

**Attachment F – First Amendment to
Franchise Agreement 9-2-14**

**FIRST AMENDMENT TO FRANCHISE AGREEMENT BETWEEN THE CITY OF
CUPERTINO AND RECOLOGY CUPERTINO FOR COLLECTION AND
PROCESSING OF RECYCLABLE AND COMPOSTABLE MATERIALS, AND THE
COLLECTION AND DISPOSAL OF GARBAGE**

This First Amendment to the Franchise Agreement between the City of Cupertino and Recology Cupertino for Collection and Processing of Recyclable and Compostable Materials, and the Collection and Disposal of Garbage ("First Amendment"), for reference dated September 2, 2014, is by and between the CITY OF CUPERTINO, a municipal corporation ("CITY") and Recology Cupertino, a California corporation, ("Franchisee"), and is made with reference to the following:

RECITALS:

- A. On May 18, 2010, a Franchise Agreement for Collection and Processing of Recyclable and Compostable Materials, and the Collection and Disposal of Garbage was entered into by and between CITY and Franchisee ("Agreement").
- B. CITY and Franchisee desire to modify the Agreement as set forth in detail below.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

- 1. Article 2 –Term of Agreement, Sections 2.1 and 2.2 are modified and a new Section 2.3 is added to read as follows:

2.1 Term - The term of this Agreement shall be for eight years and three months, from 12:00 A.M. on November 1, 2010 to 11:59 P.M. on January 31, 2019, inclusive, subject to Article 16 of this Agreement.

2.2 Option to Negotiate New Agreement -- Franchisee shall have the option to negotiate a new ten year agreement that may begin as early as 12:00 A.M. on January 31, 2017 and end at 11:59 P.M. on January 31, 2027 if it has:

- 2.2.1 Achieved a sixty percent (60%) commercial and multi-family diversion rate by November 1, 2016 (as calculated in Exhibit H); and achieved a minimum seventy-five percent (75%) diversion rate under the terms of this Agreement for calendar year 2015, based on CalRecycle's diversion rate equivalent (DRE) for both residential and commercial sectors (as calculated in Exhibit H). CalRecycle's calculation of the City's DRE for 2015 should be available by November 1, 2016, after submittal of the City's annual report data in August 2016, and;
- 2.2.2 Cooperatively and proactively worked with City to develop programs to increase diversion, reduce contamination and provide all food service establishments (grocers, restaurants, hotels, high tech companies with large cafeterias etc.) generating four (4) cubic yards or more of total waste per week with bins and collection service for organics composting by January 1, 2016 and;
- 2.2.3 Cooperatively and proactively worked with City in connection with limited rate increase requests for residential and non-residential services so that the cost of organics processing to the City, subject to Article 12 of this Agreement, incorporates efficiencies identified in City directed and paid audits and;
- 2.2.4 Notified City of its intent to exercise this option in writing, on or before September 31, 2016.

2.3 City's Right to Extend or Negotiate New Agreement - In response to Franchisee's exercise of the above option, City, at its sole discretion, may choose to extend, or not extend, the Term of this Agreement, or negotiate a new agreement, and shall notify Franchisee of its intent within sixty (60) days of the Franchisee's request for an option to negotiate an extension or new agreement.

- 2. Article 4 --Collection Services, Sections 4.3.3, 4.4.2, 4.4.3, 4.4.5, 4.4.6., 4.4.7, 4.71, 4.8.1, 4.8.2, 4.8.3, 4.9.1, 4.9.2, 4.9.3, 4.11, and 4.17, are modified, and

new Sections 4.4.4 and 4.5.6 are added to read as follows:

4.3.3 Recyclable Materials Overages (Residential) - Franchisee shall collect all Recyclable Materials properly prepared and set out for collection by the Service Recipient each week. Service Recipient may set flattened and bundled cardboard boxes, which are too large to fit in the Recyclable Materials Container, next to the container, provided they do not exceed 3 feet by 3 feet and are securely tied together.

Franchisee shall collect such cardboard boxes on the day Franchisee collects Recyclable Materials from the Service Recipient. Franchisee shall have no obligation to collect Recyclable Materials Overages where Recyclable Materials are not set out in Recyclable Materials Containers, or if cardboard boxes are not set out as provided above or where the combined weight of the Recyclable Materials and cardboard exceeds sixty (60) pounds.

At no additional charge and pursuant to Section 4.3.2, Franchisee shall provide a sufficient number of additional Recyclable Materials Containers to Service Recipients to accommodate all recyclables regularly generated. If Service Recipients regularly generate more Recyclable Materials than will fit in their Recyclable Materials Containers, Franchisee will contact Service Recipient within two (2) working days of the observation to encourage Service Recipients to request additional containers. Franchisee will contact City within two (2) working days if Service Recipient declines an additional Recyclable Materials Container. Franchisee shall deliver to Service Recipient or City requested additional Recyclable Materials Containers within five (5) Working Days of the request.

4.4.2 Compostable Materials Containers (Residential) – Franchisee shall provide a new or refurbished Compostable Materials Container at no additional charge to each Residential Service Recipient that does not already have one. These Compostable Materials Containers shall be delivered by Franchisee within five (5) working days of Request by the Residential Service Recipient.

Compostable Materials Containers removed by the Franchisee by mistake, for repair and replacement, or cleaning shall be replaced by Franchisee within five (5) working days of their removal.

Franchisee shall provide to all "Yard Waste Exempt" accounts either a 20-gallon or 32-gallon Compostable Materials Container at no additional charge to the Service Recipient. By November 2014, Franchisee will place graphics-based organic/food scrap stickers on all residential organic carts to promote diversion of compostable material.

