

14 Contractor may propose report formats that are responsive to the objectives and
15 audiences for each report. The City shall approve the format of each report. Contractor
16 agrees to submit all reports in a format acceptable to the City.

17 Quarterly reports shall be submitted within forty-five (45) calendar days after the
18 end of the report quarter. Annual reports shall be submitted no later than June 1st, after the
19 close of each fiscal year ending December 31st.

20
21 All reports shall be submitted to:

22 City of Rohnert Park
23 6750 Commerce Boulevard
24 Rohnert Park, CA 94928
25 Attention: City Manager

26 **6.4.2 QUARTERLY REPORTS**

27 Reports shall be presented by Contractor to show the following information. The
28 attribution of tonnage data to customer types, as described below, shall be done in accordance
29 with Exhibit J.

30 **A. Refuse Services.** Provide total tonnage by Single-Family Residences, Multi-
31 Family Complexes, and Commercial Businesses. Data for the prior year same quarter will
32 be included for comparison purposes.

33 **B. Recyclable Materials Services.** Provide tonnage by Single-Family Residences,
34 Multi-Family Complexes, and Commercial Businesses. Data for the prior year same
35 quarter will be included for comparison purposes.

36 **C. Recyclable Totals.** Indicate by material type the quarterly total of recyclable
37 materials processed and sold.

1 **D. Compostable Materials Service.** Provide tonnage by Single-Family Residences,
2 Multi-Family Complexes, and Commercial Businesses. Data for the prior year same
3 quarter will be included for comparison purposes.

4 **E. Customer Service**

5 1) Provide number of customer calls by category (e.g., missed pickups, other
6 complaints, compliments, etc.)

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

9 3) Include Quarterly Customer service training logs

10 **F. Curbside Cleanup/Christmas Tree/Special Services.** Provide tonnage by
11 service type (Cleanup and Christmas Tree Collection Services). Include the following
12 information:

13 1) Disposal tonnage.

14 2) Diversion tonnage.

15
16 **G. Education Quarterly Activities**

17 1) Describe materials distributed and total number of locations visited.

18 2) Provide list of group names of meetings attended.

19 3) Provide list of Commercial Business and Multi-Family Complexes
20 contacted.

21 **H. Notification Activities.** Provide a listing and sample of all notices, newsletters,
22 publications activities that were conducted during the quarter.

23 **I. Pilot and New Programs.** For each pilot and/or new program, provide activity
24 related and narrative reports on goals and milestones and accomplishments. Describe
25 problems encountered, actions taken, and any recommendations to facilitate progress.

26 **J. Summary Assessment.** Provide a summary assessment of the overall Refuse,
27 Recyclable Materials, and Compostable Materials program from Contractor's perspective
28 relative to financial and physical status of program. The physical status is to relate to
29 how well the program is operating for efficiency, economy, and effectiveness relative to
30 meeting all the goals and objectives of this Agreement including particularly the
31 Contractor's diversion goals. Provide recommendations and plans to improve. Highlight
32 significant accomplishments and problems.

33 **6.5 ANNUAL REPORTS**

34 **6.5.1 ANNUAL REPORT REQUIREMENTS**

35 The annual report shall be in the form of the quarterly reports and shall provide the same
36 type of information as required pursuant to Article 6.4.2 of this Agreement, summarized for the
37 preceding four quarters. In addition, Contractor's annual financial reports/statements shall be

1 included. The annual report shall also include a complete inventory of equipment used to
2 provide all services.
3

4 **6.5.2 FINANCIAL INFORMATION**

5 On or before June 1st after the close of each fiscal year ending December 31, Contractor
6 shall deliver to the City four (4) copies of the audited financial statement of Contractor
7 operations under this Agreement for the Contractor's preceding fiscal year. If the Contractor
8 provides services not provided for under this Agreement, then its financial statements shall
9 include a supplemental combining schedule showing Contractor's results of operations, including
10 the specific revenues and expenses in connection with the operations provided for in this
11 Agreement separate from other operations included in such financial statements. The financial
12 statements and footnotes shall be prepared in accordance with Generally Accepted Accounting
13 Principles (GAAP) consistently applied and fairly reflecting the results of operation and
14 Contractor's financial condition. Annual financial statements shall be audited in accordance with
15 Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant (CPA)
16 licensed (in good standing) to practice public accounting in the State of California as determined
17 by the State of California Department of Consumer Affairs Board of Accountancy, and that the
18 CPA opinion on Contractor's annual financial statements shall be unqualified, and that the
19 supplemental schedule be prepared on a compiled basis.

20 **6.5.3 RELATED PARTY ENTITIES**

21 Because financial transaction between Related Party companies may not be "arm's
22 length," it is important to the City to ensure that such transactions are necessary and reasonable.
23 Contractor agrees that all financial transactions with all Related Party entities shall be approved
24 in advance in writing by City and disclosed annually (coinciding with Contractor's annual audited
25 financial statements referred to in Section 6.5.2) to the City in a separate disclosure letter to the
26 City. This letter shall include, but not be limited to, the following information: A general
27 description of the nature of each transaction, or type of (for many similar) transactions, as
28 applicable. Such description shall include for each (or similar) transaction the amounts, specific
29 Related Party entity, basis of amount (how amount was determined), and description of the
30 allocation methodology used to allocate any common costs. Amounts shall be reconciled to the
31 Related Party entity disclosures made in Contractor's annual audited financial statements referred
32 to in this section.
33

34 Contractor intends to obtain those services from those related parties identified below and
35 City hereby approves these transactions:
36

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

37
38
39

40 Exhibit K contains the basis for payments to the Related Parties for the services described
41 above and the method by which those payments may be adjusted during the Term of this
42 Agreement.
43

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

6.5.4 OPERATIONAL INFORMATION. Contractor shall provide the following information:

A. Routes by Service Type

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

B. Personnel

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

C. Productivity Statistics

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

D. Maintenance

- 1) Average cost per service type

E. Operational Changes

- 1) Number of routes
- 2) Staffing
- 3) Supervision
- 4) Collection services

F. Equipment

- 1) Usage of vehicles for City – City vehicles and spares
- 2) Equipment inventory for City
- 3) Container inventory

6.6 DIVERSION PROGRAMS

Contractor shall build on the diversion, education and other required programs or actions required by this Agreement, in order to surpass the diversion requirements of the California Integrated Waste Management Act of 1989 (Act) (California Public Resources Code Section 40000 et seq.). Contractor shall meet with the City quarterly, or more or less frequently upon City's request, to describe the progress of each active diversion program. Contractor shall document the results of the programs on a quarterly basis, including at a minimum the tonnage

diverted by material type and other such information requested by the Contractor and/or City necessary to evaluate the performance of each program.

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

6.7 RIGHT TO INSPECT RECORDS

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

6.8 INSPECTION BY CITY

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

6.9 PUBLIC/CUSTOMER SERVICE AND ACCESSIBILITY

6.9.1 OFFICE LOCATION

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

6.9.2 OFFICE HOURS

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

6.9.3 AVAILABILITY OF REPRESENTATIVES

A representative of the Contractor shall be available from 8 a.m. to 5 p.m. Monday through Friday to communicate with the public in person and by telephone. A message machine

shall be available for residents to leave a message during non-business hours. Calls shall be returned within twenty-four (24) hours, and messages left on Friday, Saturday, or Sunday shall be returned no later than the end of the next business day.

