

Attachment C

1 **Tajiguas Resource Recovery Project**
2 **Materials Delivery Commitment &**
3 **Processing Services**
4 **Agreement**
5 **BETWEEN**
6 **County of Santa Barbara**
7 **AND**
8 **City of Solvang**

9 **Agreement Date:**
10 November 17, 2016 – Final

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TABLE OF CONTENTS

1

2 **RECITALS.....1**

3 **ARTICLE 1: DEFINITIONS2**

4 **ARTICLE 2: TERM OF AGREEMENT15**

5 2.1 Effective Date15

6 2.2 Agreement Term15

7 2.3 Survival of Certain Provisions.....15

8 **ARTICLE 3: COUNTY’S OBLIGATIONS.....16**

9 3.1 Solid Waste Management Services16

10 3.2 Facility Revenues16

11 3.3 Exercise of Contractual Rights18

12 3.4 Annual Facility Review Meeting.....19

13 3.5 Services During Uncontrollable Events19

14 **ARTICLE 4: CITY’S OBLIGATIONS.....21**

15 4.1 Acceptable Materials Delivery Requirement and Monthly Payments21

16 4.2 City’s Annual Deliveries21

17 4.3 Compensation and Annual Settlement Process27

18 **ARTICLE 5: SUSPENSION AND TERMINATION31**

19 5.1 Notice of Default.....31

20 5.2 Resolution When Facility Financing Certificate(s) Outstanding31

21 5.3 Resolution When Facility Financing Certificate (s) Not Outstanding31

22 **ARTICLE 6: RECORDS AND REPORTS32**

23 6.1 Records32

24 6.2 Reports.....32

25 **ARTICLE 7: ENFORCEMENT33**

26 7.1 Enforcement33

27 7.2 Uncontrollable Circumstances.....33

28 7.3 Jurisdiction, Venue, Service of Process34

29 7.4 Governing Law34

30 7.5 Costs34

31 **ARTICLE 8: ASSIGNMENT35**

32 8.1 Assignment.....35

33 **ARTICLE 9: MISCELLANEOUS PROVISIONS.....36**

34 9.1 Entire Agreement36

35 9.2 Amendments36

36 9.3 Severability.....36

37 9.4 Interpretation36

38 9.5 Timely Performance37

Materials Delivery Commitment & Processing Services Agreement

39 9.6 Notices, Etcetera37
40 9.7 Writing38
41 9.8 Exercise of Options38
42 9.9 Parties' Agreement Representatives38
43 9.10 Signing Multiple Copies39
44 9.11 Authority to Sign39

45 **EXHIBITS**

46 A. Addresses for Notices
47 B. Communications
48 C. Collection Franchise or Other Proof of Delivery Obligation
49 D. Jurisdictional Rate Stabilization Fund Dividend Sample Calculation
50 E. Example calculation of County Service Costs
51 F. Flow of Funds Diagram
52

53 **ATTACHMENTS**

54 1. Projected and Minimum Annual Delivery Requirement

55 RECITALS

56 This Material Processing Services and Delivery Commitment Agreement is made and dated as of the
57 date on the cover page between the County of Santa Barbara, a political subdivision of the State of
58 California (the "County"), and the City of Solvang, a charter city and political subdivision of the State of
59 California (the "City").

60 (A) WHEREAS, the Parties are responsible for the health and safety of the citizens within their
61 geographic boundaries; and,

62 (B) WHEREAS, the Parties regulate Municipal Solid Waste, Recyclable Materials, and Organic
63 Materials collection in areas under their jurisdiction and award franchises for collection to
64 private organization(s), herein called "Collection Contractor(s)"; and,

65 (C) WHEREAS, the Parties find it in their mutual economic interest to address solid waste and
66 recycling issues on a regional level; and,

67 (D) WHEREAS, the California Integrated Waste Management Act (CIWMA) (California Public
68 Resources Code, §40000 et seq.) required that the Parties reduce by fifty percent (50%) the
69 amount of Solid Waste they landfill by the end of the Year 2000 and continue to maintain that
70 reduction going forward; and,

71 (E) WHEREAS, subsequent legislation including Assembly Bills (AB) 32, 341 and 1826 require
72 reduced air emissions and increased diversion of commercial and multi-family Recyclable
73 Materials and Organic Materials to achieve a 75% diversion goal by 2020; and,

74 (F) WHEREAS, each Party has the authority to regulate its solid waste, Recyclable Materials, and
75 Organic Materials stream, including the collection, transfer, transportation, and Processing
76 thereof, and has the authority to establish rates for the conduct of such functions; and,

77 (G) WHEREAS, solid waste from each Party is disposed at the Tajiguas Sanitary Landfill located off
78 State Highway 101, approximately twenty six (26) miles West of Santa Barbara; and,

79 (H) WHEREAS, the Parties developed the Tajiguas Resource Recovery Project ("TRRP") in order to
80 achieve their goals of: extending the operating life of Tajiguas Landfill; and complying with State
81 law and local policy that mandate diverting materials from Disposal, and reducing greenhouse
82 gas emissions; and,

83 (I) WHEREAS, the Parties have found that these goals are in the public interest, and,

84 (J) WHEREAS, County has determined that the execution of this Agreement will serve the public
85 health, safety and welfare by providing a more stable, predictable and reliable supply of
86 Municipal Solid Waste and the resulting service payment revenue, thereby enabling County to
87 plan, manage, operate and finance the Tajiguas Resource Recovery Project and extend the life of
88 the Tajiguas Landfill; and,

89 (k) WHEREAS, this is a necessary financing agreement needed to secure the Certificates used to
90 finance the TRRP;

91 IT IS THEREFORE AGREED AS FOLLOWS:

92 **ARTICLE 1: DEFINITIONS**

93 "Acceptable Materials", means all of the materials delivered to the Facilities by the Collection
94 Contractor(s), Public Participants, (or on behalf of Public Participants), and Other Users as permitted
95 under Applicable Law and the Facilities' Permits, including Mixed Waste, Source-Separated Organic
96 Materials and Source-Separated Recyclable Materials. Acceptable Materials may include some
97 Unacceptable Materials that must be removed by the Service Contractor before Processing or Disposal.

98 "Acceptable Materials Charge; AMC", means the charge established pursuant to Section 4.3.A of this
99 Agreement.

100 "Agreement", means this Agreement, including all exhibits and attachments, as it may be amended.

101 "Agreement Services", means all of County's performance obligations under this Agreement to City
102 under Article 3; and all of City's performance obligations to County under Article 4.

103 "Agreement Term", means the period of time between the Effective Date and the termination date, as
104 set forth in Sections 2.1 and 2.2, during which this Agreement shall be effective.

105 "Agreement Year", means the fiscal year, July 1 through June 30.

106 "Anaerobic Digestion Facility"; "AD Facility", means the facility as described in Service Contractor's
107 Proposal and in subsequent documentation, which shall be operated by Service Contractor for Organic
108 Materials Processing to produce digestate, biogas for electricity generation and Compost.

109 "Annual Budget"; means a budget that will contain an estimate of the Current Revenues and System
110 Costs payable from Current Revenues for the ensuing Agreement Year (beginning on the upcoming July
111 1). The Annual Budget will also contain an estimate of the amount of Acceptable Materials expected to
112 be delivered to the System in such Agreement Year and the resulting Acceptable Materials Charge
113 required to be imposed in order for the County to meet the Rate Covenant.

114 "Applicable Law", means any law, rule, code, standard, regulation, requirement, consent decree,
115 consent order, consent agreement, Permit, guideline, action, determination or order of, or legal
116 entitlement issued or deemed to be issued by, any governmental body having jurisdiction, applicable
117 from time to time to any activities associated with the siting, design, construction, equipping, financing,
118 ownership, start-up testing, acceptance, operation, maintenance, repair and replacement of any part of
119 the Project, the transfer, handling, transportation, Marketing, Disposal or Processing of products and
120 residuals, and any other obligations of the Parties under this Agreement. Governmental bodies include
121 local, County, State and federal agencies and all successors thereto.

122 "Assignment", means but is not limited to:

123 (A) A transfer to a third party of at least twenty-five percent (25%) of either Party's assets dedicated
124 to service under this Agreement; and,

125 (B) A sale, exchange or other transfer to a third party, which may result in a change of control of
126 City or County; and,

Material Delivery Commitment and Processing Services Agreement

- 127 (C) Any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or re-
128 issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction
129 in which either Party are a party and which results in a change of control of either Party; and,
- 130 (D) Any assignment by operation of law, including insolvency or bankruptcy, assignment for the
131 benefit of creditors, writ of attachment for an execution being levied against this Agreement,
132 appointment of a receiver taking possession of either Party's property; and,
- 133 (E) Any combination of the foregoing (whether or not in related or contemporaneous transactions),
134 which has the effect of any such transfer or change of control of either Party.
- 135 "Bond Documents", means the Trust Agreement, 2017 Installment Purchase Agreement, Assignment
136 Agreement, and all other legal documents necessary to effectuate the issuance of Certificates.
- 137 "Bond Holders Rate Stabilization Fund", means the account established pursuant to the Bond
138 Documents. On the date of issuance of the Certificates, the County shall make a cash contribution in the
139 amount of five million dollars (\$5,000,000), and deposit such sum in the Bond Holders Rate Stabilization
140 Fund. If funds are used due to financial shortfalls (either higher than projected costs or lower than
141 projected revenues) related to the Facility, the Fund will be replenished with Current Revenues from all
142 of the participating jurisdictions based on the tons of material delivered to the Facility. If funds are used
143 due to costs not related to the TRRP but rather related to non-TRRP costs, the Fund will be replenished
144 with Current Revenues from the County
- 145 "Business Day", means any day that County Administrative Offices are open to the public to conduct
146 business. In relation to the Certificates and the County's obligations under the Bond Documents, this
147 definition is extended to mean any day on which the Trustee is open for corporate trust business at its
148 Corporate Trust Office and on which the Federal Reserve System is open for business.
- 149 "Bypassed Waste", means any material that is weighed in at the County scale house for acceptance to
150 the Project Site which could not be Processed at the Facilities prior to Disposal. Examples of Bypassed
151 Waste could be Unacceptable Waste, waste not Processable due to size, high negative value for
152 Processing, or unmarketable material. Bypassed Waste includes materials diverted from the Project
153 before or after unloading but not Processed at the Project Site.
- 154 "Cap Value", means the threshold value of \$3,500,000 in the Jurisdictional Rate Stabilization Fund.
- 155 "Certificates", means all Solid Waste System Revenue Certificates of Participation (including Additional
156 Certificates) payable from the Net Revenues of the County's Solid Waste Enterprise System. The County
157 shall issue Solid Waste System Revenue Certificates of Participation, Series 2017 to fund the TRRP.
- 158 "Certificates Issuance Date" means the date on which the Solid Waste System Revenue Certificates of
159 Participation, Series 2017 are executed and delivered.
- 160 "Change in Law", means any of the following acts, events, or circumstances, with which the Parties must
161 comply notwithstanding the cost of such compliance, to the extent that compliance therewith materially
162 increases or decreases the cost of performing a Party's obligations under this Agreement when such
163 changes exceed fifty thousand dollars (\$50,000) in the aggregate in any one Agreement Year subject to
164 adjustment using the applicable Adjustment Factor.

Material Delivery Commitment and Processing Services Agreement

- 165 (A) The adoption, amendment, promulgation, issuance, modification, repeal or written change in
166 administrative or judicial interpretation of any Applicable Law on or after the Effective Date
167 (including a new or amended prevailing wage, minimum wage, living wage or similar laws or
168 regulations), unless such Applicable Law was on or prior to the Effective Date duly adopted,
169 promulgated, issued or otherwise officially modified or changed in interpretation, in each case
170 in final form to become effective without any further action by any governmental body;
- 171 (B) The order or judgment of any governmental body issued on or after the Effective Date (unless
172 such order or judgment is issued to enforce compliance with Applicable Law which was effective
173 as of the Effective Date) to the extent such order or judgment is not the result of willful or
174 negligent action, error or omission or lack of reasonable diligence of the Collection Contractor or
175 Service Contractor, the County or the City, whichever is asserting the occurrence of a Change in
176 Law; provided, however, that the contesting in good faith or failure in good faith to contest any
177 such order or judgment shall not constitute or be construed as such a willful or negligent action,
178 error or omission or lack of reasonable diligence; or
- 179 (C) Except with respect to any governmental approval required for the Project as provided in item
180 (2) below pertaining to exclusions from "Change in Law", the denial of an application for, a delay
181 in the review, issuance or renewal of, or the suspension, termination, or interruption of any
182 governmental approval, or the imposition of a term, condition or requirement which is more
183 stringent or burdensome than the Agreement standards in connection with the issuance,
184 renewal or failure of issuance or renewal of any governmental approval, to the extent that such
185 occurrence is not the result of willful or negligent action, error or omission or a lack of
186 reasonable diligence of the Collection or Service Contractor, the County or the City, whichever is
187 asserting the occurrence of a Change in Law; provided, however, that the contesting in good
188 faith or the failure in good faith to contest any such occurrence shall not be construed as such a
189 willful or negligent action or lack of reasonable diligence.

190 It is specifically understood, however, that none of the following shall constitute a "Change in Law":

- 191 (1) A change in the nature or severity of the actions typically taken by a governmental body to
192 enforce compliance with Applicable Law which was effective as of the Effective Date;
- 193 (2) All matters relating to the Service Contractor's assuming the Permitting risk for the Project in
194 connection with obtaining and maintaining federal, State or local governmental approvals of the
195 design, construction and operation of the Project; and
- 196 (3) Any event that affects generally applicable working conditions or standards that is not specific to
197 the solid waste management industry.

198 "City", means the City of Solvang, California, a political subdivision of the State of California.

199 "City Agreement Representative", means the individual named by City under Exhibit B: Communications.