Compostable Materials Containers provided by Franchisee shall be labeled for "Compost" and "Property of the City of Cupertino" and shall not be marked with the Franchisee's name or logo. All Compostable Materials Containers provided by Franchisee to Residential Service Recipients pursuant to this Agreement shall become the property of the City at the termination of this Agreement.

Compostable Materials shall be collected from Franchisee supplied Compostable Materials Containers. The combined weight of the container and the Compostable Materials shall not exceed one hundred fifty (150) pounds. Compostable Materials Containers must be placed for collection adjacent to the Recyclable or Garbage Containers by the Residential Service Recipient.

To promote maximum diversion, Franchisee shall deliver additional Compostable Materials Containers within five (5) Working Days from the date of the Residential Service Recipient's or the City's request. At no additional charge and pursuant to this Section, 4.4.2, Franchisee shall provide a sufficient number of additional Compostable Materials Containers to accommodate all compostable materials regularly generated.

4.4.3 Non-Collection - Franchisee shall not be required to collect any Compostable Materials that are not set out on a public street or other accessible location, in accordance with the Municipal Code, or in conformance with Section 4.4.2 of this Agreement. If the Compostable Materials are too contaminated to process, Franchisee shall leave a Contamination Notice and collect the material as Garbage. , Loads

collected as Compostable Materials shall not be landfilled or rejected at the processing facility. Only residue from processing Compostable Materials may be landfilled.

4.4.4 Compostable Materials Overages (Residential) - At no additional charge and pursuant to Section 4.4.2, Franchisee shall provide a sufficient number of additional Compostable Materials Containers to residential Service Recipients to accommodate all compostables regularly generated. If residential Service Recipients regularly overflow their Compostable Materials Containers, Franchisee will contact residential Service Recipient within two (2) working days of the observation to encourage residential Service Recipients to request additional containers. Franchisee will contact City within two (2) working days if residential Service Recipient declines an additional Compostable Materials Container. Franchisee shall deliver to residential Service Recipient or City requested additional Compostable Materials Containers within five (5) Working Days of the request.

4.4.5 Christmas Tree Collection - As part of the Compostable Materials Collection Program, Franchisee shall collect, on the normal Compostable Materials Collection schedule, all unornamented Christmas trees which are set out next to the Compostable Materials Containers in the first twenty-eight (28) calendar days following December 26 of each year for the term of this Agreement. Franchisee shall not be required to collect ornamented trees, nor shall Franchisee be required to collect trees, or parts of trees, which are over six (6) feet in length.

4.4.6 Home Compost Bins -- To reduce the amount of Compostable Materials requiring collection and processing, Franchisee shall offer four (4) 1-hour back-yard composting classes per year for Cupertino residents, at dates and locations selected by City. Franchisee shall offer a free SOILSAVER backyard composter to each household that attends a composting class. Residents who attend the class may have the composter delivered to their house free of charge by Franchisee within five (5) Working Days of the class.

Franchisee shall, during the term of this Agreement, be entitled to reimbursement from City for the actual cost of each bin delivered to households (not to exceed \$100 per bin).

4.4.7 Yard Waste Exempt Properties – Property owners that can demonstrate that they have no yard waste to dispose of may request an exemption from the fees related to the collection of compostable materials, as listed in EXHIBIT B. Per Section 4.4.2, Franchisee shall provide to all “Yard Waste Exempt” accounts either a 20-gallon or 32-gallon Compostable Materials Container at no additional charge to the Service Recipient.

4.5.6 – Litter Prevention–Franchisee will partner with the City in the Zero Litter Initiative (ZLI) and assist the City as provided herein in preventing violations of the City’s Litter Prevention and Enforcement ordinance (Cupertino Municipal Code Section 9.18.215). Franchisee will report any Garbage Container, Recyclable Materials Container, or Compostable Materials Container overflows to the City within one (1) Working Day of the observation to ensure a timely response by City to a litter discharge. If Service Recipients regularly overflow their Garbage, Recyclable Materials, or Compostable Materials Container, Franchisee will contact Service Recipient within two (2) working days of the observation to encourage increased service and to provide education and proper use of provided Containers. City staff will contact the Residential Service Recipient to inform them about the City’s Municipal Code requirement to contain Garbage, Recyclable Materials and Compostable Materials in the designated Container with the lid closed to prevent litter.

4.7.1 Frequency of Collection -- Franchisee shall provide appropriate Garbage Containers to each Non-Residential Service Recipient based on the level of service for which the Non-Residential Service Recipient has subscribed. Franchisee shall collect Garbage from each Non-Residential Garbage Container at least once-per-week and as often as subscribed for by the Non-Residential Service Recipient. Collection shall be made from Non-Residential Garbage Containers placed at an accessible point of service selected by the Service Recipient.

If a Non-Residential Service Recipient has not subscribed for sufficient service to prevent overages on a normal basis, Franchisee shall notify the

Non-Residential Service Recipient within two (2) Working Days to encourage them to increase service. If the Non-Residential Service Recipient does not increase service to provide sufficient service to prevent overages on a normal basis, Franchisee shall notify the City's Representative within two (2) Working Days, and provide details of the contact to request the Service Recipient to increase service.

Franchisee will partner with the City in the Zero Litter Initiative (ZLI) and assist the City in preventing violations of the City's Litter Prevention and Enforcement ordinance (Cupertino Municipal Code 9.18.215). Franchisee will report any Non-Residential Garbage Container, Recycling Materials Container or Compostable Materials Container overflows to the City within one (1) Working Day of the observation to ensure a timely response by City to a litter discharge.

4.8.1 Frequency of Collection (Non-Residential Recyclable) -- Franchisee shall provide Recyclable Materials collection services at no additional cost to all Service Recipients that subscribe for Non-Residential Garbage service. Franchisee shall collect all Recyclable Materials listed in EXHIBIT A from each Non-Residential Service Recipient as often as necessary to minimize overages. To encourage diversion, Franchisee shall match or exceed volume and frequency of Recyclable Materials collection service to each Non-Residential Service Recipient as compared to Garbage collection service subscribed for by such Non-Residential Service Recipient.

