

ATTACHMENT A - DEFINITIONS

Subject to Article 1, capitalized terms used in this Agreement will have the meanings specified in this Attachment.

Act. "Act" means the California Integrated Waste Management Act of 1989 (AB 939) Public Resources Code, Section 40000 et seq.

Affiliate. "Affiliate" means a Person which is related to Contractor by virtue of direct or indirect ownership interest or common management. An Affiliate includes a Person in which Contractor owns a direct or indirect ownership interest, a Person which has a direct or indirect ownership interest in Contractor and/or a person which is also owned, controlled or managed by any Person or individual which has a direct or indirect ownership interest in Contractor. The partners which comprise Contractor are Affiliates.

Agreement. "Agreement" means this Agreement, including the attachments.

Applicable Law. "Applicable Law" means all federal, State, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over the Collection, transportation, processing, and disposal of Solid Waste, Recyclable Materials, Organic Materials, Yard Trimmings and other materials Collected pursuant to this Agreement that are in force on the Effective Date and as they may be enacted, issued or amended during the Term.

Baseline Programs. "Baseline Programs" includes Solid Waste, Recyclable Materials, and Yard Trimmings collection and processing programs conducted by the incumbent contractor as of the Effective Date and described in the Request for Proposals issued by City in February 2008.

Bulky Items. "Bulky Items" means large discarded items including Major Appliances, furniture, tires, carpets, mattresses, and other oversize materials whose large size precludes or complicates their handling by normal Collection. Bulky Items do not include abandoned automobiles, large auto parts, or trees.

Business Day. "Business Day" means a day during which Contractor's office is required to be open to do business with the public. Also "Work Day."

Can. "Can" means a metallic or plastic container with a close-fitting cover and handles and a capacity of not more than 32 gallons, provided by a Customer.

Change in Law. "Change in Law" means the enactment of a statute introduced after the Effective Date, or the promulgation of a new regulation (or amendment to an existing regulation) proposed after the Effective Date but does not include any changes in the California Air Resources Board emissions regulations for vehicles or changes in environmental regulations affecting the operation of the facilities at which Recyclable Materials, Organic Materials or Yard Trimmings collected in the City are processed.

City. "City", when used in reference to a local government, means the City of Palo Alto. When used in reference to a geographic area in which Collection services are to be

provided by Contractor, it means the area within the corporate boundaries of the City of Palo Alto together with areas owned by Stanford University and serviced by the Contractor's predecessor including Stanford Hospital, Stanford Research Park, Stanford Mall and apartments on Sand Hill Road, all as shown on maps maintained by the Director.

Collect/Collection. "Collect" or "Collection" means to take physical possession, transport, and remove Solid Waste, Recyclable Materials, Organic Materials, Yard Trimmings, or other materials pursuant to this Agreement from within the City.

Commencement Date. "Commencement Date" means the date specified in Section 2.02 when the Contractor is to begin providing Collection services required by this Agreement.

Compactor. "Compactor" means a mechanical apparatus that compresses materials and/or the Container that holds the compressed materials. Compactors include bin compactors of any size serviced by front-loading collection vehicles and drop box compactors of any size serviced by drop box collection vehicles.

Compost. "Compost" means the controlled biological decomposition of Organic Materials and Yard Trimmings and the product resulting from that process. Composting does not include Transformation.

Composting Facility. "Composting Facility" means the Z-Best Composting Facility in Gilroy, California.

Construction and Demolition Debris. "Construction and Demolition Debris" means materials resulting from the construction, remodeling, repair or demolition of a building, structure, pavement or other improvement, including building components, packaging, and rubble but excluding liquid wastes and hazardous wastes.

Construction and Demolition Debris Recovery Facility. "Construction and Demolition Debris Recovery Facility" means the Zanker Road Materials Processing Facility located at 675 Los Esteros Road in San Jose, California, or the Zanker Road Resource Recovery Operation and Landfill located at 705 Los Esteros Road in San Jose, California.

Container. "Container" means any receptacle used for storage of Solid Waste, Recyclable Materials, Organic Materials, Yard Trimmings, Construction and Demolition Debris and other materials Collected pursuant to this Agreement including metal or plastic Cans, carts, bins, Compactors and drop boxes.

Contractor. "Contractor" means Greenwaste of Palo Alto. The Contractor is a "Collector" for purposes of Municipal Code Section 5.20.010.

Contractor's Proposal. "Contractor's Proposal" means the proposal dated April 28, 2008, submitted by Contractor in response to the Request for Proposals issued by City in February 2008 and certain supplemental written materials submitted by Contractor between May 1 and July 7, 2008.