6.9.4 TELEPHONE

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

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

6.10 CUSTOMER CONTACTS

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

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

6.11 TITLE TO REFUSE

Once Refuse, Recyclable Materials, and/or Compostable Materials are placed in containers and properly placed at the Collection location, ownership and the right to possession shall transfer directly from the Generator to Contractor by operation of this Agreement. Subject to Contractor's objective to meet the AB 939 diversion goals and City's right to direct Contractor to process and dispose of Refuse at a particular licensed site or to dispose of Refuse at a particular licensed Disposal Site, Contractor is hereby granted the right to retain, recycle, process, dispose of, and otherwise use such Refuse, or any part thereof, in any lawful fashion or for any lawful purpose desired by Contractor. Subject to the provisions of this Agreement, Contractor shall have the right to retain any benefit resulting from its right to retain, recycle, process, dispose of, or re-use the Refuse, which it collects. Refuse, or any part thereof, which is deposited at a Disposal Site, transformation site, Transfer Station, or Processing Facility shall become the

property of the Owner or operator of the facility, once deposited there by Contractor. City may obtain ownership or possession of Refuse placed for Collection upon written notice of its intent to do so; however, nothing in this Agreement shall be construed as giving rise to any inference that City has such ownership or possession unless such written notice has been given by City to Contractor.

6.12 NON-DISCRIMINATION

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

6.13 REPORT OF ACCUMULATION OF REFUSE; UNAUTHORIZED DUMPING

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

ARTICLE 7. FRANCHISE FEE, AB 939 AND OTHER FEES

7.1 FRANCHISE FEE

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

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

7.2 AB 939 COMPLIANCE AND DIVERSION FEE

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

1 **7.3 OTHER FEES**

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

5 **7.4 ADJUSTMENT TO FEES**

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

9 **ARTICLE 8.**
10 **CONTRACTOR'S PAYMENT FOR**
11 **SERVICES**
12

13 **8.1 GENERAL**

14 City shall establish rates for Refuse Collection pursuant to Section 8.12.260 of the
15 Rohnert Park Municipal Code. City shall establish rates at an amount reasonably estimated to
16 produce revenues sufficient to provide payment to the Contractor as provided for in this Article
17 8. Contractor shall be paid ("Payment for Services") for Collection services described in Article
18 5, from the Gross Revenues received from customers by the City, at rates established by the City
19 Council. Payment for Services shall be the full, entire and complete payment due to the
20 Contractor pursuant to this Agreement for all labor, equipment materials and supplies, taxes,
21 insurance, bonds overhead, operations profit, and all other things necessary to perform all
22 Collection Services required by this Agreement in the manner and at the times prescribed.

23 Contractor's maximum allowable Payment for Services for each fiscal year during the
24 term of this Agreement, shall be the amount equal to the Gross Revenues received from
25 customers by the City, at rates established pursuant to Section 8.12.260 of the Rohnert Park
26 Municipal Code, less the sum of (i) the amount necessary to reimburse City for providing billing
27 and some customer services under this Agreement, (ii) any amount necessary to maintain a rate
28 stabilization fund, and (iii) any and all fees imposed pursuant to Article 7 of this Agreement,
29 including but not limited to the Franchise Fee described in Section 7.1, Contractor's Payment for
30 Services shall not exceed the maximum allowable Payment for Services (as determined in
31 Section 8.2), which shall include any adjustments provided for in Sections 8.3, 8.4 and 8.5.

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

Calculation of August 10th Payment for Services:

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

Calculation of July 10th Payment for Services:

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

Alternative Calculation of July 10th Payment for Services:

1)	Gross Revenues received by City during the month of June 2002.....	\$264,490
2)	Less City Costs (from Articles, 6, 7 and 8).....	\$ 44,963
3)	Available for Disbursement to Contractor	\$219,527
4)	Maximum Allowable Payment for Services for Rate Year One.....	\$2,855,000
5)	Less Previous Disbursements to Contractor	\$2,593,697
6)	Funds Remaining to Be Disbursed to Contractor	\$261,303
7)	Funds Disbursed to Contractor (the lesser of Lines 3 and 6)	\$219,527

1 **8.2 DETERMINATION OF CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR**
2 **SERVICES**

3 Contractor shall, subject to compliance with all provisions of the Article, receive an
4 annual adjustment in the Contractor's Maximum Allowable Payment for Services in accordance
5 with the following;
6

7 A. Units. Annual adjustments shall be made only in units of one dollar (\$1.00).
8 Fractions of less than one dollar (\$1.00) shall not be considered in making adjustments.
9 The indices shall be rounded to two (2) decimal places for the adjustment calculations.

10 B. Notification. No later than July 15, 2008, and no later than June 30 annually thereafter
11 during the Term, City shall notify Contractor of the Contractor's Maximum Allowable
12 Payment for Services for the following year.

13 C. Maximum Allowable Payment for Services. The Contractor's Maximum Allowable
14 Payment for Services for a given Rate Year shall be determined by (i) adjusting the
15 Annual Cost of Operations by the Refuse Rate Index (RRI), (ii) then the pass through
16 costs will be added to the adjusted Annual Cost of Operations; and (iii) then the
17 Temporary Debris Box Revenue will be subtracted from the sum of the adjusted Annual
18 Cost of Operations.

19 D. RRI Adjustment. The Annual Cost of Operations shall be increased or decreased by
20 the Refuse Rate Index (RRI). The RRI adjustment shall be the percentage change in the
21 RRI based on changes in the annual average of the base fiscal year ending (as applicable),
22 for all cost categories excluding labor, and fiscal year ending March 31 for labor, which
23 shall be the prior preceding fiscal year, to the preceding fiscal year as contained in the
24 most recent release of the source documents listed in paragraph D(2) below multiplied by
25 the Annual Cost of Operations. The RRI adjustment shall be calculated in the following
26 manner;

- 27 1. The Annual Cost of Operations shall be comprised of the following five cost
28 categories; Labor, Fuel, Vehicle Replacement, Maintenance, and All Other. Each cost
29 category is assigned a weighted percentage factor based upon that cost category's
30 proportionate share of the total Annual Cost of Operations.
31 2. The following indices shall be used to calculate the adjustment for each cost
32 category. The change in each index shall be calculated from the February Index of the
33 previous year to February Index of the current year.
34

<u>Cost Category</u>	<u>Index</u>
Labor	Employment Cost Index Series ID: CIU201S0000000000I (B,H) Service-providing industries
Fuel	PPI Commodity Data Series ID: wpu057303 Fuels and related products and power
Vehicle Replacement	Producer Price Index Series ID: pcu3362113362113 Completed vehicles produced on purchased

Vehicle Maintenance	chassis Producer Price Index Series ID: pcu3339243339243 Parts and attachments for industrial trucks and tractors
All Other	Consumer Price Index Series ID: cuura422sa0 San Francisco-Oakland-San Jose, CA All Items

3. The percentage weight for each cost category is multiplied by the change in each appropriate index to calculate a weighted percentage for each cost category. The weighted percentage changes for each cost category are added together to calculate the RRI.
4. The categories of costs that shall be listed in each RRI cost category are as follows:

Cost of Operations

Description

Labor

List all administrative, officer, operation and maintenance salary accounts. List payroll tax accounts directly related to the above salary accounts.

Fuel

List all fuel and oil accounts.

Vehicle Replacement

List all Collection and Collection related vehicle depreciation accounts. List all vehicle lease or rental accounts related to Collection or Collection related vehicles.

Vehicle Maintenance

List all Collection or Collection related vehicle parts accounts.

All Other

List all other expense accounts related to the services provided under this Agreement. This category includes all insurance including general liability, fire, truck damage, extended coverage and employee group medical and life; rent on property; truck licenses and permits; real and personal property taxes; telephone equipment; general yard repairs and maintenance; subscription; advertising; employee retirement or profit sharing contributions; and miscellaneous other expenses.

1 E. Forecasted Annual Cost of Disposal. Disposal fee increases, if any, for the Sonoma
2 County Central Disposal Site are determined and approved by the Sonoma County Board
3 of Supervisors each June and implemented at the landfill on July 1 of each year. The
4 Forecasted Annual Cost of Disposal for a fiscal year shall equal the actual year-to-date
5 disposal tonnage for the current year plus the prior year tonnage for the remaining months
6 multiplied by the disposal rate approved by the Sonoma County Board of Supervisors.
7 Contractor shall work with City on developing strategies and initiating actions to address
8 any future fee increases imposed by the Sonoma County Solid Waste Agency, or its
9 successor agency. Disposal rates for an alternate Disposal Site approved and designated
10 by the City in writing may be substituted for disposal rates at the Sonoma County Central
11 Disposal Site.