If Service Recipients decline Recyclable Materials Collection service, Franchisee will notify City within two (2) Working Days.

Franchisee shall add collection routes and days, including weekends, if necessary to adequately provide collection service to all Service Recipients in accordance with this Agreement.

4.8.2 Non-Residential Recyclable Materials Overages - In the event a Non-Residential Service Recipient has a greater quantity of Recyclable Materials than can normally be contained in the appropriate containers provided by Franchisee, Franchisee shall provide the Service Recipient, at Franchisee's own cost and expense, additional containers or more

frequent collection service from among the range of service options listed on EXHIBIT B.

At no additional charge and pursuant to Section 4.3.2, Franchisee shall provide a sufficient number of additional Recyclable Materials Containers to Service Recipients to accommodate all recyclables regularly generated. If Service Recipients regularly overflow their Recyclable Materials Containers, Franchisee will contact Service Recipient within two (2) working days of the observation to encourage Service Recipients to request additional containers. Franchisee will contact City within two (2) working days if Service Recipient declines an additional Recyclable Materials Container. Franchisee shall deliver Service Recipient or City requested additional Recyclable Materials Containers within five (5) Working Days of the request.

4.8.3 Non-Collection - Franchisee shall not be required to collect any Recyclable Materials that are not placed in Recyclable Materials Containers by Non-Residential Service Recipients. Franchisee shall report to the City all loads of contaminated recyclable materials generated by a Non-Residential Service Recipient within two (2) working days of the driver observing the contaminated load. The City will contact the Service Recipient and work with the Service Recipient to prevent further contaminated loads by providing education and assistance to the Non-Residential Service Recipient. Significantly contaminated loads may be processed as Garbage.

4.9.1 Frequency of Collection (Non-Residential Compostable Materials) - Franchisee shall provide Compostable Materials collection services to all Non-Residential Service Recipients that do not decline this service. Franchisee will notify City within two (2) Working Days if a Non-Residential Service Recipient declines Compostable Materials service. Franchisee shall be entitled to charge Non-Residential Service Recipients that subscribe for Compostable Materials collection services not more than the rate charged for an equivalent level of Garbage service, as set forth in EXHIBIT B.

Franchisee shall contact Non-Residential Service Recipients that subscribe for Garbage service and discard significant quantities of Compostable

Materials (including, but not limited to, restaurants, businesses with large employee cafeterias, markets and grocery stores, delis and sandwich shops, and florists) and enroll them in the Compostable Materials collection program by providing them an appropriate collection container and reducing their Garbage service level. Franchisee shall ensure that the total cost to such Service Recipients of Garbage service and Compostable Materials service combined will not increase due to the substitution of Compostable Materials capacity for Garbage capacity, so long as the Service Recipient does not increase the total amount of materials discarded.

Franchisee will assist the Service Recipient in subscribing for appropriate container volumes and frequency of collection so that the Service Recipient is adequately served given the space available. Franchisee shall add collection routes and days, including weekends, to adequately provide collection service to all Service Recipients impacted by lack of space for additional containers.

Franchisee shall provide Compostable Materials Containers to each Non-Residential Service Recipient in accordance with the service level subscribed for by the Non-Residential Service Recipient. Franchisee shall collect Compostable Materials from each Non-Residential Compostable Materials Container as often as subscribed for by the Non-Residential Service Recipient.

4.9.2 Compostable Materials Overages - If a Non-Residential Service Recipient has not subscribed for sufficient service to prevent overages on a normal basis, Franchisee shall notify the Non-Residential Service Recipient and the City.

At no additional charge, Franchisee shall provide a sufficient number of additional Compostable Materials Containers to Service Recipients to accommodate all compostables regularly generated. If Service Recipients regularly overflow their Compostable Materials Containers, Franchisee will contact Service Recipient within two (2) working days of the observation to encourage Service Recipients to request additional containers. Franchisee will contact City within two (2) working days if

Service Recipient declines an additional Compostable Materials Container. Franchisee shall deliver Service Recipient or City requested additional Compostable Materials Containers within five (5) Working Days of the request. Franchisee shall ensure that the total cost to such Service Recipients of Garbage service and Compostable Materials service combined will not increase due to the substitution of Compostable Materials capacity for Garbage capacity, so long as the Service Recipient does not increase the total amount of materials discarded.

4.9.3 Non-Collection - Franchisee shall not be required to collect any Compostable Materials that are not placed in Compostable Materials Containers. Franchisee shall report to the City all loads of contaminated compostable materials generated by a Non-Residential Service Recipient within two (2) working days of the driver or processor observing the contaminated load. The City will contact the Service Recipient and work with the Franchisee and the Service Recipient to prevent further contaminated loads by providing education and assistance to the Service Recipient. Contaminated loads may be processed as Garbage.

4.11 City-Wide Recycling Events – Four (4) times each year, on a schedule and at locations mutually agreed upon by Franchisee and City, Franchisee will provide a city-wide recycling event for residents of City. Franchisee shall provide sufficient equipment to collect and remove from the agreed-upon locations all acceptable wastes delivered by residents.

Franchisee shall handle all materials received in a manner that will ensure the maximum amount practicable of materials will be recycled, composted or otherwise diverted from landfill. Franchisee shall provide such city-wide recycling events in accordance with EXHIBIT D of this Agreement.

4.17 Household Hazardous Waste Collection – On behalf of City, Franchisee shall continue the existing agreement with a third party (the “Household Hazardous Waste Collector”) to provide a Household Hazardous Waste Program. The HHW Collector shall be responsible for all aspects of the HHW Program. Under no circumstances shall Franchisee be required to collect household hazardous waste, except as specifically provided elsewhere in this Agreement.