200 "City's Maximum Annual Delivery Allowance," means the maximum total annual Tonnages of Acceptable
201 Materials, described in Section 4.2.A, that the City may deliver or the City's Collection Contractor may be
202 directed to deliver on behalf of the City for each Agreement Year.

203 "City's Minimum Annual Delivery Requirement", means the minimum total annual Tonnage of

Material Delivery Commitment and Processing Services Agreement

204 Acceptable Materials, described in Section 4.2.A, that the City will deliver or the City's Collection
205 Contractor is directed to deliver on behalf of the City for each Agreement Year.

206 "City's Revenue Share", means the amount of TRRP Revenue that City receives from County under this
207 Agreement.

208 "Collection Contractor", means anyone that collects Acceptable Materials for City by any or all of the
209 following: 1) contract (including franchise contracts); 2) license; 3) permit; and, 4) any other obligation.

210 "Compost" means soil amendment material that is the result of the controlled aerobic decomposition
211 process of Organic Materials (e.g., composting).

212 "Construction and Demolition Debris" means used or discarded construction materials removed from a
213 premises during the construction or renovation of a structure resulting from construction, remodeling,
214 repair, or demolition operations on any pavement, house, commercial building, or other structure
215 including, but not limited to, concrete, brick, wood, dirt, rock, cardboard, packaging materials, etc.

216 "County", means the County of Santa Barbara, California, a political subdivision of the State of California.

217 "County Agreement Representative", means the individual named by County under Exhibit B.

218 "Current Revenues", means all gross income and revenue received or receivable by the County from the
219 ownership, operation or use of the Solid Waste System, determined in accordance with Generally
220 Accepted Accounting Principles, including all rates, fees, charges and revenue (including tipping fees,
221 recovered materials revenue, power revenues and salvage income) received by the County for the use
222 of Solid Waste System and all other income and revenue howsoever derived by the County from the
223 ownership, operation or use of the Solid Waste System, but excluding in all cases any proceeds of taxes
224 and any refundable deposits made to establish credit and advances or contributions in aid of
225 construction. Current revenues also include direct federal subsidy payments received by the County
226 relating to the Certificates issued as New Clean Renewable Energy Bonds.

227 "County Service Cost", means a component of the overall facility Acceptable Material Charge that is
228 comprised of the following four (4) programs: Program 1200 (Tajiguas Landfill), Program 1101 (South
229 Coast Recycling and Transfer Station), Program 1301 (Santa Ynez Recycling and Transfer Station) and
230 Program 1850 (TRRP Contract Management, Environmental Monitoring and Regulatory Compliance). In
231 addition, County Service Cost will include overhead costs allocated to these programs, except that no
232 overhead costs will be allocated to closure, post-closure or regulatory fees.

233 "Day", means calendar day of twenty-four (24) hours measured from midnight to the next midnight.

234 "Delivery Covenant", means the obligation of the Public Participants to deliver Acceptable Materials to
235 the TRRP, pursuant to and as described in Section 4.1.

236 "Direct Costs", means the sum of the following: 1) payroll costs (including compensation, vacation, sick
237 leave, holidays, retirement, workers compensation insurance, federal and State unemployment taxes
238 and medical and health insurance benefits), *plus*; 2) the costs of materials, services, direct rental costs
239 and supplies, *plus*; 3) travel and subsistence costs, *plus*; 4) the reasonable costs of consultants,
240 (sub)contractors, and counsel (necessary in connection with enforcement of the other Party's
241 performance under this Agreement), *plus*; 5) any other cost or expense which is directly or normally

Material Delivery Commitment and Processing Services Agreement

242 associated with that enforcement or exercise, which direct costs are substantiated to the satisfaction of
243 the other Party.

244 “Dispose”; “Disposal” means the final disposition of Residue and Bypassed Waste from the Project Site
245 as restricted by Permit conditions for Unacceptable Waste.

246 “Effective Date” means the date of this Agreement’s execution by the last of the Parties.

247 “Excess Tonnage”, means Tonnage of Acceptable Material delivered (or caused to be delivered) by the
248 City to the Facilities in excess of the City’s Maximum Annual Delivery Allowance, and/or in excess of the
249 Maximum Facility Capacity.

250 “Facility” or “Facilities”, means the building, equipment and all activities related to the MRF and/or the
251 AD Facility.

252 “Food Scraps”, means all Organic Materials generated during or resulting from the storage, sale,
253 preparation, cooking, or handling of food stuffs, including: (i) all kitchen and table food waste; (ii) animal
254 or vegetable waste; (iii) discarded paper and cardboard that is contaminated with food; and, (iv) fruit
255 waste, grain waste, dairy waste, meat and fish waste. Food Scraps are a subset of Organic Materials and
256 contain less than 2% contamination by weight.

257 “Hazardous Waste”, means any waste which is defined or regulated as a hazardous waste, toxic waste,
258 hazardous chemical substance or mixture, or asbestos under Applicable Law, including:

259 (1) “Hazardous Waste” pursuant to Section 40141 of the California Public Resources Code; all
260 substances defined as acutely hazardous waste, extremely hazardous waste or hazardous waste
261 by Sections 25110.02, 25115, and 25117 of the California Health and Safety Code (the California
262 Hazardous Waste Control Act), and future amendments to or recodification of such statutes or
263 regulations promulgated thereunder;

264 (2) “Hazardous Substances” as defined under Chapter 6.8 of the California Health and Safety Code,
265 Division 20, Sections 25316 and 25317;

266 (3) Materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as
267 amended, and related Federal, State of California, and local laws and regulations, including the
268 California Toxic Substances Account Act, California Health and Safety Code Section 25300 et
269 seq.;

270 (4) Materials regulated under the Comprehensive Environmental Response, Compensation and
271 Liability Act, 42 U.S.C. 9601, et seq., as amended, and regulations promulgated thereunder;

272 (5) Materials regulated under The Resource Conservation and Recovery Act and the regulations
273 contained in 40 CFR Parts 260-281; and,

274 (6) Materials regulated under any future additional or substitute Federal, State or local laws and
275 regulations pertaining to the identification, transportation, treatment, storage or Disposal of
276 toxic substances or hazardous waste.

277 If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous

Material Delivery Commitment and Processing Services Agreement

278 waste adopt conflicting definitions of “hazardous waste”, for purposes of collection, transportation,
279 Processing and/or Disposal, the broader, more restrictive definition shall be employed for purposes of
280 this Agreement.

281 “Jurisdictional Rate Stabilization Fund”, means the fund held by the County for the purpose of enhancing
282 System liquidity including making payments to the Service Contractor resulting from lower than
283 expected Recovered Materials revenues.

284 “Landfill”, means the Tajiguas Landfill, a Subtitle D Disposal facility.

285 “Market” (or “Marketed” or “Marketing” or other variations thereof), means providing for the sale or
286 placement of Recyclable Materials, electricity and Compost for the purpose of beneficial use.

287 “Material Recovery Facility” or “MRF”, means the Project Facility as described in Service Contractor’s
288 Proposal and in subsequent documentation to be developed and operated by Service Contractor in
289 which Processing equipment and systems are used to Process Acceptable Materials.

290 “Maximum Facility Capacity”, means the maximum number of Tons the Facility is designed, and the
291 Contractor’s operating expenses are assumed, to Process.

292 “Mixed Waste”, means Municipal Solid Waste that is available for delivery for Processing and may be
293 Processed at the Project, and is not Unprocessable Waste or Unacceptable Waste. Mixed Waste also
294 includes commercial and industrial waste that meets the criteria defined herein, Construction and
295 Demolition Debris, agricultural plastic, and tires. Mixed Waste does not include materials that are
296 collected or delivered in a source-separated form.

297 “Monthly Service Payment”, means the monthly amount paid to the County by the Collection
298 Contractors (on behalf of and overseen by the City) for delivery of Acceptable Materials for Processing at
299 the Project Site, as described in Section 4.2.B.

300 “Municipal Solid Waste”; “MSW”, means generally the components of Mixed Waste, and specifically all
301 substances or materials that are discarded or rejected as being spent, useless, worthless or in excess of
302 the owner’s needs at the time of discard or rejection including, without limitation, all putrescible and
303 non-putrescible solid and semi-solid waste including garbage, rubbish, maintenance waste, Yard
304 Trimmings, bulky wastes, industrial wastes, Construction and Demolition Debris, and grit and sweepings
305 from a water pollution control plant, which are generated by residential, commercial, industrial,
306 institutional, municipal, agricultural and other activities and which are not otherwise restricted in a Class
307 III landfill by State or federal regulations and which are delivered to the Project Site as Mixed Waste.
308 Municipal Solid Waste does not include: (i) Hazardous Waste; (ii) medical waste; (iii) ash; (iv) Source-
309 Separated Recyclable Materials; (v) Source-Separated Yard Trimmings; (vi) Source-Separated Food
310 Scraps; or (vii) other materials collected separately from Municipal Solid Waste for Processing at the
311 Project Site.

312 “Net Current Revenues” means for any Agreement Year, the Current Revenues during such Agreement
313 Year less the System Costs during such Agreement Year.

314 “Net Revenues”, means for any Agreement Year, the Revenues during such Agreement Year less System
315 Costs during such Agreement Year.

Material Delivery Commitment and Processing Services Agreement

- 316 “Notice”; “Notify”, means notice given in accordance with Section 9.6 and Exhibit A.
- 317 “Operating Committee”; means a committee comprised of each Public Participant (including the
318 County). Each Public Participant (including the County) will be allocated one representative on the
319 Operating Committee. The Operating Committee can be called to order as necessary. The
320 representative will be the City Manager or his/her designee who is authorized to vote on behalf of the
321 represented Public Participant. Each representative will have a weighted vote proportionate to the
322 amount of Acceptable Materials such Participant delivered during the Agreement Year as compared to
323 the total amount of Acceptable Materials delivered by all Public Participants during the prior Agreement
324 Year. A two-thirds vote is necessary to support a decision by the Operating Committee.
- 325 “Operating Reserve”, means the minimum balance of ten million dollars (\$10,000,000) to be maintained
326 within the County Solid Waste Enterprise Fund or other fund established by the County necessary to
327 operate the Solid Waste System, which includes the TRRP. Such minimum balance shall be consistent
328 with the County’s Enterprise Fund Reserve Policy adopted by the County prior to the issuance of the
329 Certificates.
- 330 “Organic Materials”, means: (i) materials intended for Processing by the AD Facility, which may include
331 organics sorted out of Mixed Waste, Yard Trimmings, and Food Scraps; and, (ii) sludge and residuals
332 from water and wastewater treatment, as further defined in the Service Contractor’s subcontract with
333 the AD Facility Operator.
- 334 “Other County Costs” means other System Costs that are not in County Service Costs
- 335 “Other Users”, means any Person delivering Spot Market Materials to the Facility as authorized by the
336 Service Contractor, and approved by the County, as applicable.
- 337 “Party; Parties”, means County and City, individually and together.
- 338 “Permit(s)” means all Federal, State, City, other local and any other governmental unit permits, orders,
339 licenses, approvals, authorizations, consents and entitlements of whatever kind and however described
340 which are required under Applicable Law to be obtained or maintained by any Person with respect to
341 the Facilities or the performance of any obligation under this Agreement, as renewed or amended from
342 time to time.
- 343 “Person”, means any individual, firm, association, organization, partnership, corporation, trust, joint
344 venture, the United States, the State, a county, a municipality or special purpose district, or other entity
345 whatsoever.
- 346 “Process”; “Processing” (or any other variation thereof), means the picking, pulling, sorting, separating,
347 classifying and recovery of Recovered Materials from Acceptable Materials by the Service Contractor at
348 the Project Site. Processing also means the baling, crushing, shredding, chipping, grinding or any other
349 method of preparing Acceptable Materials for further Processing (for example, at the AD Facility) or
350 Marketing.
- 351 “Project”; “TRRP”, means all aspects of the Tajiguas Resource Recovery Project as conducted at the
352 Project Site. “Project Site”; “Site”, means the area at the Tajiguas Landfill property to be used by the
353 County and Service Contractor for development of the Facility, including one or more discrete sites
354 including, but not limited to the “Operations Deck” and a composting area (“Top Deck”).

Material Delivery Commitment and Processing Services Agreement

355 "Promptly", means as soon as possible, and no longer than three (3) Business Days unless the Parties
356 otherwise agree in writing.

357 "Public Participants", means any jurisdiction which enters into an individual Material Delivery
358 Commitment and Processing Service Agreement with the County, excluding Other Users. The City is a
359 Public Participant.

360 "Reasonable Business Efforts", means those efforts that a reasonably prudent business Person would
361 expend under the same or similar circumstances in the exercise of such Person's business judgment,
362 intending in good faith to take steps calculated to satisfy the obligation which such Person has
363 undertaken to satisfy; provided that such Person and/or any enterprise by which such Person is
364 employed would not incur a financial loss (other than time expended or otherwise compensated for
365 such efforts herein) by reason of having expended or expending such efforts.

366 "Recovered Materials", means Recyclable Materials and Organic Materials recovered through
367 Processing of Acceptable Materials.

368 "Recyclable Materials", means materials having economic value or a beneficial reuse which are
369 commonly recovered in comparable materials recovery facilities and organics Processing facilities in
370 California.

371 "Reimbursement Costs", means the Direct Costs that the Party incurs to enforce its rights or exercise its
372 remedies under this Agreement *plus* an amount equal to the average interest rate payable on the
373 California Local Agency Investment Fund in effect when the Direct Costs were incurred.

374 "Revenue Fund" or "Solid Waste Enterprise Fund; means Fund No. 1930 in the County's financial
375 accounting system in which Current Revenues will be deposited and from which System Costs will be
376 dispersed.