12 F. Forecasted Revenue from the Sale of Recyclable Material. The revenue from the sale
13 of Recyclable Materials is reflected in net operating costs which are escalated by the
14 Refuse Rate Index annually.

15 G. Costs Not Included. The following costs shall not be utilized in determining the
16 Contractor's Maximum Allowable Payment for Services:

- 17 a. Franchise fees;
- 18 b. AB 939 Compliance and Diversion Fee;
- 19 c. Payments to directors and/or Owners of Contractor, unless paid as
20 reasonable compensation for services actually rendered;
- 21 d. Promotional advertising, entertainment and travel expenses (above
22 \$10,000 annually in total), unless authorized in advance by the City;
- 23 e. Payments to repair damage to property of third parties or the City for
24 which Contractor is legally liable;
- 25 f. Fines or penalties of any nature;
- 26 g. Liquidated damages assessed under Section 11.5 of the Agreement;
- 27 h. Federal or state income taxes;
- 28 i. Charitable or political donations;
- 29 j. Attorneys' fees and other expenses incurred by Contractor in any court
30 proceeding in which the City and Contractor are adverse parties, unless
31 Contractor is the prevailing party in such proceeding;
- 32 k. Attorneys' fees and other expenses incurred by Contractor arising from
33 any act of omission which occurs during the Term of the Agreement;
- 34 l. Attorneys' fees and other expenses incurred by Contractor in any court
35 proceeding in which Contractor's own negligence, violation of law or
36 regulation, or wrong doing are in issue and occasion, in whole or in part,
37 the attorneys' fees and expenses claimed; and attorneys' fees and
38 expenses incurred by Contractor liability against Contractor also
39 provides for separate potential liability for the City derived from the
40 action of its citizens or rate payers (such as in a CERCLA lawsuit)
41 unless the Contractor is found not liable in such claims and such claims
42 arise from acts or occurrences within the Term of the Agreement;
- 43 m. Payments to Related Parties (including parent companies) for products
44 or services (including corporate overhead) in excess of cost to the
45 Related Party for those products and services, or overhead costs not

- 1 related to or unnecessary to providing City services required in this
2 Agreement;
3 n. Goodwill;
4 o. Unreasonable profit sharing distributions;
5 p. Interest charged by parent company, if any, on principal in excess of
6 actual costs advanced to Contractor, or for principal unnecessary to
7 providing City services required by this Agreement, or at an interest rate
8 in excess of the parent company's costs of capital per its audited
9 financial statements;
10 q. Labor, vehicle, equipment, overhead and administrative costs or cost
11 allocations for providing services to other jurisdictions;
12 r. Depreciation calculated over a period of time shorter than the actual
13 expected useful life of the asset, or by using a rate, method or useful life,
14 which is unreasonable or does not conform to Generally Accepted
15 Accounting Principles (GAAP);
16 s. Any costs or cost allocations for salaries, benefits, supplies, computer
17 services, accounting or legal services, postage, telephone, office expense
18 or other expenses related to customer billing, processing of payments,
19 posting of billing service records, collections or billing related customer
20 service;
21 t. Unreasonable overhead charges by parent company;
22 u. Unreasonable profits; and
23 v. The charges from Related Parties not approved in writing in advance by
24 the City.

25 **8.3 ADJUSTMENTS TO CONTRACTOR'S MAXIMUM ALLOWABLE PAYMENT FOR**
26 **SERVICES**

27 The Contractor's Maximum Allowable Payment for Services calculated for each Rate
28 Year pursuant to this Article 8 shall not be adjusted, except as provided for in Sections 8.4.1.A
29 for new construction or demolition of existing structures or as provided for in Section 8.4.1B for
30 Extra services.

31 **8.4 NEW CONSTRUCTION OR DEMOLITION OF EXISTING STRUCTURES**

32 City shall increase Contractor's Maximum Allowable Payment for Services to give effect
33 to additional accounts being serviced by the Contractor from new construction and shall
34 reduce the Contractor's Maximum Allowable Payment to give effect to accounts being reduced
35 from those serviced by the Contractor from demolition, and for Extra services, in accordance
36 with this Section 8.4.1B.

37 At least annually, on July 1 of each year (and more frequently, should the Payment for
38 Services to be disbursed to Contractor be limited by the Maximum Allowable Payment for
39 Services [as opposed to the amounts received by the City less City Costs]), the City shall
40 recalculate the Contractor's Maximum Allowable Payment for Services in accordance with the
41 following procedures:

42 **1. Residential, Commercial and Multi-Family Cart Accounts**

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

4 B. City shall determine the annual account equivalency for each account
5 identified in "A." above, by multiplying the monthly service rate times the number
6 of months remaining in the fiscal year. Partial months will be pro-rated to reflect
7 actual service levels. Annual totals for all new and/or eliminated accounts will
8 then be added together to determine the net annual account equivalency.

9 C. City shall multiply the net annual account equivalency by eighty-three
10 percent (83%). This total shall be added to or subtracted from the Contractor's
11 Maximum Allowable Payment for Services.

12 The eighty-three percent (83%) factor identified above represents an amount equal
13 to the Gross Revenues received from ratepayers by the City, at rates established
14 pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum of
15 (i) the amount necessary to reimburse City for providing billing and some
16 customer services under the agreement, (ii) any amount necessary to maintain a
17 rate stabilization fund, and (iii) any and all fees imposed pursuant to Article 7 of
18 this Agreement, including, but not limited to, the Franchise Fee described in
19 Section 7.1.

20 **2. Commercial and Multi-Family Bin Accounts**

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

24 B. City shall determine the annual account equivalency for each account
25 identified in "A." above, by multiplying the monthly service rate times the number
26 of months remaining in the fiscal year. Partial months will be pro-rated to reflect
27 actual service levels. Annual totals for all new and/or eliminated accounts will
28 then be added together to determine the net annual account equivalency.

29 C. City shall multiply the net annual account equivalency by eighty-three
30 percent (83%). This total shall be added to or subtracted from the Contractor's
31 Maximum Allowable Payment for Services.

32 The eighty-three percent (83%) factor identified above represents an amount equal
33 to the Gross Revenues received from ratepayers by the City, at rates established
34 pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum of
35 (i) the amount necessary to reimburse City for providing billing and some
36 customer services under the agreement, (ii) any amount necessary to maintain a
37 rate stabilization fund, and (iii) any and all fees imposed pursuant to Article 7 of
38 this agreement, including but not limited to the Franchise Fee described in Section
39 7.1.

40 **3. Commercial Roll-Off/Compactor Accounts**

1 A. City shall identify each commercial account by container type, size and
2 frequency of service added to or subtracted from the customer base, due to
3 construction or demolition, subsequent to July 1.

4 B. City shall determine the annual account equivalency for each account
5 identified in "A." above, by multiplying the monthly service rate (shall be an
6 average in cases where service is periodic) times the number of months remaining
7 in the fiscal year. Partial months will be pro-rated to reflect actual service levels.
8 Annual totals for all new and/or eliminated accounts will then be added together
9 to determine the net annual account equivalency.

10 C. City shall multiply the net annual account equivalency by eighty-three
11 percent (83%). This total shall be added to or subtracted from the Contractor's
12 Maximum Allowable Payment for Services.

13 The eighty-three percent (83%) factor identified above represents an amount equal
14 to the Gross Revenues received from ratepayers by the City, at rates established
15 pursuant to Section 8.12.260 of the Rohnert Park Municipal Code, less the sum of
16 (i) the amount necessary to reimburse City for providing billing and some
17 customer services under the agreement, (ii) any amount necessary to maintain a
18 rate stabilization fund, and (iii) any and all fees imposed pursuant to Article 7 of
19 this agreement, including but not limited to the Franchise Fee described in Section
20 7.1.

