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FRANCHISE COLLECTION
AGREEMENT
FOR FRANCHISE
AREA #10

Contents

Section	Page
RECITALS	1
SECTION 1. REPRESENTATIONS AND WARRANTIES	1
SECTION 2. DEFINITIONS.....	2
SECTION 3. GRANT AND TERM OF EXCLUSIVE FRANCHISE.....	6
SECTION 4. FRANCHISE AREA	7
SECTION 5. SERVICES PROVIDED BY FRANCHISEE	7
SECTION 6. OWNERSHIP OF SOLID WASTE.....	10
SECTION 7. DIRECTION OF COLLECTED MATERIALS	11
SECTION 8. INDEMNIFICATION AND INSURANCE AND BOND	11
SECTION 9. DEFAULT AND REMEDIES.....	13
SECTION 10. DISRUPTIONS IN SERVICE.....	16
SECTION 11. ADMINISTRATIVE HEARING PROCEDURES	16
SECTION 12. FRANCHISE TRANSFERABILITY	17
SECTION 13. REPORTS	18
SECTION 14. COMPENSATION	18
SECTION 15. FRANCHISE FEES	20
SECTION 16. OTHER REQUIREMENTS	20
SECTION 17. FORCE MAJEURE	22
SECTION 18. OTHER PROVISIONS.....	22
SECTION 19. SEVERABILITY	24
SECTION 20. ENTIRE AGREEMENT; AMENDMENT.....	24
SECTION 21. CONSTRUCTION OF FRANCHISE	25
SECTION 22. RENEGOTIATION OF TERMS AS A RESULT OF OWNERSHIP CHANGE...	25

1 AGREEMENT BETWEEN THE COUNTY OF RIVERSIDE
2 AND DESERT VALLEY DISPOSAL, INC.
3 FOR THE COLLECTION AND TRANSPORTATION
4 OF SOLID WASTE AND OTHER SPECIFIED SERVICES
5

6 This Franchise Agreement ("Franchise Agreement") is entered into this 3rd day of April, 1998 and
7 amended on September 26, 2016, by and between the County of Riverside ("County") and Desert Valley
8 Disposal, Inc. ("Franchisee"), for the Collection and transportation of Solid Waste, Recyclable Materials,
9 Organic Waste, and construction debris and other specified services.
10

11 **RECITALS**
12

13 **WHEREAS**, pursuant to California Public Resources Code Section 40059 (a)(1), and County
14 Ordinance 657 the County of Riverside ("County") has determined that the public health, safety, and
15 well-being of county residents requires that an Exclusive Franchise be awarded to a qualified enterprise
16 for waste management services for residential, commercial, and industrial customers in the County of
17 Riverside; and
18

19 **WHEREAS**, in order to comply with the mandates of the California Integrated Waste
20 Management Act of 1989 ("IWMA") and subsequent legislation and regulation, the County of Riverside
21 must have the ability to direct the flow of Solid Waste within the unincorporated County for the purposes
22 of processing, recovery and disposal; and
23

24 **WHEREAS**, the Board of Supervisors of the County of Riverside declares its intention of
25 maintaining reasonable rates for the provision of Solid Waste services within the unincorporated County;
26

27 **NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**
28

29 **SECTION 1. REPRESENTATIONS AND WARRANTIES.**
30

31 A. Representations and Warranties of Franchisee. Franchisee hereby makes the following
32 representations and warranties for the benefit of the County as of the date of this Agreement.
33

- 34 1) Franchisee is duly organized and validly existing as a corporation in good standing under
35 the laws of the State of California.
36
- 37 2) Franchisee has full legal right, power, and authority to execute, deliver, and perform this
38 Agreement, and has duly authorized the execution and delivery of this Agreement.
39
- 40 3) The Persons signing this Agreement on behalf of Franchisee have been authorized by
41 Franchisee to do so, and this Agreement has been duly executed and delivered by
42 Franchisee, and constitutes a legal, valid and binding obligation of Franchisee
43 enforceable against Franchisee in accordance with its terms.
44
- 45 4) To the best of Franchisee's knowledge, there is no action, suit, or proceeding before any
46 court or governmental entity against Franchisee or affecting Franchisee, wherein an
47 unfavorable decision, ruling or finding would adversely affect the validity or
48 enforceability of this Agreement, or which would have a material adverse effect on the
49 financial condition of Franchisee.

- 1
- 2 5) Franchisee has sufficient financial resources to perform all aspects of its obligations
- 3 hereunder. There has been no material adverse change in Franchisee's or Franchisee's
- 4 parent company's financial circumstances since the date of the most recent financial
- 5 statements submitted to the Environmental Health Department ("Department"). Prior to
- 6 the Effective Date of this Agreement, the Franchisee shall submit to the Department the
- 7 most recent annual financial statements. The Department may at its discretion specify the
- 8 contents and form of such statements. The Director of Environmental Health may inspect
- 9 the financial records of the Franchisee at any reasonable time for any reasonable purpose
- 10 relevant to the performance of this contract.
- 11
- 12 6) Franchisee has the expert, professional, and technical capability to perform all of its
- 13 obligations under this Agreement.
- 14
- 15 7) Within thirty (30) days after the execution of this Agreement by the County, Franchisee
- 16 has provided the performance bond or letter of credit certificates of insurance, and the
- 17 annual financial statements, as provided in Exhibit C.
- 18

19 **B. Representations and Warranties of the County.**

20

21 Prior to commencement of any services hereunder, the County hereby makes the following

22 representations and warranties to and for the benefit of Franchisee as of the date of this Agreement:

23

- 24 1) The parties executing this Agreement on behalf of the County are duly authorized to do
- 25 so. This Agreement constitutes the legal, valid and binding Agreement of the County and
- 26 is enforceable against the County in accordance with its terms.
- 27
- 28 2) To the best of the County's knowledge, there is no action, suit, or proceeding against the
- 29 County before any court or governmental entity wherein an unfavorable decision, ruling
- 30 or finding would adversely affect the validity or enforceability of this Agreement.
- 31

32 **SECTION 2. DEFINITIONS**

33

34 Whenever any term used in this Franchise Agreement has been defined by Division 30, Part I,

35 Chapter 2 of the California Public Resources Code, the definitions in the Public Resources Code, as

36 presently defined and as they may be amended in the future shall apply unless the term is otherwise

37 defined in this Agreement. In the event of conflict between the definition of a term as found in the

38 California Public Resources Code or in County ordinances and this Agreement, the definition in this

39 Agreement shall supersede the definition found in the Public Resources Code or in County ordinances.

40

41 A. Agreement. means this Agreement between the County and Franchisee for the Collection and

42 transportation of Solid Waste and other specified services, including all exhibits, and any future

43 amendments.

44

45 B. Bins. shall mean those containers provided by Franchisee for commercial, industrial,

46 construction, and multi-residential uses. Bins are of two types: (i) Bins (generally 1 to 6 cubic yards in

47 size) which are picked up by refuse trucks by means of front loading apparatus; and (ii) Rolloff Bins

48 (generally 10 to 40 cubic yards in size) which are picked up by trucks using rear loading winches onto

49 rails.

1
2 C. Board. shall mean the Riverside County Board of Supervisors.
3

4 D. Bulky Waste. shall mean large, heavy or otherwise difficult to handle items, including, but
5 not limited to, stoves, refrigerators, water tanks, water heaters, washing machines, furniture, large
6 concrete and asphalt chunks, tree stumps, or other waste materials with weights or volumes greater than
7 those allowed for containers.
8

9 E. Collection. means Collection of Solid Waste, recyclable material, or other material specified
10 in this Agreement and its transportation to an appropriate Solid Waste Facility.
11

12 F. Commercial Units. shall mean all commercial, industrial, institutional or other facilities,
13 except residential and Multi-Residential Units.
14

15 G. Compost. means a stable humus-like product that results from the biological decomposition
16 of organic materials occurring under controlled conditions.
17

18 H. Compost Facility. means a Solid Waste Facility that processes Organic Waste, Wood Waste
19 or other organic materials to produce Compost or mulch.
20

21 I. Comprehensive Collection Areas. shall mean specific portions or areas of the County
22 designated by an Ordinance or Resolution of the Board of Supervisors in which specified residential,
23 multi-residential, and/or commercial units are required to subscribe to refuse collection.
24

25 J. County. means the County of Riverside, State of California.
26

27 K. Department. means the Riverside County Department of Environmental Health.
28

29 L. Director. shall mean the Director of the Riverside County Department of Environmental
30 Health or his or her designee.
31

32 M. District. means the Riverside County Waste Resources Management District.
33

34 N. Effective Date. means the date on which this Agreement becomes effective, which shall be
35 the date it is executed by the Board of Supervisors.
36

37 O. Exclusive Franchise. means the rights granted to the Franchisee under the terms and
38 conditions of this Agreement, including the sole right to collect Solid Waste, Recyclable Materials and/or
39 Organic Waste, and other materials as specified in this Agreement and its exhibits, within the area defined
40 in Exhibit B.
41

42 P. Extremely Hazardous Waste. shall mean any Hazardous Waste or mixture of Hazardous
43 Wastes which, if human exposure should occur, may likely result in death, disabling personal injury or
44 illness, during or as a proximate result of, any disposal of such waste or mixture of wastes.
45

46 Q. Franchise Area. means the geographic territory defined in Exhibit B.
47

1 R. Franchise Documents. shall mean the Agreement (as herein defined), the separately executed
2 Waste Delivery Agreement, and the insurance certificates and performance bond or letter of credit
3 required under this Agreement.
4

5 S. Generator. means the owner or occupant of premises, including residences or businesses,
6 which initially produces Solid Waste, Recyclable Materials, or Organic Waste.
7

8 T. Green Waste. means organic waste generated from any landscaping including grass clippings,
9 leaves, prunings, tree trimmings, weeds, branches, and brush.
10

11 U. Gross Receipts. means all monies received by Franchisee for providing franchise services
12 specified in this Agreement, including, but not limited to, payment for regular and special services, leases
13 on containers, pass through costs collected on behalf of the County, and collections received on
14 delinquent accounts. Gross Receipts does not include uncollectible accounts and pass through costs
15 collected on behalf of State or other governmental agencies.
16

17 V. Hard-to-Service. may refer to any of the following:

- 18 1) Rural, sparsely populated areas,
- 19 2) Hilly or mountainous terrain,
- 20 3) Poorly paved or unpaved roads which may be unpassable in poor weather,
- 21 4) Large, uninhabited areas between pockets of homes,
- 22 5) Unusually heavy waste due to large properties, livestock, etc.
23

24 W. Hazardous Waste. shall mean any waste material or mixture of wastes which is defined or
25 otherwise considered to be hazardous under any state or federal law, or is toxic, corrosive, flammable, an
26 irritant, a strong sensitizer, which generates pressure through decomposition, heat or other means, if such
27 a waste or mixture of wastes may cause substantial personal injury, serious illness or harm to wildlife,
28 during, or as a proximate result of any disposal of such wastes or mixture of wastes. The term “toxic”,
29 “corrosive”, “flammable”, “irritant”, or “strong sensitizer” shall be given the same meaning as found in
30 the California Hazardous Substances Act in the Health and Safety Code, Section 28740 et seq.
31