377 "Revenues" means Current Revenues plus deposits to the Revenue Fund from amounts on deposit in the
378 Bond Holders Rate Stabilization Fund, but only as and to the extent specified in the Bond Documents.

379 "Service Agreement", means the contract between the County of Santa Barbara and MSB Investors, LLC
380 for development and operation of the TRRP.

381 "Service Contractor", means the Contractor defined in the Service Agreement between the County of
382 Santa Barbara and MSB Investors, LLC.

383 "Service Contractor's Proposal", means the Service Contractor's document(s) included in Exhibit J to the
384 Service Agreement, and all related materials submitted subsequently prior to the Effective
385 Date "Shortfall Charge", means the charge incurred by the City for failure to meet the City's Minimum
386 Annual Delivery Requirement (i.e., if the actual tonnage delivered and paid for is less than the
387 committed tons). The charge will equal the number of tons short of the City's Minimum Annual Delivery
388 Requirement multiplied by the effective Acceptable Material Charge.

389 "Solid Waste System"; "System" means all solid waste collection, processing, diversion, composting,
390 recycling, disposal and power generation facilities (including related equipment) and any other facilities
391 related thereto now owned by the County, and all other facilities (including related equipment) for solid
392 waste collection, processing, diversion, composting, recycling, disposal and power generation hereafter

Material Delivery Commitment and Processing Services Agreement

393 acquired and constructed by the County and such other facilities, which may or may not be owned by
394 the County, determined by the County to be a part of the Solid Waste System. Solid Waste System shall
395 not include any Special Facilities.

396 "Source-Separated Food Scraps", means Food Scraps, containing less than two percent (2%)
397 contamination by weight, segregated from other Municipal Solid Waste prior to collection. Source-
398 Separated Food Scraps may be collected separately or commingled with Yard Trimmings. Source-
399 Separated Food Scraps are Organic Materials.

400 "Source-Separated Organic Materials", means Source-Separated Food Scraps, or combined Food Scraps
401 and Yard Trimmings, containing less than two percent (2%) contamination by weight, that are collected
402 separately from Municipal Solid Waste.

403 "Source-Separated Recyclable Materials", means Recyclable Materials, containing less than 15%
404 contamination by weight, that are separated by the generator from Municipal Solid Waste, provided for
405 collection by individual material type or as combined materials in a single-stream program, and are
406 delivered to the Project for Processing and transport to Market.

407 "Source-Separated Yard Trimmings", means Yard Trimmings, containing less than two percent (2%)
408 contamination by weight, segregated from other Municipal Solid Waste prior to collection. Source-
409 separated yard trimmings are not included in the City's Minimum Annual Delivery Requirement.

410 "Spot Market Material", means Acceptable Material generated within Santa Barbara County and
411 delivered to the Facility by or on behalf of Other Users.

412 "State", means the State of California.

413 "Surplus Fund", means on June 1 and December 1 of each year, beginning on June 1, 2017, all remaining
414 money in the Revenue Fund after making the foregoing deposits shall be withdrawn from the Revenue
415 Fund and deposited by the County in the Surplus Fund. Moneys in the Surplus Fund may be applied for
416 any lawful purpose of the County relating to the Solid Waste System.
417

418 "System Costs", means all reasonable and necessary costs paid or incurred by the County for
419 maintaining and operating the Solid Waste System, determined in accordance with Generally Accepted
420 Accounting Principles, including all reasonable expenses of management and repair and other expenses
421 necessary to maintain and preserve the Solid Waste System in good repair and working order, state
422 mandated surcharges, and the annual costs of any permits or licenses, but excluding debt service costs,
423 and including all administrative costs of the County that are charged directly or apportioned to the
424 operation of the Solid Waste System, such as salaries, wages, and pension and other post-employment
425 benefits of employees, overhead, taxes (if any) and insurance premiums, and including all other
426 reasonable and necessary costs of the County or charges required to be paid by the County to comply
427 with the terms hereof or of any resolution authorizing the issuance of any Certificates (as defined in the
428 Bond Documents) or of such Certificates, or of any resolution authorizing the execution of any contract
429 (as defined in the Bond Documents) or of such contract, such as compensation, reimbursement and
430 indemnification of the trustee for any such Certificates or contracts and fees and expenses of
431 independent certified public accountants and independent engineers, insurance consultants, but
432 excluding in all cases depreciation, replacement and obsolescence charges or reserves therefor,

Material Delivery Commitment and Processing Services Agreement

433 amortization of intangibles and intergovernmental transfers by the County which are not
434 reimbursements or payments for overhead or other administrative expenses incurred by the County.
435 System Costs do not include payments by the County from funds in the Jurisdictional Rate Stabilization
436 Fund (i) to the Public Participants pursuant to the terms and provisions of this Agreement, and (ii) to the
437 Service Contractor.

438 "Target Value", means the targeted amount of funds to be kept in the Jurisdictional Rate Stabilization
439 Fund of \$3,000,000.

440 "Ton"; "Tonnage", means a short Ton of 2,000 pounds.

441 "TRRP Revenue(s)", means revenue from the sale of any or all of the following, without regard to source:

442 (A) Sale of Recyclable Materials

443 (B) Sale of Compost

444 (C) Sale of electricity

445 (D) Share of Spot-Market tipping fees

446 (E) Any other revenues generated as a result of changes in law or other from regulatory-driven
447 factors occurring after and not otherwise incorporated into Service Contractor's pro-forma

448 "TRRP Service", means any or all of Service Contractor's obligations that are described in the Service
449 Agreement, including development, operations (throughput, recovery, residue, electric output, net
450 electricity generated, and environmental performance), maintenance, Marketing, etc.

451 "Unacceptable Waste" means wastes that the TRRP may not receive under its Permits, including but not
452 limited to:

453 (A) Asbestos, including friable materials that can be crumbled with pressure and are therefore likely
454 to emit fibers, being a naturally occurring family of carcinogenic fibrous mineral substances,
455 which may be a Hazardous Waste if it contains more than one percent (1%) asbestos;

456 (B) Ash residue from the incineration of Municipal Solid Wastes, including infectious waste
457 described in item (G) below, wood waste, sludge, and agricultural wastes.;

458 (C) Auto shredder "fluff" consisting of upholstery, paint, plastics, and other non-metallic substances
459 which remains after the shredding of automobiles;

460 (D) Large dead animals;

461 (E) Hazardous Wastes, explosives, ordnance, highly flammable substances and noxious materials;

462 (F) Industrial solid or semi-solid wastes resulting from industrial processes and manufacturing
463 operations, including cement kiln dust, ore process residues and grit or screenings removed
464 from waste water treatment facility;

Material Delivery Commitment and Processing Services Agreement

- 465 (G) Infectious wastes which have disease transmission potential and are classified as Hazardous
466 Wastes by the State Department of Health Services, including pathological and surgical wastes,
467 medical clinic wastes, wastes from biological laboratories, syringes, needles, blades, tubings,
468 bottles, drugs, patient care items such as linen or personal or food service items from
469 contaminated areas, chemicals, personal hygiene wastes, and carcasses used for medical
470 purposes or with known infectious diseases;
- 471 (H) Liquid wastes which are not spadeable, usually containing less than fifty percent (50%) solids,
472 including cannery and food processing wastes, landfill leachate and gas condensate, boiler
473 blowdown water, grease trap pumpings, oil and geothermal field wastes, septic tank pumpings,
474 rendering plant byproducts, sewage sludge, and those liquid wastes which may be Hazardous
475 Wastes;
- 476 (I) Radioactive wastes as defined in Section 114710 of the California Health and Safety Code and
477 any waste that contains a radioactive material, the storage or Disposal of which is subject to any
478 other State or federal regulation;
- 479 (J) Special wastes designated from time to time by the Department of Resources Recycling and
480 Recovery (CalRecycle), including contaminated soil;
- 481 (K) Bulky items that cannot fit within standard roll-off containers or Mixed Waste/Municipal Solid
482 Waste collection vehicles unless otherwise approved by Service Contractor.

483 The Parties shall Promptly conform this definition of "Unacceptable Waste" to the extent necessary to
484 comply with Applicable Law, should a Change in Law or in Permits and Permit requirements necessitate.

485 "Uncontrollable Circumstances", means any act, event or condition that is beyond the reasonable
486 control of the Party relying thereon as justification for not performing a County Obligation or a City
487 Obligation as defined in Article 3 and 4 respectively, or complying with any condition required of such
488 Party under this Agreement, and that materially interferes with or materially increases the cost of
489 performing its obligations hereunder (other than payment obligations), to the extent that such act,
490 event or condition is not the result of the willful or negligent act, error or omission, failure to exercise
491 reasonable diligence, or breach of the this Agreement on the part of such Party. The only effect of such
492 Uncontrollable Circumstance is that it allows for a temporary cessation of delivery of materials by the
493 City and/or the provision of service by the County to the extent that the delivery of materials by the City
494 or the provision of service by the County is prevented by the Uncontrollable Circumstance. The
495 occurrence of an Uncontrollable Circumstance expressly does not allow for a cessation of payment of
496 the Monthly Service Payment. Such acts or events may include, but shall not be limited to, the
497 following:

- 498 (A) Naturally occurring events (except weather conditions normal for the Santa Barbara area) such
499 as landslides, underground movement, earthquakes, fires, tornadoes, tidal waves, floods,
500 epidemics, storms, and other acts of God, ionizing radiation, nuclear, radioactive, chemical or
501 biological contamination;
- 502 (B) Explosion, sabotage or similar occurrence, acts of a declared public enemy, extortion, war, civil
503 war, armed conflict, terrorism, blockade, embargo, or insurrection, riot or civil disturbance;

Material Delivery Commitment and Processing Services Agreement

- 504 (C) Labor disputes, except labor disputes involving employees of the Service Contractor, its
505 affiliates, or subcontractors that affect the performance of the TRRP Services;
- 506 (D) The failure of any subcontractor or supplier (other than the Collection Contractor, Service
507 Contractor, Service Contractor's guarantor, or any affiliate of either) to furnish services,
508 materials, chemicals or equipment on the dates agreed to, but only if such failure is the result of
509 an event which would constitute an Uncontrollable Circumstance if it affected the Collection
510 Contractor, or Service Contractor directly, and the Collection Contractor or the Service
511 Contractor are not able after exercising all Reasonable Business Efforts to timely obtain
512 substitutes;
- 513 (E) The failure of any private utility to provide and maintain utilities to the TRRP which are required
514 for the performance of this Agreement;
- 515 (F) Any failure of title to the Project Site or any enforcement of any encumbrance on the Project
516 Site not consented to in writing by, or arising out of any action or agreement entered into by,
517 the Party adversely affected thereby;
- 518 (G) The preemption of materials or services by a governmental body in connection with a public
519 emergency or any condemnation or other taking by eminent domain of any material portion of
520 the Facility;
- 521 (H) The temporary suspension of operations due to supervening authority of law, such as the
522 designation of all or a portion of the TRRP as a crime scene or as the site of an investigation by
523 law enforcement;
- 524 (I) A Change in Law.
- 525 It is specifically understood that, without limitation, none of the following acts, events or circumstances
526 shall constitute Uncontrollable Circumstances:
- 527 (1) Any act, event or circumstance with respect to which the Service Contractor has assumed the
528 "as-is" risk under the Service Agreement;
- 529 (2) Any act, event or circumstance that would not have occurred if the affected Party had complied
530 with its obligations under the this Agreement;
- 531 (3) Changes in interest rates, inflation rates (other than those provided for in this Agreement), labor
532 costs, insurance costs, commodity prices, currency values, exchange rates or other general
533 economic conditions, with the exception of changes resulting from a Change in Law;
- 534 (4) Changes in the financial condition of the County, the Contractor, the Guarantor, or the City
535 affecting the ability to perform their respective obligations;
- 536 (5) The consequences of error, neglect or omissions by the Service Contractor in the performance
537 of the TRRP Services;
- 538 (6) Union or labor work rules, requirements or demands, which have the effect of increasing the
539 number of employees employed, or overtime hours required, at the Project or otherwise

Material Delivery Commitment and Processing Services Agreement

- 540 increasing the cost to the Service Contractor for meeting Service Contractor obligations under
541 the Service Agreement, provided that such are not the result of a Change-in-Law;
- 542 (7) Mechanical failure of equipment not itself due to an Uncontrollable Circumstance;
- 543 (8) Power outages not caused by third party utilities;
- 544 (9) Reasonably anticipated weather conditions for the geographic region of Santa Barbara County;
- 545 (10) Any act, event, circumstance or Change-in-Law occurring outside the United States of America,
546 unless it has a clear, direct and measurable impact on the ability of a Party to perform its
547 contractual obligations;
- 548 (11) Failure of the Service Contractor to secure applicable patents, provided that such failure is due
549 to the acts, omissions or negligence of the Service Contractor;
- 550 (12) A Change-in-Law pertaining to taxes, which does not discriminate against Service Contractor; or
- 551 (13) Any Change-in-Law (including the issuance of any governmental approval, the enactment of any
552 statute, or the promulgation of any regulation) the terms and conditions of which do not impose
553 more stringent or burdensome requirements on the Service Contractor than are imposed by the
554 Service Agreement.
- 555 “Unprocessable Waste”, means materials that Service Contractor cannot Process due to size or other
556 characteristics (e.g., oversized, bulky items) and that may be delivered to the Landfill for Disposal.
- 557 “Yard Trimmings”, means those discarded materials that will decompose and/or putrefy, including, but
558 not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree
559 trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic waste.
560 Yard Trimmings are Organic Materials.
- 561 “Year”, means a calendar year of January 1 through December 31, *unless* an Agreement Year is explicitly
562 specified.

563 **ARTICLE 2: TERM OF AGREEMENT**

564 **2.1 Effective Date**

565 This Agreement shall be dated as of, and become effective on, the date of its execution by the last of the
566 Parties.