21 **8.5 EXTRA SERVICES**

22 1) City shall identify and set fees and charges for all Extra services that shall
23 include City costs (from Articles 6, 7 and 8).

24 2) City shall identify revenues received from customers.

25 3) City shall add the amount received, less City costs (from Articles 6, 7 and
26 8), to the Contractor's Maximum Allowable Payment for Services.

27 **8.6 INTERIM COMPENSATION ADJUSTMENT**

28 In the event the City directs the Contractor to change its operations in accordance with
29 Section 4.2 and Article 5 of this Agreement or in the event of an extraordinary or unanticipated
30 event not within the control of the Contractor, including a change in law, an adjustment in the
31 Disposal fee component due to a new or increased/decreased governmental tax, surcharge,
32 assessment or fee, and such event materially affects Contractor's Payment for Services as
33 determined by the City, then the Contractor or the City may submit a request for an interim
34 Payment for Services adjustment. In such case, Contractor shall prepare a complete Application
35 in accordance with Section 8.2, unless otherwise agreed to by the City.

36 **ARTICLE 9.** 37 **INDEMNITY, INSURANCE, FAITHFUL** 38 **PERFORMANCE** 39

1 **9.1 HAZARDOUS SUBSTANCE INDEMNIFICATION**

2 Contractor shall defend with counsel selected by City and indemnify, protect and hold
3 harmless, the City, its officers, directors, employees, volunteers, and agents (collectively, "City
4 Parties") from and against any and all claims, damages (including but not limited to special,
5 consequential, natural resources, and punitive damages), injuries, costs, (including without limit
6 any and all response, remediation, and removal costs), losses, demands, debts, liens, liabilities,
7 causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and
8 expenses (including without limit attorneys' expert witness fees and costs incurred in connection
9 with defending against any of the foregoing or in enforcing this indemnity [collectively,
10 "Damages"]), or of any kind whatsoever paid, incurred or suffered by, or asserted against City
11 Parties, arising from or attributable to the acts or omissions of Contractor whether or not
12 negligent or otherwise culpable, in connection with or related to the performance of this
13 Agreement, including without limit damages arising from or attributable to any operations,
14 repair, cleanup or detoxification, or preparation and implementation of any removal, remedial,
15 response, closure, post-closure, or other plan (regardless of whether undertaken due to
16 governmental action) concerning any Hazardous Substance or Hazardous Waste or other waste
17 collected under this Agreement. This indemnity afforded City shall only be limited to exclude
18 coverage for intentional wrongful acts and sole negligence of City, and as provided below. The
19 forgoing indemnity is intended to operate as an Agreement pursuant to §107(e) of the
20 Comprehensive Environmental Response, Compensation and Liability Act, CERCLA, 42 USC.
21 §9607(e) and California Health and Safety Code §25364, to defend, protect, hold harmless, and
22 indemnify City Parties from liability. This provision is in addition to all other provisions in this
23 Agreement and is intended to survive the end of the Term of this Agreement. Nothing in this
24 paragraph shall prevent City Parties from seeking indemnification or contribution from Persons
25 or entities other than Contractor for any liabilities incurred by City Parties or the Contractor. As
26 determined in the sole discretion of the City, Contractor shall be required to secure, from its
27 parent company, the indemnification required by this section.

28 **9.2 AB 939 INDEMNIFICATION**

29 Contractor shall, by implementing in a timely and effective manner, the diversion,
30 education and other required programs or actions required by this Agreement, comply with the
31 diversion requirements for Rohnert Park of the California Integrated Waste Management Act of
32 1989 (Act) (California Public Resources Code Section 40000 et seq.) to attain 50 percent
33 diversion of Refuse from disposal into landfills by the end of the year 2003. In addition to all
34 other relief provided Contractor and City under this Agreement, Contractor agrees to defend,
35 indemnify, and hold harmless, the City Parties from and against all fines and/or penalties
36 imposed by the California Integrated Waste Management Board for operations during the Term
37 of this Agreement in the event the source reduction and Recycling goals or any other requirement
38 of the Act are not met by the Contractor with respect to the waste stream collected under this
39 Agreement and such failure is due to the failure of Contractor to meet its obligations under this
40 Agreement and/or for delays in providing information that prevents Contractor or City from
41 submitting reports required by AB 939 in a timely manner.

1 **9.3 PROPOSITION 218 INDEMNIFICATION**

2 Contractor shall indemnify, defend and hold harmless, the City Parties from and against
3 all claims, damages, injuries, costs, including demands, debts, liens, liabilities, causes of action,
4 suits, legal or administrative proceedings, interest fines, charges, penalties and expenses
5 (including reasonable attorneys' and expert witness fees, expenditures for investigation and
6 administration), and costs of any kind whatsoever paid, imposed upon, endured, or suffered by or
7 assessed against the City Parties resulting in any form from the City's setting of rates for service
8 under this Agreement or in connection with the application of California Constitution, Article
9 XIII C and Article XIII D to the imposition, payment or collection of rates and fees.

10 **9.4 INSURANCE**

11 **9.4.1 MINIMUM SCOPE OF INSURANCE**

12 Coverage shall be at least as broad as:

13 A. Insurance Services Office form number CG 0001 covering Commercial General
14 Liability or Comprehensive General Liability Insurance.

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

17 C. Workers' Compensation insurance as required by the Labor Code of the State of
18 California and Employer's Liability insurance.

19 D. Employee Blanket Fidelity Bond.

20 **9.4.2 MINIMUM LIMITS OF INSURANCE**

21 Contractor shall maintain limits no less than:

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

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

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

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

32 **9.4.3 DEDUCTIBLES AND SELF-INSURED RETENTIONS**

33 Any deductibles or self-insured retentions must be declared to and approved by the City.
34 At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-
35 insured retentions as respects the City, its officials, and employees; or (2) the Contractor shall
36 procure a bond guaranteeing payment of losses and related investigations, claim administration,
37 and defense expenses.

38 **9.4.4 OTHER INSURANCE PROVISIONS**

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

1 **A. General Liability and Automobile Liability Coverage**

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

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

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

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

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

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

25 **9.4.5 ACCEPTABILITY OF INSURERS**

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

30 **9.4.6 VERIFICATION OF COVERAGE**

31 Contractor shall furnish Contractor's insurance agent a copy of these specifications and
32 City approved endorsement, and direct the agent to provide the City with certificates of insurance
33 and with original endorsements affecting coverage required by this clause. The endorsements
34 shall be submitted to City on forms (Exhibit L) provided by the City or on other forms that
35 conform to the City's requirements and are approved the City. Issuance of documentation
36 indicates the Contractor's insurance complies with these provisions. The certificates and
37 endorsements for each insurance policy are to be signed by a Person authorized by that insurer to
38 bind coverage on its behalf. The City reserves the right to require complete, certified copies of
39 all required insurance policies and endorsements at any time.

1 **9.4.7 REQUIRED ENDORSEMENTS**

2 **A.** The Workers' Compensation policy shall contain an endorsement in substantially
3 the following form:

4
5 **1)** "Thirty (30) days' prior written notice shall be given to the City of Rohnert
6 Park in the event of cancellation, reduction in coverage, or non-renewal of this
7 policy. Such notice shall be sent to:

8 City Manager
9 City of Rohnert Park
10 6750 Commerce Boulevard
11 Rohnert Park, CA 94928"

12
13 **2)** The Workers' Compensation policy is to be endorsed with a Waiver of
14 Subrogation. The insurance company, in its endorsement, agrees to waive all
15 rights of subrogation against the City Parties for losses paid under the terms of
16 this policy which arise from the work performed by the named insured for the
17 City.