32 X. Integrated Waste Management Act (IWMA). shall mean the California Integrated Waste
33 Management Act of 1989 (AB 939), including all subsequent amendments.
34

35 Y. Materials Recovery Facility. means a facility intended primarily for recovery and processing
36 of Recyclable Materials that are source-separated, or a facility intended to recover Recyclable Materials
37 from Solid Waste. Such a facility may also function as a Transfer Station.
38

39 Z. Multi-Residential Units. shall mean permanent buildings containing three or more Residential
40 Units including, but not limited to, condominiums, apartment houses, motels, hotels, mobilehome parks
41 where mobilehome lots are not individually owned, travel trailer parks, and recreational vehicle parks.
42

43 AA. Organic Waste. means food waste, green waste, landscape and pruning waste, nonhazardous
44 wood waste, and food-soiled paper waste that is mixed in with food waste.
45

46 BB. Permitted Hauler. means a Solid Waste service provider who has a valid permit to operate
47 within all, or a portion of, the unincorporated County.
48

1 CC. Person. shall mean any Person, firm, business, sole proprietorship, partnership, joint venture,
2 trust, association, or corporation whether for profit or non-profit.
3
4

5 DD. Recyclable Materials. means material which has been segregated from other Solid Waste
6 material for the purpose of reuse or recycling, including, but not limited to, discarded paper, glass,
7 cardboard, plastic, ferrous materials, green waste or aluminum. Recyclable Materials also include mixed
8 Recyclables consisting of two or more of the above-referenced material types separated from non-
9 Recyclable Materials at the point of Collection and offered for Collection in a mixture including not more
10 than five (5) percent Solid Waste by weight.
11

12 EE. Residential Unit. shall mean an occupied dwelling within the unincorporated area of the
13 County occupied by a Person or group of Persons. A Residential Unit shall be deemed occupied when
14 either water or domestic light and power services are being supplied thereto. This definition shall apply
15 also to mobilehome subdivisions where the mobilehome lot is individually owned. A duplex is
16 considered to be two (2) attached Residential Units.
17

18 FF. Roadways. means all County maintained roadways in the unincorporated area of the County
19 or private roadways, accessible by the Franchisee and used for providing routine service as defined in
20 Exhibit A of this Agreement.
21

22 GG. Solid Waste. means all putrescible and non-putrescible solid, semisolid and liquid wastes,
23 including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction
24 wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid
25 wastes, and other discarded solid and semisolid wastes.
26

27 Solid Waste does not include any of the following wastes:

- 28 o Hazardous waste, as defined in Public Resources Code Section 40141.
- 29 o Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing
30 with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
- 31 o Medical waste regulated pursuant to the Medical Waste Management Act (Part 14
32 (commencing with Section 117600) of Division 104 of the Health and Safety Code).
33 Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in
34 Section 40195.1. Medical waste that has been treated and deemed to be solid waste shall be
35 regulated pursuant to this division.
36

37 HH. Solid Waste Facility. means any facility that is licensed, permitted or otherwise approved by
38 all governmental bodies and agencies having jurisdiction, and that is designed to manage Solid Waste,
39 Recyclable Materials, or Organic Waste, and includes transfer, Recyclable Materials processing, material
40 recovery, composting, waste-to-energy, or landfill facilities.
41

42 II. System Facility. means a Solid Waste Facility that is owned and/or operated by the District,
43 or with which the District has entered into an Agreement, and that for the purposes of this Agreement is
44 designated by the District through a separately executed Waste Delivery Agreement to be used by the
45 Franchisee for the processing, recovery and/or disposal of Solid Waste, Recyclable Materials or Organic
46 Waste.
47

48 JJ. Term. means the Term of this Agreement, as provided for in Section 3.
49

1 KK. Transfer Station. shall include those intermediate waste handling facilities where Solid
2 Wastes are transferred from hauling vehicles to a transfer vehicle and where the Solid Waste or a portion
3 thereof may undergo incidental processing, recycling or further handling before transportation to a
4 disposal site, Solid Waste processing facility, or other facilities. The following facilities do not constitute
5 a "transfer station":

6 1) Locations where less than 15 cubic yards of combined container volume are provided to
7 serve as community or multi-residence receptacles for residential refuse.

8 2) Storage receptacles for waste from multi-residential buildings or for commercial Solid
9 Wastes.

10 3) A container used to store construction or demolition wastes at the place of generation.

11 4) Containers used to store salvaged materials.
12

13 LL. Waste Delivery Agreement. means the contract entered into by the District and the
14 Franchisee (defined as "Collector" therein) specifying the specific portions of the waste stream that are to
15 be directed to specified System Facilities.
16

17 MM. Wood Waste. means industrial dimension lumber, pallets, shipping dunnage, and similar
18 discarded processed wood materials, and large tree limbs.
19

20 **SECTION 3. GRANT AND TERM OF EXCLUSIVE FRANCHISE.**

21
22 A. Pursuant to Ordinance 657, and the IWMA, and subject to the terms and conditions of this
23 Agreement, including any prior amendments which are incorporated herein by reference, County hereby
24 grants to Franchisee the exclusive right, privilege, and franchise to provide the services set forth in
25 Exhibit A of this Agreement within the portion of the unincorporated area of the County of Riverside
26 specified in Exhibit B of this Agreement for the Term set forth below and to use the County streets and
27 roads for such purposes.
28

29 B. In consideration of the rights, privilege, and franchise granted by this Agreement, Franchisee
30 hereby agrees (1) to provide the services set forth in Exhibit A of this Agreement within the portion of the
31 unincorporated area of the County of Riverside specified in Exhibit B of this Agreement for the Term set
32 forth below; (2) to not collect from any other portions of the unincorporated county covered by Exclusive
33 Franchise Agreements, except as specified in Exhibit B, Solid Waste, Recyclable Materials or Organic
34 Waste; (3) to the cancellation, upon the Effective Date of this Agreement, of any permit or other
35 authorization issued by or under the authority of County for the Collection of Solid Waste, Recyclable
36 Materials, or Organic Waste for the portion of the unincorporated county permit area covered by
37 Exclusive Franchise Agreements, and (4) hereby waives any right it may have pursuant to Public
38 Resources Code section 49520 or other laws to advance notice of the cancellation of such permit or other
39 authorization for those areas represented by Exclusive Franchise Agreements.
40

41 Franchisee agrees to abide by the conditions of any permit or other authorization pertaining to
42 its operations within any unincorporated county area not covered by an Exclusive Franchise Agreement
43 and to terminate said operations upon effective date of any future Exclusive Franchise Agreement in
44 accordance with the provisions of this Agreement.
45

46 In addition, Recyclable Materials collected from Commercial and Industrial Units are included within
47 the Exclusive Franchise, to the extent provided for in state and federal law.
48

1 C. This Agreement shall continue for a period of seven (7) years from the Effective Date. One year
2 after the Effective Date of this Agreement, and annually thereafter, the Term of this Agreement shall be
3 extended for an additional one year, unless no later than thirty (30) days prior thereto either the County or
4 the Franchisee gives written notice of non-renewal to the other party. Only one notice of non-renewal
5 shall be required hereunder. Notice of non-renewal need not be based on cause. The above provisions in
6 no way affect the County's right to terminate this Agreement following thirty (30) days notice for
7 nonperformance, as provided in Sections 9 and 10 hereof.

8
9 D. Franchisee will commence services under this Agreement on January 1st, 1999.

10
11 E. County will enforce the exclusivity of the Franchise granted in this Agreement, but will use its
12 reasonable judgment in determining whether enforcement is necessary and the type of steps that should be
13 taken.

14 15 16 **SECTION 4. FRANCHISE AREA.**

17
18 The Franchise Area granted by this Franchise Agreement is the portion of the unincorporated
19 Riverside County defined in Exhibit B, "Franchise Area."

20 21 **SECTION 5. SERVICES PROVIDED BY FRANCHISEE.**

22 23 A. General.

24
25 Franchisee shall provide the Collection and transportation of Solid Waste within the Franchise Area
26 in accordance with the terms of this Agreement. The specific manner in which these services shall be
27 provided is specified in Exhibit A. The Franchisee shall also, upon written request of the Director,
28 provide optional services in the Franchise Area in accordance with the terms set forth in Exhibit A, and
29 the rates set forth in Exhibit E. Minimum levels of Solid Waste service to be provided under this
30 Agreement are defined below, however, no residential or commercial or business customer shall be
31 refused service, if that party is willing to pay for such service and is current in payment. Disputes arising
32 over the terms on which a particular customer may be serviced because of remoteness of location,
33 difficulty of access, particular needs of the customer, etc. shall be decided in accordance with the
34 provisions of Section 16 (B) (2) related to "service complaints."

35 36 B. Single Family Residential.

37
38 Weekly Service. Not less often than once per week, and more frequently if required to handle the
39 waste stream of the premises, Franchisee shall collect the Solid Waste (except bulky items and Hazardous
40 Waste) which have been placed, kept, or accumulated in containers at Residential Units within the
41 Franchise Area and placed at curbside prior to Franchisee's normal weekly Collection time. All Solid
42 Waste must be placed within containers at curbside without obstructions so as to permit Collection, unless
43 otherwise agreed upon by County and Franchisee. Franchisee may supply containers, and/or may require
44 the use of specific containers as specified in Exhibit A. Franchisee may negotiate special pickup
45 procedures, above and beyond the normal services described above, with customers for an additional fee
46 in an amount provided in Exhibit E.

47 48 C. Commercial, Industrial, and Multi-Residential.

49

- 1) Multi-Residential Weekly Service. Not less often than once per week, and more frequently if required to handle the waste stream of the premises where the Bins are located, Franchisee shall collect the Solid Wastes (including bulky items which have been placed in a closed bin, and excepting metallic white goods and Hazardous Waste) which have been placed, kept or accumulated for Collection in Solid Waste Bins at Multi- Residential Units.
- 2) Commercial and Industrial Weekly Service. Not less often than once per week, and more frequently if required to handle the waste stream of the premises where the Bins are located, Franchisee shall collect the Solid Wastes which have been placed, kept or accumulated for Collection in Solid Waste Bins at Commercial Units.

D. Construction and Temporary Bin/Rolloff Services.

Franchisee shall provide construction and temporary bin/rolloff services using rates reflected in Exhibit E.

E. Semi-Annual Cleanup and Bulky Wastes Collection.

- 1) At least twice a year, Franchisee shall provide a one (1) day cleanup service to all Residential Unit customers on its routes wherein all bulky materials left on the curb, or other designated location on or adjacent to customer's property, up to a maximum of one and one-half cubic yards, will be removed and disposed. Cost for this service, excluding the cost of disposal, shall be included within the normal monthly rates for Residential Unit Solid Waste Collection as specified in Exhibit E. When feasible, the bulky material will be collected in a vehicle separate from the one used to pick up the residential unit's Solid Waste on a weekly basis so that it can be readily identified as not requiring tipping fees when it arrives at the designated landfill. Franchisee will make a good faith effort to divert the bulky material away from the designated landfill and to another facility where it can be either recycled or refurbished for reuse. Collection of heavy waste materials such as dirt, rock, concrete, and asphalt are not included in this service.
- 2) Franchisee shall provide Residential Unit customers with Bulky Wastes pick-up service arranged at the request of the customer for large household appliances or furniture or multiple smaller items not exceeding one and one-half cubic yards. Collection of heavy waste materials such as dirt, rock, concrete, and asphalt are not included in this service. Franchisee shall advertise the availability of the Bulky Wastes Collection service and shall provide the Bulky Waste Collection service within seven (7) working days of request by customer. Franchisee shall bill the customer for Bulky Waste Collection at the rate established in Exhibit E. Standard disposal rates shall be paid by franchisee at System Facility.
- 3) Franchisee shall provide large rolloff refuse containers requested by the Director or his designee to respond to organized community clean up efforts at no charge. Franchisee shall deliver containers to agreed upon collection points and shall cooperate with the Director and designated community leaders to remove containers and dispose of collected Solid Waste. Franchisee is obligated to provide the equivalent of two 40-cubic yard bins/loads per year for each 1,000 Residential Unit customers serviced within the

Franchise Area. The District will arrange that there shall be no charge of disposal fees for such Solid Waste delivered in separate vehicles to the System Facilities.

