



DEPARTMENT OF PUBLIC WORKS

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To: Bertolotti Disposal
From: The City of Patterson
Topic: Two-year extension

The City of Patterson agrees to the two-year extension term, as described in the Franchise Agreement between the City of Patterson and Bertolotti Disposal in SECTION 6 "Term of Agreement" as amended.

Summary of Amendments:

- Updated all terminology and requirements to be consistent with SB1383
- Updated Section "9.4.6 Special Events" changing the special event from the "The Chili Cook-Off" to the "Children's Safety Fair"
- Updated Section "9.4.8 Bulky Items, A. Scheduled Bulk Item Pickups" to eliminate language referring to an annual spring bulky item pickup.

Bertolotti Disposal

Signature:  Date: 7/14/22

City of Patterson

Signature:  Date: 7-15-2022

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (“Agreement”) is made and entered into this 1st day of July 2014 by and between the City of Patterson (“City”), a municipal corporation of the State of California, and Bertolotti Disposal, Inc. a California corporation (“Grantee”), for the collection, transportation, recycling, composting and disposal of Solid Waste, Organic Waste, and Recyclables. The parties to this Agreement may each be referred to individually as a “Party” or collectively as the “Parties”. There are no other parties to this Agreement.

RECITALS

A. The Legislature of the State of California (the “Legislature”), enacted the California Integrated Waste Management Act of 1989 (“AB 939”), declaring that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and

B. On October 6, 2011, the Legislature passed Assembly Bill 341 (“AB 341”), amending the Public Resources Code and requiring cities to implement commercial solid waste recycling programs; and

C. In 2006 the city council for the City of Patterson (the “Council”) determined that public health, safety and well-being required the City to enter into an exclusive franchise agreement with a qualified solid waste enterprise for solid waste collection, recycling and disposal in residential and commercial areas in the City pursuant to Public Resources Code Section 40059(a)(1); and

D. The City selected Grantee to receive the franchise agreement with City for the collection, recycling, and disposal of solid waste within the City, memorializing said franchise agreement on December 5, 2006 (“December 2006 Agreement”); and

E. The term of the December 2006 Agreement has not expired. However, circumstances have changed and the Parties agree that it is in their best interest to update the December 2006 Agreement and clarify ambiguities therein.

F. The Parties enter into this Agreement to rescind and fully replace the December 2006 Agreement.

G. The Council declares its continued dedication to maintain reasonable rates for collection and disposal of solid waste within City limits; and

H. It is the City’s objective to continue to engage Grantee to provide Refuse collection and disposal services for residential and commercial collection. These services include automated Refuse collection, automated Organic Waste collection, automated Recyclables collection, and Commercial collection. The Grantee will also assist City in meeting its AB 939, SB 1383 and AB 341 requirements; and

I. The City refuse program shall be consistent with the County Solid Waste and Integrated Waste Management Plan and comply with all regulations promulgated by the local Stanislaus County enforcement agency and the California Integrated Waste Management Board; and

J. It is the desire of the Parties that this Agreement dated July 1st, 2014 supersede and replace the December 2006 Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and sufficient consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

Section 1. Recitals. The recitals set forth above (the “Recitals”) are incorporated herein by this reference and made a part of the Agreement. In the event of any inconsistencies between the Recitals and Sections 1 through 31 of this Agreement, Sections 1 through 31 will prevail.

Section 2. Definitions. Unless otherwise noted in this Agreement, capitalized terms herein shall have the meanings set forth in **Exhibit A: Definitions**. Whenever any term used in this Agreement has been defined by Division 30, Part 1, Chapter 2 of the Public Resources Code or the City’s municipal code, those definitions shall apply unless the term is otherwise defined in Exhibit A.

Section 3. Agreement Supersedes December 2006 Agreement. The December 2006 Agreement is hereby superseded and terminated by the mutual agreement of the Parties as of the Effective Date of this Agreement.

Section 4. Grant of Exclusive Commercial and Residential Franchise. This Agreement grants an exclusive Commercial and Residential Solid Waste Franchise, excluding Industrial Garbage, to Grantee, pursuant to Public Resources Code Section 40059(a)(1) for the collection of Solid Waste, Organic Waste, and Recyclables in residential and commercial areas within the City. Grantee shall furnish all labor, supervision, materials, permits, licenses, and Equipment necessary to provide residential and commercial refuse collection for Customers within the Franchise Area of City.

Section 5. Limitations on Exclusivity. Notwithstanding the exclusive grant of franchise to Grantee, individuals served by Grantee may:

5.1. Donate or sell Recyclables to any person or entity;

5.2. Cause materials or debris to be removed from a Dwelling Unit or construction site and disposed of by a construction company, landscape company, gardening company or individual as an incidental part of gardening, landscaping, tree trimming, cleaning, maintenance, construction or similar service offered by that company; and

5.3. Dispose of Solid Waste and Recyclables generated by their own Equipment and, with respect to a commercial business, by its own employees and customers.

Section 6. Term of Agreement. The term of this Agreement shall commence on July 1st, 2014, for a term of seven (7) years (“Term”). On July 1st of every second year of the Agreement, two (2) years shall be automatically added to the term of this Agreement unless either Party, prior to July 1st gives written notice to the other Party of its intention not to extend the Term by two (2) years. If such written notice is given prior to July 1st, the Term of this Agreement shall remain in effect for the unexpired term, except as it may be canceled as provided in Section 10 of this agreement. Nothing herein shall be deemed or construed to impair or affect in any way the rights of the City to acquire the equipment and assume the operations of the contractor at any time during the term of this agreement by purchase of the equipment at its fair market value at the time of purchase. The initial seven (7) year Term and all of the subsequent two (2) year extensions may be referred to collectively herein as the “Term”.

Section 7. Acceptance; Waiver. Grantee agrees to be bound by and comply with all the requirements of this Agreement. Grantee waives Grantee’s right to challenge the terms of this Agreement under federal, state or local law, or administrative regulation, as such laws and regulations exist as of the date of execution of this Agreement. Grantee waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code.

Section 8. Franchise Area.

8.1. Franchise Area Defined. The franchise area granted by this Agreement shall be all residential and commercial premises located within city limits of City, as more particularly shown on **Exhibit B: Franchise Area (“Franchise Area”)**. As provided below, the Franchise Area may be changed by annexation, de-annexation or re-organization.

8.2. Annexation Covered by Existing Franchise. All territories annexed during the Term of this Agreement shall be subject to this Agreement. However, properties served by another hauler at the time of annexation, shall continue to be served by that source until the end of such hauler’s franchise agreement or service contract with the subject landowner or five (5) years, whichever is sooner. Grantee agrees to defend, indemnify and hold the City harmless against any claims by such other hauler regarding its right to continue to serve the annexed area.

Section 9. Services Provided by Grantee. Grantee shall provide Refuse, Organic Waste and Recyclables collection, transportation, recycling and marketing services within the Franchise Area in accordance with the terms of this Agreement and all applicable local, state, or federal laws to all Residential Customers and Commercial Customers (the “Services”).

9.1. Residential Collection. Grantee agrees to provide the following Services to Residential Customers under this Agreement:

9.1.1 Types of Waste.

A. Solid Waste. Grantee shall provide ninety (90) gallon Containers for Residential Solid Waste pickup once each week.

B. Recyclables. Grantee shall provide ninety (90) gallon Containers for Residential recyclables and pickup once each week.

C. Organic Waste. Grantee shall provide ninety (90) gallon Containers for Residential Organic Waste and pickup once each week.

9.1.2. Collection. All Residential Solid Waste, Organic Waste, and Recyclables must be collected once a week on a scheduled day ("Collection Day") for a particular route. All Collection Days shall occur on weekdays, Monday through Friday. On the appointed Collection Day, Grantee shall collect the Residential Solid Waste, Organic Waste, and Recyclables, excluding Bulky Items and Special Wastes, which are in Containers placed at a designated Collection Location for single-family residences within the Franchise Area prior to the designated Collection Day for the route. All Refuse must be placed within Containers at the Collection Location without obstructions that could impede collection.

City agrees to enforce parking and other ordinances so as to facilitate this Refuse, Organic Waste, and Recyclables collection system.

9.2. Multi-Family Residential.

9.2.1. 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, Grantee shall collect the Solid Waste (including Bulky Items, which have been placed in a closed Bin), Compostables, and Recyclables, excluding Special Wastes, which have been placed for collection in Bins or recycling Containers. Upkeep, repairs and replacements are the responsibility of the Grantee.


9.2.3. Ability to Lock Bins. Grantee shall make available, for an extra charge, to all Customers who use Bins, a method of locking their Bins so as to prevent other parties from using the Bin without authorization.

9.3. Commercial Collection. Grantee agrees to provide the following Services to Commercial Customers under this Agreement:

9.3.1. Types of Waste.

A. Solid Waste. Grantee shall provide Commercial Customers with Bins sized, two (2) yard, three (3) yard, four (4) yard, and six (6) yard and roll off bins 10 to 40 yards.