567 **2.2 Agreement Term**

568 This Agreement shall terminate December 31, 2038 (approximately 22 Years from the Effective Date)
569 and shall include the construction periods (allowing for Facility construction and acceptance testing) as
570 well as twenty (20) Years of operation; provided, however in no event shall this Agreement terminate
571 while any Certificates are outstanding.

572 **2.3 Survival of Certain Provisions**

573 The following provisions survive this Agreement's term:

- 574 (A) Parties' representations, certifications, warranties and acknowledgements;
- 575 (B) Amounts that the City owes County, and County owes City;
- 576 (C) Any other rights and obligations of the Parties accrued prior to expiration or termination of this
577 Agreement; and,
- 578 (D) Any other rights and obligations of the Parties expressly stated to survive this Agreement's term.

579 **ARTICLE 3: COUNTY'S OBLIGATIONS**

580 **3.1 Solid Waste Management Services**

581 Commencing on July 1, 2017 (based on the June 2016 schedule attached as Exhibit C of the Service
582 Agreement), the County shall provide or cause the provision of the service of receiving and processing,
583 treating, and/or disposing of Acceptable Materials from the Public Participants at the System (including
584 such other facilities, including transfer stations, as the County may determine to use in the event that
585 the Project or other existing components of the System are unavailable for any reason, as described in
586 Section 3.6). The County, to the maximum extent permitted under Applicable Law, shall use its
587 Reasonable Best Efforts to keep the Project and the existing landfill open for the receipt of waste for
588 processing, transfer or disposal of Acceptable Materials pursuant to this Agreement. The County shall
589 do and perform all acts and things which may be necessary or desirable in connection with its covenants
590 in this subsection, including without limitation all planning, development, administration,
591 implementation, construction, operation, maintenance, management, financing and contract work
592 related thereto or undertaken in connection therewith. The County shall exercise all reasonable efforts
593 to minimize the costs incurred in complying with its obligations and responsibilities under this
594 Agreement, Applicable Law, the Bond Documents, and prudent solid waste management practice and
595 environmental considerations. The County shall enforce the provisions of all agreements with third
596 parties relating to the Project.

597 **3.2 Facility Revenues**

598 **A. Jurisdictional Rate Stabilization Fund**

599 Annually, the County will deposit into the Jurisdictional Rate Stabilization Fund amounts held in the
600 Surplus Fund (as established under the Bond Documents) net of (i) payment of System subordinate
601 obligations; (ii) capital improvements of the System; (iii) any replenishment of the Operating Reserve;
602 and (iv) the payment by or reimbursement of revenue to the County of any non-County Service Costs or
603 revenues that are excluded from this Agreement as described in Exhibit F.

604 County shall continue to contribute, solely from the amounts held in the Surplus Fund established under
605 the Bond Documents, to the Jurisdictional Rate Stabilization Fund with the goal of maintaining a
606 minimum fund balance of three million dollars (\$3,000,000) (Target Value). If at the end of any
607 Agreement Year, the Jurisdictional Rate Stabilization Fund exceeds three million five hundred thousand
608 dollars (\$3,500,000) (Cap Value), the Public Participants will receive a dividend to return the fund to
609 three (3) million dollars (\$3,000,000) based upon the actual amount and type of Tons delivered to the
610 Facilities in the given year as identified in the Service Agreement. The County shall separately account
611 for expenses made from and contributions to the Jurisdictional Rate Stabilization Fund and shall present
612 these to the City during the Annual Settlement Process (as described in Section 4.3.B). Any funds
613 remaining in the Jurisdictional Rate Stabilization Fund at the end of the Agreement Term shall be
614 accounted for during the final Annual Settlement Process. Within ninety (90) days of the end of the
615 Agreement Term, the County shall refund to the City its proportionate share of the entire remaining
616 cumulative balance of the Jurisdictional Rate Stabilization Fund.

617 **B. Materials Revenue Shares**618 **1. Calculation**

619 Subject to satisfying the requirements of the Bond Documents, in the event that the Jurisdictional Rate
 620 Stabilization Fund balance exceeds the Cap Value, the County shall, during the Annual Settlement
 621 Process (described in Section 4.3.B), distribute the amount of any additional TRRP Revenues to the
 622 Public Participants (in proportion to the amount of annual Tons delivered by waste stream responsible
 623 for the material revenues), in an amount calculated as follows, and as further described in Exhibit D:

- 624 a. City's Tons of Acceptable Materials by material type (e.g., Mixed Waste, Source-Separated
 625 Recyclable Materials, Source-Separated Organic Materials) actually delivered to the TRRP;
- 626 b. Multiplied by an equivalent tonnage factor based on actual market values of the materials from
 627 the previous Agreement Year (e.g. if Source-Separated Recyclable Materials commodity values
 628 are twice as high as Mixed Waste commodity values, the Source-Separated Recyclable Materials
 629 equivalent tonnage factor would be "2", and Mixed Waste equivalent tonnage factor would be
 630 "1");
- 631 c. Summed for all material types, to arrive at a single equivalent tonnage value per City;
- 632 d. Divided by the aggregate Tons of Acceptable Materials actually delivered to the TRRP, and
 633 adjusted by the equivalent tonnage factors, to arrive at a percentage;
- 634 e. Multiplied by the total available disbursement amount;
- 635 f. Minus any money that the City owes the County.

636 **2. Example**

637 For example, as applied to Source-Separated Recyclable Materials and as defined in B. 1 a – f above:

638 Assumptions:

- 639 a. **10 Tons:** City's Collection Contractor delivers 10 Tons of Source-Separated Recyclable Material.
- 640 b. **2:** Source-Separated Recyclable Materials equivalent Tonnage factor, assuming Source-Separated
 641 Recyclable Materials commodity values were agreed to be twice as high as Mixed Waste
 642 commodity values.
- 643 c. **1000 Tons:** Aggregate of 1000 Tons of adjusted equivalent Tonnage from all sources and material
 644 types delivered by Public Participants to the Project.
- 645 d. **\$3,500,000:** Jurisdictional Rate Stabilization Fund Balance has reached the Cap Value of
 646 \$3,500,000.
- 647 e. **\$500,000:** County's available disbursement amount to return the Jurisdictional Rate Stabilization
 648 Fund to the Target Value is \$500,000 (assuming the funds identified in Section 3.2.A are fully
 649 funded).
- 650 f. **\$500:** City owes County outstanding balance of Shortfall Charge of \$500.

651 Equation:

652
$$((10 \text{ Tons} * 2) / 1,000 \text{ equivalent Tons}) = 2\%$$

653 (2% * \$500,000) - \$500 = \$9,500 = City's dividend amount

654 **C. Payment Dates**

655 County will distribute any TRRP Revenues that are due to the Public Participants in accordance with the
656 Materials Revenue Share as described in Section 3.2 B and the Annual Settlement Process (described in
657 Section 4.3.B) within thirty (30) Days of receipt of revenues from Service Contractor, subject to
658 confirmation that the City has satisfied the requirements of the Bond Documents and Operating
659 Reserve, and has met preconditions related to any Shortfall Charges, prior to distribution.

660 **D. Limited Obligation**

661 County's obligation with respect to materials revenue sharing is limited to TRRP Revenues that County
662 receives and which are not subsequently recovered from County by a trustee in bankruptcy, creditor of
663 the Service Contractor or other Person. City acknowledges that County may not receive any TRRP
664 Revenues from Service Contractor for multiple reasons, including:

- 665 1. Service Contractor's failure to generate revenues from identified sources, or
666 2. Attachment of those revenues by creditors of Service Contractor who have a secured interest
667 prior to the County's interest.

668 **3.3 Non-monetary Credits or Offsets**

669 The Parties acknowledge that the Project depends upon the waste streams of the participating
670 jurisdictions for feedstock and the revenues from the Minimum Monthly Service Payments of the
671 participating jurisdictions to pay the debt service for the construction of the Project and the Project's
672 operating expenses. In recognition of this partnership, the Parties agree (to the extent such an
673 agreement is not in conflict with any preemptive legal authority) that any future non-monetary credits
674 or offsets that may accrue under any legislative, administrative, or regulatory programs or systems from
675 the reduction of greenhouse gas emissions due to the operation of the Project shall be allocated
676 proportionately amongst the participating jurisdictions based upon the following ratio: the participating
677 jurisdiction's actual tonnage delivered/total tons delivered to the Facility from all Public Participants.
678 This allocation of credits and offsets does not apply to:

- 679 1. Renewable energy credits that have been previously allocated to Southern California Edison
680 pursuant to the power purchase agreement between MSB Investors, LLC and Southern California Edison,
681 2. Revenues already included in the Service Contractor's pro-forma or the County's
682 financing or Other County Costs, or
683 3. Revenues generated as a result of changes in law or other regulatory-driven factors
684 occurring after and not otherwise incorporated into the Service Contractor's pro-forma, which are
685 incorporated into the definition of TRRP Revenues.
686

687 **3.4 Exercise of Contractual Rights**

688 **A. Notification**

689 County will notify City, no later than thirty (30) Days prior, of any upcoming County Board meeting prior
690 to exercising County's rights and obligations under the Service Agreement that the County does not
691 delegate to the County Agreement Representative. The obligation to notify the City does not prevent
692 the County from unilaterally exercising such rights and obligations. Examples include:

- 693 1. Giving Notices to proceed, and full or partial Facility acceptance; and,
694 2. Exercising certain enforcement actions and remedies.

695 **B. City's Individual Rights**

696 County authorizes City to exercise the following rights of the County under the Service Agreement, at
697 City's option:

- 698 1. Entering Facility during normal hours of Facility operation, and/or,
699 2. Accessing Service Contractor's books and records during normal business hours as well as access
700 to electronic records available on-line from the Contractor and County.

701 **C. No Modification Without City Consent**

702 Except for routing change orders necessary for the construction and operation of the Facility as
703 described in the Service Agreement, County will not modify the Service Agreement in any way that
704 changes City's obligations, or City's rights under this Section 3.4, without City consent.

705 **3.5 Annual Facility Review Meeting**

706 County shall hold an annual meeting with City and other Public Participants to review the Service
707 Contractor's Processing efforts, and overall performance under this Agreement. The purpose of such
708 meeting is to provide for a discussion and review of technological, economic, and regulatory changes in
709 collection, source reduction, Processing and Disposal to achieve a continuing, advanced materials
710 Processing and Disposal system; and to ensure services are being provided by County and the Service
711 Contractor with adequate quality, effectiveness and economy, and in full compliance with the terms of
712 this Agreement.

713 County shall notify City of its intent to hold an annual review meeting at least sixty (60) days in advance
714 thereof.

715 In addition, City may request a meeting with County to discuss the issues described herein at any time
716 during the Agreement Term, and County shall arrange such meeting within thirty (30) Days of City
717 request.

718 **3.6 Services During Uncontrollable Events**

719 In the event of an Uncontrollable Circumstance, County shall make Reasonable Business Efforts to
720 receive materials delivered by City's Collection Contractor, and to promptly and cost effectively provide
721 materials processing and disposal services either through facilities within the County's Solid Waste
722 System or using alternative waste management facilities. The County commits to seeking all
723 reimbursable funds from any and all insurance policies providing coverage for loss or damage resulting
724 from such events to return the TRRP and Landfill to operations. If the cost to repair the TRRP and landfill
725 exceed the available insurance proceeds, the County will prepare a plan and budget to return the
726 facilities to operational status and submit this information to the Operating Committee for
727 consideration under Section 4.3.D.3. Moreover, since the type, scope and limits of the required
728 insurance coverage secured by the Contractor and the County for the TRRP was determined after review
729 and consultation by the City of Santa Barbara, any significant changes in the type, scope or limits of
730 insurance coverage for the TRRP will be subject to review by the Operating Committee.
731

732 **A. Disposal Facility Available**

733 In the event an Uncontrollable Circumstance occurs which prevents Processing of materials by the TRRP
734 but does not preclude Disposal in the Landfill, County shall Dispose of the materials and shall make
735 Reasonable Business Efforts to provide alternative material Processing capacity.

736 **B. Disposal Facility Not Available**

737 In the event an Uncontrollable Circumstance occurs which prevents Processing of materials by the TRRP
738 and Disposal in the Landfill, the County, shall not abandon the Solid Waste System and shall continue to
739 provide disposal capacity sufficient to enable it to comply with the terms hereof; provided, that, the
740 County may provide such capacity by making available transfer and/or disposal facilities owned and
741 operated by the County or by making contractual or other arrangements for the use of transfer and/or
742 disposal facilities (either inside or outside the geographic boundaries of the County) owned or operated
743 by persons other than the County. In the event of loss or damage to any material portion of the Solid
744 Waste System or the occurrence of any other event which prevents the County from accepting solid
745 waste at the facilities or the Solid Waste System, the County will use Reasonable Business Efforts to take
746 whatever actions are within its powers to provide other facilities or services necessary to provide the
747 solid waste management services necessary to maintain Net Current Revenues and Net Revenues as
748 required under the Bond Documents. If the efforts necessary to replicate the performance of the TRRP
749 are not economically feasible based on the Current Revenues and any available insurance proceeds, the
750 County shall convene a meeting of the Operating Committee to discuss the options available to provide
751 disposal and processing services that most closely replicate the performances of the TRRP within the
752 limits of the Current Revenues and any available insurance proceeds.

753 ARTICLE 4: CITY'S OBLIGATIONS**754 4.1 Acceptable Materials Delivery Requirement and Monthly Payments**

755 Commencing on July 1, 2017, the Public Participants will deliver or direct their respective Collection
756 Contractor to deliver to the Solid Waste System all Acceptable Materials that the Collection Contractor
757 collects under its contract with City. Public Participants shall also pay or cause their respective
758 Collection Contractor(s) to pay the then-applicable Monthly Service Payment based on the Acceptable
759 Materials Charge established pursuant to this Agreement. The obligations of the Public Participants
760 pursuant to this section shall be referred to here as the "Delivery Covenant."