Control. “Control” means, for purposes of Article 12, the direct or indirect possession of the power to direct, or cause the direction of, the management and policies of a corporation, partnership, limited liability company, joint venture or other Person.

County. “County” means the County of Santa Clara.

CRV Revenues. “CRV Revenues” means the revenues received by the Contractor from the California Department of Conservation for returned beverage containers.

Curbside. “Curbside” means the location designated for Collection, where Containers or loose materials are to be placed.

Customer. “Customer” means the Person to whom Contractor provides Collection services. The Customer may be the Occupant or Owner of the Premises.

Day. “Day” means calendar day unless otherwise specified.

Discarded. “Discarded” means Solid Waste, Recyclable Materials, Organic Materials and Yard Trimmings placed in a Container and/or at a location that is designated for Collection.

Effective Date. “Effective Date” means the date identified in Section 2.01.

Electronic Waste (or E-Waste). “Electronic Waste” or “E-Waste” means “Covered Electronic Wastes” as defined in Act (Section 42463 of Public Resources Code) including discarded electronic equipment such as, but not limited to, television sets, computer monitors, central processing units (CPUs), laptop computers, and peripherals (e.g., external computer hard drives, computer keyboards, computer mice, and computer printers).

Environmental Laws. “Environmental Laws” means all federal and State statutes, County and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 *et seq.*; the Resource Conservation and Recovery Act, 42 USC §6902 *et seq.*; the Federal Clean Water Act, 33 USC §1251 *et seq.*; the Toxic Substances Control Act, 15 USC §1601 *et seq.*; the Occupational Safety and Health Act, 29 USC §651 *et seq.*; the California Hazardous Waste Control Act, California Health and Safety Code §25100 *et seq.*; the California Toxic Substances Control Act, California Health and Safety Code §25300 *et seq.*; the Porter-Cologne Water Quality Control Act, California Water Code §13000 *et seq.*; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 *et seq.*; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

Facility/Facilities. “Facility/Facilities” means any plant or site, owned or leased and maintained, operated or used by Contractor for purposes of performing Contractor’s obligations under this Agreement (e.g., facilities for parking and maintaining vehicles, administration offices, and customer service offices, etc.).

Federal. “Federal” means pertaining to the national government of the United States.

Fiscal Year. “Fiscal Year” has the same meaning as “Rate Period”.

Guarantors. “Guarantors” means Greenwaste Recovery, Inc. and Zanker Road Resource Recovery, Inc.

Guaranty. “Guaranty” means the agreement to be executed by the Guarantors in the form of Attachment M.

Holidays. “Holidays” means New Year’s Day, Thanksgiving Day, and Christmas Day.

Holiday Schedule. “Holiday Schedule” means the modified service schedule for the days following a Holiday. If a Holiday falls on Monday, Tuesday, Wednesday, Thursday or Friday, the service is to be provided the immediately following day. If a Holiday falls on Saturday, the service is to be provided the following Monday.

Holiday Trees. “Holiday Trees” means trees targeted for diversion that were used in celebration of Christmas and other holidays in December and January.

Household Batteries. “Household Batteries” means disposable or rechargeable dry cells (e.g., A, AA, AAA, B, C, D, 9-volt, button-type) commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, nickel metal hydride, alkaline, mercury, mercuric oxide, silver oxide, zinc oxide, nickel-zinc, nickel iron, lithium, lithium ion, magnesium, manganese, and carbon-zinc batteries, but excluding automotive lead acid batteries.

Household Hazardous Waste. “Household Hazardous Waste” means Hazardous Waste generated at Residential Premises.

Including. “Including” means including but not limited to.

Liquidated Damages. “Liquidated Damages” means the amounts owed by Contractor to the City for failure to meet specific standards of performance as described in Section 11.09.

Major Appliances. “Major Appliances” means any device including washing machines, clothes dryer, hot water heaters, dehumidifiers, conventional ovens, microwave ovens, stoves, refrigerators, freezers, air-conditioners, trash compactors, and residential furnaces discarded by Residential Generators. Major Appliances are commonly referred to as White Goods.

Materials Recovery Facility. “Materials Recovery Facility” means a permitted facility where materials are cleaned, processed, sorted and baled for the purposes of recovering reusable or Recyclable Materials. Contractor will deliver Recyclable Materials collected in the City to the Greenwaste Materials Recovery Facility located at 625 Charles Street in San Jose, California, for processing.