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

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

23 City Manager
24 City of Rohnert Park
25 6750 Commerce Boulevard
26 Rohnert Park, CA 94928

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

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

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

40 **9.4.8 DELIVERY OF PROOF OF COVERAGE**

41 Contractor will renew the required coverage annually as long as City Parties face liability
42 exposure pursuant to this Agreement. This obligation shall survive termination of this Agreement

1 for the statute of limitations period for any such exposure. Any Claims Made Policies
2 shall be extended to meet the coverage requirements of this contract and shall survive
3 termination of this agreement and provide for coverage up to the statute of limitations for any
4 such exposure and/or losses. Termination of Contractor's obligation pursuant to this Section 9.4.8
5 shall be effective only upon City's written notice to Contractor notifying Contractor of such
6 termination or upon expiration of the statute of limitations period applicable to such
7 exposure, whichever is first to occur. Contractor shall provide proof that policies of insurance
8 required herein expiring during the term of this Agreement have been renewed or replaced with
9 other policies providing the contractually required coverage. Proof that such coverage has been
10 ordered shall be submitted by Contractor to City prior to expiration. Annually a coverage
11 binder or letter from Contractor's Insurance Agent, including the contractually required
12 Certificate of Insurance and Additional Insured Endorsements, must be provided to City within
13 thirty (30) days prior to expiration of coverage and/or renewal of coverage. Such certificates shall
14 show the type and amount of coverage, effective dates and dates of expiration of policies, and
15 shall have all required endorsements. If the City requests, copies of each policy, together with all
16 endorsements, shall also be promptly delivered to City.

17 **9.4.9 OTHER INSURANCE REQUIREMENTS**

18 **A.** In the event any services are delegated to a subcontractor, the Contractor shall
19 require such subcontractor to provide statutory Workers' Compensation insurance and
20 Employer's Liability insurance for all of the subcontractor's employees engaged in the
21 work in accordance with Article 5. The liability insurance required by Section 9.4.2 shall
22 cover all subcontractors or the subcontractor must furnish evidence of insurance provided
23 by it meeting all of the requirements of this Section 9.4.

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

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

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

39 **9.5 FAITHFUL PERFORMANCE**

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

ARTICLE 10.
CITY'S RIGHT TO PERFORM SERVICE

10.1 GENERAL

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

Notice of the Contractor's failure, refusal, or neglect to collect and transport Refuse, Recyclable Materials, or Compostable Materials may be given orally by telephone to the Contractor at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Contractor within seventy-two (72) hours of the oral notification.

Contractor further agrees that in such event:

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

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

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

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

If the interruption or discontinuance of service is caused by any of the reasons listed in Section 11.6, the City shall pay to Contractor the fair market rental value of the equipment and

1 facilities, possession of which is taken by the City, for the period of the City's possession, if any,
2 which extends beyond the period of time for which City has rendered bills in advance of service,
3 for the class of service involved.

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

12 **10.2 DURATION OF CITY'S POSSESSION**

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

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

21 22 23 24 **ARTICLE 11.** 25 **DEFAULT AND REMEDIES** 26

27 **11.1 EVENTS OF DEFAULT**

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

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

41 **B.** Any representation or disclosure made to City by Contractor in connection with or
42 as an inducement to entering into this Agreement or any future amendment to this

Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

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

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

E. A court having jurisdiction shall enter a decree or order for relief in respect of the Contractor, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Contractor shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Contractor or for any part of the Contractor's operating equipment or assets, or orders the winding up or liquidation of the affairs of Contractor.

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

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

11.2 RIGHT TO TERMINATE UPON DEFAULT

Upon the occurrence of an Event of Default by Contractor, the City shall have the right to unilaterally terminate this Agreement upon further ten (10) days' prior notice to Contractor without the need for any hearing, suit or legal action.

11.3 POSSESSION OF PROPERTY UPON TERMINATION

In the event of termination following an Event of Default, the City shall have the right to take possession of any and all of Contractor's land, equipment, and other property used or useful in the Collection and Transportation of Refuse, Recyclable Materials, or Compostable Materials and the billing and collection of fees for these services and to use such property. The

1 City shall have the right to retain the possession of such property until other suitable
2 arrangements can be made for the provision of Refuse, Recyclable Materials, or Compostable
3 Materials Collection services, which may include the award of an Agreement to another
4 company. If the City retains possession thereof after the period of time for which Contractor has
5 already received revenue from the bills issued in advance of providing service for the class of
6 service involved, the Contractor shall be entitled to the reasonable rental value of such property
7 (which shall be offset against any damages due the City for the Contractor's default).

8 **11.4 CITY'S REMEDIES CUMULATIVE; SPECIFIC PERFORMANCE**

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

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

19 **11.5 LIQUIDATED DAMAGES**

20 **11.5.1 GENERAL**

21 The City finds, and Contractor agrees, that as of the time of the execution of this
22 Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages
23 which shall be incurred by City as a result of a breach by Contractor of its obligations under this
24 Agreement. The factors relating to the impracticability of ascertaining damages include, but are
25 not limited to, the fact that (i) substantial damage results to members of the public who are
26 denied services or denied quality or reliable service; (ii) such breaches cause inconvenience,
27 anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of
28 the general public for whose benefit this Agreement exists, in subjective ways and in varying
29 degrees of intensity which are incapable of measurement in precise monetary terms; that (iii)
30 exclusive services might be available at substantially lower costs than alternative services and the
31 monetary loss resulting from denial of services or denial of quality or reliable services is
32 impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for
33 such breaches, and other remedies are, at best, a means of future correction and not remedies
34 which make the public whole for past breaches.

35 **11.5.2 SERVICE PERFORMANCE STANDARDS; LIQUIDATED DAMAGES FOR FAILURE TO** 36 **MEET STANDARDS**

37 The parties further acknowledge that consistent, reliable Refuse, Recyclable Materials,
38 and Compostable Materials Collection service is of utmost importance to City and that City has
39 considered and relied on Contractor's representations as to its quality of service commitment in
40 awarding the Agreement to it. The parties further recognize that some quantified standards of
41 performance are necessary and appropriate to ensure consistent and reliable service and
42 performance. The parties further recognize that if City reasonably determined that Contractor
43 fails to achieve the performance standards, or fails to submit required documents in a timely

1 manner, City and its residents will suffer damages and that it is and will be impractical and
2 extremely difficult to ascertain and determine the exact amount of damages which City will
3 suffer. Therefore, without prejudice to City's right to treat such non-performance as an Event of
4 Default under this Section 11.5.2, the parties agree that the following liquidated damage amounts
5 represent a reasonable estimate of the amount of such damages that would be incurred by City
6 considering all of the circumstances existing on the date of this Agreement, including the
7 relationship of the sums to the range of harm to City that reasonably could be anticipated and the
8 anticipation that proof of actual damages would be costly or impractical.

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

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

14 Liquidated damages will only be assessed after Contractor has been given the opportunity
15 but failed to rectify the damages as described in this Agreement. Prior to assessing liquidated
16 damages, City shall give Contractor notice of its intention to do so. The notice will include a
17 brief description of the incident(s)/non-performance. City may review (and receive copies at
18 Contractor's expense) all information in the possession of Contractor relating to incident(s)/non-
19 performance. Contractor may, within ten (10) days after receiving the notice, request a meeting
20 with City. Contractor may present evidence in writing and through testimony of its employees
21 and others relevant to the incident(s)/non-performance. City will provide Contractor with a
22 written explanation of its determination on each incident(s)/non-performance prior to authorizing
23 the assessment of liquidated damages. The decision of whether to assess liquidated damages
24 shall be made by the City Council and shall be final.