B. Recyclables. In compliance with AB 341 and SB 1383, Grantee shall provide collection Services for Commercial Customers for Recyclables.

9.3.2.  Commercial Service. The Grantee shall continue to supply all existing Commercial Customers with appropriate Bins. Upkeep, repairs and replacements of the Bins are

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the responsibility of the Grantee. Commercial Customers shall include all commercial businesses and apartment complexes in the Franchise Area, which use Bins.

9.4. Other Services.

9.4.1. Education. At no additional charge, Grantee will provide a comprehensive media campaign to indoctrinate and educate all the Residential Customers and Commercial Customers in the Franchise Area about Grantee's curbside recycling program and the proper disposal of common household hazardous waste products. This program shall meet the educational requirements of AB 341, SB 1383 and shall be approved in advance by the City.

9.4.2. Recycling Program. The Director may impose other requirements for pick-up of Recyclables throughout the Term of this Agreement, to assist the City in meeting state mandated recycling goals and complying with state laws regarding Residential Customers and Commercial Customers. Both Parties shall negotiate in good faith to amend this Agreement to comply with any new, applicable, state or federal mandates.

9.4.3. Collections at City Facilities. Grantee shall provide Refuse collection at all City facilities, including but not limited to City Hall, fire stations, public works yard, street sweeping bins, City parks, the senior center, the aquatics center, the teen center, and including other public buildings as City may designate from time to time ("City Facilities"). Service for new City Facilities shall be added upon the request of the City, at no additional charge. The City will not bill or be billed for Services at the City Facilities.

9.4.4. Leaf Collection. Grantee shall provide leaf collection service during the months of November through January. During these months, Grantee shall collect leaves placed in front of the residences of each Residential Customer using methods approved by the City at least once a week, Monday through Friday, on the designated Collection Day for each route.

9.4.5. Christmas Trees. Grantee shall collect all Christmas trees placed in the street in front of residences for each Residential Customer during the months of January and February on the regular Collection Day for the route.

9.4.6. Special Events. Grantee shall provide City with Solid Waste and Recycling collection during two (2) special events at no additional charge: the Apricot Fiesta and the Children's Safety Fair Off. Solid Waste collection Equipment and personnel shall be supplied during the entire course of these events, as needed. City shall designate the specific days and times of these events. The Apricot Fiesta is a three (3) day event that typically occurs on a Friday, Saturday, and Sunday in the months of May or June. The Children's Safety Fair is a one (1) day event that typically occurs in the month of September. Additional Refuse Containers will be provided to City as needed for these events at no additional cost to the City.

9.4.7. Alley Clean-Up. Grantee shall keep all alley-ways within the City clean and free of Solid Waste, Organic Waste, Bulky Items, Recyclables, or other Refuse per the instructions given by the Public Works Department Director or his designee and the Code Enforcement Department. Grantee shall provide this service once per week. For this service, City will only

be required to pay Grantee the pass-through tipping fee charged by the County based on the actual tonnage of Refuse disposed of through this Service.

9.4.8. Bulky Items.

A. Scheduled Bulky Item Pickup. Each Residential Customer is entitled to two (2) scheduled Bulky Item pickups for each calendar year at no additional charge. The City and Grantee shall track the usage of this scheduled Bulky Item pickup service by Residential Customer address. Grantee shall not be required to remove automobile bodies, hazardous wastes, or any other items that may not be safely handled by two (2) persons and a front loader tractor. This collection shall be for all Residential Customers within the Franchise Area. Residential Customers will work directly with the City to Schedule the pickup. City will only pay Grantee the pass-through tipping fee charged by the County based on the actual tonnage of Refuse disposed of through this service.

B. Additional Bulky Item Pickup. After a Residential Customer has received two (2) unscheduled Bulky Item Pickups in a calendar year, Grantee may charge the Residential Customer an additional flat fee

9.4.9. Special Emergency Collection. The Grantee may on occasion be required to collect Refuse placed in bags or boxes rather than the designated Bins or Containers. These collections will be in special emergency situations, typically when construction or emergency repairs to utilities block access to the designated location of Containers or Bins.

9.4.10. Special Wastes. Grantee may, but is not required to, provide such collection, transportation and disposal services for Special Wastes as defined in **Exhibit C: Special Wastes**. Grantee may provide such services for Special Wastes if contracted to do so by Customers under separate written contracts negotiated between Grantee and the Customer generating such Special Wastes.

Section 10. Containers. Grantee will be responsible for providing containers to Residential Customers for the Automated Refuse Container collection program, the Automated Organic Waste Container collection service, and the Automated Recyclables Container collection service, (individually "Container" or collectively "Containers"). Grantee shall be responsible for providing Commercial Solid Waste Bins, Organic Waste Bins and Automated Commercial Recyclables Containers for collection services to Commercial Customers.

10.1 Record of Containers Used. Each Residential Customer will be entitled to individual Containers for their use. They may also have an additional Container, if requested. Grantee shall provide City with updated records showing how many of each type of Container each Residential Customer is using, for the purpose of installing price incentives in the City's assessment structure to help promote state mandated source reduction and recycling goals, and reimburse the Contractor for this extra service.

10.2. Obligation to Supply and Replace Containers. In the event a Container is lost, stolen, damaged, or destroyed, Grantee shall provide a replacement Container or the necessary replacement parts for repairs such as: wheels, lids, hinges, axles, and handles within one (1) week of receiving a request from the City or a Customer, at no additional cost to the City or the Customer. Grantee should proactively change out any broken components. Replacement Containers can be ordered by the City at the City's discretion. As containers are replaced or have reached the end of their useful life they will be replaced with containers compliant with SB 1383 requirements. By January 1, 2036 all containers must meet compliance requirements set out in SB 1383

Section 11. Specific Service Requirements.

11.1. Grantee Duty of Care and Diligence. Grantee and Grantee's employees, contractors, sub-contractors, operators, officers, directors, supervisors, owners, board members, representatives, and agents ("Grantee's Agents") shall exercise all reasonable care and diligence in performing their obligations under this Agreement. Every effort will be made to prevent spilling, scattering or dropping Refuse during the collection or transportation process. However, in the event that Refuse is spilled, scattered or dropped, the truck operator shall immediately clean up the material and place it in the truck. Every Container must be replaced in an upright position. If a Container falls over, the operator must immediately set the Container in an upright position. It shall be further noted that Refuse collection easements are frequently co-located with other utility easements. Particular attention must be given to the location of water meters, transformers, guy wires, utility poles and irrigation structures. Authorization to use the easement does not abrogate Grantee's responsibility to exercise caution to not infringe upon, damage, or trespass the property rights of other authorized users or property owners. Grantee shall be familiar with, and operate within the guidelines set forth by the Occupational Safety Health Act (29 U.S.C. section 651 *et. seq.*). Grantee is granted the right to use dedicated streets, alleys and refuse collection easements for the purpose of performing the Services specified in this Agreement, but this right is not exclusive. The Grantee shall handle the Services in a manner that will cause the least inconvenience or annoyance to the general public and to property owners. Whenever the Grantee's operations create a condition hazardous to traffic or to the public, Grantee shall furnish, erect, and maintain such fences, barricades, lights, signs, and other devices, structures or warnings and take any other protective measures as are necessary to prevent accidents or damage or injury to the public. Any barricade, lights, signs or other devices erected must conform to the requirements of the City Engineer and the City's Code.

11.2. Collection Location for Residential Services. There shall be a designated location for the regular collection of Refuse for residential customers ("Collection Location"). Where there is no alley, the Collection Location for Residential Customer Refuse, including Residential Solid Waste and Recyclables, shall be the edge of pavement. In the event the Residential Customer's property is abutted by an alley, then the Collection Location shall be in the alley, as close as possible to the property line of the Residential Customer served.

11.3. Carry-Out Services. Grantee shall provide Carry-Out Services for Customers who are unable to place their Refuse for collection in the usual manner due to physical disability. New requests for Carry-Out Services received by Grantee shall be sent to City for investigation and approval. The Carry-Out Service will start on the next regularly scheduled Collection Day after City approves any such request. If Grantee has reason to believe the Carry-Out Service is no longer required, Grantee shall notify City so it may investigate the matter and determine whether the Carry-Out Service can be discontinued. A Carry-Out Service cannot be discontinued by Grantee unless Grantee receives a request from the Customer receiving the Carry-Out Service or approval from City to discontinue the Carry-Out Service.

11.4. Notification of Refusal to Collect. When any Refuse is not collected by Grantee, Grantee shall leave a notice that is at least 2 7/8" x 4 3/4" in size, on which Grantee shall indicate the reasons for refusal to collect Refuse, giving reference to the applicable section of the City's Code, or this Agreement. The notice shall include The City of Patterson's name and telephone number and shall be securely fastened to the Container or to the article of Refuse. A copy of this notice shall also be delivered to the City on the same day.