The HHW Collector shall be Waste Management (f/k/a Curbside Inc.). The specifications of the HHW Program offered by Waste Management are set forth in EXHIBIT I.

The City may terminate the HHW Program at any time upon ninety (90) days prior written notice to Franchisee. Franchisee may replace the HHW Collector at any time with a new HHW Collector reasonably acceptable to City.

The HHW Program shall be funded by means of the Household Hazardous Waste Fee, which shall be approved by City, collected from Residential Service Recipients by Franchisee, and remitted to the HHW Collector. Franchisee may terminate the HHW Program and its agreement with the HHW Collector if at any time City does not approve the Household Hazardous Waste Fee required to fund the HHW Program.

3. Article 6 – Collection Equipment Section 6.1.1, is modified to read as follows:

6.1.1 General Provisions - All collection equipment used by Franchisee in the performance of this Agreement shall be of high quality. The vehicles shall be designed and operated so as to prevent Recyclable Materials, Compostable Materials, Garbage, Litter and any other materials from escaping from the vehicles. The vehicles shall be designed and operated to minimize any negative environmental impacts caused by their operation, especially air quality impacts. Franchisee shall replace at least one (1) diesel powered collection vehicle in the first month of each calendar year with a new compressed natural gas (CNG) collection vehicle. The first replacement CNG vehicle shall be utilized beginning January 2015.

All new collection vehicles shall include the best available shielding technology to prevent litter during normal collection and transportation operations.

4. Article 12 – Franchisee’s Compensation Collection Equipment, Section 12.4, is modified to read as follows:

12.4 Rate Request for Compostable Materials Processing – Franchisee may propose a rate adjustment for Non-Residential Service Recipients if necessary to cover any increased cost of processing collected commercial Compostable Materials. However, the City retains the right to approve, disapprove or modify any such rate proposal. Franchisee’s report will include revenue collected as a result of this exclusive Franchise Agreement and all costs associated with processing of Compostable Materials at the South Valley Organics facility. Franchisee’s report will include revenue collected as a result of this exclusive Franchise Agreement and all costs associated with processing of Compostable Materials at the South Valley Organics facility.

Increases in revenues to Franchisee from sale of Recyclable Materials (above the revenues from the first year of this Agreement) and from sale of products produced from Compostable Materials Processing shall be used to partially offset the increases in Compostable Materials Processing costs identified in subsequent years.

To evaluate any such changes in cost, the City will direct and pay for an audit to establish year 2010 and year 2014 Franchisee’s cost and revenue. The audit will include, but will not necessarily be limited to, quantifying increased cost of processing commercial organics, if any; quantifying revenue collected as a result of this exclusive Franchise Agreement; and itemizing costs associated with processing of Compostable Materials at the South Valley Organics facility.

Franchisee will provide the City with annual reports (by March 2 each year, for the period of January 1 through December 31 of that year) using the same metrics as used in the City’s audit, and showing Franchisee’s actual costs to process Compostable Materials. Franchisee will assist and accommodate City directed and paid audits as necessary to determine any incremental rate increases that may be necessary to fund the Compostable Materials processing services. After providing actual costs and projections, Franchisee may prepare a written request for a rate increase for the City Council’s consideration. Increases in revenues to Franchisee

from sale of Recyclable Materials and from sale of products produced from Compostable Materials shall be used to offset the increases in Compostable Materials Processing costs.

If Franchisee does not request a rate increase within ninety (90) calendar days of the contract year, in any given year of this Agreement, Franchisee waives any claim for compensation for that year in subsequent years. The City retains the right to approve, disapprove or modify any rate increase proposal.

Franchisee waives any claim for any additional compensation or other damages, known or unknown, under the Agreement for services performed prior to November 1, 2014. Franchisee waives the provisions of Civil Code section 1542, which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

5. Article 17 – General Provisions, Section 17.22, is modified to read as follows:

17.22 Entirety: Agreement and Exhibits – The Agreement dated May 18, 2010 and this First Amendment represent the entire Agreement of City and Franchisee with respect to the services to be provided under the Agreement and supersedes and merges all prior written and oral statements, proposals, representations and agreements between the parties. The May 18, 2010 Exhibits A, C, D, E, F, I, J & K and amended September 2, 2014 Exhibits B, G & H are hereby incorporated into this Agreement and made a part of this Agreement as though fully set forth herein.

6. Exhibits – Exhibits B, G, and H, amended dated September 2, 2014 (attached) hereby replace Exhibits B, G, and H to the Agreement. Any reference to the following Exhibits in the Agreement or Amendment refers to the Exhibit amended dated September 2, 2014:

Exhibit B – Schedule of Approved Maximum Rates

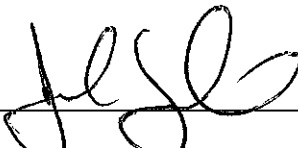
Exhibit G – Reporting Requirements

Exhibit H – Diversion Goals


7. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this amendment of Agreement to be executed.