F. Illegal Dumping Retrieval Services

Franchisee agrees to provide specified illegal dumping retrieval and disposal services as follows:

- 1) Franchisee shall turn in to County a monthly report of illegal dumping of trash (in quantities exceeding one equivalent medium size trash bag) and bulky items (such as tires, couches, and appliances) noticed within or along the Roadway in the franchise area. For the purpose of this provision, the Roadway shall include public rights of way within twenty (20) feet of the paved roadways and within twenty (20) feet of the shoulders of unpaved roadways.
- 2) Franchisee shall anticipate and arrange to receive daily by facsimile, copies of reports of illegal dumping reported by citizens to the Department of Environmental Health, Department of Transportation, or the Waste Resources Management District.
- 3) Franchisee shall arrange to remove and shall dispose all such reported illegally dumped materials on the Roadway within forty-eight (48) hours of the receipt of reports thereof except for remote areas, as approved by the director, for which the removal shall occur within five working days. The Franchisee may request that specified roads, determined by the franchisee to be inaccessible for waste removal, be considered by the Director for revised waste removal requirements.
- 4) Franchisee shall leave the original reports (or copies thereof) with the gate fee collector at County disposal sites at the time of delivery of the corresponding loads of illegally dumped debris. Nothing herein shall prevent the immediate pickup, delivery and reporting thereof, as part of the normal route collection activities, of illegally discarded material.
- 5) Abandoned vehicles and objects or appliances larger than conventional household furniture or appliances as well as hazardous, medical and other wastes requiring special handling are exempt from the retrieval requirements set forth herein, provided, however, that of these exempted items noted within the Roadway are to be immediately reported to the Director.
- 6) The Franchisee shall, upon request of private property owners, the Director or the Departments of County Transportation and Land Management Agency, provide removal services for waste illegally disposed of on their private property, excluding those wastes described immediately above in paragraph 5, at a cost or costs as be specified in Exhibit E.
- 7) Illegally disposed materials along Roadways within one mile of disposal sites within Riverside County are exempt from the retrieval requirements set forth herein.
- 8) For sixty (60) days from the effective date of this contract, the County will arrange that there shall be no charge of disposal fees at System Facilities. Thereafter, Franchisee shall pay the usual fees charged for comparable types and quantities of Solid Waste.

- 1
2 9) Within sixty (60) days of the end of each year of this Agreement, Franchisee shall submit
3 to the Director an accurate accounting of its costs to provide Illegal Dumping Retrieval
4 Service.
5

6 G. Collection of Used Motor Oil.
7

8 Franchisee shall collect used motor oil from single family residential customers in accordance with
9 the Recycled Oil Collection and Storage Standards pursuant to Riverside County Ordinance 657 and
10 Riverside County Resolution 90-668.
11

12 H. Diversion Services
13

- 14 1) Diversion services proposed by Franchisee as described in Exhibit H shall be provided
15 throughout the duration of this contract.
16
17 2) At any time during the term of this Agreement, upon one hundred eighty (180) days
18 written notice from the Director, Franchisee shall provide collection of Green Waste or
19 Organic Waste from Residential Units throughout, or in designated portions of its
20 Exclusive Franchise Area. Franchisee's rates for this service shall be as established in
21 Exhibit E as adjusted by the methodology established in Exhibit F.
22

23 I. Collection and Equipment
24

25 Franchisee shall provide an adequate number of vehicles and equipment for the Collection,
26 transportation, recycling, and disposal of Solid Waste for which it is responsible under this Franchise
27 Agreement. No vehicle shall be used for the collection and transportation of Solid Waste, Recyclable
28 Materials or Organic Waste, prior to inspection and approval by the Department. The equipment of
29 Franchisee used under this Franchise Agreement shall in addition be subject to inspection by the
30 Department on an annual basis.
31

- 32 1) All vehicles used by Franchisee under this Franchise Agreement shall be registered with
33 the Department of Motor Vehicles of the State of California, shall be kept clean and in
34 good repair, and shall be uniformly painted.
35
36 2) Solid Waste Collection vehicles shall be washed at least once every seven (7) calendar
37 days.
38
39 3) A local or toll free telephone number, and vehicle number shall be visibly displayed on
40 all vehicles in letters and figures no less than three inches (3") high.
41

42 **SECTION 6. OWNERSHIP OF SOLID WASTE.**
43

44 Once Solid Waste, Organic Waste, Wood Waste and construction debris collected from Residential,
45 Commercial or Multi-Residential Units are picked up by Franchisee from Bins for Collection or
46 containers at curbside, and once Recyclable Materials are set out for collection, ownership shall transfer
47 to Franchisee. Solid Waste, Recyclable Materials, Organic Waste, Wood Waste and construction debris,

1 or any part thereof, shall become the property of the owner or operator of a System Facility once
2 deposited there by Franchisee.

3 4 **SECTION 7. DIRECTION OF COLLECTED MATERIALS.**

5
6 The direction of the flow of materials collected by the Franchisee under this Agreement is governed
7 by the separately executed Waste Delivery Agreement between the Franchisee (defined as "Collector"
8 therein) and the District. The rates shown in Exhibit E are based on the facility(ies) designated in the
9 Waste Delivery Agreement to be effective on the same date as this Agreement.

10 11 **SECTION 8. INDEMNIFICATION AND INSURANCE, AND BOND.**

12 13 A. Indemnification of County and District.

14
15 Separate and distinct from the insurance provisions found in this Agreement, Franchisee agrees to
16 defend, indemnify, and hold harmless, County and District and their officers, agents, and employees from
17 and against any and all claims, demands, damages, liabilities, costs or expenses for any damages or
18 injuries to any person or property, including, but not limited to, injury to Franchisee's officers, agents, or
19 employees which arise from or are connected with or are caused or claimed to be caused by negligent acts
20 or omissions of Franchisee, and its officers, agents, or employees, in performing the work or services
21 herein, and all reasonable costs and expenses of investigating and defending against same; provided,
22 however, that Franchisee's duty to indemnify and hold harmless shall not include any claims or liability
23 arising from the negligence or misconduct of County or District or their agents, officers, or employees.

24
25 This obligation shall not be limited by the amounts or coverage specified in the insurance policies and
26 bond(s) supplied by franchisee in conjunction with the agreement. This indemnification obligation shall
27 survive the term of the franchise.

28 29 B. Hazardous Substances Indemnification.

30
31 Without limiting the generality of the foregoing, if Franchisee has acted negligently or willfully with
32 respect to the collection or transportation of waste materials, Franchisee shall indemnify, defend with
33 counsel approved by County, protect and hold harmless County and District and their respective
34 employees, agents, assigns, and any successor or successors to County's interest from and against all
35 claims, actual damages (including, but not limited to, special and consequential damages), natural
36 resources damage, injuries, costs, response remediation and removal costs, losses, demands, debts, liens,
37 liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties,
38 and expenses (including, but not limited to, attorneys' and expert witness fees and costs incurred in
39 connection with defending against any of the foregoing or in enforcing this indemnity) of any kind
40 whatsoever paid, incurred or suffered by, or asserted against, County or District or their respective
41 officers, employees, agents, or Franchisees arising from or attributable to any repair, cleanup or
42 detoxification, or preparation and implementation of any removal, remedial, response, closure or other
43 plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance
44 or Hazardous Wastes at any place where Franchisee stores or disposes of municipal Solid Waste or
45 construction debris pursuant to this Agreement. The foregoing indemnity is intended to operate as an
46 Agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation
47 and Liability Act, "CERCLA", 42 U.S.C. Section 9607(e) and California Health and Safety Code Section
48 25364, to insure, protect, hold harmless, and indemnify County from liability.

1 C. Minimum Diversion Requirements

2
3 The percentage of all materials collected by Franchisee under this Agreement, as detailed in Form 5
4 in programs approved by County, shall be recycled, processed and/or marketed by Franchisee in a manner
5 which entitles County to diversion credit as specified in California Public Resources Code, Section 41780
6 measured on a calendar year basis beginning January 1st, 1999 ("Minimum Diversion Requirement")
7 provided the County adopts the recommended diversion programs as stated in Form 5, Diversion
8 Proposal. Within sixty (60) days of each calendar year, Collector shall pay County as liquidated damages
9 for failing to meet this requirement, twenty dollars (\$20.00) per ton, for each ton which was not diverted,
10 which if it had been diverted would have enabled Franchisee to meet the Minimum Diversion
11 Requirement for calendar year 2000 and each successive year. Further, if Franchisee fails to meet the
12 annual Minimum Diversion Requirements two (2) times after the execution of the agreement, County
13 may terminate this Agreement upon one hundred twenty (120) days notice. If the County, or District on
14 behalf of the County, finds that additional programs are necessary to meet any IWMA required diversion
15 goals the County, or District on behalf of the County, may require proposals for additional diversion
16 programs to meet the diversion requirements. If necessary, County and Franchisee shall enter into good
17 faith negotiations, but if agreement regarding programs and/or rate adjustments cannot be reached,
18 County reserves the right upon one hundred twenty (120) days notice thereof to terminate the Franchisee's
19 Franchise rights to collect Solid Waste, Recyclable Materials, and/or Organic Waste, and/or to
20 independently implement programs that may be needed to meet the minimum diversion requirement.

21
22 If commercial recycling is being performed by generators, and others, to the extent the Franchisee is
23 unable to meet its Minimum Diversion Requirements, Franchisee shall document such commercial
24 recycling in writing and petition the Director for an equitable adjustment of Franchisee's Minimum
25 Diversion Requirement, which shall not be unreasonably denied.

26
27 D. Worker's Compensation Insurance.

28
29 Franchisee shall obtain and maintain in full force and effect throughout the entire Term of this
30 Agreement full workers' compensation insurance in accord with the provisions and requirements of the
31 Labor Code of the State of California. Endorsements that implement the required coverage shall be filed
32 and maintained with the Director throughout the Term of this Agreement. The policy providing coverage
33 shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in
34 coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt
35 requested, has been given to County. The policy shall also be amended to waive all rights of subrogation
36 against the County and the District, its elected or appointed officials, employees, agents, or Franchisees
37 for losses which arise from work performed by the named insured for the County.

38
39 E. Public Liability Insurance.