11.5. Time of Collection. Grantee shall not start Refuse collection prior to six in the morning (6 a.m.) nor continue collections after eight in the evening (8 p.m.) In an emergency, the Grantee may request authorization from the Director to work beyond eight in the evening (8 p.m.). On Halloween (October 31) the last pick-up shall not be later than four in the afternoon (4 p.m.).

11.6. Route Maps. Grantee shall collect all Refuse, Organic Waste, and Recyclables according to the specific routes provided in this Agreement. Any proposed changes to the route maps shall be submitted by Grantee to City not less than two (2) weeks prior to the proposed changes. If the changes are approved by City, Grantee must provide written notice of such change to each affected Customer by both mailing the notice and by leaving a notice taped on top of one Customer's Refuse Containers.

11.7. Collection Impediments. Grantee shall provide scheduled weekly Refuse collection service to residences in the Franchise Area. Grantee understands and agrees that a number of collection impediments may require special effort by Grantee and Grantee's Agents to accomplish the required level of service. If this special effort requires the distribution of Containers, it shall be the responsibility of Grantee to distribute them. It is further expressly agreed that in no event shall City be liable for, or responsible to Grantee, or to any other person for or on account of any stoppage or delay in the Services herein provided for by injunction of other legal or equitable proceeding or on account of any delay for any cause over which City does not have control.

11.7.1. Rain. Some streets or alleys become impassible during periods of heavy or prolonged rain. When Grantee determines that collection vehicles can no longer provide the Services in the street or alley, the following steps shall be taken:

- A. Notify the Director of the impassable street or alley.

B. Notify the residents that Services will not be available temporarily at a designated location.

C. Notify the Director when street is returned to service and return Containers if applicable.

D. Notify the residents of the date that Services will again be performed in the normal Collection Location.

11.7.2. Infrastructure Renovation. Periodically major renovation and repairs are necessary to maintain the infrastructure of City. These renovations and repairs include, but are not limited to: (1) replacing gas, water, and sewer lines; (2) surfacing and resurfacing streets; and (3) replacing wiring for telephone, electricity, internet, or cable television.

If the Director is notified in advance of these activities, Director will notify Grantee. However, it is not uncommon for work to be initiated without prior notification. Alternate collection service must be provided by Grantee during any period of disruption. Each circumstance must be evaluated individually to determine the appropriate alternative. Grantee shall notify the Director of the disruption, its location, and the alternative employed to provide service.

11.7.3. Street Blocked by Refuse. When material, debris, or obstructions (“Obstruction”) are placed in the street, alley or easement in such a way that the collection vehicle cannot proceed down the street, Grantee shall immediately notify the Director or his/her designee and coordinate with the Director to schedule collection Services for the blocked area once the Obstruction has been removed.

11.7.4. Street Blocked by Illegally Parked Vehicle. When the Obstruction is a parked vehicle, collection should be provided on the Collection Day. However, if circumstances prevent collection on the Collection Day, collection may be provided no later than the beginning of the first collection shift on the next day.

11.8. Force Majeure. Grantee shall not be in default under this Agreement in the event that the collection, transportation, recycling and disposal services of Grantee are temporarily interrupted or discontinued due to a “Force Majeure” event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods earthquakes, landslides and fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Grantee. Force Majeure does not include: (1) Grantee’s financial inability to perform; (2) Grantee’s failure to obtain any necessary permits or licenses from other governmental agencies; or (3) Grantee’s failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Grantee.

11.9. Independent Contractor. Grantee is an independent contractor and not an officer, agent, servant or employee of City. Grantee is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and sub-grantees. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Grantee. Neither Grantee nor its officers, employees, agents or sub-grantees shall obtain any right to retirement or other benefits which accrue to City employees.

11.10. Property Damage. Grantee shall be responsible for any damage to City's driving surfaces, whether or not paved, resulting from vehicles providing Services under this Agreement. Grantee shall be responsible for repairing or replacing any private or public property which is damaged due to the acts or omissions of employees, contractors, or agents of Grantee to private or public property shall be repaired or replaced.

11.11. Right of Entry. Grantee shall have the right, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Refuse pursuant to this Agreement. This right of entry shall last until the sooner of the termination of this Agreement or receipt by Grantee of a written notice from City revoking Grantee's right of entry. This right of entry is limited to carrying out the Services required by this Agreement.

11.12. Compliance with City Municipal Code. Grantee shall comply with those provisions of the City Code which are applicable and with any and all amendments made to applicable provisions during the Term.

Section 12. Grantee's Employees.

12.1. Prohibition of Drugs or Alcohol. Grantee will prohibit use of intoxicating substances by Grantee's Agents, including its drivers and crewmembers, while on duty or in the course of performing Services under this Agreement. Grantee will prohibit Grantee's Agents from being under the influence of an intoxicating substance while on duty or in the course of performing Services under this Agreement. Upon request by City, Grantee will demonstrate compliance with the federal alcohol and drug testing statutes and regulations.

12.2. Employee Uniform. Grantee's employees shall be required to wear a clean uniform bearing Grantee's name. Employees who normally and regularly come into direct contact with Customers, including drivers, shall bare some means of individual identification such as a name tag or identification card, as required under Section 12.3 of the Agreement.

12.3. Identification Required. Grantee shall provide every employee, contractor, grantees, or sub-grantees who is in contact with the public with identification cards and badges. Upon request of City, Grantee shall notify all Customers of the form of identification that each employee shall be carrying or displaying so that all Customers may easily identify one of Grantee's employees. The Grantee shall provide City with a list of current employees, contractors, grantees, and sub-contractors to City upon request.

12.4. Valid Driver's License. Employees driving Grantee's vehicles shall at all times possess and carry a valid and appropriate vehicle operator's license issued by the State of California, including a commercial driver's license, if required.

12.5. No Employment Relationship with City. Grantee's Agents are not and shall not identify themselves as being employees of the City at any time, for any reason.

12.6. Employee Behavior. All contact by Grantee with Customers will be done with courtesy and respect. Any incidents with Customers must be reported immediately to the City.

12.7. Employee Conduct. All superintendents, foremen and workers, or contractors employed by the Grantee shall be capable and safety conscious workers, skilled in their respective trades. Grantee shall not employ any person who is incapable or negligent in the due and proper performance of his or her duties. Grantee shall furnish such supervision, labor and Equipment as is considered necessary for the fulfillment of the Services in an acceptable manner at a satisfactory rate of progress. City reserves the right to request for any worker of Grantee to be replaced without cause for any reason.

12.8. Supervision. It is the Grantee's responsibility to supervise the Services rendered and to provide direction to its employees and agents in the field. While City employees may suggest possible solutions to problems or unusual situations, Grantee retains the responsibility for all Services and how the Services will be delivered and conducted to the City and the Customers.

Section 13. Bonds and Security.

13.1 Performance Bonds. Contemporaneously with the execution of this Agreement, Grantee shall replenish the performance bond held by City (the "Performance Bond") as necessary to bring the total amount of Performance Bond held by City to ensure performance of Grantee to the total amount of One Hundred Thousand and No/100 Dollars (\$100,000.00). The Performance Bond shall be on terms and in a form acceptable to the City Attorney and shall be issued by a California admitted insurer. The Performance Bond shall serve as security for the faithful performance by Grantee of all the provisions and obligations of the Agreement.

Thirty (30) days following Grantee's failure to pay City an amount owed under this Agreement, if ever, the Performance Bond may be assessed by City upon five (5) days prior written notice to Grantee for purposes including, but not limited to:

A. Failure of Grantee to pay City any sums due under the terms of the Agreement.

B. Reimbursement of costs borne by City to correct violations of this Agreement, after five (5) days' advance written notice to Grantee.

C. Monetary remedies or damages assessed against Grantee due to a breach of this Agreement.

13.2. Payment Bonds. Contemporaneously with the execution of this Agreement, Grantee shall deposit and replenish the payment bond held by City (the "Payment Bond") so that the total amount of the Payment Bond is no less than One Hundred Thousand and No/100 Dollars (\$100,000.00). The Payment Bond shall be on terms and in a form acceptable to the City Attorney and shall be issued by a California admitted insurer, approved by the City Attorney. The Payment Bond shall serve as security for payment to all of Grantee's vendors and subcontractors by Grantee for all the provisions and obligations of the Agreement.

13.3. Replenishment of Bonds. Grantee shall restore all bonds to their original amount of One Hundred Thousand Dollars (\$100,000.00) each, within thirty (30) days receipt of notice from the City that any amount has been withdrawn from or assessed against either the Performance Bond or the Payment Bond.

13.4. Insurance Coverage. Contemporaneously with the execution of this Agreement, Grantee shall deposit copies of insurance policies or endorsements evidencing the existence of policies of insurance required pursuant to this Agreement.