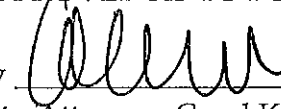
Recology Cupertino

By 
Title General Manager
Date 9/24/14

CITY OF CUPERTINO
A Municipal Corporation

By 
City Manager, David Brandt

APPROVED AS TO FORM:

By 
City Attorney, Carol Korade

ATTEST:

By 
City Clerk, Grace Schmidt 9-29-14

EXHIBIT B: Amended September 2, 2014
SCHEDULE OF APPROVED MAXIMUM RATES
Recology Maximum Rates for the City of Cupertino
Effective November 1, 2014

B.1. RESIDENTIAL SERVICE

Service Description		Maximum Rate
SINGLE FAMILY (Monthly Rate):		
Curbside	1 32-gallon cart	\$ 23.40
Curbside	1 64-gallon cart	\$ 46.81
Curbside	1 96-gallon cart	\$ 70.21
Curbside	Each Additional Cart	\$ 23.40
Walk-up	1 32-gallon cart	\$ 35.97
Walk-up	1 64-gallon cart	\$ 71.93
Walk-up	1 96-gallon cart	\$ 107.90
Walk-up	Each Additional Cart	\$ 35.97
	Additional Organics/YW Cart	No Charge
HILLSIDE (Monthly Rate):		
Roadside	1 32-gallon cart	\$ 38.71
Roadside	1 64-gallon cart	\$ 77.42
Roadside	1 96-gallon cart	\$ 116.13
Roadside	Each Additional Cart	\$ 38.71
DUPLEX/MULTIPLE UNITS & YARDWASTE EXEMPT (Monthly Rate)		
Front	1 32-gallon cart	\$ 19.79
Front	1 64-gallon cart	\$ 39.59
Front	1 96-gallon cart	\$ 59.38
Front	Each Additional Cart	\$ 19.79
Back	1 32-gallon cart	\$ 30.61
Back	1 64-gallon cart	\$ 61.22
Back	1 96-gallon cart	\$ 91.84
SENIOR CITIZENS (Monthly Rate):		
Frontyard/Backyard	1 32-gallon cart	\$ 11.10
Exempt (No Yardwaste)	1 32-gallon cart	\$ 9.40
Hillside	1 32-gallon cart	\$ 18.37
ADDITIONAL CHARGES:		
Extra Bag Tag		\$ 6.81
10 Bag Tags		\$ 64.75
Extra Can (1-Time)		\$ 11.73
24HR CONTAINER SERVICE:		
Bin By The Day	4 Yard	\$ 151.34

B.1. RESIDENTIAL SERVICE

Service Description		Maximum Rate
Bin By The Day	6 Yard	\$ 185.35
Bin By The Day	7 Yard	\$ 202.36
MANURE SERVICE (Monthly Rate):		
Manure - 1 CY	1X Week Service	\$ 201.88
Manure - 1 CY	2X Week Service	\$ 423.74
Manure - 1 CY	3X Week Service	\$ 645.76
Manure - 1 CY	4X Week Service	\$ 867.74
Manure - 1 CY	5X Week Service	\$ 1089.94
Manure - 1 CY	Extra Pick-up	\$ 77.21
HOUSEHOLD HAZARDOUS WASTE FEE (Monthly Rate):		
Single-Family Residence (including units in Multi-Family Residences that subscribe for individual MSW cart service)		\$ 0.50
Multi-Family Residence (Per unit, for units that do not subscribe for individual MSW cart service)		\$ 0.38
LATE CHARGE FEE: 1.2% Per Month Delinquent (Not Compounded)		

**B.2. NON RESIDENTIAL AND MULTI-FAMILY GARBAGE SERVICE AND
NON RESIDENTIAL AND MULTI-FAMILY COMPOSTABLE MATERIALS
SERVICE ***

** Non-Residential & Multi-Family Garbage service and Non-Residential & Multi-Family
Compostable Materials service shall never cost more than the rates for Commercial Garbage
service for the same quantity of material*

Service Description	Frequency	Maximum Rate
FRONT LOADER CONTAINERS (Monthly Rate):		
1.5 CY Container	1X Week Service	\$ 136.49
1.5 CY Container	2X Week Service	\$ 273.02
1.5 CY Container	3X Week Service	\$ 409.51
1.5 CY Container	4X Week Service	\$ 546.02
1.5 CY Container	5X Week Service	\$ 682.53
1.5 CY Container	6X Week Service	\$ 819.00
1.5 CY Container	Extra Pick-up	\$ 42.33
2 CY Container	1X Week Service	\$ 163.82
2 CY Container	2X Week Service	\$ 327.59
2 CY Container	3X Week Service	\$ 491.43
2 CY Container	4X Week Service	\$ 655.19
2 CY Container	5X Week Service	\$ 819.00
2 CY Container	6X Week Service	\$ 982.80
2 CY Container	Extra Pick-up	\$ 52.90
3 CY Container	1X Week Service	\$ 218.40
3 CY Container	2X Week Service	\$ 436.81
3 CY Container	3X Week Service	\$ 655.19
3 CY Container	4X Week Service	\$ 873.63
3 CY Container	5X Week Service	\$ 1,092.02
3 CY Container	6X Week Service	\$ 1,310.42
3 CY Container	Extra Pick-up	\$ 57.85
4 CY Container	1X Week Service	\$ 273.02
4 CY Container	2X Week Service	\$ 546.02
4 CY Container	3X Week Service	\$ 819.00
4 CY Container	4X Week Service	\$ 1,092.02
4 CY Container	5X Week Service	\$ 1,365.05
4 CY Container	6X Week Service	\$ 1,638.02
4 CY Container	Extra Pick-up	\$ 72.14
6 CY Container	1X Week Service	\$ 382.20
6 CY Container	2X Week Service	\$ 764.41
6 CY Container	3X Week Service	\$ 1,146.61
6 CY Container	4X Week Service	\$ 1,528.81
6 CY Container	5X Week Service	\$ 1,911.03
6 CY Container	6X Week Service	\$ 2,293.25

**B.2. NON RESIDENTIAL AND MULTI-FAMILY GARBAGE SERVICE AND
NON RESIDENTIAL AND MULTI-FAMILY COMPOSTABLE MATERIALS
SERVICE ***

** Non-Residential & Multi-Family Garbage service and Non-Residential & Multi-Family
Compostable Materials service shall never cost more than the rates for Commercial Garbage
service for the same quantity of material*

Service Description	Frequency	Maximum Rate
6 CY Container	Extra Pick-up	\$ 100.39
8 CY Container	1X Week Service	\$ 491.43
8 CY Container	2X Week Service	\$ 982.80
8 CY Container	3X Week Service	\$ 1,474.24
8 CY Container	4X Week Service	\$ 1,965.05
8 CY Container	5X Week Service	\$ 2,457.03
8 CY Container	6X Week Service	\$ 2,948.43
8 CY Container	Extra Pick-up	\$ 129.84
*Pushout Container	1X Week Service	\$ 48.06
Pushout Container	2X Week Service	\$ 96.38
Pushout Container	3X Week Service	\$ 144.29
Pushout Container	4X Week Service	\$ 192.50
Pushout Container	5X Week Service	\$ 240.67
Pushout Container	6X Week Service	\$ 288.95

* Container Pushout charges shall only apply to containers moved more than 25-feet to get them to the truck.

