

AGREEMENT BETWEEN THE HEBER PUBLIC UTILITY DISTRICT
AND PALO VERDE VALLEY DISPOSAL SERVICE
FOR THE COLLECTION, TRANSPORTATION, RECYCLING,
AND DISPOSAL OF SOLID WASTE, RECYCLABLE
AND COMPOSTABLE MATERIALS

This Agreement ("Agreement") is made and entered into this 17th day of June, 2010, by and between the HEBER PUBLIC UTILITY DISTRICT, ("DISTRICT" or "HPUD" sometimes hereinafter) and Palo Verde Valley Disposal Service, ("FRANCHISEE" sometimes hereinafter PVD), for the collection, transportation, recycling, and disposal of solid waste, recyclable and green waste materials and construction and demolition waste.

A. Recitals.

- (1) The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (AB 939), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions.
- (2) Pursuant to California Public Resources Code § 40059 (a) (1), the Board of the Heber Public Utility District has determined that the public health, safety and well-being require that permits or franchises be granted to qualified solid waste contractors for solid waste collection, recycling, composting and disposal services in residential, commercial, construction and industrial areas within the District.
- (3) The Board has heretofore enacted the District code which establishes standards for the collection and disposal of refuse, trash, rubbish and other forms of solid waste and, pursuant to the Code, the Board has determined that the disposal and/or collection of refuse, trash, rubbish or other solid waste is a service to be performed in the District in accordance with the provisions of said Ordinance 221.
- (4) The Board may from time to time issue franchises to those parties meeting the criteria set forth in Ordinance 221 of the District Code and such standards as may be established by the Board regarding the collection of refuse, rubbish and other forms of solid waste, and, so long as any such permits remain in conditions thereof.
- (5) DISTRICT and FRANCHISEE are mindful of the provisions of the laws governing the safe collection, transport, recycling and disposal of solid waste, including AB 939, the Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).
- (6) DISTRICT and FRANCHISEE desire to leave no doubts as to their respective roles and that by entering into this agreement DISTRICT is not thereby becoming a "generator" or an "arranger" as those terms are used in CERCLA Section 107 (a) (3), and that it is FRANCHISEE, not DISTRICT, which is "arranging for" the collection, transportation and disposal of municipal solid wastes which may contain hazardous substances.
- (7) The Board declares its intention to maintain reasonable rates for the collection, transportation, recycling, composting and disposal of solid waste, recyclables and compostables, generated within the District limits.
- (8) All legal prerequisites to the making of this Agreement have occurred.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1: GRANT OF FRANCHISE FOR RESIDENTIAL, COMMERCIAL, CONSTRUCTION, INDUSTRIAL AND TEMPORARY BIN SERVICES.

- A. Exclusive Franchise. This Agreement grants an exclusive solid waste collection franchise (hereinafter "Franchise") as defined in Section 2, below, to Palo Verde Valley Disposal Service, pursuant to California Public Resources Code § 40059 (a) (1) for the collection, transportation, recycling, and disposal of solid waste and construction debris and for providing temporary bin/roll-off services in residential, commercial, construction, and industrial areas within the Heber Public Utility District. In the event that state or federal laws or regulations or judicial findings enacted after this Franchise has been executed, prevent or preclude compliance with one or more provisions of this Franchise, such provisions of this Franchise shall be modified or suspended by order of the Board as may be necessary to comply with such state or federal laws or regulations or judicial findings.
- B. Exclusive Franchise: Scope: Exceptions. The parties hereto agree that, insofar as it can legally be done, or as otherwise provided by District ordinance, the provisions of this Agreement shall constitute an exclusive franchise under which FRANCHISEE shall have the exclusive right and obligation of collecting, transporting and disposing of all municipal solid waste, recyclables, green waste and construction debris as

defined herein and in said Code, as the same may be amended from time to time, in the Franchise Area, as defined here in below. All other contractors, persons, corporations or entities shall be prohibited from collecting such municipal solid waste, recyclables, green waste and construction debris from such commercial, industrial, or residential premises. Notwithstanding the foregoing, FRANCHISEE and DISTRICT agree that FRANCHISEE is neither authorized nor required by the terms and provisions hereof to collect and/or dispose of hazardous waste.

SECTION 2: DEFINITIONS.

Whenever any term used in this Agreement has been defined by the Code or Division 30, Part I, Chapter 2 of the California Public Resources Code, the definitions in said Code or the public Resources Code shall apply unless the term is otherwise defined in this Agreement.

- A. "AB 939" means the California Integrated Waste Management Act of 1989, as it may be amended from time to time, and as implemented by the regulations of the California Integrated Waste Management Board.
- B. "AB 939 Administrative Fee" means the fee or assessment set by the DISTRICT which is intended to offset the DISTRICT expenses in administering this Agreement and to compensate DISTRICT for the costs associated with compliance with the California Integrated Waste Management Act of 1989 (AB 939). Any fees or assessments imposed under this Agreement shall be those which the Board may from time to time hereafter approve by resolution.
- C. "Bin" means those receptacles provided by FRANCHISEE for commercial, industrial, and construction premises uses. Bins shall include receptacles which are picked up by refuse trucks by means of front loading apparatus as well as "roll-off boxes" and other, similar receptacles.
- D. "Bulky Goods" means discarded furniture, furnishings or appliances, including white goods; rock or brick in reusable form; carpets; mattresses; large branches; trees; stumps or limbs of trees exceeding eighteen (18) inches in diameter or four (4) feet in length and other items the size or weight of which precludes or complicates their handling by normal collection, processing or disposal methods.
- E. "District Limits" means the boundaries of the DISTRICT together with all amendments and changes thereto, which boundaries are shown by maps incorporated herein by reference and which are on file in the Office of the County Clerk.
- F. "Board" or "Board of Directors" or "Directors" shall mean the Heber Public Utility District Board of Directors.
- G. "Commercial Wastes" includes all types of solid wastes generated by stores, offices, governmental institutions, industries, multi-family residences and other commercial sources, excluding residential solid waste.
- H. "Commercial Customer" means a customer of FRANCHISEE for solid waste collection and disposal and recycling and/or green waste services which occupies any non-residential, commercial or industrial premises, any mobile home park, any hotel or motel, or any building in which a combination of residential, commercial and/or industrial uses exists.
- I. "Compostable Materials" or "Green Waste" means leaves, grass clippings, brush, branches and other forms of organic waste generated from landscapes or gardens, separated from other solid waste. "Compostable materials" does not include stumps or branches in bundles exceeding eighteen (18) inches in diameter or four (4) feet in length.
- J. "Construction and Demolition Waste" means the waste building materials, packaging, plaster, drywall, cement and rubble resulting from construction, remodeling, repair and demolition operations on pavements, buildings and other structures, (except asbestos-containing materials and reusable rock or brick).
- K. "Container(s)" means those receptacles provided by FRANCHISEE for residential premises use as approved by DISTRICT.
- L. "General Manager" or "Manager" shall mean the General Manager of the Heber Public Utility District, or his or her designee.
- M. "Franchise" means this Agreement and the written authority by DISTRICT evidenced by this Agreement granting FRANCHISEE the exclusive right and privilege to: (1) arrange for the collection of, and to collect refuse, rubbish and other forms of solid waste, (2) transport the same to landfill or other licensed disposal facilities as provided hereunder, and recycle from collected refuse, compostables and recyclables, all solid waste, green waste and recyclable kept, generated and/or accumulated within the DISTRICT from any source or sources whatsoever.

- N. "FRANCHISEE" means Palo Verde Valley Disposal Service the entity authorized by the Board hereunder pursuant to the Code and the terms and conditions imposed upon the, FRANCHISEE by this Agreement.
- O. "Garbage" or "Solid Waste" means putrescible and non-putrescible material including every accumulation of animal waste, vegetable or other matter which results from the processing, consumption, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter normally resulting from domestic, institutional, commercial, industrial, agricultural, and other community activities, including, but not by way of limitation, used non-recyclable food containers, and other waste likely to attract flies or rodents, but excluding materials set out for Recycling, Composting, and/or any Hazardous Waste.
- P. "Hazardous Waste" means any waste material(s) or mixture of waste(s) defined as such pursuant to the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901, et seq., or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601, et seq., and all future amendments to either of them, or as defined by the Environmental Protection Agency or the California Integrated Waste Management Board, or either of them, and shall include household hazardous waste and medical waste. Where there is a conflict in the definitions employed by two (2) or more agencies having jurisdiction over hazardous or solid waste, the term "Hazardous Waste" shall be construed to have the broader, more encompassing definition.
- Q. "Municipal Solid Waste" means all Solid Waste generated within the DISTRICT which is designated for collection under this Agreement.
- R. "Putrescible Materials" means material which has been source separated or commingled with other similar material and can be reused or processed into a form suitable for reuse through reprocessing or remanufacture and includes paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass aluminum, plastics, beverage containers, compostable materials, and such other materials designated as recyclables by the California Integrated Waste Management Board, or other agency with jurisdiction, and which are collected by FRANCHISEE pursuant to this Agreement.
- T. "Residential Unit" shall mean a building or portion of a building used for dwelling purposes by an individual family or group of persons.
- U. "Special Waste" shall mean all items and materials which are set forth in Exhibit "A", "Special Waste".

SECTION 3: ACCEPTANCE: WAIVER.

FRANCHISEE agrees to be bound by and comply with all the requirements of the Code, as the same may be amended from time to time, and this Agreement. FRANCHISEE waives FRANCHISEE'S right to challenge the terms of this Agreement and the Code, as the same may be amended from time to time, under federal, state or local law, or administrative regulation, as such laws and regulations exist as of the date of execution of this Agreement.