Section 14. City Consent Required to Transfer Franchise. The Franchise granted by this Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except Grantee, either by act of the Grantee or by operation of law, without the prior written consent of City expressed by a resolution approved by the Council, which may be withheld for any reason. Any attempt by Grantee to assign this Franchise without the consent of City shall be null and void.

If Grantee attempts to transfer the Franchise prior to obtaining City consent, all of the profits or twenty-five percent (25%) of the gross revenues received pursuant to the Services provided under this Agreement, from the date of attempted transfer until the date of City consent, whichever is greater, shall be returned to City.

Section 15. Franchise Transfer: Fees. Any application for a Franchise transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in an amount to be set by City by resolution of the Council, to cover the cost of all direct and indirect administrative expenses, including consultants and attorneys, necessary to adequately analyze the application and to reimburse City for all direct and indirect expenses. In the event that City's actual costs exceed the amount of the transfer fee, Grantee shall reimburse City for all additional costs which are not covered by the transfer fee, up to, but not exceeding Five Thousand Dollars (\$5,000.00). Bills shall be supported with evidence of the expense or cost incurred. The applicant, for any such transfer, shall pay such bills within thirty (30) days of receipt. The Franchise transfer fees detailed in this Section are over and above any franchise fees specified in the other portions of this Agreement.

Section 16. City Must Approve Change in Control of Grantee. City consent is required for any change in control of Grantee. Grantee is a corporation, and any acquisition of more than twenty-five percent (25%) of Grantee's voting stock by a person, or group of persons acting in concert shall be deemed a change in control. Any change in control of the Grantee occurring without prior City approval shall constitute a material breach of this Agreement.

Section 17. Termination and Damages for Breach.

17.1. Determination of Breach. If the City Manager reasonably determines that Grantee's performance pursuant to this Agreement has not been in conformity with reasonable industry standards obtained in similar cities in Central California, the provisions of this Agreement, the requirements of the California Integrated Waste Management Board, including, but not limited to, requirements for source reduction and recycling (as to the waste stream subject to this Franchise Agreement) or any other applicable federal, state or local law or regulation, including but not limited to the laws governing transfer, storage or disposal of hazardous waste, the City Manager may advise Grantee in writing of such deficiencies. The City Manager may, in such written instrument, set a reasonable time within which correction shall be made, but no longer than sixty (60) days from the receipt by Grantee of such written notice. The City Manager shall review Grantee's response and refer the matter to the Council or decide the matter and notify Grantee of that decision, in writing. A decision or order of City Manager shall be final and binding on Grantee if the Grantee fails to file a "Notice of Appeal" with the Council within thirty (30) days of receipt of the City Manager's decision. Within ten (10) working days of receipt of a Notice of Appeal the City Manager shall refer any Grantee Notice of Appeal timely received to the Council for proceedings in accordance which shall be conducted as follows:

Upon receiving a Notice of Appeal the Council, shall set the matter for hearing within a reasonable time. City shall give Grantee and any other person requesting the same, fourteen (14) days written notice of the time and place of the Council hearing or the appeal. At the hearing, the Council shall consider the report of the City Manager indicating the deficiencies, and shall give the Grantee, or its representatives and any other interested person a reasonable opportunity to be heard. Based upon the evidence presented at the public hearing, the Council shall determine whether the decision or order of the City Manager should be upheld. If, based upon the record, the Council determines that the performance of Grantee is in breach of any material term of this Agreement or any material provision of any applicable federal, state or local statute of regulation, the Council has sole and absolute discretion to terminate the Agreement or impose damages as set forth herein. The decision of the Council shall be final and conclusive, and there shall be no appeal of the Council decision. Grantee's performance under its Franchise is not excused during the period of time prior to the Council's final determination as to whether such performance is deficient.

17.2. Events that Constitute a Breach. If Grantee commits a material breach of this Agreement (“Breach”) City may terminate this Agreement or impose Liquidated Damages, as provided in Section 17.3 herein, in addition to all other remedies available in law or equity. A Breach includes but is not limited to the following:

17.2.1. If Grantee commits, or attempts to commit, any fraud, intentional misrepresentation, or deceit upon the City.

17.2.2. If Grantee becomes insolvent, unable or unwilling to pay its debts, or upon the listing of an order for relief in favor of Grantee in a bankruptcy proceeding.

17.2.3. If Grantee fails to provide or maintain in full force and in effect, the following: (A) any of the insurance policies required pursuant to Section 29 herein; (B) the full amount of the Performance Bond required under Section 13.1 herein; or (C) the full amount of the Payment Bond required under Section 13.2 herein.

17.2.4. If Grantee willfully violates any orders or rulings of any regulatory body having jurisdiction over Grantee for conduct, organization, or activities related to the Services contracted for in this Agreement, provided that Grantee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the Agreement shall be deemed to have occurred until a final decision is reached stating conclusively that a violation has occurred.

17.2.5. If Grantee ceases to provide the Services as required under this Agreement for all or a substantial portion of its Franchise Area for a period of seven (7) days or more, unless the reason for the disruption in Services was for a reason that was beyond the reasonable control of Grantee.

17.2.6. If Grantee willfully fails or refuses to provide City with required information, reports or test results in a timely manner as provided in this Agreement.

17.2.7. Any other act or omission by Grantee, which materially violates the terms, conditions or requirements of the AB 939 as may be amended from time to time; or any other directive rule or regulation issued thereunder; unless (A) the violation is corrected or remedied within the time set on the written notice of violation; or (B) if Grantee cannot reasonably correct or remedy the violation within the time set forth in such notice, Grantee commences to correct or remedy such violation within the time set forth in such notice and diligently and in good faith continues to cure, correct, or remedy such violation thereafter.

17.3. Liquidated Damages.

17.3.1. City finds, and Grantee agrees, that as of the time of execution of this Agreement, it is impractical, if not impossible to reasonably ascertain the extent of damages which will be incurred by City as a result of a Breach by Grantee of its obligations under this Agreement. Some reasons for the impracticability of ascertaining damages include, but are not

limited to: (A) the difficulty in estimating the substantial damage that results to Customers who are denied disposal services or denied quality or reliable service; and (B) the difficulty valuing the damage caused from the inconvenience, anxiety, frustrations and deprivation of the benefits provided under the Agreement to individual members of the general public for whose benefit this Agreement exists. The Parties agree that these damages manifest in subjective ways and in varying degrees of intensity, and are incapable of measurement in precise monetary terms. The Parties agree that any remedy for such breaches, including the termination of this Agreement are, at best, a means of future correction and not remedies, which can adequately make the public whole for past breaches.

17.3.2. Council may, at its discretion, assess liquidated damages not to exceed the sum of Two Thousand Dollars (\$2,000) per day, for each calendar day that the Services are not provided by Grantee in accordance with this Agreement for a period not to exceed forty-five (45) days (“Liquidated Damages”). In addition, the Council may order assessment against the Performance Bond and Payment Bonds required by Section 13, herein, the termination of this Agreement, or both.

17.3.3. City finds, and Grantee acknowledges and agrees that the above-described liquidated damages provision represents a reasonable sum in light of all of the circumstances. Said liquidated damage sums shall be applicable to each calendar day of delay during which Grantee has been found by the Council to be in material default pursuant to this Section 17. Grantee shall pay any Liquidated Damages assessed by the Council within thirty (30) days after they are assessed. If they are not paid within the thirty-day (30) period, City may withdraw said amount from the Performance Bond or Payment Bond, as appropriate, pursuant to Section 13, order the termination of the Franchise granted by this Agreement, or both.

17.4. Remedies Not Exclusive. The right of termination or to impose Liquidated Damages are in addition to all other rights of City upon a failure of Grantee to perform its obligations under this Agreement, including but not limited to the rights provided in Section 18.

Section 18. City’s Additional Remedies. In addition to the remedies set forth in Section 17, City shall have the following rights:

18.1. Rental of Grantee Equipment. City shall have the right to rent or lease Equipment from Grantee for the purpose of collecting, transporting and disposing of Refuse which Grantee is obligated to collect, transport and dispose of pursuant to this Agreement, for a period not to exceed six (6) months. If such Equipment is not owned by Grantee, Grantee shall assign to City, to the extent possible, the right to possess the Equipment. If City exercises its rights under this Section, City shall pay to Grantee the reasonable rental value of the Equipment so taken for the period of City’s possession thereof.

18.2. Right to License others to Provide Disposal Services for the City. City shall have the right to license others to perform the Services otherwise to be performed by Grantee hereunder, or to perform such Services itself.

18.3. Right to Other Damages. City shall have the right to obtain damages or injunctive relief. The Parties recognize and agree that in the event of Breach under the terms of this Agreement by Grantee, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement by Grantee and to enjoin the Breach thereof.