761 In order to meet the Delivery Covenant, each Public Participant agrees to maintain collection franchises
762 or other contractual arrangements (or utilize municipal collection) to manage collection of all
763 Acceptable Materials generated within its jurisdiction while the Certificates are outstanding.

764 Each such franchise or contract shall require, as a condition of the franchise or contract, that the hauler
765 deliver Acceptable Materials which it collects to the Solid Waste System, or to alternate facilities
766 designated by the County in the event the Solid Waste System is unavailable for any reason as discussed
767 in Section 3.6.

768 4.2 City's Annual Deliveries**769 A. Tonnage**

770 City will deliver (or cause to be delivered) its City's Minimum Annual Delivery Requirement up to its
771 City's Maximum Annual Delivery Allowance (as described in Figure I, below) to the MRF, AD Facility or
772 composting operations area on the Project Site (or other site designated by the County), as Service
773 Contractor directs, by either or both of the following means:

- 774 • Municipal collection: collecting Acceptable Materials itself, using municipal employees; or
775 • Contract collection: directing Collection Contractors to deliver Acceptable Materials using
776 Collection Contractors' employees, subcontractors or other third Persons.

777 1. Contamination

778 The TRRP Revenues are based on the receipt of Mixed Waste, Source-Separated Recyclable
779 Materials, and Source-Separated Organic Materials. Each of the Source Separated materials have
780 limits of the contamination they may contain as described in the Definitions. Should higher levels of
781 contamination occur, more material will be classified as Mixed Waste and less TRRP Revenue will be
782 received.

783 If County demonstrates a material increase in contamination of Source Separated Recyclable
784 Materials and Source Separated Organic Materials delivered to the TRRP, the County and the Service
785 Contractor shall attempt to determine the source and cause of the increased contamination. If the
786 source of the contamination cannot be identified, the County will propose certain actions (e.g.,
787 targeted public outreach programs, tagging of containers and collection of materials in the tagged
788 containers as solid waste, etc.) to be implemented uniformly by all users of the Facility. The
789 Operating Committee shall consider the Service Contractor's and County's findings and
790 recommendations and either adopt those recommended actions or modify them and adopt the

791 modified actions and all users of the Facility shall uniformly implement such actions within six (6)
792 months.

793 If the County demonstrates by substantial evidence that the increased contamination is attributable
794 to the City, then the County will notify the affected City. If the City does not agree with the County's
795 findings as to the cause of the contamination, a third party that is mutually agreeable to the City and
796 the County will be hired to review the County's evidence and make a determination of the cause of
797 the increased contamination. If the City does not dispute the County's original finding as to the cause
798 of the increased contamination or if the third party attributes the cause of the increased
799 contamination to the City, then the City will have ninety (90) days to prepare a course of action (e.g.,
800 targeted public outreach programs, tagging of containers and collection of materials in the tagged
801 containers as solid waste, etc.) to address the identified contamination including a description of the
802 change(s), the timeline for the change(s), and the anticipated impact(s) of the change(s). Within sixty
803 (60) days of receipt of the City's proposed actions (Proposal) to correct the contamination, County
804 shall prepare and deliver to City a written response to the proposed change (Response). If the City
805 does not agree with the original findings of the County or Service Contractor or the County does not
806 agree to the Proposal prepared by the City to address the contamination issue, a third party that is
807 mutually agreeable to the City and County will be hired to review the County or Service Contractor's
808 findings and the City's Proposal, and make a recommendation to address the issue. The cost for the
809 third party will be split between the County and the City and the third party's decision shall be
810 binding upon the City and the County. The City will implement actions associated with the third
811 party's decision within six (6) months.

812 2. Quantities

813 In the event that in any Agreement Year City delivers (or causes to be delivered) Tons in excess of the
814 City's Minimum Annual Delivery Requirement but less than the City's Maximum Annual Delivery
815 Allowance, City shall be charged for each additional Ton at the then current Acceptable Materials
816 Charge, during the Annual Settlement Process, as described in Section 4.3.B.

817 In the event that in any Agreement Year City delivers (or causes to be delivered) Tons in excess of
818 the City's Maximum Annual Delivery Allowance but the facility has received fewer Tons than the
819 Facility Maximum Annual Delivery Allowance, City shall be charged for each additional Ton at the
820 then current Acceptable Materials Charge, during the Annual Settlement Process, as described in
821 Section 4.3.B.

822 In the event that in any Agreement Year City anticipates or is projected by the County or the Service
823 Contractor to deliver (or cause to be delivered) Tons in excess of the Facility Maximum Annual
824 Delivery Allowance, City may be allowed to deliver (or cause to be delivered) the additional Tons at
825 the Acceptable Materials Charge based on the terms determined in accordance with Section 4.3.C.2.

826

827

Figure I - City's Minimum Annual Delivery Requirement and Maximum Delivery Allowance

"City's Minimum Annual Delivery Requirement" means at least the following Total Tons of Acceptable Materials relating to the City. (Specific Tons of Mixed Waste, Source-Separated Recyclable Materials and Source-Separated Organic Materials are listed separately only for the purpose of calculating revenue shares under Section 3.2.B.)*

	Mixed Waste (Tons)	Source-Separated Recyclable Materials (Tons)	Source-Separated Organic Materials (Tons)**: • Source-Separated Food Scraps, or • Source-separated Food Scraps and Yard Trimmings (combined)	Total
City's Minimum Annual Delivery Requirement Total Tons	3,632	0	0	3,632
City's Maximum Annual Delivery Allowance Total Tons	4,431	0		4,431

828 * The Minimum Annual Delivery Requirement(s) shall be increased to reflect City annexation of any
 829 property subsequent to the execution of this Agreement.
 830 ** While Source-Separated yard trimmings may be delivered to the Anaerobic Digestion Facility, such
 831 material is not included in the tonnage commitment of each jurisdiction.

832 **B. Collection Contract Obligations**

833 City *must* include obligations under this Section 4.2 as performance specifications and contractual
 834 obligations in an agreement with its Collection Contractor as well as any Permits, licenses or other
 835 regulatory instruments allowed under law.

836 **1. Delivery of All Acceptable Materials**

837 The City or its Collection Contractor must deliver to the Project Site (or other site designated by the
 838 County) all Acceptable Materials that it collects under its collection contract with the City.

839 **2. Tajiguas Landfill Tip Fee Increase Beginning July 1, 2017**

840 Beginning, July 1, 2017, the City agrees to pay a tipping fee increase for disposal of waste at the Tajiguas
 841 Landfill at a rate of ninety nine (\$99) dollars per ton. The revenue generated by this increase will fund
 842 the Jurisdictional Rate Stabilization Fund. For Fiscal year 2019, beginning July 1, 2018, the City agrees to
 843 pay a tipping fee of one hundred ten (\$110) dollars per ton. For Fiscal Year 2020, beginning July 1, 2019,
 844 the County shall establish the Acceptable Materials Charge pursuant to Section 4.3A and the limitations
 845 in Section 4.3D shall not apply. The limitations on the amount by which the County may adjust the
 846 Acceptable Materials Charge for the upcoming Agreement Year as set forth in Section 4.3D will not take
 847 effect until fiscal year 2021 on July 1, 2020. Notwithstanding the above, the Acceptable Material Charge
 848 will be set as required by the Bond Documents.

849 **3. Monthly Service Payment Requirement Upon Commencement of Operations**

850 The City or its Collection Contractor shall pay County a Monthly Service Payment as provided in this
851 Section 4.2.B.3.

852 The Monthly Service Payment is calculated and paid monthly based on the City's Minimum Annual
853 Delivery Requirement shown in Section 4.2.A multiplied by the applicable Acceptable Materials Charge
854 shown in Section 4.3.A divided by twelve (12). The Monthly Service Payment shall be the monthly
855 amount represented in the following formula.

856 + Acceptable Material Charge

857 x City's Minimum Annual Delivery Requirement (Total Tons)

858 / 12 months

859 = Monthly Service Payment

860 The Annual Settlement Process, defined in Section 4.3.B, identifies any necessary adjustments to the
861 twelve (12) Monthly Service Payments made for the previous Agreement Year to reflect actual Tonnages
862 delivered and other payments owed to, or by Collection Contractor. Should City's actual Tonnages
863 delivered during the Agreement Year significantly exceed what would be expected based on the City's
864 Minimum Annual Delivery Requirement and should this materially affect the County's cash flow
865 payments to the Service Contractor, or the County's ability to comply with the Bond Documents, then
866 the Parties shall meet and confer to compensate the County for such an impact and/or adjust the future
867 Minimum Annual Delivery Requirement to minimize the cash flow impact on the County in the future.

868 **C. City Agreement to Exercise Collection Contract Remedies**

869 If the Collection Contractor does not meet any or all contractual requirements in Section 4.2.B and
870 Section 4.3, City shall exercise any or all remedies available at law or equity under its contract with the
871 Collection Contractor to fulfill such requirements.

872 The failure of the City's Collection Contractor to pay County any sums due it in accordance with this
873 Agreement and or Uncontrollable Circumstances do not excuse City from its obligation to pay the
874 Monthly Service Payment and/or Acceptable Material Charges for materials that Collection Contractor
875 delivered above the tonnage assumed in the Monthly Service Payment and Service Contractor accepted
876 at Facilities.

877 **D. Consent to Changes**

878 The City and County acknowledge that changes to the City's collection contracts or programs may
879 negatively impact the costs and revenues of the County and other Public Participants involved with the
880 TRRP. The City may therefore amend its collection contract(s) or collection programs only if the City
881 mitigates all impacts to the County and other Public Participants (including impacts such as reduced
882 revenues to the County, or reduced Current Revenues available for debt service obligations) which may
883 result from such amendments. General examples of "change" include expiration/termination,
884 extension, re-procurement/replacement and amendments to collection agreements. Specific examples
885 of "change" are stopping collection of Source-Separated Recyclable Materials; or delivering Acceptable
886 Materials in a different configuration such as a "Wet/Dry" collection system. The City Administrator, or

887 his or her designee, is authorized to propose and negotiate changes pursuant to this Subsection D
888 subject to the approval of the City Council prior to implementation.

889

890 **1. Refuse, Recyclable and Organic Materials Other Than Yard Trimmings**

891 If City wishes to propose a change to its collection contract or collection program, concerning materials
892 other than Yard Trimmings, then the City and County shall abide by the following procedures:

893 • City shall send County and other Public Participants a written proposal detailing the proposed
894 change(s) to the collection contract. The proposal shall: describe the change(s), identify the
895 timeline for the change(s), identify the anticipated impact(s) of the change(s), and include the
896 methods by which it proposes to use to cause no new current and future negative financial
897 impacts to the County and other Public Participants. The proposal shall be sent to the County
898 and other Public Participants at least twelve (12) months before the intended effective date of
899 the proposed changes, which shall coincide with an Agreement Year.

900 • Within ninety (90) days of receipt of City's proposal, County (which may consult with the
901 Service Contractor) shall (and other Public Participants may) prepare and deliver to City a
902 written response to the proposed change as it relates to the TRRP (Response) including any
903 additional impacts and possible mitigation measures not considered by City but required of the
904 City or the County, to fully mitigate the impact on the County and the other Public Participants
905 and to generate sufficient revenue for the County to meet the requirements of its Bond
906 Documents.

907 • Thereafter, the City and County (and as appropriate the other Public Participants and Service
908 Contractor) shall meet, for a period not to exceed six (6) months, to negotiate the terms
909 related to the implementation of City's requested change (based upon analysis performed by
910 the City, the County, other Public Participants and the Service Contractor). Should the City and
911 County reach agreement, then the City shall implement the change according to their original
912 schedule but not sooner than thirty (30) days following agreement.

913 • Should the City and County (and as appropriate the other Public Participants and Service
914 Contractor) not reach agreement, within the six-month negotiating period or upon either party
915 declaring an impasse then within thirty (30) days of reaching impasse, the County (and as
916 appropriate, the Operating Committee) shall submit to the City, the terms related to the City's
917 requested change to which the County is unable to agree. Once the City receives the list of
918 terms to which the County is unable to agree, the City may submit the points of disagreement
919 to a third party that is mutually agreed upon by the City and County. The third party shall
920 evaluate the points of disagreement and shall develop a set of proposals that would enable the
921 adoption of the City's requested change while mitigating revenue losses or cost increases
922 related to the proposed change in order to enable the County to continue to meet the
923 requirements of the Bond Documents. The Party submitting the proposal to affect a change
924 shall pay the direct costs for the third party and the City and County will each be responsible
925 for other costs associated with analyzing the proposal.

926 • Following the receipt of the third party's proposals, the City shall have thirty (30) days to elect
927 to proceed with its proposed change in a manner consistent with one of the third party's

928 proposals or to elect to not implement the change. If the City elects to proceed with the
929 change, the consultant's proposal shall be binding upon the City and the County.

930

931 **2. Yard Trimmings**

932 Source-Separated Yard Trimmings are not included in the City's Minimum Annual Delivery Requirement.
933 Therefore, the City is entitled to direct its Source-Separated yard Trimmings wherever it chooses.
934 Notwithstanding the foregoing, the City acknowledges that if it redirects Source Separated Yard
935 Trimmings out of the Solid Waste System, there may be financial impacts that may affect revenues and
936 thus the County's commitments under the Bond Documents. Notwithstanding any provisions of this
937 Subsection D to the contrary, the City shall not be required to mitigate these impacts for a period longer
938 than five (5) years from the date of implementing the change.