SECTION 4: FRANCHISE AREA DEFINED.

The Franchise Area granted by this Agreement shall include all areas within the DISTRICT limits as defined in Section 2 E above.

SECTION 5: TERMS OF AGREEMENT.

The term of this Agreement shall be for a period of seven (7) years commencing July 1, 2010, through and including June 30, 2017, with the FRANCHISEE'S exclusive right to request a seven (7) year extension of the contract during the fifth (5th) year of the agreement. If FRANCHISEE does not request in writing said extension during the fifth (5th) year, or the DISTRICT has determined not to grant such an extension for any reason, in its sole discretion, and has notified FRANCHISEE in writing of such determination prior to June 30, 2015, then the Agreement shall remain in effect only until June 30, 2017.

SECTION 6: SERVICES TO BE PROVIDED BY FRANCHISEE.

- A. General. FRANCHISEE shall provide for the collection, transportation, and disposal of all municipal solid waste and recycling and green waste services within the Franchise Area in accordance with the terms of this Agreement and the Code. In consideration of the payments hereinafter agreed to be made to FRANCHISEE by DISTRICT, the rates and charges permitted to be levied by FRANCHISEE hereby, and under penalty of the bonds conditioned as set forth hereinafter, FRANCHISEE hereby agrees to perform all the work set forth and described herein, including the furnishing of all labor, material, and equipment

necessary for compliance, with the terms and provisions hereof and those set forth in the code, as the same may be amended from time to time.

B. Residential Premises. FRANCHISEE shall collect and remove all solid waste that has been placed in approved containers, from all residential premises within the DISTRICT at least twice a week. However, once automated recycling is introduced, FRANCHISEE shall collect and remove all solid waste that has been placed in approved 95 Gallon containers from residential premises within the DISTRICT once every week. However, if at the end of the first year of operations, it is determined that once a week service for residential solid waste is not adequate, the Franchisee and the District agree to review the need and costs for twice a week residential service. The collection and removal of recyclable material and green waste shall occur weekly, or as otherwise specified in writing by the General Manager. The recyclable and green waste program will begin at a date that is mutually acceptable to the DISTRICT and the FRANCHISEE, under the Recyclable and Green Waste program of the FRANCHISEE. FRANCHISEE shall provide and maintain approved containers suitable to each residential premise for the collection thereof. Containers that are damaged by FRANCHISEE'S activities will be replaced by FRANCHISEE, at FRANCHISEE'S sole expense, upon request of the customer. If a container is damaged without any fault of FRANCHISEE, the FRANCHISEE may charge the customer for a replacement container. The FRANCHISEE shall replace all containers damaged due to normal wear and tear within one (1) week notification.

1. Hours of Collection. FRANCHISEE agrees that, in order to protect the peace and quiet of residents, its collection of solid waste, recyclables and compostables in residential areas shall not start before 5:00 a.m. or continue past 8:00 p.m., Monday through Saturday.
2. Collection Exemptions. When making collections for standard service - curbside collection, FRANCHISEE shall be required to collect all material as specified in the District Code except for the following:
 - a. Containers not meeting specifications approved by the General Manager.
 - b. Containers not in proper location for collection.
 - c. Containers over level full.
 - d. Containers which are not accessible.
 - e. Unless otherwise directed by the General Manager, FRANCHISEE shall make all collections hereunder from the curb along the Street in front of each dwelling, place of business, or human habitation, FRANCHISEE shall not be under any obligation to enter private property, excepting private streets to make collections under this Agreement, except in business establishments where bins are kept in a paved service yard and where the same shall be picked up from such service yard when deposited there for collection.
3. Return of Containers. FRANCHISEE shall return all containers, in an upright condition, to the location where the same were placed for collection by the resident, provided, however, that if the same are found obstructing a public street, the same shall be placed on the nearest curb, sidewalk, driveway or parkway and out of said street.

C. Commercial Customer Premises. FRANCHISEE shall collect and remove all solid waste, recyclables and green waste that have been placed in FRANCHISEE'S bins, from all commercial customers' premises within the DISTRICT at least once every week or more frequently if required to handle the waste stream of the premises where the bins are located, except as may otherwise be specified in writing by the General Manager. FRANCHISEE shall provide and maintain a bin or bins suitable to each commercial customer's premises for the collection thereof. Bins that are damaged by FRANCHISEE'S activities will be replaced by FRANCHISEE, at FRANCHISEE'S sole expense, upon request of the customer. If a bin is damaged without any fault of FRANCHISEE, the FRANCHISEE may charge the customer for a replacement bin. The FRANCHISEE shall replace all bins damaged due to normal wear and tear within one (1) week after notification. Commercial Customers shall pay based on monthly usage (refer to Exhibit B).

1. Hours of Collection. FRANCHISEE agrees that, in order to protect the peace and quiet of residents, its collection of solid waste and recyclables in commercial areas, adjacent to residential areas, shall not start before 5:00 a.m. or continue at 8:00 p.m., Monday through Saturday, unless otherwise provided for in the Code. Collection in commercial areas otherwise may commence not earlier than 4:00 a.m.
2. Collection Requirements. When making collections for standard services (bin collection), FRANCHISEE shall be required to collect all materials as specified hereunder except for the following:
 - a) Bins whose containers weigh more than 450 pounds.
 - b) Bins which are inaccessible.
 - c) Bins which are filled more than level full.

- d. Bins which must be rolled by FRANCHISEE more than twenty (20) feet or in areas requiring backing maneuvers for distance greater than twenty (20) feet.
3. Return of Bins. FRANCHISEE shall return all bins, utilized for commercial premises hereunder, to the enclosure(s) provided therefore on the property. In the event that a commercial premises fails to utilize such enclosures, or if said enclosures are rendered unusable due to the placement herein of items (such as storage of materials) not to be removed, FRANCHISEE shall request the owner or manager thereof to make the enclosure usable for bins. If the commercial premises fails or refuses to correct the situation, FRANCHISEE shall notify the General Manager.
- D. Construction and Temporary Roll-Off Services. FRANCHISEE shall provide for compensation construction and temporary bin/roll-off services.
- E. Collection on Holidays. Trash service for legal holidays shall be as follows: Residential trash service will be on the next regularly scheduled pick-up day. For example, a Monday holiday, residential trash service will be performed on Tuesday. Commercial trash service will be either the day before or the day after the legal holiday. For example, on a Monday holiday the commercial trash service will be performed on Tuesday. The following holidays will be observed:
- | | | |
|----------------|------------------|------------------|
| New Year's Day | Memorial Day | Independence Day |
| Labor Day | Thanksgiving Day | Christmas Day |
- F. Recycling - Program. FRANCHISEE shall provide recycling services the Franchise Area in accordance with the recycling program set forth in Exhibit "C", and in accordance with the Schedule of Billing Rates as set forth in Exhibit "B", subject to amendment pursuant to Section 8.E. This program will begin on a date that is mutually acceptable to the DISTRICT and the FRANCHISEE.
- G. Green Waste-Collection. FRANCHISEE shall provide green waste collection services in the Franchise Area in accordance with the terms set forth in Exhibit "C", at the rates established in Exhibit "B", subject to amendment pursuant to Section 8.E. This program will begin on a date that is mutually acceptable to the DISTRICT and the FRANCHISEE.
- H. Special Wastes. FRANCHISEE shall provide such collection, transportation, and disposal services for Special Wastes as set forth in Exhibit "A".
- I. District Facilities. FRANCHISEE shall provide refuse collection, recycling and green waste services (upon implementation of these programs), at no additional charge to DISTRICT, at all DISTRICT facilities and special DISTRICT events designated by the General Manager. The waste from DISTRICT facilities would consist of solid waste generated from the normal operations of these facilities. Demolition and construction would be addressed on a case-by-case basis. FRANCHISEE shall also furnish containers or bins for such designated locations at no cost to DISTRICT. A list of current DISTRICT facilities is attached hereto as Exhibit "D".
- J. District Clean-Up Programs. FRANCHISEE shall assist and cooperate, at no additional cost to the DISTRICT, in two (2) annual clean-up campaigns. FRANCHISEE shall provide roll-off containers at sites designated by the DISTRICT. The site locations cannot exceed two (2). The DISTRICT shall provide for clean-up of the area surrounding the container sites. Placement of hazardous waste or restricted waste would not be allowable. Only normal household waste is allowable; such as: furniture, brush, branches, etc. No commercial, industrial or construction/demolition trash will be accepted as part of the "clean up days".
- K. Clean-Up of Waste Enclosures or Bin or Container Locations. FRANCHISEE shall exercise all reasonable care and diligence in collecting properly placed solid waste, recyclables and green waste, and shall, at FRANCHISEE'S sole expense, pick up and properly dispose of all material spilled by FRANCHISEE'S employees during collection thereof.
- L. Improperly Placed Material. FRANCHISEE may decline to collect any material that has been compacted or otherwise placed, kept or accumulated in a container or bin in such a manner that the container's or bin's contents will not, of their own weight, fall out of the container or bin when it is turned upside down, or a container or bin that does not meet the requirements for approved containers or bins, or if container or bin is of such weight that it cannot be lifted or moved without causing injury or damage to property or equipment.
- M. Failure to Collect. Should FRANCHISEE fail to collect and dispose of any material set out or placed for collection, as herein provided, at times required, after notification by DISTRICT and within a reasonable time, DISTRICT may collect and dispose of same and FRANCHISEE shall be liable for the expense incurred by District, including DISTRICT'S reasonable overhead cost of ten percent (10%), and shall be liable for the penalties established in Exhibit "E".
- N. Non-collection Notice. Whenever any material set out for collection is not collected by FRANCHISEE, FRANCHISEE shall affix or attach to the container or bin a tag provided at FRANCHISEE'S expense

specifically stating therein the reason for non-collection. FRANCHISEE shall keep a copy thereof and make the same available to the General Manager upon request.