40
41 Franchisee shall obtain and maintain in full force and effect throughout the entire Term of this
42 Agreement a Broad Form Comprehensive General Liability (occurrence) policy with a minimum limit of
43 three million dollars (\$3,000,000.00) aggregate and one million five hundred thousand dollars
44 (\$1,500,000.00) per occurrence for bodily injury and property damage. Said insurance shall protect
45 Franchisee, the County, the District, and their elected or appointed officials, employees, and agents, from
46 any claim for damages for bodily injury, including accidental death, as well as from any claim for
47 property damage which may arise from operations performed pursuant to this Franchise Agreement,
48 whether such operations be by Franchisee itself, or by its agents and/or employees. Copies of the policies
49 or endorsements evidencing the above required insurance coverage shall be filed with the Director. All of

1 the following endorsements are required to be made a part of the insurance policies required by this
2 Section:

- 3
- 4 1) "This policy shall be considered primary insurance as respects any other valid and
5 collectible insurance the County may possess including any self-insured retention the
6 County may have, and any other insurance the County or District does possess shall be
7 considered excess insurance and shall not contribute with it."
8
- 9 2) "This insurance shall act for each insured, as though a separate policy had been written
10 for each. This, however, shall not act to increase the limit of liability of the insuring
11 company."
12
- 13 3) Franchisee shall cause its insurance carrier(s) to furnish County and District by direct
14 mail with certificate(s) of insurance showing that such insurance is in full force and
15 effect, and County and District are named as additional insureds with respect to this
16 Franchise and the obligations of Franchise hereunder. Further, said certificate(s) shall
17 contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall
18 be given to County and District prior to modification, cancellation or reduction in
19 coverage of such insurance. In the event of any such modification, cancellation or
20 reduction in coverage and on the effective date thereof, this Franchise shall terminate
21 forthwith, unless County and District receive prior to such effective date another
22 certificate from an insurance carrier that the insurance required herein is in full force and
23 effect.
24

25 The limits of such insurance coverage, and companies, shall be subject to review by the Director
26 every year and may be modified at that time by the County upon a demonstration of reasonable need. The
27 County and the District shall be named as additional insureds on all policies and endorsements.
28

29 **F. Performance Bond or Letter of Credit.**
30

31 Franchisee shall furnish a corporate surety bond as security for performance under this Agreement.
32 The amount of the bond shall be the average of two months' expected Gross Receipts. Premium for the
33 above described bond(s) shall be paid by Franchisee. A certificate from the surety showing that the bond
34 premiums have been paid in full shall accompany the bond. The surety on the bond shall be a company
35 acceptable by the County and shall be a corporate surety company authorized to do business in the State
36 of California.
37

38 **G. Modification.**
39

40 The insurance requirements provided herein may be modified or waived in writing by the Board upon
41 the request of Franchisee, provided the Board determines such modification or waiver is in the best
42 interest of County, in its reasonable judgment, considering all relevant factors, including financial
43 guarantees provided by the parent company of Franchisee.
44

45 **SECTION 9. DEFAULT AND REMEDIES.**
46

47 A. If the Director determines that the Franchisee's performance pursuant to this Agreement has
48 breached its obligation or otherwise has not been in conformity with reasonable industry standards, the
49 provisions of this Agreement, the requirements of the California Integrated Waste Management Board,

1 including, but not limited to, requirements for source reduction and recycling (as to the waste stream
2 subject to this Franchise Agreement) or any other applicable Federal, State, or local law, ordinance or
3 regulation, including, but not limited to, the laws governing transfer, storage, or disposal of Hazardous
4 Wastes and other waste requiring special handling, the Director shall advise Franchisee in writing of such
5 deficiencies. The Director may, in such written instrument, set a reasonable time within which correction
6 of all such deficiencies is to be made. Unless otherwise specified, a reasonable time for correction shall
7 be thirty (30) days from the mailing of such written notice. The Director shall review the Franchisee's
8 response and either notify the Franchisee of that decision, in writing, or refer the matter to the Board. A
9 decision or order of the Director shall be final and binding on Franchisee if the Franchisee fails to file a
10 "Notice of Appeal" with the Director within thirty (30) days of receipt of the Director's decision. Within
11 ten working days of receipt of a Notice of Appeal, the Director shall either refer the appeal to the Board
12 for proceedings in accordance with Subsections 9B and 9C, below, or refer the matter to a hearing officer
13 as provided in Section 11, below. Where the County and the Franchisee have claims pending against each
14 other at the same time under Section 9 and Section 11 jurisdiction shall be with the Board.
15

16 B. The Board, may set the matter for hearing. The Board shall give Franchisee, and any other
17 Person requesting the same, fourteen (14) days written notice of the time and place of the hearing. At the
18 hearing, the Board shall consider the report of the Director indicating the deficiencies, and shall give the
19 Franchisee, or its representatives and any other interested Person, a reasonable opportunity to be heard.
20

21 C. Based on the evidence presented at the public hearing, the Board shall determine by Resolution
22 whether the Agreement should be terminated or other remedies imposed. If, based upon the record, the
23 Board determines that the performance of Franchisee is in breach of any material Term of this Agreement
24 or any material provision of any applicable Federal, State, or local statute, ordinance or regulation, or is
25 deficient with respect to prevailing industry standards, the Board in the exercise of its sole discretion, may
26 terminate forthwith, this Agreement. Franchisee's performance under its franchise is not excused during
27 the period of time prior to the Board's final determination as to whether such performance is deficient.
28

29 D. The right of termination is in addition to any other rights of County upon failure of Franchisee to
30 perform its obligations under this Agreement.
31

32 E. The County further reserves the right to terminate Franchisee's franchise, following public
33 hearing therefor, not later than 6 months following the date of said hearing at which a majority vote of the
34 board determines it is in the public interest to do so:
35

- 36 1) If the Franchisee practices, or attempts to practice, any fraud or deceit upon the County.
- 37
- 38 2) If the Franchisee becomes insolvent, unable, or unwilling to pay its debts, or upon listing
39 of an order for relief in favor of Franchisee in a bankruptcy proceeding.
- 40
- 41 3) If the Franchisee fails to provide or maintain in full force and effect, the workers'
42 compensation, liability, indemnification coverage, and performance bond as required by
43 the Agreement.
- 44
- 45 4) If the Franchisee willfully violates any orders or rulings of any regulatory body having
46 jurisdiction over the Franchisee relative to this Agreement, provided the Franchisee may
47 contest any such orders or rulings by appropriate proceedings conducted in good faith, in
48 which case no breach of the franchise shall be deemed to have occurred.
49

- 1 5) If the Franchisee ceases to provide Collection services as required under this Agreement
2 overall or a substantial portion of its Franchise Area for a period of seven (7) days or
3 more, for any reason within the control of the Franchisee.
4
- 5 6) If the Franchisee willfully fails to make any payments required under the Agreement
6 and/or refuses to provide County with required information, reports, and/or test results in
7 a timely manner as provided in the Franchise Agreement.
8
- 9 7) For any other act or omission by the Franchisee which materially violates the terms,
10 conditions, or requirements of this franchise, Ordinance 657, successor ordinance, other
11 county ordinance, the IWMA, successor acts, or any order, directive, rule, or regulation
12 issued thereunder and which is not corrected or remedied within the time set in the
13 written notice of the violation or, if the Franchisee cannot reasonably correct or remedy
14 the breach within the time set forth in such notice, if the Franchisee should fail to
15 commence to correct or remedy such violation within the time set forth in such notice and
16 diligently effect such correction or remedy thereafter.
17
- 18 8) Should the Franchisee or any parent corporation or entity, or any of the officers or
19 directors of the Franchisee or any parent corporation or entity be found guilty of
20 felonious conduct related to the performance of this Agreement, or of felonious conduct
21 related to anti-trust activities, illegal transport or disposal of hazardous waste or
22 materials, or violation of Racketeer - Influenced Corrupt Organizations (RICO) Statutes.
23

24 F. Professional Conduct

25

- 26 1) In the event that any official, employee, or contractor for Franchisee or its successor-in-
27 interest is indicted by a grand jury, named as a defendant in a felony complaint filed in
28 any court in the United States, or is otherwise alleged to have participated in any criminal
29 activity directly or indirectly associated with the solid waste management business,
30 Franchisee or its successor-in-interest shall provide written notice thereof to the Director
31 within 14 days of such indictment, complaint or allegation. Such notice shall contain a
32 description of the indictment, complaint or allegation, as well as a copy of such
33 indictment or complaint or other matters of public record related thereto. In addition to
34 the foregoing, Franchisee or its successor-in-interest shall provide the Director with
35 copies of any reports required to be prepared by Franchisee or its successor-in- interest
36 pursuant to federal securities laws, including quarterly and annual reports.
37
- 38 2) In the event that any official, employee, or contractor for Franchisee or its successor-in-
39 interest, who has any responsibility for any aspect of the franchisee's operations under
40 this contract, is convicted, indicted by a grand jury, or named as a defendant in a felony
41 complaint filed in the Superior Court or a complaint filed in Federal Court associated
42 with conduct of doing business for Franchisee or its successor-in- interest, this person
43 shall, upon request of the County be immediately removed from any assignment
44 whatsoever, directly associated with operations under this contract during the pendency
45 of trial and/or following conviction.
46

47 G. This Agreement is subject to all present and future laws, regulations and orders of Federal, State,
48 County, and City governments and any instrumentalities thereof. Should either of the parties hereto at
49 any time during the Term of this Agreement be ordered or required, pursuant to any laws, regulations or

orders, to do any act that substantially impairs the party's ability to perform under this Agreement, then such party shall notify the other party of such order or requirement and the law, regulation or order on which such order or requirement is based. Unless the parties agree in writing to continue this Agreement, or to renegotiate the terms of the Agreement within thirty (30) days after the Effective Date of such law, regulation or order, then this Agreement shall terminate on the thirty-first day following the Effective Date of such law, regulation or order. Nothing in this Agreement shall prohibit either party, at that party's sole expense from obtaining or seeking to obtain modification or repeal of such law, regulation or order or restrict either party's right to legally contest the validity of such law, regulation or order.

SECTION 10. DISRUPTIONS IN SERVICE.

A. If, at any time during the Term of this Agreement for a period of seventy-two (72) consecutive hours or more, Franchisee fails for any reason to collect and remove Solid Waste as required hereunder, County may immediately, upon written notice to Franchisee, cause such Solid Waste to be collected and removed by whatever means available to County. Franchisee shall pay any and all costs incurred by County in providing the service. This clause shall not apply to failure to collect due to unsafe weather or road conditions, provided, however, that the franchisee immediately notifies the Director of the areas affected by such conditions with an estimate of when service will be resumed.

B. In the event Franchisee fails to collect and remove Solid Waste as required hereunder for a period of at least seventy-two (72) consecutive hours, County, upon written notice to Franchisee, may take temporary possession of and operate any and all trucks or other equipment used by Franchisee for Collection and removal of Solid Waste in the Franchise until such time, not to exceed one hundred twenty (120) days, as Franchisee satisfies County that it is ready, able, and willing to comply with all of the Provisions of this Agreement. In this event Franchisee shall provide County with driver route listings and necessary operational records. County shall be reimbursed by Franchisee for all costs of providing such substitute service. In such events, Franchisee shall indemnify and hold harmless County from and against any damage or liability to any third Person injured or damaged as a result of Franchisee's actions or inactions excepting County's sole negligence in providing such substitute service. Employees of Franchisee, including management employees, may be employed by County during any period in which County temporarily assumes the obligations of Franchisee under this Agreement. However, the rates of compensation paid to Franchisee's employees or any other employees, during such period shall not exceed the rates in effect between Franchisee and its employees at the time Franchisee's service was interrupted.