939
940 Should City wish to direct its Source-Separated Yard Trimmings (which are not included in the City's
941 Minimum Annual Delivery Requirement) to a facility other than the Tajiguas Landfill, then City and
942 County shall abide by the following procedures:

943
944 • City shall send County a written proposal to direct its Source Separated Yard Trimmings to a
945 facility other than the Tajiguas Landfill. The proposal shall: describe the change, identify the
946 timeline for the change, identify the impact(s) of the change, and include the methods by which
947 it proposes to cause no negative financial impacts to the County or other users of the System for
948 a period not to exceed five (5) years. The proposal shall be sent to the County at least twelve
949 (12) months before the intended effective date of the proposed change, which shall coincide
950 with an Agreement Year.

951 • Within ninety (90) days of receipt of City's proposal, County (which may consult with other
952 Public Participants) shall prepare and deliver to City a written response to the proposed change
953 to the Solid Waste System (Response) that includes a fiscal analysis and any additional impacts
954 (meet and confer with labor organizations regarding layoff's, modification to service contracts,
955 early retirement and sale of equipment, etc.) and possible mitigation measures (e.g., contracting
956 for grinding services) not considered by City but required of the City or the County, to fully
957 mitigate the impact on the County (and other Public Participants) and allow the County to
958 generate sufficient revenue to meet the requirements of the Bond Documents.

959
960 • Thereafter, the City and County shall meet, for a period not to exceed sixty (60) days, to
961 negotiate the terms related to the implementation of City's requested change (based upon the
962 City's proposal and the County's Response). Should the City and County reach agreement on
963 proposed mitigations to be implemented by the County, and, if necessary, a schedule of
964 payments by the City to the County to address fiscal impacts, that shall in no case exceed five (5)
965 years, then the City shall provide written notice to County of its intention to implement the
966 proposed change according to its original schedule but not sooner than the following
967 Agreement Year or to withdraw its proposed change.

968
969 • Should the City and County not reach agreement after sixty (60) days, City and County shall
970 identify and hire a third party that is mutually agreed upon by the City and County to consider
971 the City's Proposal and the County's Response and (1) develop a plan that identifies steps by

972 which the County could decrease costs related to the provision of yard trimming processing and
973 marketing services and a timeline for divestment of equipment, staffing and infrastructure, to
974 which the County shall abide, as well as determining the amount of remaining financial impacts
975 to the County that are not addressed by the plan, and (2) shall provide a schedule of payments
976 that City shall make to County as a condition of the proposed change for up to five (5) years
977 from the date of implementing the change. The Party submitting the proposal to affect a change
978 shall pay the direct costs for the third party.

979
980 • Within sixty (60) days following the completion of the third party's plan, the City shall provide
981 written notice to County of its intention to implement the proposed change which shall coincide
982 with an Agreement Year or to withdraw its proposed change.

983 • If the third party's recommendation requires a change in operations for the County and/or a
984 schedule of payments owed by the City, within three (3) months of receiving City's notice, the
985 County will be required to begin to implement the operational change.

986 • The City will not redirect its yard Trimmings until twelve (12) months have elapsed from the
987 date of Facility Full Operations.

988 **4.3 Compensation and Annual Settlement Process**

989 **A. Acceptable Materials Charge**

990 Notwithstanding anything to the contrary contained in this Agreement, each year the County shall
991 establish, and each Public Participant shall contribute (or cause its Collection Contractor to contribute), a
992 per-ton charge (the Acceptable Materials Charge) based on budgeted projections which, in the
993 aggregate, are sufficient to generate Net Revenues and Net Current Revenues (after taking into account
994 revenues from the sale of Recyclable Materials, the proceeds of insurance and Current Revenues and
995 other receipts) in an amount at least equal to all amounts required to be paid or incurred by the County
996 to provide the services set forth in Section 3.1, to meet the requirements of the Bond Documents, and
997 to replenish any reserves established hereunder.

998 The County may make adjustments from time to time to such charges, fees and rates and may make
999 such classification thereof as it deems necessary, but shall not reduce the charges, fees and rates then in
1000 effect unless the Net Revenues and Net Current Revenues from such reduced charges, fees and rates
1001 will at all times be sufficient to meet the requirements set forth above. The parties acknowledge that
1002 the obligation of the County to require each Public Participant to deliver waste to the System and to
1003 remit the Acceptable Materials Charge calculated annually based on budgeted projections is absolute
1004 and unconditional as long as the County performs its obligations under Section 3.1 to receive and
1005 process, treat or dispose of Acceptable Materials, regardless of whether all or any portion of the Facility
1006 (i) is completed by the scheduled completion date, (ii) operates in accordance with the specifications set
1007 forth in the Service Agreement, (iii) generates the products that are identified in the Service Agreement,
1008 (iv) generates products that in fact have an actual market or market value, or (v) achieves diversion
1009 levels consistent with the projections contained in the proforma of the Service Agreement.

1010 **B. Annual Settlement Process**

1011 The Annual Settlement Process is used to reconcile the Monthly Service Payments paid over a full
1012 Agreement Year with the actual results of operations for the following components:

- 1013 1. Actual tons delivered by the City to the Project
- 1014 2. County's actual results of operations, as described in Exhibit E, for County Service Costs
- 1015 3. Amounts due to, or receivable from, Service Contractor based on actual TRRP Revenues during
1016 the previous Agreement Year.
- 1017 4. All other County obligations, including debt service and capital expenditures

1018 The calculated amount due from the City, or payable to the City, will be subject to the Flow of Funds as
1019 presented in Exhibit F.

1020 Within forty-five (45) Days of the conclusion of each Agreement Year, County shall provide City and
1021 Collection Contractor an "Annual Settlement Process Statement." setting forth the determination of
1022 outstanding payments, amounts due, or financial obligations of the City directly or through its
1023 designated Collection Contractor, with respect to the given Agreement Year. The Annual Settlement
1024 Process Statement shall include a reconciliation of the amount owed, pursuant to Exhibit E, with the
1025 amounts actually paid by City or Collection Contractor with respect to the given Agreement Year
1026 including tonnage of material delivered by type, TRRP revenues from the Contractor and allocated to the
1027 City, and the statement of any necessary contributions to the Jurisdictional Rate Stabilization Fund. The
1028 Annual Settlement Process Statement shall also identify any excess reserves due and payable to the City.

1029 In the event that City desires to review or contest the contents of the Annual Settlement Process
1030 Statement, within thirty (30) days of receipt of the Statement, City may request to meet with County,
1031 and County shall arrange to meet with City within thirty (30) Days of City request. If there continues to
1032 be a difference between the County's and City's calculation of the amounts due, the Parties will meet
1033 and confer to resolve their differences for a period of not more than thirty (30) days. The obligation to
1034 have such a meeting does not confer on the City a right to revise or stop the settlement payment. If
1035 there is not a dispute, the amount due from either Party will be paid within forty five (45) days of
1036 receiving or sending the Statement. If there is a dispute and if the Certificates issued for the Facility
1037 financing are outstanding the Parties shall use the process described in Section 5.2 below; if the
1038 Certificates issued for the Facility financing are not outstanding then the Parties shall use the process
1039 described in Section 5.3 below.

1040 **C. Exceedance of Maximum Annual Delivery Allowance**

- 1041 1. Should the Tonnage attributable to the City that can be delivered to the Facility exceed the
1042 City's Maximum Annual Delivery Allowance but not cause the Facility to exceed its Maximum
1043 Facility Capacity, the County, City, and other Public Participants shall meet to determine,
1044 under what terms the City may deliver the Excess Tonnage.
- 1045 2. Should the Tonnage attributable to the Public Participants that can be delivered to the
1046 Facility exceed the Maximum Facility Capacity, the County, Public Participants, and Service
1047 Contractor shall meet to determine if the Service Contractor can accommodate the Excess
1048 Tonnage, and if so at what adjustment to the Acceptable Materials Charge. County and City
1049 shall meet to determine what other adjustments might be made to the Acceptable Material
1050 Charge (e.g., a reduction to the annual debt service component of the Acceptable Material
1051 Charge). If the County and City agree, then the City may deliver the Excess Tonnage to the
1052 Facility.

1053 D. Adjustments

1054 Each January, the County will distribute a draft Annual Budget for the System. The Annual Budget will
1055 contain an estimate of the Current Revenues and System Costs payable from Current Revenues for the
1056 ensuing Agreement Year, (beginning on the upcoming July 1). The Annual Budget will disaggregate the
1057 cost and revenue components into four categories including 1) Contractor cost, 2) debt service cost
1058 including the debt coverage amount required as defined in the Bond Documents, 3) County Service Cost,
1059 and 4) Other County Costs (that will not be a component of the Acceptable Material Charge for the
1060 Facility). The Annual Budget will also contain an estimate of the amount of Acceptable Materials
1061 expected to be delivered to the System in such Agreement Year, and the resulting Acceptable Materials
1062 Charge required to be imposed in order for the County to meet the requirements of the Bond
1063 Documents.

1064
1065 Beginning in fiscal year 2021, beginning July 1, 2020, in the case of any financial shortfalls (either higher
1066 than projected costs or lower than projected revenues) related to the Facility, the replenishment of
1067 funds by the jurisdictions shall only be included as part of the annual budget process pursuant to the
1068 limitations discussed below.

1069 1. If the proposed change in the Acceptable Materials Charge is equal to or less than seven and
1070 one-half percent (7.5%), the City shall adjust collection rates a commensurate amount and
1071 direct its Collection Contractor to pay the corresponding Monthly Service Payment effective
1072 the following Agreement Year. In no case shall the Acceptable Materials Charge be adjusted
1073 by a negative value. If the calculated adjustment is a negative value, the adjustment shall be
1074 set to "one" (1). For example, if the Acceptable Material Charge is \$116 per ton and the
1075 calculated adjustment was - 0.3 percent, then the \$116 per ton would be multiplied by 1 and
1076 result in \$116 per ton.

1077 2. If the change in the Acceptable Materials Charge is greater than seven and one-half percent
1078 (7.5%), or the cumulative adjustments total fifteen percent (15%) or more in the past three
1079 (3) consecutive years, and if two-thirds of the Public Participants representing at least two-
1080 thirds of the annual amount of Acceptable Materials delivered during the previous year
1081 object to the rates proposed by the County, the Operating Committee shall be convened
1082 (within 30 days of receipt of Annual Budget) and shall be charged with establishing rates
1083 sufficient to generate (after taking into account revenues from the sale of Recyclable
1084 Materials, the proceeds of insurance and other receipts), Net Current Revenues during each
1085 Agreement Year equal to 100% of Debt Service for such Agreement Year, Net Revenues
1086 during each Agreement Year equal to fifty percent (50%) of the Debt Service for such
1087 Agreement Year plus, in each case, all other amounts required to be paid by the County to
1088 provide the services set forth in Section 3.1 and to meet the requirements of the Bond
1089 Documents.

1090 3. If two-thirds of the Operating Committee representing at least two-thirds of the annual
1091 amount of Acceptable Materials delivered during the previous year vote to adopt the rates
1092 proposed by the Operating Committee, such rates shall be utilized. If two-thirds of the
1093 Operating Committee representing at least two-thirds of the annual amount of Acceptable
1094 Materials delivered during the previous year do not approve such alternate rates, or should
1095 the alternate rates not be approved by two-thirds of the Operating Committee within forty
1096 five (45) Days of convening the Operating Committee, then the initial rates proposed by the
1097 County shall be approved. The resolution of the Acceptable Materials Charge must be

1098 complete by April 1 of the preceding Agreement Year before its effective date.

1099

1100

1101 ARTICLE 5: SUSPENSION AND TERMINATION**1102 5.1 Notice of Default**

1103 Should either Party default in the performance of Articles 3 or 4 of this Agreement or materially breach
1104 any of its provisions, except as the result of an uncontrollable circumstance, the Party claiming such
1105 default shall provide the Party a notice of default to the Party claimed to have defaulted. In such Notice,
1106 the Party claiming such default, shall provide a description of the specific incidents giving rise to such
1107 default or breach and identify the requested cure. Upon receipt of notice, the Party claimed to be in
1108 default shall notify the Party claiming such default as to the status of its performance. Thereafter, the
1109 Parties shall meet and confer in an attempt to remedy such incidents.

1110 5.2 Resolution When Facility Financing Certificate(s) Outstanding

1111 While the Certificates for the Facility financing are outstanding, the only remedy for default shall be
1112 specific performance and there shall be no suspension or termination of the Agreement. If the Parties
1113 cannot agree on such remedies and the claimed default or breach occurs while any Certificates issued
1114 for the financing of the Facility are outstanding, the matter shall be submitted to binding arbitration
1115 using an independent arbitrator. If either Party wishes to select an arbitrator, each Party shall prepare a
1116 separate list of five (5) independent arbitrators having experience, as applicable in the Development of,
1117 or operation of similar solid waste-related facilities, in numerical order with the first preference at the
1118 top, and exchange and compare lists. The independent arbitrator ranking highest on the two (2) lists by
1119 having the lowest total rank order position on the two (2) lists shall be the Independent Arbitrator. In
1120 case of a tie in scores, the Independent Arbitrator having the smallest difference between the rankings
1121 of the two (2) Parties shall be selected; other ties shall be determined by a coin toss. If no independent
1122 arbitrator appears on both lists, this procedure shall be repeated. If selection is not completed after the
1123 exchange of three (3) lists or sixty (60) Days, whichever comes first, then each Party shall select one
1124 independent arbitrator having experience described above and the two (2) arbitrators so selected shall
1125 together select an Independent Arbitrator. The Independent Arbitrator shall make its determination
1126 based on the submissions of the Parties, the provisions hereof, and other factual determinations it may
1127 make regarding the matter in dispute, but in any case such determination must not adversely impact the
1128 County's ability to comply with the terms of the Bond Documents. The determination of the
1129 Independent Arbitrator shall be binding. The Parties shall share the costs of the Independent Arbitrator
1130 equally for the first three dispute resolutions brought in any twelve (12) month period commencing on
1131 July 1, and thereafter shall be borne by the loser, as determined by the Independent Arbitrator.