- O. Maintenance of Schedules. Presently existing routes, schedules and times for collection of solid waste, recyclables and green waste shall be maintained but may be changed by authorization of the General Manager and after at least one (1) week's advance notice as specified by the General Manager to occupants of the premises in areas where changes are to be made.

SECTION 7: AB 939 ADMINISTRATIVE FEES,

Pursuant to California Public Resources Code § 41902, the DISTRICT may directly assess a fee or may, by agreement, arrange for the fee to be collected by the FRANCHISEE under this Agreement. Currently, there is no AB 939 Administrative Fee assessed by the DISTRICT. It is understood that if the DISTRICT desires to assess an AB 939 fee that the fee will be in addition to any fees for service that are then in existence. The AB 939 fee will be paid by the DISTRICT's customers to the DISTRICT as part of the collection fees.

SECTION 8: COMPENSATION FOR SERVICES.

- A. Residential Services. FRANCHISEE agrees to accept as full compensation from DISTRICT for the complete collection of residential solid waste, green waste and recyclables the amount specified in Exhibit "B". DISTRICT agrees to bill each such residential account therefore. Said compensation for residential services shall be based upon the number of active residential water customers with water meters in service within the Franchise Area and shall be payable as specified in Exhibit "B". The number of water meters in service shall be established by DISTRICT as of the effective date of this Agreement and shall be checked by FRANCHISEE and DISTRICT representatives monthly. In the event such a check results in an increase or decrease in the number of water meters in service the subsequent payments to FRANCHISEE shall be adjusted accordingly. In cases where more than one dwelling is serviced by one meter, then that premises will be billed for the number of dwellings serviced. For example, a duplex will be billed at twice the normal single family residence rate, etc. Compensation to FRANCHISEE hereunder shall be payable by DISTRICT in accordance with the provisions of Exhibit "B" hereto.
- B. Commercial Customer Services. Commercial customer accounts shall be directly billed by the DISTRICT. DISTRICT may determine the manner and frequency of such billings. Compensation to FRANCHISEE hereunder, shall be payable by DISTRICT in accordance with the provisions of Exhibit "B" hereto.
- C. Franchise Fees. The District shall deduct from the monthly compensation due to the Franchisee, a franchise fee equal to ten (10) percent of the gross billings for services rendered for all residential, commercial, and industrial (roll offs net of disposal fees) accounts and special service fees, excluding amounts collected for AB 939 recycling charges or fees. FRANCHISEE shall be paid within 45 days following the month of service.
- D. District and Franchisee Records Available. The records of DISTRICT'S Finance Department shall be available at reasonable times for the inspection by FRANCHISEE for the purpose of determining the number of water meters in service. The service records of the FRANCHISEE shall be available at reasonable times for the inspection of the DISTRICT for the purpose of reconciling commercial customers' service billing to the DISTRICT records.
- E. Formula for Changes in Compensation. The compensation paid to FRANCHISEE shall be adjusted annually, effective July 1 of each calendar year hereafter during the term thereof, pursuant to the "Adjustment Formula" set forth below. In the event that circumstances beyond the control of FRANCHISEE impose or generate additional costs in the performance of this Agreement, FRANCHISEE may petition DISTRICT'S Board to determine if an adjustment in compensation is warranted to avoid undue financial hardship on FRANCHISEE or material impairment of FRANCHISEE'S ability to provide the level and quality of service herein specified as outlined in "Increase In Operating Costs" below. FRANCHISEE agrees to furnish all such accounts and records as are needed in the judgment of DISTRICT to substantiate any requests for increased payments from DISTRICT or increased rates to customers. The decision of DISTRICT shall be final.

RATE ADJUSTMENT FORMULA:

Adjustment in Compensation paid to FRANCHISEE will be based on the Consumer Price Index for all urban consumers in an area that is mutually agreed upon. The compensation shall be adjusted annually to take effect on July 1 of each year. The FRANCHISEE and DISTRICT General Manager shall meet during the month of April in order to calculate any adjustment. It is understood that the overall residential and commercial customer rates are determined by three (3) areas: collection portion, disposal portion, recycling portion. All portions of the rates are subject to the annual rate adjustment formula.

- Step One: Determine the percentage change in the Consumer Price Index for all urban consumers. For an area that is mutually agreed upon for the most recent twelve (12) months ending on May 1 based on data available from the United States Bureau of Labor Statistics during the month of January.
- Step Two: Adjust the residential and commercial rates to reflect the adjustment determined in Step One.
- Step Three: The rates for residential and commercial subscriptions, as specified in Exhibit "B", shall be subjected to adjustment in accordance with the provisions of this Section 8 commencing on July 1, 2006.

INCREASE IN OPERATING COSTS:

During the term of this Agreement, Franchisee may petition the District annually for rate increases based on changes in its costs of doing business, including but not limited to, revised laws, ordinances, or regulations, changes in disposal or recycling fees, and material increases in insurance, fuel or other costs (but not for the purchase or repairs of vehicles or equipment). The refusal of the District to adjust the rates as petitioned shall not be considered legitimate cause for failure of Franchisee to comply with the terms of this Agreement. The District shall have the right to conduct an audit and review prior to considering the petition for a rate increase. If the District and the Franchisee cannot agree on the amount of a proposed rate increase, each of them shall then select an accountant from an accounting firm. The selected accountants shall then select a third accountant who will review the relevant records to determine whether the Franchisee's costs of doing business have increased. The District shall submit to a cost increase sufficient to compensate the Franchisee for increased costs to the District for approval at the next meeting of the District. If the District refuses to grant a rate increase, then at any time during the next thirty-day period immediately following the District's refusal, the Franchisee shall have the option to terminate this Agreement by providing 120 days written notice to the District. The cost for the accountants shall be paid half by District and half Franchisee.

SECTION 9: FRANCHISE TRANSFERABLE: DISTRICT CONSENT REQUIRED.

- A. Transfer Consent. Except as provided in Section 9 D, this Franchise shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except the FRANCHISEE, either by act of the FRANCHISEE or by operation of law, without the prior written consent of the DISTRICT'S expressed by resolution of the District Board. Any attempt by FRANCHISEE to assign this Franchise without said consent of DISTRICT shall be void.
- B. Violation Termination. Any attempt by the FRANCHISEE to transfer this Franchise prior to obtaining DISTRICT consent shall be considered a material breach of this Agreement and grounds for the immediate termination of the Franchise as set forth in Section 11 E below.
- C. Discretion to Consent. FRANCHISEE specifically agrees that DISTRICT'S consent hereunder to a transfer of the Franchise hereunder shall be at the sole discretion of DISTRICT. FRANCHISEE further acknowledges that the discretion vested in DISTRICT hereunder shall not be constrained, in any manner or for any reason whatsoever, and is the result of FRANCHISEE'S offer thereof in the first instance. In the event DISTRICT, in the exercise of its discretion hereunder, consents to a transfer, the DISTRICT may impose conditions of approval on a Franchise transfer, including, but not limited to conditions requiring acceptance of this Agreement, the payment of a transfer fee to DISTRICT, and any other conditions imposed by DISTRICT.
- D. Change in Control. DISTRICT consent, exercised pursuant to Section 9 C above, is required for any change in control of FRANCHISEE. "Change in Control" shall mean any sale, transfer, or acquisition of more than fifty percent (50%) of the original ownership in the FRANCHISEE. So long as not more than fifty percent (50%) of the original ownership of the FRANCHISEE is transferred, sold, or otherwise acquired during the term of this Agreement, a change in control shall not be deemed to have occurred. FRANCHISEE represents and warrants that the original ownership of the FRANCHISEE is Palo Valley Verde Disposal Service.

SECTION 10: FRANCHISE TRANSFER FEES.

- A. Application for Transfer. Any application for a Franchise transfer shall be made in a manner prescribed by the DISTRICT'S Manager. The application shall include a transfer fee in an amount to be set by DISTRICT, by Resolution of the Board, to cover the cost of all direct and indirect administrative expenses including consultants and attorneys, necessary to adequately analyze the application and to reimburse DISTRICT for all direct and indirect expenses. In addition, FRANCHISEE shall reimburse DISTRICT for

all costs incurred by DISTRICT not covered by the transfer fee. Bills shall be supported with evidence of the expense or cost incurred. The FRANCHISEE shall pay such bills within thirty (30) days of receipt.

- B. Fees. Any transfer fees assessed by this Section are in addition to any other fees specified in this Agreement.

SECTION 11: REMEDIES FOR BREACH OF FRANCHISE.