C. The parties hereby agree that if Franchisee's failure to perform hereunder is due to a strike or labor dispute or other force majeure event, this Agreement shall not terminate and shall continue to be effective for the duration of such strike or labor dispute. In the event of such a strike or labor dispute, Franchisee shall maintain an unobstructed entrance at its place of business which is not regularly used but which will be primarily reserved for use by County access while County or its designated representative is performing Franchisee's responsibilities. If the labor dispute or picketing blocks access to Franchisee's place of business, Franchisee shall receive no compensation for any time period in which it failed to perform in accordance with the provisions of this Agreement.

SECTION 11. ADMINISTRATIVE HEARING PROCEDURES.

A. Should Franchisee contend that the County is in breach of this Franchise Agreement, it shall file a request with the Director for an administrative hearing on the allegation.

1 B. If the Director refers a matter to a hearing officer, or if the Franchisee should allege a breach of
2 the franchise by the County, County and Franchisee shall mutually agree on a hearing officer within
3 twenty (20) days. County and the Franchisee may, but are not required to, choose a hearing officer from
4 among retired California Superior Court judges or Appellate Court justices, none of whom are related to
5 the parties, and such retired judges or justices may be affiliated with private judicial service companies,
6 such as Judicial Arbitration and Mediation Services.
7

8 C. The hearing shall be conducted according to the provisions of California Government Code
9 Section 11500, et seq. The exclusive venue shall be in Riverside County, California. A hearing officer to
10 whom a matter is referred shall have the authority to (i) order the County or the Franchisee to undertake
11 remedial action to cure the breach and to prevent occurrence of similar breaches in the future; (ii) assess
12 damages and/or levy a penalty upon the County or Franchisee consistent with the terms of this Agreement
13 including terminate the Agreement; or (iii) find there has been no breach. The amount of the penalty shall
14 be reasonably related to the seriousness of the breach of the Agreement.
15

16 D. The party losing the hearing shall be liable for the hearing officer's fees.
17

18 E. Any failure of the Franchisee or County to comply with the hearing officer's order shall be
19 deemed a material breach of the Agreement, and may be grounds for termination of the Agreement.
20

21 F. Any party to the hearing may issue a request to compel reasonable document production from the
22 other party. Disputes concerning the scope of document production and enforcement of document
23 requests shall be subject to Agreement by the parties, or if Agreement is not reached within twenty (20)
24 days of that document request, then by disposition by order of the hearing officer. Any such document
25 request shall be subject to the proprietary rights and rights of privilege of the parties, and the hearing
26 officer shall adopt procedures to protect such rights.
27

28 G. Neither party may communicate separately with the hearing officer after the hearing officer has
29 been selected. All subsequent communications between a party and a hearing officer shall be
30 simultaneously delivered to the other party. This provision shall not apply to communications made to
31 schedule a hearing or request a continuance.
32

33 H. Until final judgment is entered from the hearing officer proceeding under the foregoing
34 provisions and the time for appeal or other post-judgment petition has expired, the imposition or
35 enforcement of any penalties or sanctions provided in the Agreement and related to the subject matter of
36 the hearing shall be stayed. The hearing officer may modify or cancel any proposed penalties or sanctions
37 upon a finding that the party subject thereto acted with substantial justification or if the interests of justice
38 so require.
39

40 I. Judicial review is as provided for in Code of Civil Procedure Section 1094.5.
41

42 **SECTION 12. FRANCHISE TRANSFERABILITY.** 43

44 A. The franchise granted by this Agreement shall not be transferred, sold, hypothecated, leased, or
45 assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or
46 transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest,
47 or property therein, pass to or vest in any Person, except the Franchisee, either by act of the Franchisee or
48 by operation of law, without the prior written consent of the County expressed by Resolution. Any
49 attempt by Franchisee to assign this franchise without the consent of County shall be void. The County

1 shall review such a request using such criteria as it deems necessary including, but not limited to, those
2 listed in Subsection C.

3
4 B. The County shall not unreasonably withhold its consent to a transfer of the franchise granted by
5 this Franchise Agreement. The County may impose new conditions of approval on a Franchise
6 Agreement transfer, including, but not limited to, conditions requiring acceptance of any reasonable
7 amendments to this Agreement.

8
9 C. If the Franchisee requests that the County consider and consent to a transfer, the Franchisee shall
10 meet the following requirements:

- 11
12 1) The Franchisee shall pay the County its reasonable expenses for attorney's fees and
13 investigation costs necessary to investigate the suitability of any proposed transferee, and
14 to review and finalize any documentation required as a condition for approving any such
15 transfer.
16
17 2) The Franchisee shall furnish the County with audited financial statements of the proposed
18 transferee's operations for the immediately preceding three (3) operating years.
19
20 3) The Franchisee shall furnish the County with satisfactory proof: (i) that the proposed
21 transferee has at least five (5) years of solid waste management experience of a scale
22 equal to or exceeding the scale of operations conducted by Franchisee under this
23 Agreement; (ii) that in the last five (5) years, the proposed transferee has not suffered any
24 citations or other censure from any federal, state or local agency having jurisdiction over
25 its waste management operations due to any significant failure to comply with state,
26 federal or local waste management laws. Franchisee shall supply the County with a
27 complete list of such citations and censures; (iii) that the proposed transferee has at all
28 times conducted its operations in an environmentally safe and conscientious fashion; (iv)
29 that the proposed transferee conducts its solid waste management practices in accordance
30 with sound waste management practices in full compliance with all federal, state and
31 local laws regulating the Collection and disposal of waste; (v) of comparable financial
32 strength; (vi) of required insurance and bonds; and (vii) of other material as may be
33 requested by the County.
34

35 D. This franchise or portions thereof may be transferred, sold, hypothecated, leased, or assigned by
36 the County to any Public Agency having the authority to provide solid waste collection services if the
37 Board determines it is in the public interest to do so.
38

39 **SECTION 13. REPORTS.**

40
41 A. Franchisee shall provide the Director the periodic reports regarding waste stream Collection,
42 recovery and disposal specified in Exhibit D of this Agreement.
43

44 B. Franchisee shall make its customer base and records available to the Department for audit at
45 reasonable times for purposes relevant to review of performance and rate adjustment requests under the
46 Agreement.
47

48 **SECTION 14. COMPENSATION.**

1 A. Franchisee Rates.
2

3 Franchisee shall provide the services described in this Agreement and its exhibits in accordance with
4 the rates set forth in the Exhibit E. Recyclable Materials collected from Commercial and Industrial Units
5 are included in this Exclusive Franchise to the extent provided in state and federal law. Exhibit E
6 specifies the maximum rate to be charged for such materials.
7

8 B. Modification and Adjustment of Rates.
9

10 If the Franchisee owns, has a financial interest in or operates any landfill located in Riverside County
11 at any time during the effective period of this contract, the Franchisee shall provide copies of all contract
12 and any supplemental agreements it has with each of its (in county) contract customers for disposal of
13 waste at these sites. If rate discrepancies or financial incentives exhibit a potentially unfair advantage or
14 District subsidy, the Franchisee hereby agrees the County Board of Supervisors shall have the authority to
15 renegotiate the County Franchise rates and/or the terms of the landfill operating agreement. The rates set
16 forth on Exhibit E shall remain in effect until adjusted by County following a public hearing as provided
17 in Exhibit F.
18

19 C. Notice of Rate Changes
20

21 The Franchisee shall provide customers a minimum of thirty (30) days written notice of the
22 implementation of changes in any of its rates and charges provided Franchisee has ninety (90) days notice
23 from County regarding approved changes in landfill fees and CPI adjustments. The wording of the notice
24 shall be submitted to the Director ten (10) days in advance of its release, and shall be approved as to form
25 prior to release. County shall provide Franchisee with written notice of changes in System Facility,
26 franchise, or Illegal Dumping Retrieval Services at least forty-five (45) days in advance of the anticipated
27 rate changes.
28

29 D. Resolution of Disputes Regarding Rate Adjustments
30

31 Any dispute regarding adjustment, or the computation or any other dispute regarding Franchisee's
32 reimbursement for fees, special services, or extraordinary costs described in Exhibit D, shall be decided
33 by the Director or his representative. If resolution can not be reached, the Director shall refer the matter
34 to the Board of Supervisors, or to a hearing officer as provided in Section 11 above. The rates in effect at
35 the time such dispute is submitted to the Board of Supervisors, or a hearing officer shall remain in effect
36 pending resolution of such dispute. The Effective Date of any dispute resolution, whether retroactive or
37 prospective, shall reasonably be determined by the Board of Supervisors, or the hearing officer, as
38 appropriate. Any Franchisee operating in a Comprehensive Collection Area shall be subject to all
39 applicable provisions in the County's comprehensive collection ordinance.
40

41 E. Billing and Payment.
42

43 Franchisee may bill and receive payment as provided in Exhibit E. In cases where Franchisee
44 includes a Landfill Tipping Fee amount on a customer's bill, the County shall prescribe the amount

1 consistent with established waste generation factors and Tipping Fees. Further, on a quarterly basis, the
2 County shall be allowed to include a one (1) page insert for the purpose of public education regarding
3 waste disposal, recycling, or other environmental issues. Print ready copy of such insert, which conforms
4 to the Franchisees' billing, shall be delivered by County Information Officer thirty (30) working days in
5 advance of Franchisee's billing dates.

6
7 F. Delinquent Accounts.
8

9 Franchisee may discontinue service for non-payment of customer's billing or customer's failure to
10 substantially comply with the requirements of this Agreement. After the Franchisee has given fifteen (15)
11 days' notice to customer for non-compliance, Franchisee shall notify the Director in writing of any service
12 termination including a written copy of the notice to the customer. Upon payment of the delinquent fees,
13 if applicable, Franchisee shall resume Collection on the next regularly scheduled Collection day. Any
14 Franchisee operating in a comprehensive collection area shall be subject to all applicable provisions in the
15 comprehensive collection ordinance.

16
17 G. Refunds.
18

19 Franchisee shall refund to each customer, on a pro rata basis, any advance service payments made by
20 such customer for service not provided when service is discontinued by written notification to Franchisee
21 by the customer.
22

23 **SECTION 15. FRANCHISE FEES.**
24

25 A Franchise Fee of eight (8) percent of the Franchisee's Gross Receipts, less landfill fees or Transfer
26 Station Tipping Fees, shall be payable by Franchisee to the Department thirty (30) days after the close of
27 each quarter of each year this Agreement remains in effect. The Franchise Fee shall not be required to be
28 paid for revenues generated by the collection or sale of Recyclable Materials and Organic Waste collected
29 by the Franchisee, or for the provision of construction roll off services. A penalty of ten (10) percent
30 shall be due for fees not submitted within the thirty (30) day time period.
31

32 County may, at its sole discretion, adjust the Franchise Fee at any time after giving Franchisee one
33 hundred twenty (120) days notice. Such adjustment shall be cause for a corresponding rate adjustment in
34 accordance with Exhibit F.
35

36 **SECTION 16. OTHER REQUIREMENTS.**
37

38 A. Privacy
39

40 Franchisee shall strictly observe and protect the rights of privacy of customers. Information
41 identifying individual customers or the composition or contents of a customer's waste stream shall not be
42 revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a
43 court of law, by statute, or upon valid authorization of the customer. This provision shall not be
44 construed to preclude Franchisee from preparing, participating in, or assisting in the preparation of waste

1 characterization studies or waste stream analyses which may be required by the IWMA, and/or County.
2 In addition, Franchisee shall not market, sell, convey, or donate to any Person any list with the name or
3 address of customers except that Franchisee may provide such lists to authorized employees and
4 authorized representatives of the County as necessary to comply with this Agreement. The rights
5 accorded customers pursuant to this Section shall be in addition to any other privacy right accorded
6 customers pursuant to Federal or State Law.