Section 19. Rights of City to Perform During an Emergency. Should Grantee, for any reason whatsoever, excluding a Force Majeure, be unable to perform any of the Services required by this Agreement, for a period of more than seventy-two (72) hours, and City Manager reasonably finds that the resulting accumulation of Refuse in City endangers or menaces the public health, safety or welfare, then, City shall have the right to temporarily take possession of and use Grantee's Equipment to carry out Grantee's obligations under this Agreement, upon twenty-four (24) hour prior written notice to Grantee. Grantee agrees that in such event it will fully cooperate with City to affect such a transfer of possession for City's use.

Grantee agrees that, in such event, City may take temporary possession of and use all of said Equipment and facilities without paying Grantee any rental or other charge, provided that when City takes possession of Grantee's Equipment and facilities under this Section 19, City shall assume complete responsibility for the proper and normal use of such Equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above-mentioned property to Grantee upon receipt of written notice from Grantee stating it is able to resume its normal responsibility under this Agreement.

Section 20. Customer Confidentiality. Grantee shall strictly observe and protect the right of privacy of the Customers. Information identifying individual Customers, or the composition or contents of a Customer's Refuse, shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization the Customer. This provision shall not be construed to preclude Grantee from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939.

Grantee shall not market or distribute, without City's advance written consent, which City may withhold in its sole and absolute discretion, mailing lists with the names or addresses of Customers.

The rights accorded Customers pursuant to this Section shall be in addition to any other privacy right accorded Customers pursuant to federal or state law.

Section 21. Reports and Adverse Information.

21.1. Reports. Within ninety (90) days after the close of Grantee's fiscal year, Grantee shall submit a written annual report, in a form approved by City, including, but not limited to, the following information:

- A. A report, on City's progress in meeting and maintaining its ability to meet its goals under AB 939 and compliance with SB 1383 as applied to the Franchise Area, along with any recommended changes. City of Patterson and Bertolotti Disposal, Inc.

Grantee shall also provide Director with quarterly reports on the quantity (by weight) of all Commercial Solid Waste, Residential Solid Waste, Recyclables, Compostables, and Organic Waste collected.

B. A list of Grantee's officers and member of its board of directors.

C. A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in Grantee and any subsidiaries.

D. The most current annual CPA certified financial statement, upon request. To the extent permitted by the Public Records Act, this document shall remain confidential.

E. A current financial statement.

21.2. Adverse Information. Grantee shall provide City two (2) copies of all reports, or other material adversely affecting this Agreement, which Grantee submits to: (A) the state or federal Environmental Protection Agency; (B) the California Integrated Waste Management Board; or (C) any other federal or state agency. Copies shall be submitted to City simultaneously with Grantee's filing of such matters with said agencies. Grantee's routing correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

Grantee shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee to any federal, state and local courts, regulatory agencies and other government bodies relating to Grantee's performance of Services pursuant to this Agreement, as well as copies of all decisions, correspondence and actions by such agencies. Any confidential data exempt from public disclosure shall be retained in confidence by City or its authorized agents and shall only be made available for public inspections, as permitted by law.

Grantee shall submit to City such other information or reports in such forms and at such times as City may reasonable request or require.

All reports and records required under this or any other section herein shall be furnished to City at the sole expense of Grantee.

A copy of each of Grantee's annual and other periodic public financial reports, and those of its parent, subsidiary, and affiliated corporations and other entities shall be submitted to City within thirty (30) days after receipt of a request by City for such reports.

21.3. Failure to Report. The refusal, failure, or neglect of Grantee to file any report required, or the inclusion of any materially false or misleading statement or representation made intentionally, willfully, or knowingly by Grantee in such report, may be deemed a material breach of this Agreement, and may subject Grantee to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

Section 22. Compensation.

22.1. Billing. The billing structure will be structured as to a monthly absolute Customer count. On the second day of the month, City will conduct a Customer count of Residential Customers and Commercial Customers receiving disposal Services for that month (“Absolute Customer Count”). For Residential Customers the Absolute Customer Count shall be for the number of Customer’s with an account. For Commercial Customers the Absolute Customer Count will be of the number of yards of Bin space used. The Absolute Customer Counts for Residential Customers and Commercial Customers will be used to calculate the amount of fees owed to Grantee for the monthly Services.

22.2. Compensation to Grantee from City. City shall perform monthly billing of each account for regular utility service (including solid waste collection). Grantee will be required to pay the Stanislaus County tipping fee. Beginning July 1, and each month thereafter for the Term of this Agreement, City shall pay Grantee for the Services provided under this Agreement in the following manner: (A) for Residential Customers, City shall pay a Cost Per Customer of Sixteen Dollars and Forty-two cents (\$16.42), multiplied by the number of absolute residential Customers, as reported by the City on the assigned day per contract; (B) for Commercial Customers, City shall pay a Cost Per Yard of Twenty-Eight Dollars and Fifty four Cents (\$28.54) multiplied by the absolute number of yards of Bin space being used, as reported by the City on the assigned day per contract. Unless City and Grantee mutually agree in writing to change this Agreement, the Cost Per Customer and Cost Per Yard can only be changed as follows: Each year effective July 1st, twenty percent (20%) of Grantee’s Cost Per Customer for automated refuse container customers and twenty percent (20%) of Grantee’s Cost Per Yard for bin customers shall be adjusted by any increases or decreases in the Stanislaus County Waste-to-Energy Facility Tipping Fee and the Stanislaus County Fink Road Landfill Tipping Fee. Each year beginning July 1st 2019, 80% of Grantee’s cost per customer and cost per yard shall be adjusted using the San Francisco/Bay Area Consumer Price Index.

22.3. Compensation for Extra Bulky Item Pickups. As provided in Section 9.4.8(C) herein, Grantee may charge Customers an additional flat fee for additional Bulky Item Pickups, in excess of those included under Section 9.4.8 of this Agreement. Grantee will initiate a flat rate system, which shall not exceed the rates set forth in Exhibit C, to charge customers for additional Bulky Item Pickups.

22.4. Tips and Gratuities. Grantee shall not request, solicit, demand or accept, either directly or indirectly, any compensation or gratuity for the collection of Refuse otherwise required to be collected under this Agreement. Nor shall Grantee permit any agent, employee, contractor or sub-grantee carrying out Services on its behalf to request, solicit, demand or accept, either directly or indirectly, any compensation or gratuity for the collection of Refuse otherwise required to be collected under this Agreement.

Section 23. Collection Equipment. Grantee shall provide an adequate number of vehicles, tools, and equipment for the Services for which it is responsible under this Agreement (“Equipment”). All vehicles used by Grantee under this Agreement shall be registered with the California Department of Motor Vehicles, be kept in clean and good repair, be uniformly painted, and be no older than ten (10) years. The noise level for the collection vehicles during the stationary compaction process shall not exceed seventy-five (75) decibels at a distance of twenty-five (25) feet from the collection vehicle and at an elevation of five (5) feet from the road surface. Solid waste collection vehicles shall be washed at least once every seven (7) calendar days. Grantee’s name, telephone number and a vehicle number shall be visibly displayed on its vehicles in letters and figures no less than five inches high and in a color and font that is easily readable. The Equipment of Grantee used under this Agreement shall be subject to inspection by the City on a semiannual basis, but City shall not impose any special permit fees on such Equipment.

Section 24. Public Access to Grantee.

24.1. Methods of Contacting Grantee. Grantee’s office shall be open to the public, at a minimum, from 8 a.m. to 5 p.m. California time, Monday through Friday (“Office Hours”). Grantee shall make available a weekend emergency telephone number. During Office Hours, a representative of Grantee shall be available for communication with the public at Grantee’s principal office. Telephone numbers provided to the public for contacting Grantee during Office Hours will either be a local or toll-free telephone number. Grantee shall also maintain a local or toll-free telephone number for contacting Grantee at times outside Office Hours (“After Hours Line”). A representative or answering service shall answer the After Hours Line at all times other than Office Hours. Grantee shall receive and document any complaints or inquiries it received at its office or by telephone call.

24.2. Service Complaints. City shall record all complaints received by mail, by telephone or in person (including date, name, address of complainant and nature of complaint). City will contact Grantee and arrange appropriate resolution. The City shall field and filter all service complaint calls and will forward complaints to Grantee on items such as broken containers missed pick-ups, services of containers too close to vehicles, etc. Customers will not be required to contact Grantee for complaints. In the case that a Customer contacts Grantee directly, Grantee agrees to provide service to the Customer as requested by the Customer. Grantee also agrees to train drivers to take a proactive approach to replacing lids on containers that do not have lids or have broken lids and agrees to replace a Customer’s containers at the request of the customer or the city.

Grantee agrees to use its best efforts to resolve all complaints within twenty-four (24) hours of such complaint are received by the City. Grantee will reimburse City for the costs it incurs in receiving and processing complaints against Grantee, by paying any invoices it received from City for such costs and expenses within ten (10) days’ of the date Grantee receives such invoice.