- A. Default Breach Notice. If the DISTRICT'S General Manager determines that FRANCHISEE'S performance pursuant to this Agreement has not been in conformity with reasonable industry standards which occur in similar cities in Southern California, the provisions of this Agreement, may be amended from time to time, the requirements of the California Integrated Waste Management Board, including, but not limited to, requirements for source reduction and recycling (as to the waste stream subject to this Agreement) or any other applicable federal, state or local law or regulation, the General Manager may notify FRANCHISEE in writing of such deficiencies. The General Manager may, in such written notice, set a reasonable time within which correction of all such deficiencies is to be made. Unless otherwise specified, a reasonable time for correction shall be thirty (30) days from the receipt by the FRANCHISEE of such written notice. The General Manager shall review the FRANCHISEE'S response and refer the matter to the Board of Directors or decide the matter and notify the FRANCHISEE of the decision, in writing. A decision or order of the General Manager shall be final and binding on FRANCHISEE if FRANCHISEE fails to file a "Notice of Appeal" with the General Manager within ten (10) days of receipt of the General Manager's decision. Within ten (10) working days of receipt of a timely Notice of Appeal, the General Manager shall refer the appeal to the Board for proceedings in accordance with Sections 11 B and 11 C below.
- B. Hearing. The Board, in such case, may set the matter for hearing. The Board shall give FRANCHISEE, and any other person requesting the same, at least ten (10) days written notice of the time and place of the hearing. At the hearing, the Board shall consider the report of the General Manager indicating the deficiencies, and shall give the FRANCHISEE or its representatives and any other interested person, a reasonable opportunity to be heard.
- C. Findings. Based upon a preponderance of the evidence presented at the public hearing, the Board shall make appropriate findings of fact before determining whether the Franchise should be terminated. If, based upon the record, the Board determines that FRANCHISEE is in breach of any material term of this Agreement or any material provisions of any applicable federal, state or local statute or regulation, the Board, in the exercise of its sole discretion, may terminate this Agreement forthwith. The decision of the Board shall be final and conclusive. FRANCHISEE'S performance under its Franchise is not excused during the period of time prior to the Board's final determination as to whether such performance is deficient.
- D. Remedies Cumulative. This right of termination is in addition to any other rights or remedies of DISTRICT'S upon a failure of FRANCHISEE to perform its obligations under this Agreement.
- E. Immediate Termination. DISTRICT further reserves the right to immediately terminate FRANCHISEE'S Franchise in the event of any of the following:
1. If FRANCHISEE practices, or attempts to practice, any fraud or deceit upon the DISTRICT.
 2. If FRANCHISEE becomes insolvent, unable or unwilling to pay its debts, or upon listing of any order for relief in favor of FRANCHISEE in a bankruptcy proceeding.
 3. If FRANCHISEE fails to provide or maintain in full force and effect, the workers' compensation, or the liability insurance or indemnification coverage's as required by this Agreement.
 4. If FRANCHISEE willfully violates any orders or rulings of any regulatory body having jurisdiction over FRANCHISEE relative to this Agreement; provided, however, that FRANCHISEE may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the Agreement shall be deemed to have occurred until a final disposition of any such proceeding.
 5. If FRANCHISEE ceases to provide collection service as required under this Agreement over all or a substantial portion of its Franchise Area for a period of five (5) working days or more, for any reason within the control of FRANCHISEE.
 6. If the FRANCHISEE willfully fails to make any payments required under the terms of this Agreement and/or refuses to provide DISTRICT with required information, reports and/or test results in a timely manner as provided in this Agreement.
 7. Any other act or omission by FRANCHISEE which materially violates the terms, conditions or requirements of this Agreement, the California Integrated Waste Management Act of 1989, as it may be amended from time to time, or any order, directive, rule or regulation issued hereunder and which is not corrected or remedied within the time set in the written notice of the violation or, if FRANCHISEE cannot reasonably correct or remedy the breach within the time set forth in such

notice, if FRANCHISEE should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

8. Any transfer or change in control of FRANCHISEE without consent by DISTRICT as described in Section 8 above.

F. Temporary Default by Franchisee. In addition to any other remedies provided in this Agreement, where FRANCHISEE, for any reason, abandons or ceases to perform collection and disposal services for a period in excess of three (3) working days, and the General Manager determines that it is necessary for solid waste collection and disposal to be temporarily undertaken by other entities engaged by DISTRICT, the DISTRICT shall:

1. Notify FRANCHISEE by certified mail that FRANCHISEE has failed to perform solid waste collection and disposal services in accordance with the terms of this Agreement for a period in excess of three (3) working days, and of DISTRICT'S intent to temporarily provide such services at FRANCHISEE'S expense and with the use of FRANCHISEE equipment;
2. Be entitled to assign collection and disposal obligation to other entities engaged by DISTRICT.
3. Have access to FRANCHISEE'S records for the purpose of billing, and shall have the right to retain or assign all payments and funds received for the period during which entities engaged by DISTRICT provide services; and
4. Charge FRANCHISEE for the actual costs of such services, as determined by DISTRICT'S standard accounting practices, for each calendar day during which entities engaged by DISTRICT perform such service, including DISTRICT'S reasonable overhead expense of thirty percent (30%).
5. If FRANCHISEE is in default under this Section for a period of more than fourteen (14) calendar days for any reason not within the control of FRANCHISEE, DISTRICT shall have the right to terminate this Agreement as provided herein.

SECTION 12: DISTRICT'S ADDITIONAL REMEDIES.

In addition to the remedies set forth in Section 11 above, DISTRICT shall have the following rights:

- A. License to Others. The right to license others to perform the services otherwise to be performed by FRANCHISEE hereunder, or to perform such services itself; and
- B. Judicial Remedies. The right to obtain damages and/or injunctive relief both parties recognize and agree that in the event of a breach under the terms of this Agreement by FRANCHISEE, DISTRICT may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement and to enjoin the breach thereof.

SECTION 13: RIGHTS OF DISTRICT TO PERFORM DURING EMERGENCY.

- A. Failure to Perform. Should FRANCHISEE, for any reason whatsoever, except the occurrence or existence of any of the events or conditions set forth in Section 26 A, "Force Majeure", below, refuse or be unable to collect, transport and dispose of any or all of the solid waste compostables and recyclables which it is obligated under this Agreement to collect, transport and dispose of for a period of more than seventy-two (72) hours, and if as a result thereof, refuse, compostables and recyclables should accumulate in DISTRICT to such an extent, in such a manner, or for such a time that the General Manager should find that such accumulation endangers or menaces the public health, safety or welfare, then in such event DISTRICT shall have the right, upon twenty-four (24) hours prior written notice to FRANCHISEE, during the period of such emergency, to temporarily take possession of any or all equipment and facilities of FRANCHISEE previously used in the collection, transportation and disposal of refuse, compostables and recyclables under this Agreement, and to use, or direct FRANCHISEE to use, such equipment and facilities to collect and transport any or all refuse, compostables, and recyclables which FRANCHISEE would otherwise be obligated to collect and transport pursuant to this Agreement. FRANCHISEE agrees that in such event it will fully cooperate with the DISTRICT to affect such a transfer of possession for DISTRICT'S use.
- B. Temporary Possession of Equipment and Facilities. FRANCHISEE agrees that, in such event, DISTRICT may take temporary possession of and use all of said equipment and facilities without paying FRANCHISEE any rental or other charge, provided that DISTRICT agrees that, in such event, it assumes complete responsibility for the proper and normal use of such equipment and facilities. DISTRICT agrees that it shall immediately relinquish possession of all of the above-mentioned property to FRANCHISEE upon receipt of written notice from FRANCHISEE to the effect that it is able to resume its normal responsibilities under this Agreement.
- C. Labor Dispute. FRANCHISEE agrees to advise DISTRICT in writing at the time any negotiations are undertaken between FRANCHISEE and its employees relating to wages and benefits and FRANCHISEE shall regularly report the status of said negotiations from time to time including any pending strike, lock

out, walk out, boycott or other labor dispute to DISTRICT. FRANCHISEE agrees that in the event service is disrupted due to a labor dispute, FRANCHISEE shall place a minimum of five (5) roll-off boxes at points designated by the General Manager to serve as collection points for the residents within five (5) days of said service interruption. FRANCHISEE also agrees in the event of a work stoppage to distribute plastic bags for use by residents at times and locations specified by DISTRICT.

SECTION 14: PRIVACY.

- A. Customer Privacy. FRANCHISEE shall strictly observe and protect the rights of privacy of customers. Information identifying individual customers, or the composition or contents of a customer's refuse or recyclables shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the customer. This provision shall not be construed to preclude FRANCHISEE from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required to comply with AB 939.
- B. Mailing Lists. FRANCHISEE shall not market or distribute outside the normal course of its business, mailing lists with the names and addresses of customers.
- C. Rights Cumulative. The rights accorded customers pursuant to this Section shall be in addition to any other privacy right accorded customers pursuant to federal or state law.

SECTION 15: REPORTS AND ADVERSE INFORMATION.