25 **11.5.3 AMOUNT**

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

28 **11.5.4 TIMING OF PAYMENT**

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

33 **11.6 EXCUSE FROM PERFORMANCE**

34 The parties shall be excused from performing their respective obligations hereunder in the
35 event they are prevented from so performing by reason of floods, earthquakes, other "acts of
36 God," war, civil insurrection, riots, acts of any government (including judicial action), and other
37 similar catastrophic events which are beyond the control of and not the fault of the party claiming
38 excuse from performance hereunder. Labor unrest, including but not limited to strike, work
39 stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by
40 Contractor's employees or directed at Contractor is not an excuse from performance and
41 Contractor shall be obligated to continue to provide service notwithstanding the occurrence of
42 any or all of such events. In the case of labor unrest or job action directed at a third party over
43 whom Contractor has no control, the inability of Contractor to make Collections due to the

1 unwillingness or failure of the third party to provide reasonable assurance of the safety of
2 Contractor's employees while making Collections or to make reasonable accommodations with
3 respect to container placement and point of delivery, time of Collection, or other operating
4 circumstances to minimize any confrontation with pickets or the number of Persons necessary to
5 make Collections shall, to that limited extent, excuse performance and provided further that the
6 foregoing excuse shall be conditioned on Contractor's cooperation in making Collection at
7 different times and in different locations.

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

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

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

22 **11.7 RIGHT TO DEMAND ASSURANCES OF PERFORMANCE**

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

36 **ARTICLE 12.**

37 **OTHER AGREEMENTS OF THE PARTIES**

39 **12.1 RELATIONSHIP OF PARTIES**

40 The parties intend that Contractor shall perform the services required by this Agreement
41 as an independent Contractor engaged by City and not as an officer or employee of the City nor
42 as a partner of or joint venture with the City. No employee or agent or Contractor shall be or

1 shall be deemed to be an employee or agent of the City. Except as expressly provided herein,
2 Contractor shall have the exclusive control over the manner and means of conducting the Refuse
3 Collection and Disposal services performed under this Agreement, and all Persons performing
4 such services. Contractor shall be solely responsible for the acts and omissions of its officers,
5 employees, subcontractors, and agents. Neither Contractor, nor its officers, employees,
6 subcontractors, and agents shall obtain any rights to retirement benefits, Workers' Compensation
7 benefits, or any other benefits, which accrue to City employees by virtue of their employment
8 with the City.

9 **12.2 COMPLIANCE WITH LAW**

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

15 **12.3 GOVERNING LAW**

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

18 **12.4 JURISDICTION**

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

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

24 **12.5 GUARANTY OF CONTRACTOR'S PERFORMANCE**

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

28 **12.6 ASSIGNMENT**

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

33
34 For purposes of this section, "assignment" shall include but not be limited to (i) a sale,
35 exchange, or other transfer of substantially all of Contractor's assets dedicated to service under
36 this Agreement to a third party; (ii) a sale, exchange, or other transfer of 10 percent (10%) or
37 more of the outstanding common stock of Contractor or parent company or holding company to a
38 Person other than a direct family member or trust that exclusively benefits family members; (iii)
39 any reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting
40 trust, pooling agreement, escrow arrangement, liquidation or other transaction to which
41 Contractor, parent company, or holding company or any of its shareholders is a party which
42 results in a change of ownership or control of 10 percent (10%) or more of the value or voting

1 rights in the stock of Contractor or a parent company, or holding company; and (iv) any
2 combination of the foregoing (whether or not in related or contemporaneous transactions) which
3 has the effect of any such transfer or change of ownership. For purposes of this section, the term
4 "proposed assignee" shall refer to the proposed transferee(s) or other successor(s) in interest
5 pursuant to the assignment.

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

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

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

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

25 **C)** Contractor shall furnish City with satisfactory proof that (i) the proposed assignee
26 has at least ten (10) years of Refuse management experience on a scale equal to or
27 exceeding the sale of operations conducted by Contractor under this Agreement; that (ii)
28 in the last five (5) years, the proposed assignee has not suffered any citations or other
29 censure from any federal, state or local contractor having jurisdiction over its waste
30 management operations due to any significant failure to comply with federal, state, or
31 local waste management laws and that the assignee has provided the City with a complete
32 list of such citations and censures; that (iii) the proposed assignee has at all times
33 conducted its operations in an environmentally safe and conscientious fashion; that (iv)
34 the proposed assignee conducts its Refuse management practices in accordance with
35 sound waste management practices in full compliance with all federal, state and local
36 laws regulating the Collection and Disposal of waste, including Hazardous Waste as
37 identified in Title 22 of the California Code of Regulations; and (v) of any other
38 information required by City to ensure the proposed assignee can fulfill the terms of this
39 Agreement in a timely, safe and effective manner.

40
41 Under no circumstances shall any proposed assignment be considered by City if
42 Contractor is in default at any time during the period of consideration.

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

12.7 SUBCONTRACTING

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

12.8 BINDING ON SUCCESSORS

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

12.9 TRANSITION TO NEXT CONTRACTOR

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

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

12.10 PARTIES IN INTEREST

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

12.11 WAIVER

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

12.12 CONTRACTOR'S INVESTIGATION

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

12.13 CONDEMNATION

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

1 **12.14 NOTICE**

2 All notices, demands, requests, proposals, approvals, consents, and other communications
3 which this Agreement requires, authorizes, or contemplates all, except as provided in Section
4 10.1, be in writing and shall either be personally delivered to a representative of the parties at the
5 address below or be deposited in the United States mail, first class postage prepaid, addressed as
6 follows:
7

8
9 If to City: City Manager
10 City of Rohnert Park
11 6750 Commerce Boulevard
12 Rohnert Park, CA 94928
13

14 If to Contractor: James Ratto, President
15 Rohnert Park Disposal, Inc
16 P.O. Box 1916
17 Santa Rosa, CA 95402
18

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

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

23 **12.15 REPRESENTATIVES OF THE PARTIES**

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

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

37 **12.16 CITY FREE TO NEGOTIATE WITH THIRD PARTIES**

38 The City may investigate all options for the Collection and Disposal of Refuse after the
39 expiration of the Term. Without limiting the generality of the foregoing, the City may prior to
40 the expiration of the Term, solicit proposals from Contractor and from third parties for the
41 provision of Collection services, Disposal services, Recycling services, Compostable Materials
42 Collection and composting, and any combination thereof, and may negotiate and execute

1 Agreements for such services which will take effect upon the expiration or earlier termination
2 under Section 11.2 of this Agreement and/or the Recycling Agreement.

3 **ARTICLE 13.**

4 **MISCELLANEOUS AGREEMENTS**

6 **13.1 ENTIRE AGREEMENT**

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

9 **13.2 SECTION HEADINGS**

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

13 **13.3 REFERENCES TO LAWS**

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

16 **13.4 INTERPRETATION**

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

19 **13.5 AMENDMENT**

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

22 **13.6 SEVERABILITY**

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

27 **13.7 COUNTERPARTS**

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

30 **13.8 EXHIBITS**

31 Each of exhibits identified as Exhibit "A" through "L" is attached hereto and incorporated
32 herein and made a part hereof by this reference.
33
34
35
36
37
38
39

1
2
3 IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and
4 year first above written.
5

6 ATTEST:



10 By [Signature]
11 City Clerk

12 [Signature]
13 Mayor

14 APPROVED AS TO FORM:

15
16 [Signature]
17 James Allen
18 Asst. City Attorney

19
20 ROHNERT PARK DISPOSAL, INC., a California
21 corporation ("Contractor")
22

23
24 By: [Signature]
25 Name: JAMES R. SALYERS
26 Title: Vice President
27
28
29

EXHIBIT A

CITY SERVICE LOCATIONS

Contractor shall provide containers and collection of Refuse, Recyclable Materials and Compostable Materials to all City facilities identified herein. Contractor shall also provide collection of Refuse contained in City-owned cans located throughout the City. Servicing of all City facilities and cans shall be provided at no additional charge to the City.

If the City purchases, builds or disposes of any facilities or if the City adds or removes cans during the term of this Agreement, such facilities and/or cans shall be added or deleted from City facilities/cans to be serviced by Contractor, with no change in payment, upon notification of Contractor by City.