Key Service (service includes unlocking and locking receptacle)	\$ 53.52
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COMMERCIAL CART RATE:	
Per Cart Pickup	\$ 21.69

SPECIAL SERVICES:

Steam cleaning and re-delivery of bin [shall be provided once each year without charge], Furnishing Chains (One Time Only)	
Commercial	\$ 83.95
Multi-Family	\$ 92.11

LATE CHARGE FEE: 1.2% Per Month Delinquent (Not Compounded)

B.3. COMPACTOR SERVICE

Service Description	Maximum Rate
GARBAGE COMPACTOR RATE (Per Cubic Yard) (Monthly Rate):	\$ 38.56
COMPACTOR RATE-MIXED RECYCLABLE:	
Hauling Only	\$ 353.94
Per Ton	\$ 56.35

GARBAGE AND RECYCLING COMPACTOR RATES

Description	Amount	Processor	Dirty
Garbage Compactor Rates Per Yard Per Pull	\$ 38.06	Newby	N/A
Mixed Recycling Compactor Rates Per Pull	\$ 353.94	BFI	\$ 468.09
Mixed Recycling Compactor Rates Per Ton	\$ 56.35	BFI	\$ 82.41

B.4. DEBRIS-BOX SERVICE

DEBRIS-BOX (UNCOMPACTED) SERVICE (Monthly Rate):

8 Yard Rock Box	6 Tons	\$ 700.96
8 Yard Rock Box	Each Additional Ton	\$ 73.84
16 Yard Debris Box	3 Tons	\$ 397.01
16 Yard Debris Box	Each Additional Ton	\$ 73.84
20 Yard Debris Box	4 Tons	\$ 467.32
20 Yard Debris Box	Each Additional Ton	\$ 73.84
26 Yard Debris Box	4 Tons	\$ 607.52
26 Yard Debris Box	Each Additional Ton	\$ 73.84
30 Yard Debris Box	5 Tons	\$ 718.34
30 Yard Debris Box	Each Additional Ton	\$ 73.84
40 Yard Debris Box	6 Tons	\$ 766.30
40 Yard Debris Box	Each Additional Ton	\$ 73.84

WEEKLY RENTAL FEE (Beyond Normal 7 Days): \$ 138.81

LATE CHARGE FEE: 1.2% Per Month Delinquent (Not Compounded)

SOURCE SEPARATED RECYCLING*:

	08DOR	08DOR	16-40DOR	16-40DOR
	Clean	Clean		
	Dirt	Concrete		
		Asphalt	Clean Wood	Sheet Rock
Haul Rate	\$ 411.45	\$ 411.45	\$ 411.45	\$ 411.45
Recycling Rate per ton	\$ 29.62	\$ 20.85	\$ 39.50	\$ 41.69

*Note: Source Separated Recycling Loads will be charged the regular box rate if contaminated or mixed

OTHER MISCELLANEOUS RATES

Description	Code	Amount
Daily Rental Rate For Boxes Beyond 7 Days	RENT	\$ 21.94
Weekly Rental Rate For Boxes Beyond 7 Days	RENT	\$ 138.81
Trip Charge For Empty Debris Box/Compactor (No Dump)	TRIP	\$ 82.29
Dry Run, Scheduled Service Bin Empty	TRIP	\$ 164.58
Relocate Container After Initial Delivery	RELOC	\$ 82.29
Same Day Cancelation (No Dump)	CANCL	\$ 54.86
Steam Clean after exchange bring back to yard	TRIP	164.58

EXHIBIT B SHALL BE REVISED TO REFLECT ANNUAL RATE ADJUSTMENTS PER THE CPI FORMULA SPECIFIED IN THIS AGREEMENT

EXHIBIT G: REPORTING REQUIREMENTS
(Amended September 2, 2014)

1. Monthly Reports.

Franchisee shall submit, within twenty (20) calendar days following the end of each month, a Monthly Report on the amount of Recyclable Materials collected, Compostable Materials collected, Garbage collected and disposed, and materials collected at City-wide recycling events. To support the City's participation in the U.S. EPA Food Recovery Challenge, the data on Compostable Materials diverted from landfill shall include a breakdown between food waste and yard waste in both tonnage and cubic yards (by weight and volume). Franchisee will provide a separate monthly report for Multi-Family Dwelling Units and Non-Residential Services, describing the levels of service for recyclables and compostables subscribed for and the number of tons and cubic yards that were diverted from landfill as a result of Composted Materials and Recyclable Materials collected by Franchisee. This information shall meet the reporting requirements of the California Integrated Waste Management Act, as such Act may from time to time be amended. In addition to the information required by the California Integrated Waste Management Act, each Monthly Report shall include the information described in Section 2 of this EXHIBIT G. Franchisee shall provide these reports electronically only, in an editable format approved by City, such as Excel or Word.