- A. FRANCHISEE shall submit an annual report, in such form and utilizing such media as approved or required by the Director, within sixty (60) days after the close of each calendar year. This report shall include, but is not limited to, the following information:
 - 1. A report, in a form satisfactory to the DISTRICT, on the DISTRICT'S progress in meeting and maintaining its ability to meet its goals under AB 939 as applied to the Franchise Area, along with any recommended changes.
 - 2. A list of FRANCHISEE'S officers and members of its board of directors.
- B. Monthly Reports. FRANCHISEE shall prepare monthly program reports, in such form and utilizing such media as approved by the DISTRICT, for the length of the Franchise commencing upon final approval of this Agreement. Monthly reports shall be submitted to the DISTRICT on a quarterly basis, within twenty (20) days of the last day of each quarter. The report shall include:
 - 1. Summaries of tonnage of recycled material collected, by material;
 - 2. Summaries of tonnages of non-recyclables;
 - 3. Average market prices for each material sold, and processing charges;
 - 4. Summaries of the number of service complaints by route, including the date, nature of complaint, and how it was resolved.
- C. Ad Hoc Reports. FRANCHISEE shall provide up to six (6) reports of varying detail and format, as specifically requested by the DISTRICT, to meet unforeseeable information queries of the California Integrated Waste Management Board, Local Waste Management Task Force, or other public agencies, including DISTRICT.
- D. Adverse Information. FRANCHISEE shall provide DISTRICT two copies of all reports, or other material adversely affecting this Agreement, submitted by FRANCHISEE to the Environmental Protection Agency, the California Integrated Waste Management Board or any other federal or state agency. Copies shall be submitted to DISTRICT simultaneously with FRANCHISEE'S filing of such matters with said agencies. FRANCHISEE'S routine correspondence to said agencies need not be automatically submitted to DISTRICT, but shall be made available to DISTRICT upon written request, as provided in Section 25 A below.
 - 1. FRANCHISEE shall submit to DISTRICT copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the FRANCHISEE to, as well as copies of all decisions, correspondence and action by any Federal, State or local courts, regulatory agencies and other government bodies relating specifically to FRANCHISEE'S performance of services pursuant to this Agreement. Any confidential data exempt from public disclosure shall be retained in confidence by the DISTRICT and its authorized agents and shall not be made available for public inspection.
 - 2. FRANCHISEE shall submit to the DISTRICT such other information or reports in such forms and at such times as the DISTRICT may reasonably request or require.
 - 3. All reports and records required under this or any other Section shall be furnished at the sole expense of FRANCHISEE.
- E. Failure to Report. The refusal, failure, or neglect of FRANCHISEE to file any of the reports required within thirty (30) days after a written request by DISTRICT, or the inclusion of any materially false or

misleading statement or representation made knowingly by FRANCHISEE in such report shall be deemed a material breach of this Agreement, and shall subject FRANCHISEE to all remedies, legal or equitable, which are available to the DISTRICT under this Agreement or otherwise.

SECTION 16: PUBLIC INFORMATION AND EDUCATION.

Upon DISTRICT'S request, FRANCHISEE shall design and implement in conjunction with the DISTRICT, a public information and education program.

SECTION 17: ANNUAL REIVEW OF PERFORMANCE AND QUALITY OF SERVICE.

- A. Public Hearing. At DISTRICT'S sole option, General Manager may hold a public hearing each year at which FRANCHISEE shall be present and shall participate, to review FRANCHISEE'S performance and quality of service. The reports required by this Agreement regarding customer complaints shall be utilized as the basis for review. In addition, any customer may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered.
- B. DISTRICT Report. Within thirty (30) days after the conclusion of the public hearing, DISTRICT shall issue a report with respect to the adequacy of performance and quality of service. If any noncompliance with this Agreement is found, DISTRICT may direct FRANCHISEE to correct the inadequacies in accordance with Section 11 A above.

SECTION 18: SYSTEM AND SERVICE REVIEW.

To provide for technological, economic, and regulatory changes in refuse collection, green waste and recycling, to facilitate renewal procedures, to promote competition in the refuse, green waste and recycling industry, and to achieve a continuing, advanced refuse collection, green waste and recycling system, the following system and services review procedures are hereby established:

- A. Hearing. At DISTRICT'S sole option, General Manager may hold an administrative hearing each year at which FRANCHISEE shall be present and shall participate, to review the refuse collection and recycling system and services. It is DISTRICT'S intent to conduct any system and services review concurrently with any Annual Review of Performance and Quality of Service as provided for in Section 17 above.
- B. FRANCHISEE Report. Sixty (60) days after receiving notice from the DISTRICT, FRANCHISEE shall submit a report to DISTRICT indicating the following
 1. Changes recommended to improve the DISTRICT'S ability to meet the goals of AB 939 and;
 2. Any specific plans for provision of such new services by the FRANCHISEE, or a justification indicating why FRANCHISEE believes that such services are not feasible for the Franchise Area.
- C. Review Scope. Topics for discussion and review at the system and services review hearing shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, customer complaints, rights of privacy, amendments to this Agreement, developments in the law, new initiatives for meeting or exceeding AB 939's goals and regulatory constrains.
- D. Additional Topics. DISTRICT and FRANCHISEE may each select additional topics for discussion at any system and services review hearing.
- E. District Report. Not later than sixty (60) days after the conclusion of each system and service review hearing, DISTRICT shall issue a report. The report shall include a listing of any refuse collection, green waste and recycling services not then being provided to DISTRICT that are considered technically and economically feasible by DISTRICT. DISTRICT may require FRANCHISEE to provide such services within a reasonable time, for reasonable rates and compensation.

SECTION 19: DELINQUENT ACCOUNTS.

- A. Customer Standards. In the event of a collection bill remains unpaid for a period in excess of two (2) months, DISTRICT shall provide written notice of such default to the property owner.
- B. Service Discontinuance. FRANCHISEE will discontinue service and remove bins from commercial customers as directed by the DISTRICT. Upon renewal of service, FRANCHISEE may charge a redelivery fee, as set forth, in Exhibit "B", and resume collection services on the next regularly scheduled collection day.

SECTION 20: COLLECTION EQUIPMENT

FRANCHISEE shall provide an adequate number of vehicles and equipment for the collection, disposal and transportation services for which it is responsible under this Agreement.

- A. Vehicles. All vehicles used by FRANCHISEE under this Agreement shall be registered with the Department of Motor Vehicles of the State of California, shall be of size, weight, nature and type to be

- minimally intrusive on the community with respect to noise, emissions, maneuverability, safety, fuel efficiency, and other factors necessary to minimize the impacts of FRANCHISEE'S services.
- B. Maintenance of Vehicles and Equipment. FRANCHISEE shall maintain all trucks and equipment used within DISTRICT in good and lawful mechanical condition and the same shall be clean and uniformly painted and numbered. All trucks and equipment used in the performance of the Agreement shall be subject to inspection by DISTRICT, and, upon notice given by DISTRICT; FRANCHISEE shall make the equipment available for inspection. If DISTRICT finds that any truck or equipment being used by FRANCHISEE is not in satisfactory condition, then the truck or equipment requiring correction of defects shall not be used by FRANCHISEE in the performance of the Agreement until corrected to the reasonable satisfaction of DISTRICT.
 - C. Condition of Truck Bodies. All truck bodies used by FRANCHISEE shall be constructed of metal and shall be reasonably watertight and leak-proof. Each piece of equipment used by FRANCHISEE shall carry at all times a broom and shovel to be used for the immediate removal of any spilled material.
 - D. Covers. The body of each truck of FRANCHISEE shall have a metal cover covering at least fifty percent (50%) of the truck body at all times and the remaining fifty percent (50%) shall be covered by a tight fitting tarpaulin, which shall be securely tied in order to cover refuse when the vehicle is being used to transport its contents to the place of disposal or otherwise of a design and construction approved by the General Manager.
 - E. Name of FRANCHISEE. FRANCHISEE has agreed to provide all of the services pursuant to this Agreement under the name "Palo Valley Verde Disposal Service". This name shall be used for all correspondence, billing statements, directory listings, references, signs, vehicle identification, etc. FRANCHISEE may include such additional information as may be approved by the General Manger.
 - F. Washing of Vehicles. Solid waste collection vehicles shall be washed at least once every seven (7) days.
 - G. Decals. All vehicles, high visibility bins, and roll-off containers shall display a decal as specified by the General Manager.

SECTION 21: PUBLIC ACCESS TO FRANCHISEE.

- A. Office Hours. FRANCHISEE'S office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. A representative of FRANCHISEE shall be available during office hours for communication with the public at FRANCHISEE'S principal office. Normal office hours telephone numbers will either be a local or toll-free call. FRANCHISEE shall also maintain a local or toll-free after-hours telephone number for use during other than normal business hours. FRANCHISEE shall have a message system available at said after-hours telephone number during all hours other than normal office hours and shall provide the General Manager with an emergency telephone number list.
- B. Service Complaints.
 1. All customer complaints shall be directed to FRANCHISEE. FRANCHISEE shall record all complaints received by mail, by telephone or in person (including date, name, address of complainant and nature of complaint.). FRANCHISEE agrees to use its best efforts to resolve all complaints by close of business of the second business (collection) day following the date on which such complaint is received. Service complaints may be investigated by the General Manager. Unless a settlement satisfactory to complainant, FRANCHISEE, and DISTRICT is reached, the complainant may refer the matter to the General Manger for review.
 2. FRANCHISEE will maintain records listing the date of consumer complaints, the customer, describing the nature of the complaint or request, and when and what action was taken by FRANCHISEE available for inspection by DISTRICT. FRANCHISEE shall prepare monthly summaries of customer complaints. The summaries shall be available for review by the General Manager.
- C. Government Liaison Person. The FRANCHISEE shall designate a "government liaison person" who shall be responsible for working with the General Manager to resolve consumer complaints. The General Manager shall be made aware of the name, position, and telephone number of this individual, and in the event the "government liaison person" is changed for whatever reason, FRANCHISEE shall notify the General Manager within forty-eight (48) hours of the change.
- D. Customer Service Performance Standards. Set forth as Exhibit "E" are the Customer Service Performance Standards pertaining to FRANCHISEE'S activities hereunder. FRANCHISEE agrees to adhere to said standards and set forth in Exhibit "E".

SECTION 22: RESOLUTION OF DISPUTED CUSTOMER COMPLAINTS.

- A. Notice. FRANCHISEE shall notify customers of this complaint resolution procedure at the time customers apply for service, and subsequently, annually.