1132 5.3 Resolution When Facility Financing Certificate (s) Not Outstanding

1133 If the Parties cannot agree on such remedies and the claimed default or breach does not occur during
1134 the period when any Certificates issued for the financing of the Facility are outstanding, the Parties may
1135 exercise any legal rights they have under the Agreement and under Applicable Law, including to secure
1136 specific performance.

1137 **ARTICLE 6: RECORDS AND REPORTS**

1138 **6.1 Records**

1139 **A. Contents**

1140 County will keep records of its administration and enforcement of the Service Agreement. An example
1141 is Tonnage of each type of Acceptable Material that the City delivers to the TRRP, as well as aggregate
1142 Tonnage of materials delivered on a Spot-Market Materials basis to the TRRP.

1143 **B. Access**

1144 Upon City request, County shall make operational and business records (including scale house data)
1145 available to City during Landfill hours, and shall provide on-line access or printed copies of records as
1146 described in 3.4.B.

1147 **6.2 Reports**

1148 County will report to City on administration and enforcement of the Service Agreement. An example is a
1149 report on results of the Annual Settlement Process.

1150 **ARTICLE 7: ENFORCEMENT**

1151 **7.1 Enforcement**

1152 **A. Law and Equity**

1153 If either County or City does not meet its obligations under this Agreement, the other Party may exercise
1154 any and all available remedies under law and equity, including specific performance. Specific
1155 performance is an appropriate remedy to enforce City's obligation to deliver Acceptable Materials to the
1156 TRRP, for the same reasons described under Section 4.2.C above with respect to the Collection
1157 Contractor.

1158 **B. Shortfall Charges**

1159 If City does not meet its City's Minimum Annual Delivery Requirement it will pay any consequent City's
1160 Shortfall Charge within thirty (30) Days of County request, including payment by its Collection
1161 Contractor. County may do either or both of the following:

- 1162 1. Deduct the Shortfall Charge or any other money that City owes the County from any TRRP
1163 Revenue shares that the County owes City, or
1164 2. Exercise any other remedy under Section 7.1.A, above.

1165 **7.2 Uncontrollable Circumstances**

1166 **A. General**

1167 Either Party's failure to meet its contract obligations, other than the payment of money such as the
1168 Shortfall Charge, will *not* be deemed an event of default if all of the following conditions are met:

- 1169 1. The event of default is caused by Uncontrollable Circumstances;
1170 2. The event of default is explicitly subject to Uncontrollable Circumstances under this Agreement;
1171 and,
1172 3. The party relying on the Uncontrollable Circumstance exerted Reasonable Business Efforts to
1173 prevent the occurrence and mitigate the effects of the Uncontrollable Circumstance.

1174 Despite a Party claiming that an Uncontrollable Circumstance prevents it from fulfilling its obligations,
1175 such Party shall remedy the problem and perform its obligations as soon as possible.

1176 **B. Notice**

1177 The Party experiencing an Uncontrollable Circumstance will give immediate Notice to the other Party,
1178 including all of the following:

- 1179 1. Describing performance under this Agreement for which it seeks to be excused;
1180 2. The expected duration of the Uncontrollable Circumstance;
1181 3. The extent to which Agreement Services may be curtailed; and,
1182 4. Any requests or suggestions to mitigate the adverse effects of the Uncontrollable Circumstance.

1183 **7.3 Jurisdiction, Venue, Service of Process**

1184 **A. Exclusive State Court Jurisdiction**

1185 County and City will bring any lawsuits arising out of this Agreement in State courts, which will have
1186 exclusive jurisdiction over the lawsuits.

1187 **B. Venue**

1188 Venue is made and will be performed in courts sitting in the County of Santa Barbara.

1189 **C. Location**

1190 County and City will conduct any other hearing or action (such as mediation or arbitration), of whatever
1191 nature or kind regarding this Agreement, in the City of Santa Barbara.

1192 **D. Service of Process**

1193 County and City will accept service of process at the address where they receive Notices.

1194 **7.4 Governing Law**

1195 This Agreement is governed by, and construed and enforced under, the laws of the State of California,
1196 without giving effect to the State's principles of conflicts of laws.

1197 **7.5 Costs**

1198 Subsequent to a judicial decision upholding the complaining Party's complaint, the other Party will pay
1199 the complaining Party's Reimbursement Costs reasonably incurred to enforce its rights or exercise its
1200 remedies for the other Party's failure to meet its obligations under this Agreement. This obligation is a
1201 general, not limited or special, obligation of each Party.

1202 **ARTICLE 8: ASSIGNMENT**

1203 **8.1 Assignment**

1204 Neither Party shall Assign its rights nor delegate or otherwise transfer its obligations under this
1205 Agreement to any other Person without the prior written consent of the other Party to the Assignment.
1206 Any such Assignment made without the consent of the other Party shall be void and the attempted
1207 Assignment shall constitute a material breach of this Agreement.

1208 **ARTICLE 9: MISCELLANEOUS PROVISIONS**

1209 **9.1 Entire Agreement**

1210 This Agreement contains the entire agreement between the Parties with respect to their rights and
1211 obligations under this Agreement, including the enforcement and administration of this Agreement.
1212 This Agreement supersedes all prior understandings and agreements between the Parties with respect
1213 to their rights and obligations, including those contained in drafts, memorandums, correspondence,
1214 telephone calls, meetings and their respective County Board and City Council sessions.

1215 However, if words defined in this Agreement conflict with definitions in the Service Agreement, the
1216 definition under the Service Agreement governs.

1217 **9.2 Amendments**

1218 The Parties may make changes in this Agreement after the Effective Date, effective only upon signing a
1219 written amendment to this Agreement.

1220 **9.3 Severability**

1221 **A. Court Rulings Generally**

1222 If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or
1223 unenforceable in any respect, then such provision or provisions shall be deemed severable from the
1224 remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other
1225 provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable
1226 provision had never been contained herein.

1227 **B. Court Rulings: Delivering Materials to TRRP**

1228 However, in the ruling of invalidity, illegality, non-binding nature or unenforceability of any Agreement
1229 Provision, under Section 9.3.A, with respect to the City's Minimum Annual Delivery Requirements,
1230 obligations of County, or obligations of City's Collection Contractor to deliver materials to the TRRP; then
1231 the County Board of Supervisors may, in its sole discretion, do any of the following:

- 1232 1. Accept the ruling without deleting or enforcing that Agreement Provision;
1233 2. Delete that Agreement Provision and construe and enforce this Agreement under this Section;
1234 or,
1235 3. Terminate this Agreement if Service Contractor accedes.

1236 **9.4 Interpretation**

1237 City acknowledges the following:

- 1238 1. It commented on the form of this Agreement with advice of its attorneys.
1239 2. It entered into this Agreement upon its own choice and initiative, in order to meet its goals
1240 described in the Recitals above.
1241 3. It agrees that no one can construe any provision in this Agreement against County solely
1242 because County prepared this Agreement in its executed form.

1243 4. It understands that this Agreement is an essential aspect of the Certificate financing process,
1244 and agrees to cooperate in providing information required for the financing process, including
1245 information for the official statement and rating process.

1246 County represents and warrants as follows:

- 1247 a. It has reviewed and commented upon this Agreement with advice of its attorneys.
1248 b. It entered into this Agreement upon its own choice and initiative, in order to meet its goals
1249 described in the Recitals above.

1250 Therefore, this Agreement must be interpreted and construed reasonably and neither for nor against
1251 either Party, regardless of the degree to which had either Party participated in its drafting.

1252 9.5 Timely Performance

1253 A. Specified Days on Weekdays

1254 1. Performance

1255 If a Party must perform an obligation under this Agreement within a specified number of Days, and the
1256 last Day falls on a weekend or holiday, the obligated Party may perform that obligation on the next
1257 weekday following the weekend or holiday. For example, if City must provide documentation to County
1258 within thirty (30) Days of County request and the 30th Day falls on a Sunday, City must give County the
1259 documentation by the next Day, Monday.

1260 2. Counting

1261 Each calendar Day is counted when determining the last Day of the specified number of Days. For
1262 example, if County must provide documentation to City within one (1) week of City's request on a
1263 Friday, City must give County the documentation by the next Friday.

1264 B. Specified Hours on Any Day

1265 If a Party must perform an obligation under this Agreement at a specified time, in any of the following
1266 events the obligated Party must perform that obligation within the specified time, *even if* the time for
1267 performance falls on a weekend or holiday:

- 1268 1. The specified time is measured in hours;
1269 2. The County specifies the time (for example, on a Saturday even though performance would
1270 otherwise occur on Monday); or,
1271 3. County determines that there is a threat to public health or safety.

1272 9.6 Notices, Etcetera

1273 A. Location

1274 Parties must give Notices at the addresses that they identify in Exhibit A.

1275 B. Notice

1276 Parties may give Notices such as Notice of default, only by any of the following ways:

- 1277 1. Email or facsimile followed as soon as possible (but no more than two (2) Days) by personal or
1278 mailed delivery;
- 1279 2. Personal delivery to County Agreement Representative or City Agreement Representative;
- 1280 3. Deposit in the United States mail first class postage prepaid (certified mail, return receipt
1281 requested); or,
- 1282 4. Commercial delivery service providing delivery verification.

1283 **C. "Notice"**

1284 Parties may give "notice" (not capitalized) by either Party of a routine administrative issue (such as
1285 results of the Annual Settlement Process or date of a County Board meeting) orally (for example, by
1286 telephone or computerized communication); and electronically (for example, by email).

1287 **D. Change of Address**

1288 Parties may change their address for Notice upon giving a Notice to that effect to the other Party.

1289 **9.7 Writing**

1290 Parties must make all of the following in writing unless oral communication is explicitly allowed:

- 1291 • requests, demands, orders, directions,
- 1292 • acceptances, consents, approvals, agreements,
- 1293 • waivers,
- 1294 • exercise of options or rights, selections,
- 1295 • proposals,
- 1296 • reports, and
- 1297 • acknowledgments, certifications, representations and warranties.

1298 Explicit reference to "written" or "writing" with respect to any one communication does not imply that
1299 other communications without explicit reference to writing may be oral. "Writing" includes any means
1300 of printed language, including hard copy and emails.

1301 **9.8 Exercise of Options**

1302 Parties exercise of any approval, disapproval, option, discretion, satisfaction, determination, election,
1303 consent or choice under this Agreement is deemed reasonable, unless this Agreement specifically
1304 provides otherwise, such as in a Party's "independent", "sole", "exclusive" or "absolute" "control",
1305 "judgment", or "discretion".

1306 **9.9 Parties' Agreement Representatives**

1307 **A. County Agreement Representative**

1308 **1. Named**

1309 On the Effective Date, the County Agreement Representative is the Deputy Director of the County Public

1310 Works Department (Resource Recovery and Waste Management Division). The Deputy Director's
1311 address is listed in Exhibit B.

1312 **2. Authority**

1313 County authorizes the County Agreement Representative to act on behalf of County in the
1314 administration of this Agreement, unless it specifically names another individual. By signing this
1315 Agreement, County delegates to County Agreement Representative the authority to exercise County
1316 rights, remedies and options under this Agreement and administer this Agreement, except with respect
1317 to:

- 1318 a. Extending the term;
- 1319 b. Suspending or terminating this Agreement;
- 1320 c. Approving or disapproving Assignment or transfer of this Agreement; and,
- 1321 d. Exercising any delegation of authority contrary to law.

1322 **B. City Agreement Representative**

1323 **1. Named**

1324 City will name its City Agreement Representative by Notice to the County.

1325 **2. Authority**

1326 City authorizes City Agreement Representative to act on behalf of the City under this Agreement.
1327 County may assume that City has delegated its City Agreement Representative to exercise rights,
1328 remedies and options under this Agreement and administer this Agreement.

1329 **9.10 Signing Multiple Copies**

1330 The Parties may sign any number of copies of this Agreement. All signed copies are deemed to be one
1331 Agreement.

1332 **9.11 Authority to Sign**

1333 **A. County**

1334 The County warrants that it duly authorized the officers listed below to sign this Agreement on behalf of
1335 County.

1336 **B. City**

1337 The City warrants that it duly authorized the individuals listed below to sign this Agreement on behalf of
1338 City.

1339

1291 **IN WITNESS WHEREOF**, the Parties have executed this Contract to be effective on the date
1292 executed by COUNTY.