1.1 Monthly Summary.

The Monthly Report shall contain a summary of the information reported pursuant to Section 1 of this EXHIBIT G. Reports shall also contain a description of milestones achieved; changes in staffing levels; a listing of special occurrences such as any drop in tons diverted from the previous month due to contamination; and any other relevant information, including details of any City-wide Recycling Days which occurred during that month.

1.2 Monthly Report on Debris Box and Compactor Revenue and Disposal Cost.

The Monthly Report shall detail separately the monthly tonnage and revenue collected from both Debris Boxes and Compactors (this revenue is excluded from Eligible Revenue). In addition the Monthly Report shall set forth separately for Debris Boxes and Compactors, the landfill disposal costs for all loads excluded from the Eligible Revenue and for which Franchisee reimburses the City.

1.3 Sales of Recyclable Materials and Compostable Materials.

The Monthly Report shall contain a Monthly Recyclable Materials and Compostable Materials sales statement showing: type of material, the name of each buyer, date of sale, terms of sale, quantity sold (in tons or cubic yards), and net sales (net sales means gross sales minus both sales returns and sales

allowances). Tonnages sold at different prices during the month must be reported separately. Adjustments to previous months' sales (such as for contaminants) shall be reported on the current statement as a reduction in sales and referenced to the statement for the prior month in which the original sale was actually reported.

Franchisee shall provide City, in each Monthly Report, a list of addresses for all households that have received a backyard Compost Bin during the month covered by such Monthly Report.

1.4 Contaminants.

The Monthly Report shall include a statement of the weight (in tons) of contaminants in the Recyclable Materials and Compostable Materials collected during the month, the weight of the contaminants expressed as a percentage of the Recyclable Materials and Compostable Materials collected, and a description of the disposal methods for the contaminants.

Franchisee shall provide, in each Monthly Report, a list of the Service Recipients' business name, account holder's name and contact information, and the address where a driver has observed a contaminated load of Recyclable Materials or Compostable Materials. The Monthly Report shall also provide the size of the contaminated load in cubic yards and the contaminants observed.

1.5 Problems Encountered.

The Monthly Report shall include a narrative account of problems encountered during the reporting period in connection with Recyclable Materials and Compostable Materials collection (including scavenging), processing and/or marketing, a list of Non-Residential Service Recipients that declined to accept Compostable Materials or Recyclable Materials collection, the reasons Non-Residential Service Recipients gave when asked why they declined to accept Compostable Materials or Recyclable Materials service, and the actions taken by Franchisee in response. The narrative shall include a description of problems relating to non-collection because of contamination in the Recyclable Materials Containers and Compostable Materials Containers or because of blocked access. The narrative shall also include a description of Recyclable Materials and Compostable Materials rejected for sale after processing (by type of material and tonnages), reason(s) for rejection, and Franchisee's disposal method for the rejected load.

1.6 Public Education Activities.

The Monthly Report shall include a description of the public education and community relations activities performed by Franchisee during the month and Franchisee's evaluation of the success of such activities in promoting the Programs or in addressing problems encountered by Franchisee.

1.7 Service Log.

The Monthly Report shall contain a copy of Franchisee's telephone and complaint log, and include the name and address of each caller, the reason for the call, details on each complaint and a description of how each complaint was resolved.

The Monthly Report shall contain a list of all pickups missed during the reporting period, with a description of the response to each call.

1.8 New Service Recipients.

The Monthly Report shall contain a listing of all new Service Recipients, including their name, address and level of service.

1.9 Non-Residential Compostable Materials Service Recipients.

The Monthly Report shall include a list of all Non-Residential Service Recipients that subscribe to Compostable Materials collection service, the date the Franchisee first visited the Non-Residential Service Recipient to ask them to subscribe to this service, the date Compostable Materials collection service started, the size of Compostable Materials Container(s) and the frequency of collection. If a Non-Residential Service Recipient has declined to subscribe to Compostable Materials service, Franchisee will provide the date the service was declined.

1.10 Loads Rejected by the Processor

The Monthly Report shall include a list of Non-Residential loads of (compostable materials, recyclable materials or garbage) that are rejected by the processor, the date that the load was rejected, the Service Recipient's name and address, the type of material collected and the reason that the material was rejected.

1.11 Monthly Tonnage for Re-TRAC to support City's participation in U.S. EPA's Food Recovery Challenge.

Franchisee will enter in the Re-TRAC database, monthly tonnage for materials landfilled, materials recycled, yard waste composted and food waste composted.

2. Compost Quality Reports.

On April 1 and October 1 of each year of this Agreement, Franchisee shall provide City with copies of Laboratory reports on the quality of the Compost Materials produced from the Compostable Materials collected in City sometime in the prior three months, and on the compost materials provided to City as required in Section 8.1 of this Agreement.

3. Annual Reports.

3.1 Annual Report Submitted By Franchisee.

To be consistent with CalRecycle's Annual Report periods, Franchisee shall provide its annual report to the City for the calendar year. Within 60 days following the end of each calendar year, Franchisee shall provide City with an Annual Report containing: a summary report of the Monthly Reports for the year, including information on the total annual quantities of Garbage collected and disposed, Recyclable Materials collected, and Compostable Materials collected. The Annual Report shall detail the Compostable Materials collected broken down by the tonnage and cubic yards of food waste collected and the tonnage and cubic yards of yard waste collected.

The Annual Report shall also contain a discussion of public awareness activities and their impact on recycling participation and recovered amounts, and a discussion of highlights and other noteworthy program experiences, along with measures taken to resolve problems, increase efficiency, and increase participation.

The Annual Report shall also contain a detailed discussion of the progress made during the year toward meeting a sixty-five percent (65%) diversion rate for Non Residential Service Recipients and for multi-family sectors as calculated in Exhibit H.2.

3.2 Vehicle Fleet Information.

Each year of the term of this Agreement, Franchisee shall submit to City, as an attachment to the Annual Report, all information required by Section 6.1.6 of this Agreement.