- B. Time for Review. A customer dissatisfied with FRANCHISEE'S decision regarding a complaint may ask the DISTRICT to review the complaint. To obtain such review, the customer must request DISTRICT review within thirty (30) days of receipt of FRANCHISEE'S response to the Complaint, or within forty-five (45) days of submitting the complaint to FRANCHISEE, if FRANCHISEE has failed to respond to the complaint. The DISTRICT may extend the time to request its review for good cause.
- C. Reference to FRANCHISEE. Before reviewing the complaint, the General Manager shall refer it to FRANCHISEE, if FRANCHISEE fails to cure the complaint within fifteen (15) days, the General Manager shall review the customer's complaint and determine if further action is warranted. The General Manager may request written statements from FRANCHISEE and customer, and/or oral presentations.
- D. Determination of Complaint. The General Manager shall determine if the customer's complaint is justified, and if so, what remedy, if any, shall be imposed. The remedy under this Section shall be limited to a rebate of customer charges related to the period of breach of any of the terms of this Agreement or a penalty of up to \$100 for any single event or series of related events, or any actual damages.
- E. Decision of General Manager. The decision of the General Manager shall be final on any matter under Five Hundred Dollars (\$500.00). The General Manager shall make a recommendation to the parties with regard to any dispute in excess of Five Hundred Dollars (\$500.00).

SECTION 23: OWNERSHIP OF SOLID WASTE, GREEN WASTE AND RECYCLABLES.

- A. Ownership of Material. Once solid waste, compostables and recyclables are placed in containers or bins for collection or at curbside, ownership thereof shall transfer to FRANCHISEE. Subject to FRANCHISEE'S duty to meet the source reduction and recycling goals which apply to DISTRICT, FRANCHISEE is hereby granted the right to retain, recycle, compost, dispose of and otherwise use such solid waste, compostables and recyclables, or any part thereof, in any lawful fashion or for any lawful purpose desired by FRANCHISEE.
- B. Ownership Upon Disposition. All solid waste, compostables, recyclables, street and construction debris, or any part thereof, which is disposed of at a disposal site or sites (whether landfill, transformation facility, transfer station or material recovery facility) shall become the property of the owner or operator of the disposal site or sites once deposited there by FRANCHISEE.
- C. Direction of Facilities. To the extent permitted by law, FRANCHISEE, at its sole discretion, shall retain the right to direct which solid waste disposal facility, transformation facility, transfer station, or material recovery facility shall be used to retain, recycle, compost, process, and to dispose of solid waste and construction debris generated within the Franchise Area.

SECTION 24: INDEMNIFICATION AND INSURANCE.

- A. Indemnification of DISTRICT. FRANCHISEE agrees that it shall protect, defend with counsel approved by DISTRICT, indemnify and hold harmless DISTRICT, its elected officials, officers, employees and agents from and against any and all losses, liabilities, fines, penalties, claims, damages, liabilities or judgments, including attorneys' fees, costs and expenses thereof, arising out of or resulting in any way from FRANCHISEE'S exercise of its responsibilities under this Agreement, unless such claim is due to the sole negligence or willful acts of the DISTRICT, its officers, employees, agents or contractors. Subject to the scope of this indemnification and upon demand of the DISTRICT, made by and through the DISTRICT Attorney, FRANCHISEE shall appear and defend the DISTRICT and its officers, employees and agents in any claim or action, whether judicial, administrative or otherwise, arising out of the exercise of this Agreement. FRANCHISEE shall promptly pay any final judgment rendered against FRANCHISEE or DISTRICT with regard to any such claim, damage, penalty, obligation and/or liability arising out of or in connection with this Agreement. In the event DISTRICT is made a party to any action or proceeding filed or prosecuted against FRANCHISEE for damages or other claims arising out of or in connection with FRANCHISEE'S operations hereunder, FRANCHISEE agrees to pay to DISTRICT any and all costs and expenses incurred by DISTRICT in such action or proceeding together with DISTRICT'S reasonable attorney's fees.
- B. AB 939 Indemnification. From and after the date upon which this Agreement is later modified to require that FRANCHISEE provide Solid Waste recycling services of specified content, FRANCHISEE shall implement those strategies of the DISTRICT'S Source Reduction and Recycling Element (SRRE) which are within the scope of its grant of franchise herein. Subject to the requirements of California Public Resources Code Section 40059.1, the FRANCHISEE will indemnify the DISTRICT for any judgments or penalties assessed against the DISTRICT as a result of the FRANCHISEE'S failure to fully implement those strategies. The foregoing indemnity shall be subject to the condition that DISTRICT shall develop, adopt and enforce a construction and demolition waste materials recycling ordinance establishing a diversion requirement within the range expressed in Section 12912 of the California Public Resources

Code. In the event that the State of California's diversion rates in existence at the time this Agreement becomes effective are later modified, the FRANCHISEE will only be obligated to implement the SRRE to the extent necessary to comply with the revised diversion rates. In the event the DISTRICT'S SREE is revised, the FRANCHISEE will develop and submit for the DISTRICT'S approval, suggested programs designed to enable the DISTRICT to meet the revised requirements, including estimated costs of implementation and targeted diversion rates and then only to the extent such programs are within FRANCHISEE'S authorization or control under this Agreement. FRANCHISEE may request an interim rate review based upon the costs of complying with the SRRE or any revised SRRE. If, despite its best efforts the FRANCHISEE determines that the compliance with the state-mandated diversion goals is infeasible, DISTRICT agrees to cooperate in the filing of a petition with the California Integrated Waste Management Board or other parties for appropriate relief from those goals.

- C. Hazardous Waste Indemnity. FRANCHISEE agrees to indemnify, defend with counsel approved by DISTRICT and hold harmless DISTRICT from and against any and all claims, losses, liabilities, damages, demands, actions, judgments, causes of action, assessments, penalties, costs and expenses (including without limitation, the reasonable fees and disbursements of legal counsel, expert witnesses and accountants) and all foreseeable and unforeseeable consequential damages which might arise or be asserted against DISTRICT as a result of a claimed violation ("costs and expenses" hereinafter) of any and all present and future federal, state and local laws (whether under common law, statute, rule, regulation or otherwise), including, but not limited to CERCLA, Transportation of Hazardous Materials and Wastes (HMTA), 49 U.S.C. App. §§ 1801 through 1813, inclusive; RCRA; the California Hazardous Substance Account Act (HSAA), California Health and Safety Code §§ 25300 through 25395, inclusive; the California Hazardous Waste Control Act (HWCA), California Health and Safety Code §§ 25100 through 25249, inclusive, and the Porter-Cologne Water Quality Control Act, California Water Code §§ 13000 through 13999.16, inclusive, all as the same may be amended from time to time, relating to the environment or to any hazardous substance, activity or material connected with the operations hereunder of FRANCHISEE.

When more than one (1) franchisee or permittee of DISTRICT contributes, or is alleged to have contributed, to any such claimed violation, DISTRICT shall retain counsel to represent DISTRICT'S interest and FRANCHISEE shall contribute its pro-rata share of costs and expenses incurred by DISTRICT. FRANCHISEE'S share to be determined by the respective tonnage of all such franchisees or permittees contributing or allegedly contributing to such violation collected during the period of the alleged violations.

- D. Survival of Indemnities. Each and every indemnity set forth herein shall survive the expiration of the term hereof, or sooner termination as provided herein, as the same may pertain to any act or omission accruing or arising during the term hereof.

- E. Workers' Compensation Insurance. Before beginning work, FRANCHISEE shall furnish to the DISTRICT an insurance endorsement as proof that it has taken out full compensation insurance for all persons whom FRANCHISEE may employ directly or through authorized subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this Agreement. Alternatively, FRANCHISEE may comply with this Subsection E by providing evidence, satisfactory to DISTRICT, of approval by the State of California for FRANCHISEE to be permissibly uninsured. In accordance with the provisions of § 3700 of California Labor Code, every contractor shall secure the payment of compensation to his employees. FRANCHISEE, prior to commencing work, shall sign and file with the DISTRICT a certification as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of work of this contract."

The policy providing coverage shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to DISTRICT. The policy shall also be amended to waive all rights of subrogation against the DISTRICT, its elected or appointed officials, employees, or agents.

- F. Public Liability Insurance. FRANCHISEE shall obtain and maintain in full force and effect throughout the entire term of this Agreement a Commercial General Liability (occurrence) policy of insurance with a One Million Dollar (\$1,000,000.00) aggregate limit, a comprehensive Automobile Liability policy of insurance with a combined single limit of One Million Dollar (\$1,000,000.00), and an Excess Liability policy with a Two Million Dollar (\$2,000,000.00) aggregate limit. Said insurance policies shall protect FRANCHISEE and DISTRICT from any claim for damages which may arise from operations performed pursuant to this

Agreement, whether such operations are by FRANCHISEE itself, or by its agents, employees and/or sub-grantees. Copies of the policies or endorsements evidencing the above-required insurance coverage shall be filed with the District Clerk prior to commencement of performance.

- G. General Insurance Requirements. All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California. All policies required hereunder shall name as additional insured DISTRICT, its elected officials, officers, employees, agents and representatives. The policies required hereunder cannot be canceled or materially changed except after thirty (30) days prior notice by the insurer to DISTRICT by certified mail, return receipt requested. FRANCHISEE shall furnish DISTRICT, annually, copies of all such policies promptly upon receipt of them, or endorsements evidencing the insurance. FRANCHISEE may effect for its own account insurance not required under this Agreement.
- H. Limits. The limits of such insurance coverage, and companies, shall be subject to review and approval by the General Manager every year and may be increased at that time.
- I. Modification. The insurance requirements provided herein may be modified or waived in writing by the Heber Public Utility District Board of Directors upon the request of FRANCHISEE, provided the District Board of Directors determines such modification or waiver is in the best interests of the DISTRICT considering all relevant factors, including the fact that the parent of FRANCHISEE may be self-insured up to a certain acceptable amount.