If the cause of the complaint is not fully resolved to the satisfaction of the complaining Customer by the Grantee, and the City Manager's representative, the complaint may be referred to the City Manager for review.

The City and Grantee will maintain records of all complaints received, which shall include all of the following: the date of the complaint, the name of the Customer, the nature of the complaint or request, the time and date action was taken, the type of action that was taken by Grantee to resolve the issues identified in the complaint. All such records shall be maintained for a period of three (3) years and shall be available for inspection by City during normal business hours. Grantee shall prepare monthly summaries of Customer complaints. The summaries shall be available and delivered monthly to the City Manager or the City Manager's designated representative.

24.3. Government Liaison. Grantee shall designate an individual to be its "Government Liaison" who shall be responsible for working with the City Manager, or the City Manager's designated representative, to resolve Customer complaints. The Government Liaison shall be an authorized managing agent for Grantee with an office located within thirty (30) miles or forty-five (45) minutes driving time of the City. Grantee shall provide City with the name, address, and telephone number of the Government Liaison prior to commencing collection operations and shall notify the City if the Government Liaison or any of his or her contact information changes at any time. Any request to the Government Liaison shall always constitute a request to the Grantee. The Government Liaison shall have a responsible person in charge who has the authority to make decisions relevant to operations under this Agreement between 8:00 a.m. to 5:00 p.m., California time, on Monday through Friday with the exception of City holidays. Grantee's Government Liaison shall serve as the point of contact for communications with Grantee.

24.4. Director as City's Point of Contact. Grantee's point of contact at City shall be the Director or an individual the Director has designated as an authorized representative in all matters pertaining to the performance of this Agreement, except as otherwise stated. The Director shall provide Grantee with a written notification of all individuals he or she authorizes to serve as the City point of contact. It is, however, recognized that daily operational communications will occur at all levels of City staff. To the extent that communication between Grantee and City's staff facilitate better job performance, such communications will be encouraged. Grantee shall require all of its employees to report any communications with City staff regarding matters or performance of this Agreement to the Government Liaison.

Section 25. Resolution of Disputed Customer Complaints. Grantee shall notify Customers of the complaint arbitration procedure below at the time any Customers apply for any of the Services and to a Customer when that Customer is making a complaint:

25.1. City Review of Complaint. A Customer dissatisfied with Grantee's response to a complaint may ask the City to review the complaint by submitting a request for City review within thirty (30) days of receipt of Grantee's response to the complaint, or within forty-five (45) days of submitting the complaint to the Grantee, if the Grantee has failed to respond to the complaint. City may extend the time to request its review if it determines, in its

sole and absolute discretion, that there is good cause to do so. City shall inform Grantee of the complaint and give Grantee an opportunity to correct the issue. Within ten (10) days after referring the complaint to the Grantee, the City Manager will verify that Grantee has resolved the complaint. If the Grantee fails to cure the complaint within ten days (10) days of receiving the referral from the City, the City Manager shall review the Customer's complaint and determine if further action is warranted. The City may request written statements from the Grantee and customer, and or oral presentations.

25.2. City may Order Refund by Grantee. The City Manager shall reasonably determine if the Customer's complaint is justified and what remedy, if any, shall be imposed. The remedy under this Section shall be limited to a reimbursement of charges assessed against Customer for Grantee's Services for the period of time Grantee is determined to be in breach of any of the terms of this Agreement.

Section 26. Ownership of Solid Waste. Once Refuse, Organic Waste, and Recyclables are placed in Containers or Bins at the designated Collection Location, ownership shall transfer to Grantee. Subject to Grantee's duty to meet the source reduction and recycling goals which apply to City, Grantee is hereby granted the right to retain Recyclables, or any part thereof, in any lawful fashion or for any lawful purpose desired by Grantee. At no time shall any other person, agency or entity have any right to the materials placed in Containers or Bins at their designated Collection Locations. "Scavenging" refers to the unauthorized removal of Recyclables as prohibited by Section 41950 of the Public Resources Code, and City agrees to use its best efforts to enforce this prohibition in the Franchise Area.

Refuse disposed of at a disposal site or sites (whether landfill, transformation facility, transfer station or material recovery facility) shall become the property of the owner or operator of the disposal site or sites once deposited there by Grantee. Grantee shall use the Waste to Energy facility whenever it is open for business and available. The Landfill shall be the secondary place of disposal. If Grantee wishes to use a disposal facility outside Stanislaus County, it shall submit a written request to City stating the reasons using a Disposal Site outside Stanislaus County. Grantee shall not use a disposal facility outside Stanislaus County without City's prior written consent. Organic Waste shall be composted, recycled, re-used, or disposed of as required by SB 1383. Grantee must use disposal facility within Stanislaus County that is equipped to process Organic Waste for disposing of the Organic Waste it collects from City, prior to using the Landfill or Waste to Energy facility for disposing of Organic Waste.

Section 27. Landfill Hours of Operation. The Landfill (is open from 8:00 a.m. to 4:00 p.m., California time, Monday through Saturday). Grantee will continue with regular collection on all holidays, except those listed in this Section or the days the Landfill is closed. Should a holiday fall on a regular Collection Day, the collection will be made either the day before or the day after, excluding weekends (e.g. Saturday, Sunday). Grantee shall give City three (3) months advanced written notice if any regular Collection Days will be missed or changed due to holidays. City will include these changed dates in its regular quarterly resident newsletter. Grantee shall also publicize the changed dates in the local newspaper and mail notice to each affected Customer in advance.

The following are holidays observed by Landfill:
New Year's Day – January 1st
Independence Day – July 4th
Thanksgiving Day – Fourth Thursday in November
Christmas Day – December 25th

Section 28. Indemnification.

28.1. Indemnification of City. Grantee agrees that it shall protect, defend, indemnify and hold harmless City and its elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("City's Agents") from and against any claim, action or proceeding that arises from this Agreement or any Services performed pursuant to or in connection with this Agreement ("Claim"), including but not limited to all losses, liabilities, fines, penalties, claims, damages, liabilities, judgments, attorney's fees, costs incurred for staff time, court costs, other expenses of litigation, or expenses of litigation awarded to the prevailing Party or Parties. This indemnification does not include gross negligence or willful acts of the City, or City's Agents, or from the City's grant of this Franchise to Grantee. At the City's discretion, Grantee shall satisfy the obligation of this Section by reimbursing City for tendering its own defense. If Grantee undertakes the defense of a Claim by providing City-approved representation, City may, participate in the defense of any such Claim.

28.2. Indemnification of Grantee. City shall indemnify, defend and hold Grantee, its affiliates and their respective officers, directors, employees and shareholders harmless from and against any and all liabilities, losses, damages, claims, actions and causes of action, costs and expenses (including reasonable attorney's fees) arising from or in any manner arising out of City's obligations in furtherance of this Agreement as well as the grossly negligent or willful acts of City or City's Agents. Subject to this indemnification, and upon demand of Grantee, made by and through Grantee's counsel, City shall appear in defense of Grantee, and its officers, employees and agents in any claims or actions, whether judicial, administrative or otherwise arising out of the exercise of this Agreement.

Section 29. Insurance. Grantee will continue to carry insurance, which shall be placed with insurers with a current A M Best's rating of no less than A VII, and which shall include all of the following:

29.1. Required Insurance.

29.1.1 Worker's Compensation. Grantee shall obtain and maintain in full force and effect throughout the Term of this Agreement worker's compensation insurance in accord with the provisions and requirements of the California Labor Code. Endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the Term. The policy providing coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The policy shall also be amended to waive all rights of subrogation against the City, its elected or appointed officials, employees, agents or Grantees for losses which arise from work performed by the name insured for the City.

29.1.2. General Commercial Liability Insurance. Grantee shall carry commercial or comprehensive general liability insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this the Services provided under this Agreement or the general aggregate limit shall be twice the required occurrence limit. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form GG 00 01 11 88).

29.1.3. Automobile Liability Insurance. Grantee shall carry automobile insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage, and which shall provide coverage for rented and non-owned vehicles. Coverage shall be at least as broad as Insurance Service form number CA 00 01 06 92 covering Automobile Liability, code 1 (any auto).

29.1.4. Public Liability Insurance. Grantee shall carry public liability insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage.

29.1.5. Pollution or Environmental Liability Insurance. Grantee shall carry Environmental or Pollution liability coverage appropriate for the hazardous materials and waste activity contemplated in this Agreement, including sudden and accidental upset pollution liability for the amount of Two Million Dollars (\$2,000,000.00) per claim or occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate.