3.3 Audited Financials.

After the end of each fiscal year of Franchisee, Franchisee shall submit to City a copy of its audited financial statements for such year. Such audited financials shall include all of Franchisee's revenues under this Agreement during such fiscal year.

4. End of Agreement Reports.

Reports covering the last period of this Agreement will be due following the end of collection services, on the schedule stated in this EXHIBIT G.

EXHIBIT H: DIVERSION
(Amended September 2, 2014)

H.1 Calculation to determine the City's diversion rate for 2015 for residential (population) and commercial (employment) sectors.

For purposes of determining if the requirements of the Agreement, including those under Paragraph 2.2.1 are met, the following CalRecycle Disposal Reporting System (DRS) "Diversion Equivalent Rate" (DRE) formula shall be used:

$$DRE = [1 - (\frac{Annual\ Per\ Capita\ Rate}{2 \times Target\ Rate})] \times 100$$

As an example, for Cupertino's Population (Residential) Diversion Rate Equivalent (DRE) for 2012, using the 2012 CalRecycle pounds per person per day target with 2012 annual actual (as shown in the below table), is as follows:

CalRecycle Disposal Rate Target for Cupertino for 2012		
	TARGET	2012 ANNUAL(actual)
Population (Pounds/Person/Day)	4.3	2.6
Employment (PPD)	8.1	4.3

$$\begin{aligned} DRE &= [1 - (\frac{2.6}{2 \times 4.3})] \times 100 \\ &= [1 - (\frac{2.6}{8.6})] \times 100 \\ &= [1 - 0.302] \times 100 \\ &= 69.8 \% \text{ (approximately)} \end{aligned}$$

And, for Cupertino's Employment (Commercial) Diversion Rate Equivalent (DRE) for 2012, the equation is:

$$\begin{aligned} DRE &= [1 - (\frac{4.3}{2 \times 8.1})] \times 100 \\ &= [1 - (\frac{4.3}{16.2})] \times 100 \\ &= [1 - 0.265] \times 100 \\ &= 73.3 \% \text{ (approximately)} \end{aligned}$$

Actual calculations for subsequent years shall be based upon CalRecycle's annual municipal data collected in August of each year for the preceding calendar year (for example, data for 2013 is collected in August 2014).

H.2 Calculation to determine the City's diversion rate for 2015 for Commercial and Multi-Family collection services.

Diversion shall be calculated using the following formula:

$$(A + B) / (A + B + C) = \text{Diversion percentage for Commercial and Multi-Family}$$

A = Tons of recycled Commercial and Multi-Family materials

B = Tons of composted Commercial and Multi-Family materials

C = Tons of Commercial and Multi-Family material landfilled

Residue from processing recyclables and compostables that are landfilled shall be counted in the tons of commercial and multi-family material landfilled, not as tonnage recycled or composted.

H3. Expanded Diversion Program Features

Single-Family Residential Services:

- Provide each residential customer with a dishwasher- safe, container having a seal-tight lid. These containers can be used for the in-home storage of compostable organic materials. The seal-tight lid will prevent odors and the dishwasher compatible container will be convenient for residents to clean and maintain.
- Single-stream collection of commodities listed below at "Recyclable Commodities"
- Curbside collection of CFL bulbs in clear zip lock bags
- Curbside collection of dry cell batteries and cell phones in clear zip lock bags
- Curbside collection of used motor oil in 1-gallon containers and used oil filters in clear zip lock bags
- Curbside collection of E-waste and U-Waste through on-call collection programs
- On-call collection of material and diversion of all recyclable and reusable materials
- Curbside collection of cooking oil, in 1-gallon containers marked as "Cooking Oil"
- Curbside collection of "Coats for Kids" every fall
- Provide up to 400 Bio-Stack composting bins in Year 1 of the contract extension
- Provide a twice-per-year "Environmental Day" for the collection of recyclable commodities listed below at "Recyclable Commodities"
- Distribute public outreach material highlighting the new and expanded recyclables and organics collection programs

- By October 1, 2015, develop a three-minute "How to Utilize Your Organics and Recycling Cart" video for viewing on the City of Cupertino Cable access channel and for schools

Multi-Family Residential Services:

- Conversion to single-stream collection of commodities listed below at "Recyclable Commodities"
- Contact management of every MFD complex in the first year of the contract extension to initiate or expand recycling services
- Provide to each MFD unit whose complex participates in the organics collection service, a dishwasher- safe, pitcher having a seal-tight lid, for the in-home storage of compostable organic materials
- Provide each MFD unit with a "Recycling Tote Bag" for the in-home storage of single-stream recyclables
- Collection of E-waste and U-Waste through on-call collection programs
- Provide drop-off containers at MFD management offices for dry cell batteries and cell phone recycling
- Arrange HOA presentations on the new and expanded recyclables and organics collection programs
- Distribute public outreach material highlighting the new and expanded recyclables and organics collection programs
- By December 31, 2014, conduct a Recycling Blitz at large multi-family developments. Recology Zero Waste Coordinators and Management will visit buildings on Saturdays to distribute "Buddy Bags" to help residents sort recyclables, along with a brochure guide
- By October 1, 2015, develop a three-minute "How to Utilize Your Organics and Recycling Cart" video for viewing on the City of Cupertino Cable access channel and for schools

Commercial Services:

- Conversion to single-stream collection of commodities listed below at "Recyclable Commodities"
- Contact every commercial customer in the first year of the contract extension to initiate or expand recyclables and organics collection services
- Provide each commercial customer that participates in the organics collection program with an optional "Slim Jim" container for the indoor accumulation of organics materials
- Arrange presentations of expanded recycling programs at civic groups, schools, community functions, city events, City and Recology websites, and the City access channel
- Distribute public outreach material highlighting the new and expanded recyclables and organics collection programs