Contractor shall regularly evaluate and monitor City collection needs and provide education to maximize diversion. The level of Recycling and Compostable Materials services provided by Contractor shall enable the City to exceed a 50% diversion rate and transition toward Zero Waste.

EXHIBIT A CITY FACILITIES

<i>Location</i>	<i>Address</i>
1 Alicia Park/Scout Hut	295 Santa Alicia
2 Alicia Pool	300 Arlen Drive
3 Animal Control	301 J. Rodgers Lane
4 Benecia Pool	7469 Bernice
5 Benicia Park	7450 Santa Barbara Drive
6 Boys & Girls Club	7450 Santa Barbara Drive
7 Burton Avenue Recreation Center	7421 Burton Avenue
8 C.O.T.S. Shared Housing	345 Arlen Avenue
9 C.O.T.S. Shared Housing	7982 Santa Barbara Drive
10 C.O.T.S. Shared Housing	7668 Beverly Drive
11 C.O.T.S. Shared Housing	309 Burton Avenue
12 City Hall	6750 Commerce Boulevard
13 City Hall <New Building>	130 Avram
14 City Hall Annex <Finance Department/Senior Center>	6800 Hunter Drive
15 Colegio Vista Park	1200 Southwest Boulevard
16 Community Center	5401 Snyder Lane
17 Dorotea Park	895 Santa Dorotea Circle
18 Eagle Park	1115 Emily Avenue
19 Fire Station <N.O.A.H.>	435 Southwest Boulevard
20 Foxtail Golf Club	100 Golf Course Drive
21 Golis Park	1450 Golf Course Drive
22 Honeybee Park/Pool	1170 Golf Course Drive
23 Ladybug Park/Pool/Recreation Ctr.	8517 Liman Way
24 Magnolia Park/Pool	1401 Middlebrook Drive
25 Performing Arts Center	5409 Snyder Lane
26 Public Safety <Main>	500 City Center Drive
27 Public Safety <North>	5200 County Club Drive
28 Public Safety <South>	1312 Maurice Avenue
29 Public Works	600 Enterprise Drive
30 Rainbow Park	1345 Rosana Way
31 Sonoma County Library	6250 Lynne Conde Way
32 Sports Center	5405 Snyder Lane
33 Sunrise Park	5201 Snyder Lane
34 Teen Center	450 City Center Drive
35 City Cans	Various Locations Throughout City

EXHIBIT B

BATTERY BUCKET LOCATIONS

Location of Participant	Address	Contact Name	Phone	Exact Location of Yellow Bucket
City Hall/ Community Development	6750 Commerce Blvd.	Beth Lidster	(707) 588-2226	On low table in lobby
Senior Center	6800 Hunter Drive, Suite A	Vicki A. Wilkerson	(707) 585-6790	In multi purpose room
City Finance Department	6800 Hunter Drive, Suite B	Theresa Granucci	(707) 585-6750	On front counter
Callinan Sports & Fitness Center	5405 Snyder Lane	Guy Miller	(707) 588-3499	In locker room
Community Center	5401 Snyder Lane	Wendy Audiss	(707) 588-3446	On front counter
Public Safety Building	500 City Hall Drive	Jim Herold	(707) 584-2693	On front counter
Animal Shelter	301 J. Rodgers Lane	Mickey Zeldes	(707) 584-1582	On front counter
Public Works	600 Enterprise Drive	Carol Mendenhall	(707) 588-3300	On front counter

EXHIBIT C

CITY-SPONSORED EVENTS

Annual Cleanups: Contractor shall conduct two (2) one week Community Clean-Up Events each year, one during the spring, and one in the fall. The dates for cleanups shall be proposed by the Contractor and approved by the City Manager.

City and Contractor shall, in mutual good faith, discuss Contractor's obligation to collect refuse and other materials at other City-sponsored events which are contemplated to be subsequently scheduled during the Term.

EXHIBIT D

ANNUAL CLEANUPS

Contractor shall conduct two (2) one week Community Clean-Up Events each year, one during the spring, and one in the fall. The dates for cleanups shall be proposed by the Contractor and approved by the City Manager. The Contractor shall pickup authorized cleanup items from all single-family customers at the curbside and properly dispose of such waste. The Contractor shall pickup authorized cleanup items from all multi-family customers at a collection location acceptable to Contractor and Manager, Owner or Homeowner's Association. Clean-up events are for residential customers and tenants only.

Re-use (when possible)

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

Recycling

- Clean cardboard, newspapers, compostable materials, wood waste, recyclable container materials (e.g., glass, plastic, aluminum) and scrap metals

Refuse

- Materials that cannot be recycled shall be disposed of as Refuse
- Sonoma County Central Disposal Site currently offers free disposal to City

EXHIBIT E

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

The Single Recyclable Materials Stream shall include:

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

Glass

- Glass - household food and beverage bottles and jars

Metal

- Aluminum cans
- Metal cans – household food and beverage containers
- Empty aerosol cans
- Lids from Jars

Plastic

- Milk containers
- Plastic containers – household food and beverage containers

Cartons/Boxes/Bags

- Paper Egg Cartons / Brown paper cartons
- Milk cartons
- Cereal boxes
- Shoe Boxes
- Cracker boxes
- Tissue Boxes
- Frozen Food boxes
- Juice Cartons

EXHIBIT F

COMMERCIAL RECYCLABLE MATERIALS TO BE COLLECTED

The Single Recyclable Materials Stream shall include:

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

Glass

- Glass - household food and beverage bottles and jars

Metal

- Aluminum cans
- Metal cans – household food and beverage containers
- Empty aerosol cans
- Lids from Jars

Plastic

- Milk containers
- Plastic containers – household food and beverage containers

Cartons/Boxes/Bags

- Paper Egg Cartons / Brown paper cartons
- Milk cartons
- Cereal boxes
- Shoe Boxes
- Cracker boxes
- Tissue Boxes
- Frozen Food boxes
- Juice Cartons

EXHIBIT G

SCHEDULE FOR PERFORMANCE ADJUSTMENTS

LIQUIDATED DAMAGES FOR FAILURE TO MEET STANDARDS

COLLECTION RELIABILITY

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

COLLECTION QUALITY

7	For each occurrence over five (5) annually of unreasonable leaking or spilling Solid Waste or Recyclable Materials and failure to pick up or clean up such material immediately:	\$300.00
8	For each occurrence over twelve (12) annually of failure to replace cans in original position, upright, with lids in or on cans:	\$150.00
9	For each failure over twenty-four (24) annually of not closing gate, crossing planted areas or other damage to private property:	\$300.00
10	For each occurrence over five (5) annually of collecting Refuse, Recyclable Materials, and Plant Materials during unauthorized hours:	\$300.00
11	For each occurrence over twelve (12) of excessive noise:	\$300.00
12	For each failure over twelve (12) annually of not tagging containers which are left:	\$150.00
13	For each occurrence over five (5) annually of failure to clean collection vehicles	\$150.00

	one time per week, as described in Article 5.10.5B:	
14	For each failure to power wash public Solid Waste and recyclable materials receptacles, lids and metal liners twice a year:	\$150.00/can
15	For each occurrence over five (5) annually of damage to property that is not repaired in 30 days:	\$250.00

REPORTING

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

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

CUSTOMER RESPONSIVENESS

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

EDUCATION RESPONSIBILITIES

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

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

MISCELLANEOUS

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

CONTRACTOR HOLIDAY LIST

Holidays Contractor's Office May Be Closed:

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

Holidays Delivery Service May Be Observed:

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

Some commercial accounts may require Collection on the observed holidays.