SECTION 25: FRANCHISEE'S BOOKS AND RECORDS: AUDITS.

- A. Maintenance of Records. FRANCHISEE shall maintain all records relating to the services provided hereunder, including, but not limited to, customer lists, billing records, maps, AB 939 compliance records, and customer complaints, for a period of not less than five (5) years, or any longer period required by law. The DISTRICT shall have the right, upon five (5) working days advance notice, to inspect all maps, AB 939 compliance records, customer service data and other materials of the FRANCHISEE which reasonably relate to FRANCHISEE'S compliance with the provisions of this Agreement. Such records shall be made available to DISTRICT at FRANCHISEE'S regular place of business.
- B. Confidentiality of Financial Data. DISTRICT shall maintain all financial data and information submitted by FRANCHISEE as confidential material to the extent permitted by law. In the event a third party requests such material deemed confidential hereunder, DISTRICT shall promptly advise FRANCHISEE of each such request and FRANCHISEE may, in writing, authorize release thereof. In the event FRANCHISEE does not consent to such release, FRANCHISEE shall defend, indemnify and save DISTRICT and its elected officials, officers, employees and agents free and harmless from any litigation generated thereby all in accordance with the provisions of Section 24 A above.
- C. Non-confidential Material. Notwithstanding any other term or provision hereof, DISTRICT shall not be required to maintain as confidential any material required to be presented to DISTRICT with regard to rate adjustments or increases requested by FRANCHISEE.

SECTION 26: GENERAL PROVISIONS.

- A. Force Majeure. FRANCHISEE shall not be in default under this Agreement in the event that the collection, transportation and/or disposal services of FRANCHISEE are temporarily interrupted or discontinued for any of the following reasons: riots; wars; sabotage; civil disturbances; insurrections; explosion; natural disaster such as floods, earthquakes, landslides and fires; strikes; lockouts and other labor disturbances; or other catastrophic events which are beyond the reasonable control of FRANCHISEE. Other catastrophic events do not include the financial inability of the FRANCHISEE to perform or failure of the FRANCHISEE to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the FRANCHISEE. In the event a labor disturbance interrupts collection, transportation and/or disposal or refuse by FRANCHISEE as required under this Agreement, DISTRICT may elect to exercise its rights under Section 13 of this Agreement.
- B. Independent Contractor. FRANCHISEE is an independent contractor and not an officer, agent, servant or employee of DISTRICT. FRANCHISEE is solely responsible for the acts and omissions of its officers, agents, employees, grantees and sub-grantees, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between DISTRICT and FRANCHISEE. Neither FRANCHISEE nor its officers, employees, agents or sub-grantees shall obtain any rights to retirement or other benefits which accrue to DISTRICT employees.
- C. Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees, grantees or sub-grantees of FRANCHISEE to private or public property shall be repaired or replaced.

- D. Right of Entry. FRANCHISEE shall have the right, until receipt of written notice revoking permission to pass is delivered to FRANCHISEE, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting refuse pursuant to this Agreement.
- E. Law to Govern Venue. The laws of the State of California shall govern the rights, duties and obligations of the parties to this Agreement, including, but not limited to, the provisions of Public Provisions Code Section 49520. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Imperial. In the event of litigation in a U. S. District Court, exclusive venue shall lie in the Southern District of California, San Diego.
- F. Fees and Gratuities. FRANCHISEE shall not, nor shall it permit any agent, employee or sub-grantees employed by it to request, solicit, demand or accept, either directly or indirectly, any compensation or gratuity for the collection of refuse otherwise required to be collected under this Agreement.
- G. Amendment of Agreement. This Agreement is intended to carry out DISTRICT'S obligations to comply with the provisions of AB 939, as it from time to time may be amended, and as implemented by regulations of the California Integrated Waste Management Board ("Regulations"), as they from time to time may be amended. In the event that AB 939 or other state or federal laws or Regulations enacted after this Agreement has been executed, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement may be modified or suspended as may be necessary to comply with such state or federal laws or Regulations. No other amendment of this Agreement shall be valid unless in writing duly executed by the parties.
- H. Compliance with Laws. FRANCHISEE shall comply with all applicable laws, regulations and orders, including, but not limited to those provisions of the Board which are applicable, and with any and all amendments to such applicable provisions during the term of this Agreement. Further, and FRANCHISEE shall obtain and maintain throughout the terms of the Agreement, any and all other permits and licenses required by law, at FRANCHISEE'S sole expense.
- I. Hours of Work. Eight (8) hours of labor shall constitute a legal days work for all workmen employed in the execution of this contract and FRANCHISEE and any subcontractors under FRANCHISEE shall comply with and be governed by the laws of the State of California having to do with working hours as set forth in the Labor Code of the State of California, as the same may be amended from time to time.
- J. Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by telecopier or United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To District: Heber Public Utility District
 1078 Dogwood Rd., Suite 103
 Heber, California 92249
 Attention: Mr. John A. Jordan, General Manager

Copy to: Law Offices of Steven M. Walker 3205 S. Dogwood, Suite B
 300 S. Imperial Ave., Ste 9 El Centro, CA 92243
 El Centro, California 92243
 Attention: Steven M. Walker

To Franchisee: Gordon W. Beers, President
 Palo Verde Valley Disposal Service
 14701 South Broadway
 Blythe, California 92225
 800-922-2278
 760-922-0987 Facsimile

Copy to: Law Offices of Astor & Phillips
 333 City Boulevard West, Suite 705
 Orange, California 92868-2924
 714-634-8010
 Attention: Mr. John Kelly Astor, Esq.

Or to such other address as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed effective on the date personally served or, if mailed, three (3) business days from the date such notice is deposited in the United States mail.

- K. Employee Listing. FRANCHISEE shall provide a list of current employees and officers to the DISTRICT upon request.

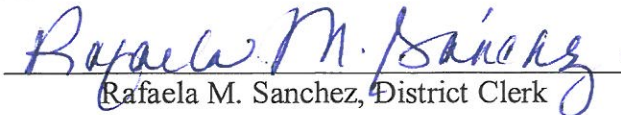
- L. Non-discrimination.
1. FRANCHISEE shall not discriminate against any employee or applicant for employment because of age, race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any mental or physical handicap, unless based upon a bona fide occupational qualification. FRANCHISEE shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any mental or physical handicap. Such action shall include, but not limited to the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training.
 2. FRANCHISEE understands and agrees that if it violates this nondiscrimination provision, this Agreement may be terminated by DISTRICT, as provided for in Section 11, and further that FRANCHISEE shall be barred from performing any services for DISTRICT now or in the future, unless a showing is made satisfactorily to DISTRICT that discriminatory practices have been terminated and that a recurrence of such action is unlikely.
- M. Waiver by Performance or Payment. Neither the acceptance by DISTRICT of, nor any order by DISTRICT for, the payment of money, nor any payment for, or acceptance of, the whole or any part of the work by DISTRICT herein contemplated to be performed by FRANCHISEE shall operate or be construed to be a waiver of any portion of this Agreement or of any power herein reserved to DISTRICT or any damages herein provided. Moreover, no waiver by DISTRICT of any omission of performance or breach hereof by FRANCHISEE by deemed or construed, in any fashion whatsoever, to be a waiver of any other or subsequent such omission or break.
- N. Attorneys' Fees. In the event any legal proceeding is instituted to enforce any term or provision of the Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the court to be reasonable.
- O. Savings Clause. In any non-material provision of this Agreement shall for any reason be held to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Agreement.
- P. Exhibits Incorporated. Exhibits "A" through "E" are attached to and incorporated in this Agreement by reference.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

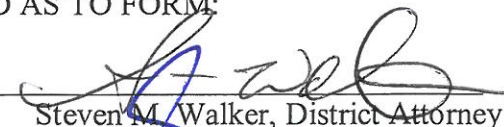
HEBER PUBLIC UTILITY DISTRICT

By: 
John A. Jordan, General Manager

ATTEST:

By: 
Rafaela M. Sanchez, District Clerk

APPROVED AS TO FORM:

By: 
Steven M. Walker, District Attorney

FRANCHISEE

By: 
Gordon W. Beers, President

EXHIBIT "A"

"SPECIAL WASTE COLLECTION"

"Special Waste" shall mean Solid Waste generated in the District which does not fit the collection criteria and specifications as described in the Franchise Agreement. Special Waste shall be collected and disposed of by the Franchisee at rates specified in Exhibit "B" herein or at other rates established or approved by the General Manager from time to time. The District also acknowledges that the Franchise is governed only with respect to those services described in the Franchise Agreement and does not include the collection, transportation, processing or disposal of Hazardous Waste, Medical Waste, or other Wastes. The Franchise does not, however, limit the right of the Franchisee to provide any such other services. If the Franchisee elects to provide any such other services, it shall not be governed by the terms of this Franchise, but shall be subject to Applicable Law.