29.2. Additional Insurance Requirements. Within five (5) days of the Effective Date, Grantee shall provide City with certificates of insurance for all of the policies required under this Section 29 (“Certificates”), excluding the required worker’s compensation insurance. With the exception of the worker’s compensation insurance, all of the insurance policies required in this Section 29 shall: (A) provide that the policy will not be cancelled, allowed to expire, or materially reduced in coverage without at least thirty (30) days’ prior written notice to City of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; (B) name City, and City’s Agents as additional insured with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Grantee or operations performed by or on behalf of the Grantee to perform the Services including materials, parts, or Equipment furnished in connection with such Work or operations by endorsement; (C) be primary with respect to any insurance or self-insurance programs covering City or City’s Agents and any insurance or self-insurance maintained by City or City’s Agents shall be excess of Grantee’s insurance and shall not contribute to it; and (D) contain standard separation of insured provisions.

29.3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City and City's Agents or Grantee shall provide a financial guarantee satisfactory to the City guaranteeing payment of loss related investigations, claim administration and defense expenses.

29.4. Verification of Coverage. Before the Services commence, Grantee shall furnish City with original certificates and endorsements effecting coverage required by this Section 29. The endorsements shall be on forms approved by the City which contain all of the information required in this Section 29.

29.5. Subcontractors. Grantee shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Section 29.

Said insurance shall protect Grantee and City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from the Services performed pursuant to this Agreement, whether such operations be by Grantee itself, or by its agents, employees, contractors or sub-grantees. Copies of the policies or endorsements evidencing the above insurance coverage shall be filed with the City Clerk. All of the following endorsements are required to be made a part of the insurance policies required by this Agreement.

29.6. Increase in Coverage Requirements. The limits for the insurance coverage required under this Section and the ratings required for insurance companies shall be subject to review and approval by the City Attorney every year and may be increased at that time, at the City Attorney's discretion, to match the coverage provided by the City's own liability insurance policy.

Section 30. Grantee's Books and Records: Audits. Grantee shall maintain all records relating to the Services provided under this Agreement, including, but not limited to, customer lists, billing records, maps, AB 939 compliance records, AB 341 compliance records, SB 1383 compliance records and Customer complaints (collectively, the "Records"), for no less than three (3) years after the termination of the Term, or as may or any longer period required by the law. City shall have the right, upon five (5) business days advance notice, to inspect all Records, and other like materials of Grantee which reasonably relate to Grantee's compliance with the provisions of this Agreement. Such documents shall be made available to City at Grantee's regular place of business during regular business hours.

Section 31. General Provisions.

31.1. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of California. Venue for all legal proceedings arising from this Agreement shall be in the Superior Court for the County of Stanislaus in the State of California. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Eastern District of the State of California.

1201 K Street, Suite 710
Sacramento, California 95814
Tel: (916) 468-0950
Fax: (916) 468-0951

To Grantee: Bertolotti Disposal, Inc.
231 Flamingo Drive
Modesto, California 95358
Tel: (209) 537-4147

31.4. Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

31.5. Exhibits Incorporated. The following "Exhibits" are attached hereto and incorporated herein by this reference:

Exhibit Designation	Exhibit Title
Exhibit A	Definitions
Exhibit B	Franchise Area
Exhibit C	Special Wastes
Exhibit D	Containers

31.6. Time of Essence. Time is of the essence for the Agreement and each provision contained within and each provision is made and declared to be a material, necessary and essential part of the Agreement.

31.7. Authority. All Parties to the Agreement warrant and represent that they have the power and authority to enter into the Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into the Agreement. By entering into the Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

31.8. Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of the Agreement. Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

31.9. Entire Agreement. This Agreement, together with its specific references, attachments and Exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

31.10. Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement, including the December 2006 Agreement.

31.11. Captions. The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

31.12. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” and “can” are permissive.

31.13. Successors and Assigns. All representations, covenants, and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of, any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns.

31.14. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

31.15. Attorney’s Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney’s fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

31.16. Necessary Acts and Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of the Agreement.

31.17. Waiver. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, this Agreement has been entered into by and between City and Grantee as of the Effective Date.

CITY:

City of Patterson, a municipal corporation of the State of California

By: Rod B. Butler

Rod Butler, City Manager

Date Signed: 7/30/2014

Approved as to Form:

By: T. P. H.
Tom Hallinan, City Attorney

Attest:

By: Maricela Vela
Maricela Vela, City Clerk

BERTOLOTTI:

Bertolotti Disposal, Inc

By: Steve Holloway
Steve Holloway, General Manager

Date Signed: 7/24/14

EXHIBIT A: DEFINITIONS:

Capitalized words in the Agreement shall have the following meanings:

1. “AB” shall mean an Assembly Bill of the California Legislature.
2. “AB 341” shall be as defined in Recital B to the Agreement.
3. “AB 939” shall mean the California Integrated Waste Management Act of 1989, as it may be amended from time to time, which, among other things, requires the City to divert solid waste, including both Residential and Commercial Solid Waste from landfill or transformation facilities.
4. “Absolute Customer Count” shall be as defined in Section 22.1 of the Agreement.
5. “Active Life of Landfill” shall mean that period of time during which the landfill is receiving refuse for disposal.
6. “After Hours Line” shall be as defined in Section 24.1 of the Agreement.
7. “Agreement” shall be as defined in the preamble to the Agreement.
8. “Automated Organic Waste Container” shall mean a green 90-gallon automated container supplied by the Grantee for Organic Waste only.
9. “Automated Refuse Container” shall mean a black 90-gallon automated container supplied by the Grantee for refuse only.
10. “Automated Recyclable Container” shall mean a blue 90-gallon automated container supplied by the Grantee for recyclables only, which will be provided to all residential customers at no additional cost. Commercial customers will be provided two (2) containers at no additional cost, unless they request a recycle yard bin, for which there will be a reduced charge.
11. “Bin” or “Bins” shall mean those containers provided by Grantee for commercial and residential uses. Bins are of two types: (A) Bins (usually 2, 3, 4 and 6 cubic yards in size) which are picked up by refuse trucks by means of front-loading apparatus; and (B) Roll-Off Boxes (usually 10 to 40 cubic yards in size) which are picked up by refuse trucks using rear-loading winches onto rails.
12. “Breach” shall be as defined in Section 17.2 of the Agreement.
13. “Bulky Item Pickup” shall mean the collection by Grantee of a bulky item that is not placed in the container provided by the Grantee, including but not limited to: tree branches, and furniture.

14. “Carry-Out Service” shall mean a service where the Grantee collects Refuse Containers from a location near a Dwelling Unit, rather than at the curb or Collection Location, for Customers who are disabled or otherwise need assistance.
15. “Certificates” shall be as defined in Section 29.2 of the Agreement.
16. “City” shall mean the City of Patterson, Stanislaus County, California.
17. “City’s Code” shall mean the Patterson Municipal Code.
18. “City’s Agents” shall be as defined in Section 28.1 of the Agreement.
19. “City Engineer” shall mean the city engineer for the City of Patterson.
20. “City Facilities” shall be as defined in Section 9.4.2 of this Agreement.
21. “City Limits” shall mean the boundaries of City, together with all amendments and changes thereto, which boundaries are shown by maps incorporated herein by reference and which are on file in the office of the City Clerk.
22. “City Manager” shall mean the city manager for the City of Patterson.
23. “Claim” shall be as defined in Section 28.1 of the Agreement.
24. “Collection Day” shall be as defined in Section 9.1.2 of this Agreement.
25. “Collection Location” shall be as defined in Section 11.2.
26. “Commercial” shall mean commercial enterprises, including but not limited to: stores, business offices, restaurants, commercial warehouses, hospitals, educational institutions, health care providers, hotels, inns, motels, military facilities or operations, correctional institutions, and governmental offices.
27. “Commercial Customer” or “Commercial Customers” shall mean a Customer account for Services provided under this Agreement for Commercial entities or enterprises.
28. “Commercial Solid Waste” shall mean solid waste that is generated by or originating from commercial enterprises, including but not limited to: stores, business offices, restaurants, commercial warehouses, hospitals, educational institutions, health care providers, hotels, inns, motels, military facilities or operations, correctional institutions, and governmental offices. Commercial Solid Waste does not include Residential Solid Waste or Industrial Garbage.
29. “Container” or “Containers” shall be as defined in Section 10 of the Agreement.
30. “Council” shall be as defined in Recital C of this Agreement.