7
8 B. Public Access to the Franchisee
9

- 10 1) Office Hours. Franchisee's office hours shall be, at a minimum, from 8:00a.m. to 5:00
11 p.m. Monday through Friday. A representative of Franchisee shall be available during
12 office hours for communication with the public at Franchisee's principal office. In the
13 event that normal business cannot be conducted over the telephone, a representative of
14 Franchisee shall agree to meet with the public at a location agreeable to Franchisee and
15 the public. Normal office hours telephone numbers shall either be a local or toll free call.
16 Franchisee shall also maintain a local or toll free after-hours telephone number for use
17 during other than normal business hours. Franchisee shall have a representative or
18 answering device or system available at said after-hours telephone number during all
19 hours other than normal office hours.
20
21 2) Service Complaints. All customer complaints shall be directed to Franchisee. Franchisee
22 agrees to use its best efforts to resolve all complaints received by mail, by telephone, or
23 in Person, by close of business of the second business (waste Collection) day following
24 the date on which such complaint is received. Service complaints may be investigated by
25 the Director or a designee. Franchisee shall maintain records listing the date of customer
26 complaints, the customer, describing the nature of the complaint or request, and when and
27 what action was taken by the Franchisee to resolve the complaint. All such records shall
28 be maintained and shall be available for inspection by County.
29
30 3) Government Liaison Person. The Franchisee shall designate a "government liaison
31 Person" who shall be responsible for working with the Department to resolve customer
32 complaints.
33

34 C. Resolution of Disputed Customer Complaints.
35

36 The Franchisee shall notify customers of this complaint arbitration procedure at the time customers
37 apply for or are provided service, and subsequently, annually. Procedures for resolution of disputed
38 claims shall be as follows:
39

- 40 1) A customer dissatisfied with Franchisee's decision regarding a complaint may ask the
41 County to review the complaint. To obtain this review, the customer may request County
42 review within thirty (30) days of receipt of Franchisee's response to the Complaint, or
43 within forty-five (45) days of submitting the complaint to the Franchisee, if the
44 Franchisee has failed to respond to the complaint. The County may extend the time to
45 request its review for good cause.
46

- 1 2) Before reviewing the complaint, the Director shall refer it to the Franchisee. If the
2 Franchisee fails to cure the complaint within ten (10) days, the Director shall review the
3 customer's complaint and determine if further action is warranted. The Director may
4 request written statements from the Franchisee and customer, and/or oral presentations.
5
6 3) The Director shall determine if the Customer's complaint is justified, and if so, what
7 remedy, if any, shall be imposed. The remedy under this Section shall be limited to a
8 rebate of customer charges related to the period of breach of any of the terms of this
9 Franchise Agreement or a penalty of up to one hundred dollars (\$100.00) for any single
10 event in addition to any actual damages.
11
12 4) The Director may delegate these duties to a designee. The decision of the Director or a
13 designee shall be final on any matter under five thousand dollars (\$5,000.00). In the
14 event of a decision on a matter awarding five thousand dollars (\$5,000.00) or more,
15 Franchisee may seek review pursuant to Section 11 above.
16

17 D. Hazardous Materials and Waste Handling and Disposal
18

19 The Franchisee shall comply with the procedures detailed in Exhibit G of this Agreement.
20

21 **SECTION 17. FORCE MAJEURE.**
22

23 Franchisee shall not be in default under this Franchise Agreement in the event that the services
24 provided by the Franchisee are temporarily interrupted or discontinued for any of the following reasons:
25 riots, wars, sabotage, civil disturbances, insurrection, explosion, natural disasters such as floods,
26 earthquakes, landslides, and fires, strikes, lockouts, and other labor disturbances or other catastrophic
27 events which are beyond the reasonable control of Franchisee. Other catastrophic events do not include
28 the financial inability of the Franchisee to perform or failure of the Franchisee to obtain any necessary
29 permits or licenses from other governmental agencies or the right to use the facilities of any public utility
30 where such failure is due solely to the acts or omissions of the Franchisee.
31

32 **SECTION 18. OTHER PROVISIONS.**
33

34 A. Independent Contractor.
35

36 Franchisee is an independent contractor and not an officer, agent, servant, or employee of County.
37 Franchisee is solely responsible for the acts and omissions of its officers, agents, and employees, if any.
38 Nothing in this Franchise Agreement shall be construed as creating a partnership or joint venture between
39 County and Franchisee. Neither Franchisee nor its officers, agents, or employees shall obtain any rights
40 to retirement or other benefits which accrue to County employees.
41

42 B. Property Damage.
43

44 Any physical damage caused by the actions or non-actions of employees, officers, or agents of the
45 Franchisee to private or public property shall be promptly repaired or replaced by the Franchisee.

1
2 C. Right of Entry.
3

4 Franchisee shall have the right, until receipt of written notice revoking permission to pass is delivered
5 to Franchisee, to enter or drive on any private street, court, place, easement, or other private property for
6 the purpose of providing temporary bin/rolloff services and the Collection, transportation, recycling,
7 composting, and disposal of Solid Waste and construction debris pursuant to this Franchise Agreement.
8

9 D. Law to Govern.
10

11 The law of the State of California shall govern this Franchise Agreement.
12

13 E. Gratuities.
14

15 Franchisee shall not, nor shall it permit any officer, agent, or employee employed by it to, request,
16 solicit, demand, or accept, either directly or indirectly, any gratuity for services required under this
17 Franchise Agreement.
18

19 F. Compliance with Franchise Agreement.
20

21 Franchisee shall comply with those provisions of the Riverside County Ordinances 657 and 745, or
22 any successor ordinances, which are applicable, and with any and all amendments to such applicable
23 provisions during the Term of this Franchise Agreement.
24

25 G. Notices.
26

27 All notices required or permitted to be given under this franchise shall be in writing and shall be
28 personally delivered or sent by telecopier (fax), or United States certified mail, postage prepaid, return
29 receipt requested, and addressed as follows:
30

31 To County: County of Riverside
32 Attn: Department of Environmental Health
33 4065 County Circle Drive
34 Riverside, CA 92503
35

36 Copy to: County Counsel
37

38 To Franchisee: Desert Valley Disposal, Inc.
39 President
40 P.O. Box 2720
41 Palm Springs, CA 92263
42 4690 E. Mesquite Avenue
43 Palm Springs, CA 92264
44

Copy to: Rick Wade & Chris Cunningham

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, or if by fax, upon receipt of confirmation of delivery which confirmation may be transmitted by fax.

H. Exhibits Incorporated.

Exhibits A through I are attached to and incorporated in the Franchise Agreement by reference.

I. Nondiscrimination.

In performing the Collection services hereunder, Franchisee shall not discriminate against any Person on the ground of race, sex, age, creed, color, religion or national origin.

J. Laws and Licenses.

Franchisee shall comply with all federal, State, and County laws, ordinances, rules, and regulations applicable to the performance of the services hereunder and shall obtain all licenses and permits necessary to perform the services hereunder and maintain the same in full force and effect.

K. Waiver.

No waiver by either party of any one or more defaults or breaches by the other in the performance of this Agreement shall operate or be construed as a waiver of any future defaults or breaches, whether of a like or different character.

SECTION 19. SEVERABILITY.

A. The parties agree that the Waste Delivery Agreement attached to this franchise as Exhibit I is a material part of the franchise agreement, itself, and is not severable from it. Franchisee agrees not to challenge the validity or enforceability of the Waste Delivery Agreement or any term or provision found in such agreement. If for any reason this Waste Delivery Agreement is found to be void or unenforceable or any part thereof by a court of law, then, the Franchise agreement, itself, is deemed to be terminated thereupon and to be of no further force or effect.

B. If any non-material provision of this Franchise 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 Franchise Agreement.

SECTION 20. ENTIRE AGREEMENT; AMENDMENT.

This Agreement, its accompanying Exhibits, and the separately executed Waste Delivery Agreement constitute the entire Agreement between the parties concerning the subject matter hereof and supersede

1 any and all other communications, representations, proposals, understandings or Agreements, either
2 written or oral, between the parties hereto with respect to such subject matter. This Agreement may not
3 be modified or amended, in whole or in part, except by writing signed by both parties hereto.

4
5 **SECTION 21. CONSTRUCTION OF FRANCHISE.**
6

7 The parties hereto have negotiated this franchise at arm's length and with advice of their respective
8 attorneys, and no provision contained herein shall be construed against County solely because it prepared
9 this agreement in its executed forms.

10
11 **SECTION 22. RENEGOTIATION OF TERMS AS A RESULT OF OWNERSHIP CHANGES**
12

13 In the event of a significant change to the ownership of the franchisee that impacts the activities in
14 this contract, including, but not limited to acquisition of, acquisition by, merger with or stock exchange
15 with another company, all service levels and rates of this contract shall at the discretion of the Board of
16 Supervisors be made open to renegotiation of the existing franchise and rate exhibits.
17

1 WITNESS the execution of this Agreement on the day and year written below.

2
3 Executed on September 26, 2016.

4
5
6 RIVERSIDE COUNTY

7
8 BY:



9 Steve Van Stockum

10 Riverside County

11 Department of Environmental Health

12
13 FRANCHISEE

14
15 BY:



16 Rick Wade

17 President

18 Desert Valley Disposal, Inc.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Riverside }

On 9/26/16 before me, Gina Quejada Fabricante, Notary Public
(Here insert name and title of the officer)

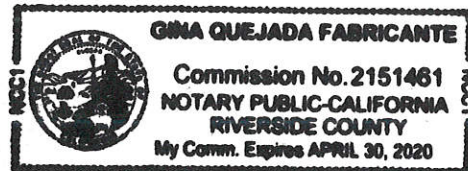
personally appeared STEPHEN VAN UTOCKUM,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s)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

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Gina Quejada Fabricante
(Notary Public Signature)

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Riverside }

On 9/26/16 before me, Gina Quejada Fabricante, Notary Public
(Here insert name and title of the officer)

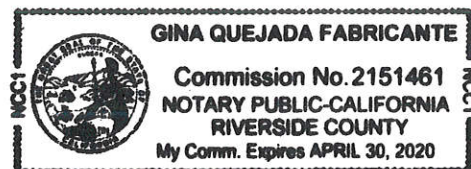
personally appeared FREDERIC INADE,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Gina Quejada Fabricante
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

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 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

EXHIBIT A

PROVIDED SERVICES

This Exhibit is for the exclusive franchise held by
Desert Valley Disposal, Inc. in Franchise Area
10 Attached is: 1) specific information regarding provision of the minimum levels of service,
and; 2) definition of any additional services the Franchisee will be providing.