EXHIBIT I

STREET SWEEPING MAPS AND SCHEDULES

City of Rohnert Park

PUBLIC WORKS DEPARTMENT

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

MONDAY SCHEDULE: (TIMED STREETS)

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

WEDNESDAY SCHEDULE: (TIMED STREETS)

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

THURSDAY SCHEDULE: (TIMED STREETS)

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

FRIDAY SCHEDULE: (TIMED STREETS)

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

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

"DAILY" STREET SWEEPING SCHEDULE

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

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

STREET SWEEPING MAP

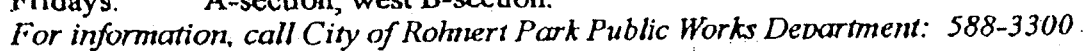


EXHIBIT J Bike Ways Map

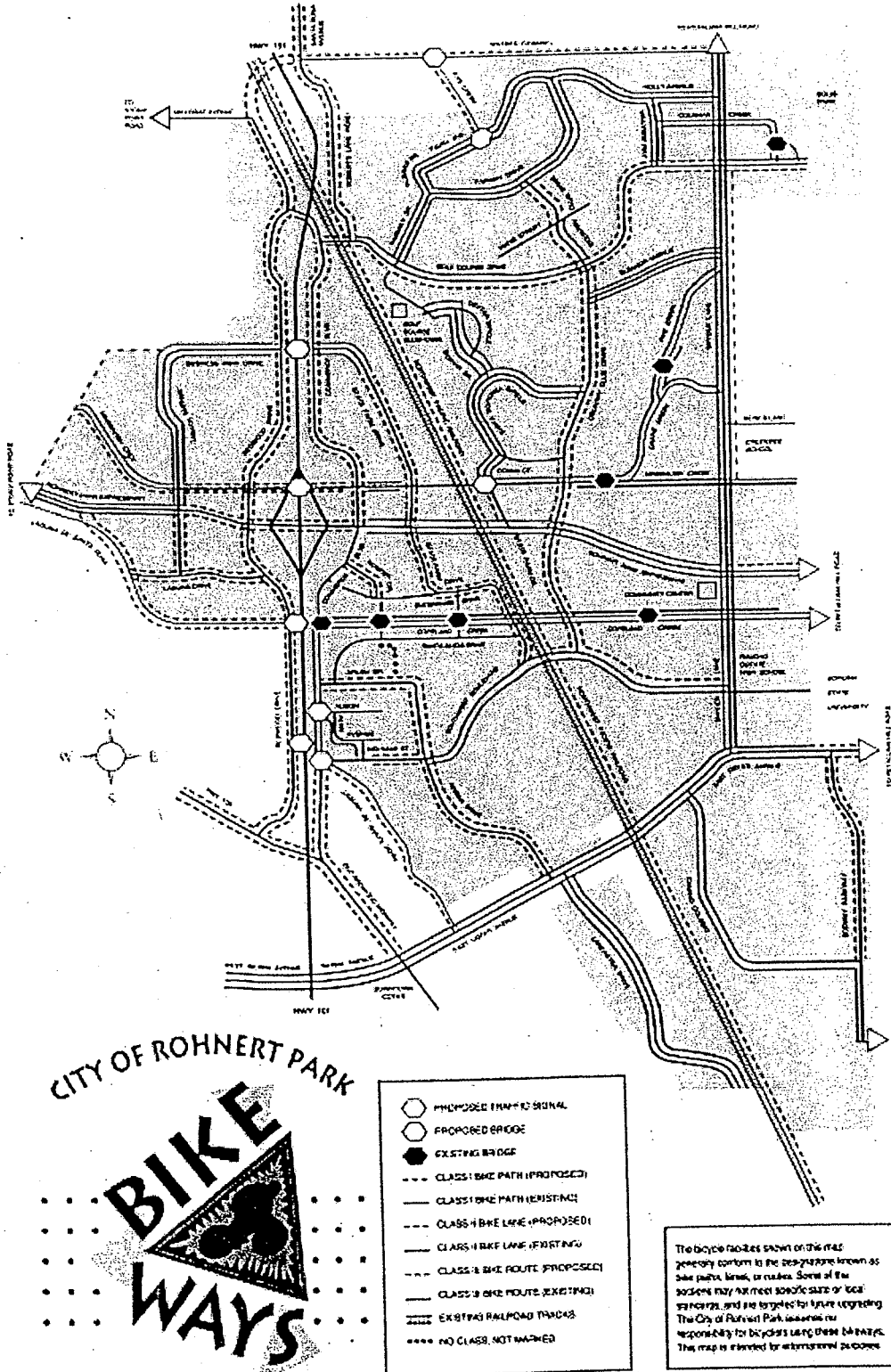


EXHIBIT J

ALLOCATION METHODOLOGY FOR REPORTING OF TONNAGE DATA

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

Example

Front-Loader Route

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

EXHIBIT K

BASIS FOR RELATED PARTY PAYMENTS

Single Stream Recyclables Processing and Marketing Fee\$85.00/Ton

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

EXHIBIT L

CITY INSURANCE ENDORSEMENT FORMS

INSURER
POLICY NO:
ENDORSEMENT NO:

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

THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Organization:

The City of Rohnert Park, its officers, elected officials, employees and volunteers are named as additional insured.

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

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

Modifications to ISO for CG 20 10 11 85

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

Signature-Authorized Representative

Address

SUBMIT IN DUPLICATE

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

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

(to)

LOSS ADJUSTMENT EXPENSE ☐ Included in Limits☐ In Addition to Limits☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____

NAMED INSURED

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

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

- ☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER _____

OTHER PROVISIONS

LIMIT OF LIABILITY

\$ _____ per accident, for bodily injury and property damage.

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

Name: _____

Address: _____

Telephone: () _____

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

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

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

ENDORSEMENT HOLDER

**CITY OF ROHNERT PARK
 6750 Commerce Blvd.
 ROHNERT PARK, CA 94928**

AUTHORIZED ☐ Broker/Agent ☐ Underwriter ☐

REPRESENTATIVE

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

Signature _____
 (original signature required)

Telephone: () _____ Date signed: _____

SUBMIT IN DUPLICATE					
WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY SPECIAL ENDORSEMENT FOR _____ CITY OF ROHNERT PARK _____ (the "City")				ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER Telephone: _____		POLICY INFORMATION: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____			
NAMED INSURED		OTHER PROVISIONS			
CLAIMS: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ _____ Telephone: (_____) _____		EMPLOYERS LIABILITY LIMITS \$ _____ (Each Accident) \$ _____ (Disease - Policy Limit) \$ _____ (Disease - Each Employee)			
<p>In consideration of the premium charged and notwithstanding an inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:</p> <ol style="list-style-type: none"> CANCELLATION NOTICE. This insurance shall not be cancelled, except after thirty (30) days prior written notice by receipted delivery has been given to the City. WAIVER OF SUBROGATION. This insurance Company agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arise from the work performed by the Named Insured for the City. <p>Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.</p>					
ENDORSEMENT HOLDER					
CITY OF ROHNERT PARK 6750 Commerce Blvd. ROHNERT PARK, CA 94928		AUTHORIZED REPRESENTATIVE <input type="checkbox"/> Broker/Agent <input type="checkbox"/> Underwriter <input type="checkbox"/> _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date signed: _____			

ISSUE DATE MM/DD/YY)

CERTIFICATE OF INSURANCE

CITY OF ROHNERT PARK (the "City")

PRODUCER

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

COMPANIES

BEST'S
RATING

COMPANY

LETTER A _____

COMPANY

LETTER B _____

COMPANY

LETTER C _____

COMPANY

LETTER D _____

COMPANY

LETTER E _____

INSURED

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

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

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

THE FOLLOWING PROVISIONS APPLY:

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

CERTIFICATE HOLDER/ADDITIONAL INSURED

CITY OF ROHNERT PARK
6750 Commerce Blvd.
ROHNERT PARK, CA 94928

AUTHORIZED REPRESENTATIVE

SIGNATURE _____

TITLE _____

PHONE NO. _____