31. “Customer” or “Customers” shall mean an individual or entity that receives disposal services within the Franchise Area pursuant to this Agreement, including Residential Customers and Commercial Customers.
32. “Director” shall mean the City’s Director of Public Works.
33. “Dwelling Unit” shall mean any room or group of rooms used solely as a domicile for a single household. This includes single units, duplexes, triplexes, apartments, town houses and mobile homes.
34. “Effective Date” shall be as defined in the Preamble to the Agreement.
35. “Equipment” shall be as defined in Section 23 of the Agreement.
36. “Exhibits” shall be as defined in Section 31.5 of the Agreement.
37. “Force Majeure” shall be as defined in Section 11.8.
38. “Franchise” shall mean the exclusive right to perform the Services provided under this Agreement within the Franchise Area.
39. “Franchise Area” shall be as defined in Section 8 of the Agreement.
40. “Government Liaison” shall be as defined in Section 24.3 of the Agreement.
41. “Grantee” shall be as defined in the Preamble to the Agreement.
42. “Grantee’s Agents” shall be as defined in Section 11.1 of the Agreement.
43. “Organic Waste” or “Compostables” shall mean solid waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green waste, landscape and pruning waste, applicable textiles and carpets, wood, lumber, and fiber.
44. “Industrial Garbage” shall mean garbage produced by any person, firm, corporation, or entity engaged in the business of processing or manufacturing agricultural products, animals, poultry, goods, wares or other products or materials, or who processes or manufactures the same for the purposes of wholesale in processed or manufactured form. “Industrial Garbage” also means garbage produced by any person, firm or corporation engaged in the business of building construction and/or building demolition. “Industrial Garbage” shall further mean construction and demolition debris (“C&D”).
45. “Landfill” shall mean any landfill permitted by the California Integrated Waste Management
46. “Legislature” shall be as defined in Recital A of the Agreement.

47. “Liquidated Damages” shall be as defined in Section 17.3.2 of the Agreement.
48. “Materials Recovery Facility” shall mean a centralized receiving and distribution facility that receives, separates, processes, and markets recyclable materials directly from the general waste stream.
49. “Multi-Family Residential” shall include multiple family dwellings as defined in Section 18.08.020 of the City’s Code.
50. “Notice of Appeal” shall be as defined in Section 17.1 of the Agreement.
51. “Obstruction” shall be as defined in Section 11.7.3 of the Agreement.
52. “Office Hours” shall be as defined in Section 24.1 of the Agreement.
53. “Party” or “Parties” shall be as defined in the Preamble to the Agreement.
54. “Payment Bond” shall be as defined in Section 13.2 of the Agreement.
55. “Performance Bond” shall be as defined in Section 13.1 of the Agreement.
56. “Public Facilities” shall mean all buildings or structures including parks owned or used by City agencies.
57. “Recitals” shall be as defined in Section 1 of the Agreement.
58. “Records” shall be as defined in Section 30 of the Agreement.
59. “Recyclables” shall mean all residential, commercial, or industrial by-products that can be recycled including, but not limited to, glass, aluminum, plastic beverage containers, newspaper, chipboard, mixed waste paper (including office paper, computer paper, magazines, junk mail, catalogs, craft bags and craft paper, paperboard, egg cartons, phone books, brown paper, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes), glass containers (including brown, clear, and green glass bottles and jars), aluminum (including beverage containers, household batteries, green waste and cardboard. The recycling program pertains to all residential and commercial accounts.
60. “Refuse” shall mean general term for waste, including both Residential Solid Waste and Commercial Solid Waste.
61. “Regulations” shall be as defined in Section 31.2 of the Agreement.

62. “Residential Customer” or “Residential Customers” shall mean a customer account for Services offered by this Agreement single-family or multiple-family dwellings within the Franchise Area.
63. “Residential Solid Waste” shall mean solid waste originating from single-family or multiple-family dwellings.
64. “Sanitation Fee” shall mean a fee assessed to residents by the City for any sanitation Services provided by the Grantee.
65. “Services” shall mean the furnishing of all labor, materials, Equipment and other incidentals necessary for the successful completion of the contract and the carrying out of all duties and obligations imposed by the contract.
66. “Solid Waste” shall mean both Residential and Commercial solid waste.
67. “Special Wastes” shall mean all the items and materials which are set forth on Exhibit “Special Wastes.”
68. “Street Collection” shall mean refuse collection from a right-of-way in which the collection point is that area closest to the thoroughfare, which does not block traffic.
69. “Waste to Energy” or “WTE” Shall mean the Waste to Energy plant located in Stanislaus County.

EXHIBIT B: FRANCHISE AREA

EXHIBIT C: SPECIAL WASTES

- Flammable Waste
- Containerized waste (e.g. drum, barrel, portable tank, box, pail, etc.)
- Waste transported in a bulk tanker
- Liquid waste
- Sewage sludge
- Waste from a pollution control process
- Residue and debris from the cleanup of a spill or release of chemical substances, commercial products, or any other special wastes.
- Contaminated soil, waste, residue, debris and articles from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation or disposal of any other special wastes
- Dead animals
- Wastewater
- Explosive substances
- Radioactive materials
- Materials which have been exposed to highly infectious or contagious diseases
- Hazardous materials
- Air conditioners, refrigerators, or freezers with motors, compressors and copper tubing still affixed



CITY COUNCIL AGENDA REPORT

TO: Mayor Molina and Members of the City Council

FROM: Rod B. Butler, City Manager *KA*

BY: Mike Willett, Director of Public Works *MW*

MEETING DATE: June 3, 2014

ITEM NO: 5.4

SUBJECT: Approve the Solid Waste Franchise Agreement with Bertolotti Disposal Inc., for a 7-Year Term Beginning July 1, 2014 through July 1, 2021, and Authorize Staff to Execute the Agreement

RECOMMENDATION

Approve the Solid Waste Franchise Agreement with Bertolotti Disposal Inc., for a 7-Year Term Beginning July 1, 2014 through July 1, 2021, and Authorize Staff to Execute the Agreement.

BACKGROUND

The current contract for the hauling and disposal of waste through Bertolotti Disposal Inc. is set to expire in October of 2014. The new Franchise Agreement was completed by staff and reviewed by the City Attorney. For the most part, the terms of the new franchise agreement are similar to those from the current agreement. The only substantive changes that have been made are as follows:

- 1) Agreement is for 7 years. The term would begin on July 1st, 2014 and end July 1, 2021.
- 2) The CPI that would be used for the next five years is from 2012.
- 3) The City would take over the customer service.
- 4) Commercial Recycling Services would be provided by Bertolotti Disposal.

ANALYSIS

In this new agreement, Bertolotti Disposal Inc. has agreed to forego any Consumer Price Index (CPI) increases on their rate charges for the next 5 years and allow the rates to be calculated with the current (2012) CPI. This will result in savings to the City of about \$30,000 a year, totaling \$150,000. In exchange, the City has agreed to take over all customer service calls in an effort to streamline and provide more efficient and quality service to its customers. For the past years, customers were directed to call Bertolotti Disposal to schedule bulky item pickups, complaints, and problems with regards to the garbage services provided by the hauler and if not satisfied would then have to contact the City to resolve their concerns. Now customers will only have to call the City and the City would work with Bertolotti to address all the customer's needs and concerns.

FISCAL IMPACT

Approval of the franchise agreement with the terms noted allows for only a minimal (3.3%) rate increase to be needed while still providing an excellent level of service.

Bertolotti Contract Extension

In accordance with the Franchise Agreement, between the City of Patterson and Bertolotti Disposal Inc., under Section 6. Term of Agreement; the City will be extending the agreement an additional two (2) years. The City of Patterson includes the following clarifications to the current agreement.

- Under **Section 9 services provided by Grantee**

9.4.6 Special Events

The chili cook-off no longer exists, and the city's second event will now be the Children's Safety Fair & Back to School Event in August.

Grantee shall provide city with Solid Waste collection during two (2) special events at no additional charge: The Apricot Fiesta and the Children's Safety Fair & Back to School Event. Solid Waste collection equipment and personnel shall be supplied during the entire course of these events, as needed. City shall designate the specific days and times of these events. The Apricot Fiesta is a three (3) day event that typically occurs on a Friday, Saturday and Sunday in the months of May or June. The Children's Safety Fair & Back to School Event is a one (1) day event that typically occurs in the month of August. Additional Refuse Containers will be provided to the City as needed for these events at no additional cost to the city.

9.4.2. Recycling Program

The city would like to strengthen the recycling program at the Apricot Fiesta by incorporating, as part of operations during the Fiesta, a program to divert recyclables out of the waste stream.

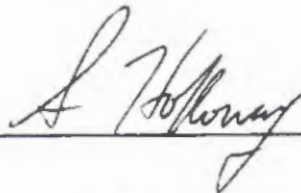
- A. Have at Fiesta one recycling truck to dump blue cans. Have one truck to dump black cans or unrecyclable waste.
- B. Provide Recycling bins for the events

To improve our recycling program, the city is requesting that Bertolotti provide more noticeable signage on commercial recycling bins.

- To improve service regarding state storm water regulations the city would like Bertolotti to; ensure that Bertolotti personnel working in Patterson are trained on an annual basis about storm water regulations, including spill response. All Bertolotti equipment/vehicles will need to be equipped with spill response kits (include absorbents, drain inlet protection, etc.).
- All other portions of the contract will be honored as they exist as part of this extension.

Acknowledged by:

Bertolotti Disposal Inc.



Date:

11/20/18

City of Patterson



Date:

3/21/19