EXHIBIT "B"

Rates increased by Board of Directors:

Board Meeting:

June 17, 2010

Effective date:

July 1st, 2010

% Approved:

1.00%

1. MONTHLY RESIDENTIAL RATES

2009 Rates: --> 18.31

Residential Account:

Each Additional refuse container p/month fee:

One (1) Additional recycling or green container p/month:

Two (2) Additional recycling or green containers p/month: each

\$	18.49
\$	8.00
\$	-
\$	4.00

Note A: Residential rates are based on a single family residence. Each single family residence shall be provided one (1) 95 gallon refuse container, one (1) 95 recycle container, and one (1) 95 gallon green waste container for the single family monthly fee. A duplex is billed at two times the single family rate. Rates are to be adjusted according to terms described in Section 8-Compensation for Services.

2. MONTHLY COMMERCIAL RATES

Rates are adjusted according to terms described in Section 8-Compensation for Services.

	1.01					
		2 cubic Yards	3 cubic Yards	4 cubic Yards	5 cubic Yards	6 cubic Yards
1	\$	65.84	\$ 98.76	\$ 131.68	\$ 164.60	\$ 197.53
2	\$	131.68	\$ 197.53	\$ 263.37	\$ 329.21	\$ 395.05
3	\$	197.53	\$ 296.29	\$ 395.05	\$ 493.81	\$ 592.58
4	\$	263.37	\$ 395.05	\$ 526.74	\$ 658.42	\$ 790.10
5	\$	329.21	\$ 493.81	\$ 658.42	\$ 823.02	\$ 987.63
6	\$	395.05	\$ 592.58	\$ 790.10	\$ 987.63	\$ 1,185.15

Extra Pick-Ups :	\$	32.92	\$	40.92	\$	48.92	\$	56.92	\$	64.92
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CARDBOARD CONTAINERS:

3 Yard container	\$	58.53	per month for once a week service
6 Yard container	\$	117.07	per month for once a week service

CLEAN UP DUMPSTER:

3 Yard per dump	\$	70.25	*
4 Yard per dump	\$	93.66	*

* Price includes delivery and 1 dump. (Minimum of 1 dump each thirty (30) days)

OTHER CHARGES:

Roll-Out charge	\$	7.02
Lock charge	\$	7.02
Dumpster delivery new accounts	\$	29.27
Wheels/Locks installed at Customer's request	\$	87.71
Steam clean (switch) dumpster	\$	76.10
Repair/replace burned dumpster	\$	146.33
Replace burned/stolen carts	\$	87.80

Roll Off Service (20 to 40 yard boxes) **

\$	198.98
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 per pull plus disposal fees

** Minimum monthly charge of one pull per month

PAYMENT SCHEDULE:

Franchisee shall be paid by District ninety percent (90%) of the monthly gross billings for services rendered for all residential, commercial, and industrial (roll offs net of disposal fees) accounts and special service fees, excluding amounts collected for AB 939 recycling charges or fees. The District will collect for all roll offs that are provided for customers that have contracted for long term use. Franchisee will arrange for collection for all short term users, however will still pay the franchise fee to District. Short term customer use is defined as any customer that requires service for six months or less in any calendar year.

The Franchisee shall prepare a monthly invoice for services rendered. The invoice will be presented to the District within 10 working days after the close of the month. Payment will be due within 45 days of the month following the close of each month.

EXHIBIT "C"

"Recycling" shall be an integral part of the services to be provided by the Franchisee to the District. The goals of the program shall be to illustrate a commitment to waste reduction, reuse and recycling in order to meet California's recycling requirements as set forth in Assembly Bill 939. Specifications for the program are as follows and may change from time to time as specified by the General Manager and the Franchisee:

Programs

- A. Shall include, but not be limited to residential curbside collection of commingled recyclable materials, residential curbside collection of green waste, commercial waste recycling by means of source separated recyclable collection and commingled solid waste processing at a Material Recovery Facility. Collection of materials will be at a minimum of one time per week for residential customers and on an as needed basis for Commercial customers.
- B. Containers and Bins: shall be supplied to Residents and Commercial customers by the Franchisee. Containers and Bins shall be supplied and maintained by the Franchisee during the term of this agreement. Containers and Bins which are broken or damaged due to normal wear and tear shall be replaced, if needed, one time per year, free of charge. Containers or Bins which are broken, damaged, lost or stolen due to customer neglect; or require replacement more frequent than one time per year, will be replaced at a charge as specified in Exhibit "B" herein.
- C. Additional Containers and Bins: for recyclables, green waste and solid waste shall be provided by the Franchisee as needed. All Residential customers will be supplied with three 95 gallon Containers as part of the basic rates to be charged as specified in Exhibit "B". Additional Containers shall be provided at rates specified in Exhibit "B" herein. Commercial customers will be supplied with an appropriate number of Bins as part of the basic rates to be charged as specified in Exhibit "B". Additional Bins shall be provided at rates specified in Exhibit "B" herein.
- D. Cost of Program: The cost of the program will be prorated over, the entire ratepayer base of both Residential and Commercial customers. Costs of the program shall include funding for containers, collection vehicles, collection equipment, processing facilities, processing equipment, public education, advertising, labor, principal and interest payments, recyclables and green waste marketing, regulatory, and other relevant cost.
- E. Special Collections: During the holiday season of the year, Franchisee shall provide special collection at no extra cost, for Christmas trees which physically would not fit inside a container. Christmas trees shall be set at curbside by the resident for special collection. The period for special collection shall not exceed three (3) weeks after Christmas Day. Christmas trees collected after three (3) weeks nom Christmas Day shall be considered Bulky Goods or Special Waste.
- F. Public Education: The Franchisee shall provide an ongoing public education program to inform participants as to the proper use and placement of Containers, proper materials to be placed inside the various types of Containers and other program instructional information as may be necessary to insure successfully meeting the goals of the program. The Franchisee shall conduct public meetings, send mailings and otherwise provide information to the participants of the programs as to the actual program itself, and its long-term environmental benefits. The General Manager shall approve of all materials that Franchisee plans to distribute to participants prior to distribution. The District shall provide assistance with public education, news media, advertising and other such press releases that will become necessary from time to time and provide information and advertising in District publications about the "Recycling program".
- G. Marketing of Recyclable Materials: Franchisee shall be responsible for all marketing activities in the secondary materials market and secure to the best of its ability purchase commitments from recyclable product purchasers. Franchisee shall use its best efforts to investigate, research, develop and maintain markets for recyclables and green waste byproducts. Franchisee will take all reasonable steps to minimize downgrades and rejections of recovered materials.

EXHIBIT "E"

CUSTOMER SERVICE PERFORMANCE STANDARDS

1. FRANCHISEE shall maintain a computerized customer account system that contains sufficient information to answer customer service inquiries. This system will be fully implemented as of July 1, 2005.
2. The computer system shall have the capacity to maintain an account history of at least eighteen (18) months. Any older account information shall be maintained on microfiche or a comparable system for a minimum of four (4) years. DISTRICT shall have access to such records during regular business hours.
3. In all disputes that cannot be resolved between FRANCHISEE and customer within ten (10) days of the date such dispute is first made known to FRANCHISEE, the General Manager shall, within a reasonable time, hear the facts of the dispute and shall render a decision. Such decision shall be final.
4. FRANCHISEE shall designate a representative to serve as liaison between FRANCHISEE and DISTRICT.
5. FRANCHISEE shall install telephone equipment sufficient to handle the volume of calls typically experienced on the busiest days.
6. If during any thirty (30) day period DISTRICT receives more than five (5) complaints that customers are unable to contact FRANCHISEE by telephone, such complaints will be investigated and FRANCHISEE may be required to increase the capacity of telephone equipment.
7. All written customer inquiries shall be responded to within five (5) working days of receipt. If necessary, written communication of the response of FRANCHISEE will be made to the customer within fifteen (15) working days of receipt of the inquiry.
8. The DISTRICT may, at DISTRICT'S own expense, conduct surveys to determine customer satisfaction. If, as a result of any survey, DISTRICT determines that adequate customer service quality is not being maintained, FRANCHISEE shall take whatever action is deemed necessary by DISTRICT to bring such service to an acceptable level. The results of such surveys shall be made available to FRANCHISEE upon request.
9. FRANCHISEE shall maintain a routing system and make available to DISTRICT upon request for inspection at FRANCHISEE'S office at no cost to DISTRICT documents containing at least the following information:
 - A. Route number and day of collection
 - B. Streets serviced
 - C. Service information
10. FRANCHISEE shall provide and maintain a current emergency list of responsible personnel to be contacted in the event of an emergency.
11. FRANCHISEE, within forty-eight (48) hours of its receipt of notice from the General Manager of a failure to provide refuse collection service to the Generator, as required by the terms of the Agreement, shall collect the refuse in collection, In the event FRANCHISEE fails to collect such refuse within forty-eight (48) hours of said notice, DISTRICT may collect and transport the refuse and FRANCHISEE shall reimburse DISTRICT for all costs so incurred by DISTRICT, and/or impose a charge upon FRANCHISEE as listed below. The General Manager may levy a charge in the same amounts listed below for FRANCHISEE'S failure to provide services as required by this Agreement provided, however, that no such charge may be levied until FRANCHISEE has been given written notice of the General Manager's intention to levy said charge and the FRANCHISEE has been given reasonable a period of time, not to exceed fifteen (15) days, to correct or investigate said failure. The General Manager's decision to levy any such charge shall not be deemed a waiver of any default by FRANCHISEE under this Agreement.

12. Failure to collect a missed service within forty-eight (48) hours of notice of said missed service: Fifty Dollars (\$50.00) per occurrence.
13. Failure to clean, repair or replace any bin within ten (10) working days after notification of the necessity thereof: Fifty Dollars (\$50.00) per occurrence.