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EXHIBIT A

ATTACHMENT 1

MINIMUM SERVICES AND ADDITIONAL SERVICES

Franchisee will provide the following services:

1. "Non-Comprehensive Collection" (Also see Exhibit H, Diversion Services):

a. Minimum Levels of Service:

1.) Residential:

- a.) Weekly Solid Waste collection at curbside of up to four (4) 32-gallon containers weighing not more than fifty (50) pounds each;
- b.) Containers to be provided by Customer;
- c.) Semi-Annual Clean-Up service consisting of curbside collection of extra Solid Waste or up to two (2) bulky items by prior arrangement;
- d.) Community Clean-Up service consisting of two 40 cubic yard boxes per 1,000 Residential customers placed at a single predetermined location and manned by DVD personnel for the collection of Solid Waste and bulky items transported by residents of the service area;
- e.) Used Oil Collection from residents by prior arrangement;
- f.) Weekly collection of recyclables (Containers provided by Franchisee);
- g.) Operation of recyclables Buy-Back Center at Franchisee's facility; and,
- h.) Illegal Dumping Retrieval Service (Refer to Franchise Agreement Section 5, F.);

2.) Commercial:

- a.) Weekly Solid Waste collection at curbside of up to four (4) 32-gallon containers weighing not more than fifty (50) pounds each (Containers provided by Customer);

b. Optional Services:

1.) Residential:

- a.) Additional containers of Solid Waste;
- b.) Low Volume rate;
- c.) Bulky Item collection;
- d.) Weekly collection of Green Waste (at County's option);
- e.) Special Clean-Up Services; and
- f.) Automated collection services.

2.) Commercial:

- a.) Collection of Solid Waste from 2, 3, or 4 cubic yard containers (provided by Franchisee) in a quantity and

- 1 frequency (up to six (6) collections per week) as required
2 by customer; and,
3 b.) Recycling services consistent with customer needs.
4 3.) Industrial (including construction debris removal):
5 a.) Roll-Off Box service of 13, 20, 30, and 40 cubic yard
6 capacity as requested by customers (1 dump minimum per
7 each 7 days).
8

9 2. **"Comprehensive Collection":**
10 (Same Minimum and Optional Services as "Non-Comprehensive Collection".)

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EXHIBIT B

FRANCHISE AREA #10

This exhibit contains: a map showing the franchise area, a legal description, and lists of exceptions to the Franchise Collection Agreement.

Legal Description: (To be provided before contract is executed by County)

A. Standard Exceptions:

1. Any incorporated areas;
2. All Community Service Districts which have exercised their latent authority for solid waste collection;
3. All County Service areas which provide a refuse collection service, which was in existence prior to the effective date of this agreement;

B. Commercial Account Exceptions:

1. All other Commercial accounts for which a contract for refuse collection services with another franchisee exists, only for the duration of those contracts, which in no event shall exceed 1999.

C. Planned Unit Development (P.U.D.) Exceptions:

All P.U.D. accounts ** in unincorporated areas as defined in Resolution 94-143 where Franchisee holds contracts for service; See attached list (Exhibit B2) to be provided by Franchisee

** Franchisee agrees to work with the Director to negotiate a transfer of these P.U.D. accounts to Franchisee where P.U.D. is located when possible. Evidence of existing contracts may be required by County. If exchanges can not be negotiated, service provisions remain on a competitive basis under the current Refuse Rate Resolution and Ordinance 657.

Hauler Franchise Area 10

(North)

Beginning at the northwest Corner of Section 6 T. 2 S., R. 4 E., S.B.M., said point also being the northerly boundary of Riverside County;

Thence Easterly along the northerly boundary of Riverside County to the northeast Corner of Section 4 T. 2 S., R. 5 E.;

Thence Southerly along the Easterly line of Sections 4, 9, 16, and 21 T. 2 S., R. 5 E. to the intersection of the Colorado River Aqueduct;

Thence Southeasterly along the Colorado River Aqueduct to Long Canyon Rd;

Thence Southwesterly along the centerline of Long Canyon Rd to the Easterly line of Section 4 T. 3 S., R. 5 E.;

Thence Southerly along the Easterly line of Sections 4, 9, 16, 21 and 28 T. 3 S., R. 5 E., to the Northerly city limits of Cathedral City;

Thence Northwesterly following the city limits of Cathedral City to its intersection with the city limits of the City of Palm Springs;

Thence Northwesterly along the Northerly city limits of Palm Springs to the Northwest Corner of Section 24 T. 3 S., R. 3 E.;

Thence Northerly along the Westerly line of Sections 13 and 12 T. 3 S., R. 3 E., to the Northwest Corner of said Section 12;

Thence Easterly along the Northerly line of Section 12 to the Northeast Corner of Said Section, also being on the West line of T. 3 S., R. 4 E.;

Thence Northerly along the West Township lines of T. 3 S., R. 4 E., and T. 2 S., R. 4 E., to the Northwest Corner of Section 6 T. 2 S., R. 4 E., the point of beginning.

(South)

Beginning at the Northwest Corner of Section 18 T. 4 S., R. 4 E., S.B.M., said point also being on the Southerly boundary of the city of Palm Springs;

Thence Southeasterly along the Southerly boundary of the city of Palm Springs

to the Southeast Corner of Section 35 T. 5 S., R. 4 E., also being on the Southerly Township line of T. 5 S., R. 4 E.;

Thence Westerly along the Southerly township line of T. 5 S., R. 4 E., to the Southwest Corner of Said Township;

Thence Northerly along the Westerly township lines of T. 5 S., R. 4 E., and T. 4 S., R. 4 E., to the Northwest Corner of Section 18 T. 4 S., R. 4 E., the point of beginning.

The boundaries described herein specifically exclude any territory assigned by franchises to other haulers in areas 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12 and 13. Also excludes any areas within City boundaries.

qpw\rivcnty\comlacts\rev.4-22-98		
County Commercial Bin Customers		
Service Name	Service Address	Pick Up
Lorraine Kennard	16510 Bennett Rd.	1/2 - 1X
Miracle Acres	17405 Corkill Rd.	2/3 - 2X
Corkill Palms M/H Park	17640 Corkill Rd.	2/3 - 2X
Desert Springs Spa	17325 Johnson Rd.	1/3 - 3X
Rainbow Spa	17777 Langlois Rd.	2/4 - 3X
Sparkling Waters Spa	17800 Langlois Rd.	3/3 - 2X
Healing Waters Trl. Park	18131 Langlois Rd.	6/3 - 2X

EXHIBIT C
CERTIFICATES

This Exhibit is for the exclusive franchise held by
Desert Valley Disposal, Inc.

Attached, as specified in the Agreement, are the Franchisee's: 1) certificates of insurance; 2) copy of performance bond, and; 3) copy of financial statements.

Note: Since negotiated franchises are only being offered to existing permitted haulers who have complied with existing County standards, the attachment of these Certificates will not be required with the initial Franchise proposal, but will be required prior to execution of the Franchise by the County Board of Supervisors.

Haulers should anticipate having the referenced documents available for review by staff approximately two weeks after submission of the proposal.

EXHIBIT D**REPORTING REQUIREMENTS****1. GENERAL**

The Franchisee shall provide disposal tonnage tracking, and quarterly and annual reporting as outlined in this Exhibit; however, the Department and the District reserve the right to request additional information as necessary to meet their needs, including but not limited to the AB 939 reporting requirements. All information included in the reports shall be provided according to the source of generation. Waste generator types are defined as follows:

Residential - Solid waste, recyclables and green waste originating from single-family and from multi-residential units.

Commercial/Industrial - Solid waste, recyclables and green waste from commercial and industrial sources.

Construction/Temporary Bin/Rolloff - All solid waste or other materials placed in debris boxes.

Annual Cleanup - Solid waste and other materials collected through the annual cleanup.

Data and information pertaining to services performed under this franchise upon submittal to the Department become the property of the Department.

2. DISPOSAL TONNAGE TRACKING

Franchisee shall submittal completed ticket transactions to the District as required by the Countywide Disposal Tonnage Tracking System (CDTTS). Tickets, with waste origin information, must be received by the District within five (5) business days of the landfill transactions {the day of transaction being the first (1st) business day}. If these tickets and correct information are not received within the specified period of time, a penalty of twenty-five dollars (\$25.00) may be assessed by the District and placed on Franchisee's monthly billing, for each day's delinquencies as described in the CDTTS Procedure Manual and Riverside County Waste resources Management District Ordinance No. 1.

3. QUARTERLY REPORTS

The Franchisee shall submit quarterly reports no later than one month following the completion of each quarter. The first report is due by April 30, 1999 and shall cover the period from the

1 effective date of this Agreement through the end of each quarter.

2
3 The quarterly reports shall include the information collected and summarized on a monthly basis.
4 Specifically, Franchisee shall provide the following quarterly reports:

- 5
6 1. Collection information
7 2. Service performance
8 3. Program implementation
9

10 **Collection Information**

11
12 The Franchisee shall provide a quarterly report that lists the quantity of solid waste collected by
13 month and the number of accounts serviced monthly. The quantities of solid waste, recyclables
14 and green waste collected shall be reported in terms of tonnage (or cubic yards if tonnage
15 information is not available). The Department may, at its discretion, also require reporting by
16 volume. The Franchisee shall clearly specify any assumptions made in reporting the tonnage or
17 cubic yard information such as density factors.
18

19 **Service Performance**

20
21 The Franchisee shall provide a report summarizing the entries made in the service log including
22 all praises, complaints, and notifications of missed pickups, and the Franchisee responses thereto.
23 The summary report shall identify the total number of all written or oral Customer comments
24 and shall provide the number of comments received in the following categories: praises, litter or
25 property damage complaints, misplacement of containers, stolen containers, personnel
26 complaints, missed pickups, and other.
27

28 **Program Implementation**

29
30 The Franchisee shall submit a report summarizing the problems or barriers to implementation of
31 services for the quarter. The report shall address how the problems and barriers were overcome
32 or the proposed resolutions and schedule for correcting the problem.
33
34

35 **4. ANNUAL REPORTS**

36
37 The Franchisee shall submit annual reports to the Department no later than January 31 of each
38 year. The Franchisee will be responsible for providing the following reports:
39

- 40 1. Summary reports
41 2. Equipment inventory
42 3. Future programs
43 4. Litigation information
44

Summary Reports

The Franchisee shall provide a summary of information contained in the quarterly reports. The summary reports shall clearly indicate the diversion rate for each waste sector type. The diversion information provided shall include quantities of materials collected, and if processed by non-system facilities, the quantities recycled and composted in tons (or cubic yards if tonnage information is not available) for each waste generator type. In this report, the Franchisee shall note unusual changes in disposal quantities and indicate potential reason(s) for this change. The summary report shall include a discussion of noteworthy experiences, and any problems in program operation and how they were resolved.

Equipment Inventory

The Franchisee shall provide a complete inventory of collection equipment and other major equipment. The inventory list shall indicate the age of the equipment.

Future Programs

The Franchisee shall prepare a report that identifies any future programs and/or facilities that may be needed but have not been planned for.