Multiple-Family Residential Premises. “Multiple-Family Residential Premises” means building(s) containing five (5) or more individual residential dwelling units. Such Premises normally have centralized Solid Waste and Recyclable Materials Collection service for all units in the building(s) and are billed to one address (typically the Owner or property manager).

Municipal Code. “Municipal Code” means the Palo Alto Municipal Code.

Occupant. “Occupant” means a Person who occupies Premises.

On-Call Services. “On-Call Services” means the collection service shall be provided as arranged or requested by Customers or City.

Operating Ratio. “Operating Ratio” or “OR” means the relationship, expressed as a percentage, between Contractor’s total annual cost of operations and the Contractor’s total annual cost of operations plus profit. The OR for purposes of this Agreement is 88 percent. The formula by which profit is calculated is shown in Attachment N-2, Section 3.B.

Organic Materials. “Organic Materials” means the material identified as “Organics” in Attachment C, Section 3.

Overage. “Overage” means the amount of Solid Waste, Recyclable Materials, Organic Materials and Yard Trimmings placed in or adjacent to a Collection Container that is in excess of the Container capacity.

Owner. “Owner” means the Person holding legal title to the real property constituting the Premises to which Solid Waste, Recyclable Materials, Organic Materials and/or Yard Trimmings Collection service is provided.

Party(ies). “Party(ies)” refers to the City and Contractor, individually or together.

Pass-Through Cost. “Pass-Through Cost” means a cost to which no element of overhead, administrative expense, or profit is added.

Person. “Person” means any individual, firm, company, association, organization, partnership, corporation, trust, joint venture, the United States, the State, the County, towns, cities, or special purpose districts.

Premises. “Premises” means any land or building where Solid Waste, Recyclable Materials, Organic Materials or Yard Trimmings are generated or accumulated.

Rate Period. “Rate Period” means the twelve-month period, commencing July 1 of one year and concluding June 30 of the next year.

Recyclable Materials. “Recyclable Materials” means the materials identified in Attachment C, Section 2, as well as materials subsequently added to the foregoing list by regulation of the City Manager issued pursuant to Section 5.20.280 of the Municipal Code or by sixty (60) days written notice to Contractor by the Director.

Single-Family Residential Premises. “Single-Family Residential Premises” means a Premises used as a residential dwelling other than a Multiple-Family Residential Premises and includes each unit of a duplex, triplex, fourplex or townhouse condominium at which there are no more than four (4) dwelling units and where individual Solid Waste, Recyclable Materials, and Yard Trimmings Collection is provided separately to each dwelling unit and each dwelling unit is billed separately.

SMART Station. “SMART Station” means the Sunnyvale Materials Recovery and Transfer Station located at 301 Carl Road in Sunnyvale, California. Contractor will deliver Solid Waste and Yard Trimmings to the SMART Station unless otherwise directed by City.

State. “State” means the State of California.

Subcontractor. “Subcontractor” means a Person that has entered into a contract with the Contractor for the performance of work that is necessary for the Contractor’s fulfillment of its obligations under this Agreement.

Term. “Term” means the Term of this Agreement.

Ton (or Tonnage). “Ton (or Tonnage)” means a unit of measure for weight equivalent to 2,000 pounds where each pound contains 16 ounces.

Universal Waste (or U-Waste). “Universal Waste,” or “U-Waste,” means all wastes defined by Title 22, Subsections 66273.1 through 66273.9 of the California Code of Regulations. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and Electronic Waste.

Used Motor Oil. “Used Motor Oil” means used motor oil from automobiles and other light duty vehicles intended for personal use which is removed from cars at a Residential Premises and not as a part of a for-profit or other business activity.

Used Motor Oil Filter. “Used Motor Oil Filter” means a used motor oil filter from automobiles and other light duty vehicles intended for personal use which is removed from the vehicle at a Residential Premises and not as a part of a for-profit or other business activity.

White Goods. “White Goods” means Major Appliances.

Yard Trimmings. “Yard Trimmings” means the materials identified as Yard Trimmings in Attachment C, Section 3.

Zero Waste Services. “Zero Waste Services” means the elements of the City’s Zero Waste Operational Plan that are to be implemented through this Agreement, including (1) collection for composting of Organic Materials from Commercial/Industrial Customers, (2) expansion of the types of materials collected for recycling from all categories of Customers, (3) expansion of the types and quantities of materials collected for reuse and recycling through the Annual On-Call Community Clean Up Program, (4) increasing the amount of Construction and Demolition Debris that is diverted from landfill disposal, (5) implementing mandatory participation in recycling programs if and when required by City Council action, and (6) public information and outreach efforts to encourage participation in all of the foregoing.