Litigation Information

The Franchisee shall submit declarations of the current status of any pending criminal or civil litigation against the parent company and all subsidiaries of parent company that may have an effect on the Franchisee's ability to meet the obligations of the Agreement or provide a satisfactory level of service.

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EXHIBIT E

ATTACHMENT 1

PROCEDURES FOR BILLING AND COLLECTION

The Franchisee shall adhere to the following procedures for billing and collection of rates for services provided under the terms the Agreement:

"Non-Comprehensive Collection":

Residential Premises:

- Residential customers shall be billed quarterly in advance;
- Payment of statement shall be due upon receipt;
- A reminder notice shall be sent when bills are thirty (30) days past due;
- Statements thirty or more days past due shall be subject to a delinquency fee of one and one-half percent (1 1/2%) of the unpaid balance;
- Accounts unpaid after sixty (60) calendar days shall be terminated;
- Reinstatement of stopped service shall require payment of all delinquent charges, including delinquency fees, and a Reinstatement Fee of \$35.00.

Commercial Premises:

- Commercial customers (including Multi- Residential premises utilizing bin service) shall be billed monthly at the end of the month for services rendered during the month;
- Payment of statement shall be due upon receipt;
- A reminder notice on any unpaid balance shall be included on the following month's statement for which a prior balance is due;
- Statements forty (40) or more days past due shall receive a Stop Notice informing customer that service will be discontinued if payment in full is not received within fifteen (15) days of the date of the notice;
- Failure to make timely payment shall result in service being stopped and Franchisee-provided containers removed if all amounts owed are not paid within fifteen days of the date of the Stop Notice;
- Reinstatement of stopped service shall require full payment of all delinquent charges, including delinquency fees, a Reinstatement Fee of \$35.00, and a Bin Redelivery Charge of \$30.00 per container.

Roll-Off Boxes:

- Unless by other arrangement, payment of all fees and charges for Roll-Off Box service shall be required in advance.

"Comprehensive Collection":

Residential & Commercial Premises:

- Billing and Collection shall be in accordance with the provisions of Ordinance No. 745.1.

/

Roll-Off Boxes:

- Unless by other arrangement, payment of all fees and charges for Roll-Off Box service shall be required in advance.

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COLLECTION RATES

Refer to the Rate Binder (for all franchise areas) for current rates

EXHIBIT F

RATE ADJUSTMENT MECHANISM

All Rate adjustments must receive approval by the Board of Supervisors following public hearings.

1. ANNUAL RATE ADJUSTMENT

The Schedule of Approved Rates provided in **Exhibit E** shall be adjusted annually following public hearings and according to the following methodology. The rate shall be adjusted annually each July 1st with the first such adjustment occurring July 1, 1999. Said adjustment shall be no greater than the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Los Angeles/Anaheim/Riverside Metropolitan Area, (1982 - 84 = 100), as published by the United States Department of Labor, Bureau of Labor Statistics. For those residential curbside accounts for which a reduce rate is provided pursuant to Exhibit E of this Franchise Agreement the above adjustment factor may be increased by an additional three percentage points until such time as those rates have equaled the regular curbside residential rates for each type of service.

Said change shall be measured for the twelve (12) month period January through December. The first adjustment shall be effective July 1, 1999, based upon changes in the consumer Price Index formula for the period January 1998 through December 1998. In calculating the rate changes, the change in the CPI shall not be applied to the portions of the rate attributable to pass through items, including but not limited to disposal fees, Green Waste diversion tip fees, Franchise Fees, Illegal Dumping Retrieval Fees, and other local, state, and federal fees. District direction of the Franchisee to use a different System Facility for more than seven (7) consecutive days but no more than thirty (30) consecutive days at a time that involves a change in round trip time or distance will also be considered at the time of the annual rate adjustments. Any adjustments made in this latter instance will only impact the rate for a one year period in order to recover any additional costs incurred by Franchisee during the previous year.

Pass through items shall be adjusted based upon the actual expenses or costs related to that item: revisions to the disposal fee portion of the rate shall be based on disposal costs and the appropriate tonnage amounts as determined through the disposal tonnage tracking requirements.

2. PERIODIC RATE ADJUSTMENT MECHANISM

The Department reserves the right to review the Franchisee's rates every three years from the effective date of this Agreement if the Franchisee's rates exceed the then average rates for comparable services in comparable jurisdictions, as determined by the Department in its reasonable discretion. In the event that the Department makes such a determination the Franchisee's rates may be adjusted to any level at or above the average rates in the comparable jurisdictions.

1 **3. EXTRAORDINARY RATE REVIEW**

2
3 **A.** The Director or Franchisee may initiate a special rate review by the Department
4 should an extraordinary event or circumstance arise which has a significant impact on the
5 economic operation of the Franchisee or the rates charged to customer as follows:
6

- 7 1. An event or circumstance (including changes in law) occurs which is
8 beyond the control of Franchisee or County.
- 9 2. Changes to operations mandated by the County or proposed by Franchisee
10 and approved by the County.
- 11 3. Any change in disposal/Green Waste tip fees.
- 12 4. The District directs Franchisee to use a different System Facility for more
13 than thirty (30) days that involves a change in round trip time or distance.
- 14 5. The County modifies the franchise fee.
- 15 6. Significant changes in the level of delinquent accounts in Comprehensive
16 Collection Areas.
- 17 7. Significant increases in the number of customer accounts due to
18 development or growth.
- 19 8. Other circumstances at the discretion of the Director or the Board of
20 Supervisors.

21
22 **B.** Should Franchisee request a special rate review only those costs related to the
23 circumstance(s) which warrant consideration of a special rate review, as specified above, will be
24 reviewed and considered.

25
26 **C.** Franchisee must submit its request for a special review of service rates, and all
27 appropriate cost and operational information at least three months prior to the proposed effective
28 date of any rate adjustment.
29

EXHIBIT G**HAZARDOUS WASTE AND MATERIALS SCREENING****I. SURVEILLANCE**

Franchisee will screen all loads of Solid Waste, Recyclables, and Green Waste, using mirrors on the vehicles and direct means of inspection where appropriate, at the point of collection to eliminate, where practicable, the transport of hazardous wastes. Hazardous wastes found at the point of collection will not be collected and the generator and the Department of Environmental Health will be notified of the incident.

Hazardous waste shall be transported in accordance with the regulations of the Department of California Highway Patrol (Title 13, CCR), the regulations of the federal Department of Transportation (DOT)(Title 49, Code of Federal Regulations), the regulations of the U.S. Environmental Protection Agency (Title 40, Code of Federal Regulations), the regulations of the California Occupational Health and Safety Administration (Title 8, CCR), and the regulations of the California Department of Toxic Substances Control (Title 22, CCR). This section shall not be construed to exempt the Franchisee from any other applicable law, or from any other regulation unless expressly stated.

All records, plans and/or other documents kept on file by the Franchisee to meet the above mentioned requirements will be made available to the County upon request.

II. HAZARDOUS WASTE RESPONSE

In the event that any hazardous or suspected hazardous waste is commingled with the solid waste stream, the Franchisee shall take immediate and appropriate action to contain and isolate the load and contact the County Hazardous Materials Management Division of Environmental Health. Ongoing training programs will consist of monthly safety meetings for all drivers, mechanics, and other support personnel, including the recognition of hazardous materials and hazardous situations that may require assistance from, or notification to, County Hazardous Materials personnel.

Procedures for Handling Hazardous Waste

The procedure for handling hazardous materials will be as follows:

Notification of suspected hazardous waste in the waste stream will be communicated from the driver to the dispatch center.

1 Dispatch will notify the field supervisor to determine appropriate response.
2 Dispatch will notify the Department's Hazardous Materials Division at (909)358-
3 5055, and shall request that they inspect any materials suspected of containing
4 hazardous waste. A determination will be made by the Hazardous Materials
5 personnel whether the Hazardous Materials Emergency Response Team should be
6 called in to assist in handling the waste.
7

8 Coordinating instructions will be issued by personnel from the Department's
9 Hazardous Materials Management Division based on their findings and
10 recommended actions.
11

12 Dependent on the determination of Hazardous Materials personnel, the suspected
13 hazardous materials may require segregation and containerizing to prepare for
14 manifesting and transport.
15

16 For situations that require specialized equipment or involve extremely large
17 amounts of material, a permitted hazardous materials transport company may be
18 contacted to assist in the cleanup. Management shall be available during any
19 incidents requiring cleanup to authorize the expenditure of funds.
20

21 The appropriate enforcement actions will be coordinated with the Hazardous
22 Materials Management Division to determine if the generator can be identified.
23

24 The specific procedures to be followed, if suspected or known hazardous waste is believed to be
25 in waste already picked up, shall include those steps specified in the attached Guidance
26 Document entitled Hazardous Waste Screening and Response as developed by the County of
27 Riverside, Department of Environmental Health, Hazardous Materials Management Division
28 (HMMD).
29

EXHIBIT H

DIVERSION SERVICES

At any time during the term of this agreement, upon one hundred and eighty (180) days written notice from the Director, Franchisee shall provide collection of Green Waste from Residential units throughout, or in designated portions of it's exclusive Franchise Area. Franchisee's rates for this service shall be as established in Exhibit E as adjusted by the methodology established in exhibit F. The rates as shown in exhibit E are to be applied only to customers in the areas designated by the Director. If the Franchise has proposed green waste rates based on automated service, manual green waste collection may be utilized, at the Franchisee's discretion, for up to one year from the implementation of the source separated green waste collection program.

{This balance of this Exhibit to be completed by Franchisee}

EXHIBIT H

DIVERSION SERVICES

Franchisee shall provide the following diversion services:

1. Minimum Services.

a. Residential.

- 1.) Recyclables. Weekly curbside collection of aluminum beverage containers, newspaper, clear and colored glass containers, PET & HDPE plastic beverage containers, and metal cans.

2. Optional Services.

a. Residential.

- 1.) Green Waste. Weekly curbside collection from customer-provided containers (plastic bags not permitted) of green waste (leaves, grass clippings, weeds, branches up to 6 inches in diameter and 4 feet in length) for composting.

b. Commercial.

- 1.) Recyclables. Periodic collection of aluminum beverage containers, newspaper, corrugated cardboard, clear and colored glass containers, PET & HDPE plastic beverage containers, metal cans, ledger paper, office paper, and other materials as appropriate.
- 2.) Green Waste. Periodic collection of green waste for composting.

3. Possible Future Services.

a. Commercial.

- 1.) Food Waste. Collection of source separated food waste.

FORM 5
DIVERSION PROPOSAL

Franchisee proposes the following diversion programs. Estimated diversion percentages are calculated by dividing the annual weight of Recyclables and Greenwaste diverted by Franchisee's diversion programs by the total weight of all materials (including Solid Waste, Recyclables and Greenwaste) collected by Franchisee under this agreement.

Residential Unit Recycling (Curbside)	<u>6.0</u>	%
Multi residential Unit Recycling	<u>0</u>	%
Commercial Recycling	<u>5.0</u>	%
Residential Unit Greenwaste Collection	<u>6.7</u>	%
Other _____	_____	%
_____	_____	%
_____	_____	%
Total Diversion (with Green Waste)	<u>13.3</u>	%
Total Diversion (W/O Green Waste)	<u>6.6</u>	%

Hauler reserves the right to substitute alternate viable diversion programs for those shown herein which achieve the aggregate equal or greater diversion results.