1293
1294
1295
1296
1297
1298

ATTEST:
Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:


1299 By: _____
1300 Deputy Clerk

By: _____
Chair, Board of Supervisors

1301
1302

Date: _____


1303 **RECOMMENDED FOR APPROVAL:**
1304 Santa Barbara County Public Works
1305 Department

1306
1307 By: 
1308 Scott D. McGolpin
1309 Public Works Director

1310
1311 **APPROVED AS TO FORM:**
1312 Michael C. Ghizzoni
1313 County Counsel

APPROVED AS TO ACCOUNTING FORM:
Theodore A. Fallati, CPA
Auditor-Controller

1314
1315 By: 
1316 Deputy County Counsel

By: 
Deputy

1317
1318 **APPROVED AS TO FORM:**
1319 Risk Management

1320
1321 By: 
1322 Risk Management
1323

EXHIBIT A: ADDRESSES FOR NOTICES

1336 See Exhibit B for representatives and addresses for notices.

1337 Parties may change their representative following Notice to the other Party.

1338 **Acknowledgment:** City has submitted, and County has received, the attached address for giving
1339 Notice under this Agreement on the later of the following dates:

- 1340 • the Effective Date, as evidenced by each of their signatures on this Agreement, or
- 1341 • with respect to subsequent changes, the following date, as evidenced by their following
1342 signatures :

1343 Date: 12-1-16

1344 County: 

EXHIBIT B: COMMUNICATIONS

1439

A. County Agreement Representative

Name	Mark Schleich Deputy Director of Public Works (Resource Recovery and Waste Management Division)
telephone number	805 882-3600
e-mail address	Schleich@cosbpw.net
mailing address	County of Santa Barbara Resource Recovery and Waste Management Division 130 East Victoria St., Suite 100 Santa Barbara, CA 93101
County office address	Same as mailing address

1440 County may change its representative following Notice to City.

1441 **Acknowledgment:** County has submitted, and City has received, the attached identification of
1442 County Agreement Representative on the later of the following dates:

- 1443
- the Effective Date, as evidenced by each of their signatures on the Agreement, or
 - with respect to subsequent changes, the following date, as evidenced by their following
1444 signatures :
1445

1446 Date: _____

1447 County:  _____

1448 City: _____

EXHIBIT B: COMMUNICATIONS

1449 **B. City Agreement Representative**

Name	
Telephone number	
e-mail address	
Mailing address	
County office address	

1450 The City may change any of this information following Notice to County.

1451 **Acknowledgment:** The City named above has submitted, and the County has received, the attached
1452 documentation on the later of the following dates:

- 1453 • the Effective Date, as evidenced each of their signatures on the Agreement, or
1454 • with respect to subsequent changes, the following date, as evidenced by their following
1455 signatures :

1456 Date: _____

1457 City: _____

1458 County: _____

**EXHIBIT C:
COLLECTION FRANCHISE OR OTHER PROOF OF
DELIVERY OBLIGATION**

1459 [to be attached to signed copy of this Agreement]

EXHIBIT D: JURISDICTIONAL RATE STABILIZATION FUND DIVIDEND SAMPLE CALCULATION

Sample Dividend Calculation of Jurisdictional Rate Stability Fund

Assumptions:	Surplus funds	\$500,000
	MSW eq	MSW = 1 CSSR = 2 SSOW _{fw} = 0.25

Actual Tonnage Received by TRRP	City A	City B	City C	City D	County	Total
MSW	400	150	50	50	350	1,000
CSSR	32	33	6	4	25	100
SSOW _{fw}	15	2	-	-	3	20

Equivalent Tonnage Received	City A	City B	City C	City D	County	Total
MSW	400	150	50	50	350	1,000
CSSR	64	66	12	8	50	200
SSOW _{fw}	4	1	-	-	1	5
Total	468	217	62	58	401	1,205

Dividend Calculation	City A	City B	City C	City D	County	Total
Percent	38.82%	17.97%	5.15%	4.81%	33.26%	100.00%
Amount	\$194,087	\$89,834	\$25,726	\$24,066	\$166,286	\$500,000

1460

EXHIBIT E: EXAMPLE CALCULATION OF COUNTY SERVICE COSTS DUE FROM PROJECT PARTICIPANTS

1461
1462 The purpose of Exhibit E is to set forth a methodology to determine the actual revenues and expenses
1463 incurred by the County for Solid Waste Management Services (Section 3.1) in connection with the
1464 Annual Settlement Process.

1465
1466 Each fiscal year the County will prepare a budget for the Solid Waste Management Services to be
1467 provided to Public Participants by the County and will make it available for review by the City prior to
1468 approval by the County Board of Supervisors. The budget will also include the estimate of overhead to
1469 be allocated to County Service Costs for the fiscal year. The Board of Supervisors will consider the
1470 Department's budget in June as part of their budget deliberations. Once approved, the County Service
1471 Cost will be included as part of the Acceptable Material Charge.

1472
1473 At the end of each fiscal year, the County will calculate the actual revenues and expenses incurred from
1474 the completed fiscal year including the allocation of Department, Divisional and Operational Overhead
1475 for County Service Costs. Closure, post-closure or regulatory fees will be excluded from the basis of
1476 calculation of overhead for County Service Costs. Prior debt obligations and capital improvements as
1477 shown on Exhibit F will not be part of this calculation as they are accounted for after calculating the
1478 Surplus Fund.

1479
1480 A review at the request of the City was performed by MSW Consultants to understand the process and
1481 procedures used by the County for determining the final revenues and expenses attributable to the City
1482 for the Solid Waste Management Services provided by the County. **The calculation below is an example**
1483 **of the methodology used to determine the County Service Costs; however, the numbers provided in**
1484 **this Exhibit E have not been verified by the County.** This process shall be as shown below.

1485
1486 The County's Service Cost portion of the overall Solid Waste Management Services will be comprised of
1487 the expenses incurred in, and properly allocated to, the four (4) programs in the Solid Waste Enterprise
1488 Fund budget shown in Table 1.

1489
1490 **Table 1 – County Budget Programs Attributable to County Service Cost**

Program Number	Name
1101	South Coast Transfer Station
1200	Tajiguas Landfill
1301	Santa Ynez Valley Transfer Station
1850	TRRP Contract Management

1491
1492 The County will only record expenses into these programs that are related to the County Service Costs.
1493 For example, the County will not record any expenses related to greenwaste handling into any of these
1494 programs, but segregate all greenwaste costs into a single program designated for greenwaste.

EXHIBIT E: EXAMPLE CALCULATION OF COUNTY SERVICE COSTS DUE FROM PROJECT PARTICIPANTS

1495 Additionally, the County will record any recycling expenses that were previously booked into Program
1496 1133 (Recycling Operations) into the program to which they are directly related (e.g., SCRTS,
1497 greenwaste, etc.).

1498
1499 The County will allocate its divisional administrative costs pursuant to the method shown further below.

Table 2 – Allocation of Divisional Administrative Costs

Column:	A	B	C	D	E	F	G
Program	Costs Recorded in County's Financial System	Deduct Amounts for Programs to which Overhead is not Allocated	Amounts Upon Which Administrative Overhead is Allocated (1)	Administrative Overhead Allocation Percent (2)	Allocated Administrative Overhead (3)	Add Back Amounts from Programs to which Overhead is not Allocated (4)	Program Costs After Administrative Overhead Allocation (5)
1050 Administration	\$2,658,337	(\$2,658,337)	\$0	0.00%	\$0		\$0
1055 Ballard	0		0	0.00%	0		0
1101 SCRTS	2,445,799		2,445,799	15.77%	419,220		2,865,019
1122 Shop	817,655		817,655	5.27%	140,094		957,749
1133 Recycle	0		0	0.00%	0		0
TBD Greenwaste	960,634		960,634	6.19%	164,551		1,125,185
1200 Tajiguas	2,852,227		2,852,227	18.39%	488,868		3,341,095
1301 SYVRTS	684,217		684,217	4.41%	117,233		801,450
1401 New Cuyama	175,282		175,282	1.13%	30,039		205,321
1650 Operations OH	1,240,709		1,240,709	8.00%	212,667		1,453,376
1700 Closed Landfills	470,885	(470,885)	0	0.00%	0	470,885	470,885
1750 Engineering	0		0	0.00%	0		0
1850 TRRP Contract Mgm	3,117,756		3,117,756	20.10%	534,326		3,652,082
(6) CPC and Reg. Fees	1,113,183	(1,113,183)	0	0.00%	0	1,113,183	1,113,183
1950 CMM	\$3,217,470		\$3,217,470	20.74%	\$551,339		\$3,768,809
Total	\$19,754,154	(\$4,242,405)	\$15,511,749	100.00%	\$2,658,337	\$1,584,068	\$19,754,154

(1) Column A plus column B.

(2) Percentages based on amounts in column C.

(3) Administrative overhead from Program 1100 allocated based on percentages in Column D.

(4) Add back amounts from Column B.

(5) Sum of Columns C, E and F.

(6) Included in Program 1200; segregated for purposes of allocating Administration costs.

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EXHIBIT E: EXAMPLE CALCULATION OF COUNTY SERVICE COSTS DUE FROM PROJECT PARTICIPANTS

1510 The County shall allocate its divisional shop and operational overhead pursuant to the method shown
1511 below in Table 3.

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1513

Table 3 – Allocation of Divisional Shop and Operational Overhead

Column:	A	B	C	D	E	F	G
Program	Program Costs After Administrative Overhead Allocation (1)	Deduct Amounts from Programs to Which Shop or Operational Overhead is not Allocated (2)	Amounts Upon Which Administrative Overhead is Allocated (3)	Shop and Operational Overhead Allocation Percent (4)	Allocated Shop and Operational Overhead Amounts (5)	Add Back Amounts on Which Shop and Operational Overhead is not Calculated (6)	Program Costs After Shop and Operational Overhead Allocation (7)
1050 Administration	\$0			0.00%	0		0
1055 Ballard	0			0.00%	0		0
1101 SCRTS	2,865,019		2,865,019	34.36%	828,479		3,693,498
1122 Shop	957,749	(957,749)	0	0.00%	0		0
1133 Recycle	0		0	0.00%	0		0
TBD Greenwaste	1,125,185		1,125,185	13.49%	325,370		1,450,555
1200 Tajiguas	3,341,095		3,341,095	40.07%	966,147		4,307,242
1301 SYVRTS	801,450		801,450	9.61%	231,756		1,033,206
1401 New Cuyama	205,321		205,321	2.46%	59,373		264,694
1650 Operations OH	1,453,376	(1,453,376)	0	0.00%	0		0
1700 Closed Landfills	470,885	(470,885)	0	0.00%	0	470,885	470,885
1750 Engineering	0	0	0	0.00%	0	0	0
1850 TRRP Contract Mgm	3,652,082	(3,652,082)	0	0.00%	0	3,652,082	3,652,082
(8) CPC and Reg. Fees	1,113,183	(1,113,183)	0	0.00%	0	1,113,183	1,113,183
1950 CMM	\$3,768,809	(\$3,768,809)	\$0	0.00%	0	3,768,809	3,768,809
Total	\$19,754,154	(\$11,416,084)	\$8,338,070	100.00%	\$2,411,125	\$9,004,959	\$19,754,154

(1) From Column G of Table 2.

(2) Exclude costs that do not drive Shop or Operational Overhead Costs.

(3) Column A less Column B. Basis for allocation percentages in Column D.

(4) Percent of total in Column C.

(5) Sum of Program 1122 (Shop) and Program 1650 (Operational Overhead) allocated based on percentages in Column D.

(6) Add back amounts in Column B other than Shop and Operational Overhead.

(7) Sum of amounts in Columns C, E and F.

1514 (8) Included in Program 1200; segregated for purposes of allocating Shop and Operational Overhead costs.

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**EXHIBIT E:
EXAMPLE CALCULATION
OF COUNTY SERVICE COSTS DUE FROM PROJECT
PARTICIPANTS**

1526 After the previously described allocations have been made, the County's Service Cost will be the sum of
1527 the programs shown below in Column C in Table 4.

1528
1529

Table 4 – Determination of County Service Cost

Column:	A	B	C
Program	Program Costs After Shop and Operational Overhead Allocation (1)	Non-TRRP Related Costs (2)	County Service Cost (3)
1050 Administration	0		
1055 Ballard	0		
1101 SCRTS	3,693,498		3,693,498
1122 Shop	0		
1133 Recycle	0		
TBD Greenwaste	1,450,555	1,450,555	
1200 Tajiguas	4,307,242		4,307,242
1301 SVVRTS	1,033,206		1,033,206
1401 New Cuyama	264,694	264,694	
1650 Operations OH	0		
1700 Closed Landfills	470,885	470,885	
1750 Engineering	0	0	
1850 TRRP Contract Mgmt.	3,652,082		3,652,082
(4) CPC and Reg. Fees	1,113,183		1,113,183
1950 CMM	3,768,809	3,768,809	
Total	\$19,754,154	\$5,954,943	\$13,799,210

(1) From Column G of Table 3.

(2) Programs not related to the Project.

(3) Programs related to the Project.

(4) Included in Program 1200.

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**EXHIBIT E:
EXAMPLE CALCULATION
OF COUNTY SERVICE COSTS DUE FROM PROJECT
PARTICIPANTS**

1534 An example of the Revenue from Other Users is shown below in in 5.

1535 **Table 5 – Revenue From Other Users**

Column:	A	B	C	D	E
Facility:	SCRTS	SYVTS	Tajiguas	Resource Recovery Facility	Total
Annual Tons - Other Users					
MarBorg Residuals			53,291		53,291
Self-haul	12,000	6,000			18,000
H2Handle	4,698	5,897			10,595
Divertable C&D	1,263	328			1,591
Metal	145	52			197
Direct to Tajiguas - Unsortable			3,126		3,126
C&D Dirt Tailings for ADC			15,000		15,000
Total - Other Tons	18,106	12,277	71,417	0	101,800
Tip Fees - Other Users					
MarBorg Residuals			\$95.00		
Self-haul	\$93.00	\$93.00	\$93.00	\$93.00	
H2Handle	\$118.00	\$118.00	\$118.00	\$118.00	
Divertable C&D	\$118.00	\$118.00	\$118.00	\$118.00	
Metal	\$10.00	\$10.00	\$10.00	\$10.00	
Direct to Tajiguas - Unsortable	\$118.00	\$118.00	\$118.00	\$118.00	
C&D Dirt Tailings for ADC	\$17.00	\$17.00	\$17.00	\$17.00	
Annual Revenue - Other Users					
MarBorg Residuals	0	0	5,062,645	0	5,062,645
Self-haul	1,116,000	558,000	0	0	1,674,000
H2Handle	554,364	695,846	0	0	1,250,210
Divertable C&D	149,034	38,704	0	0	187,738
Metal	1,450	520	0	0	1,970
Direct to Tajiguas - Unsortable	0	0	368,868	0	368,868
C&D Dirt Tailings for ADC	0	0	255,000	0	255,000
Total - Revenue from Other Users	\$1,820,848	\$1,293,070	\$5,686,513	\$0	\$8,800,431

1536

**EXHIBIT E:
EXAMPLE CALCULATION
OF COUNTY SERVICE COSTS DUE FROM PROJECT
PARTICIPANTS**

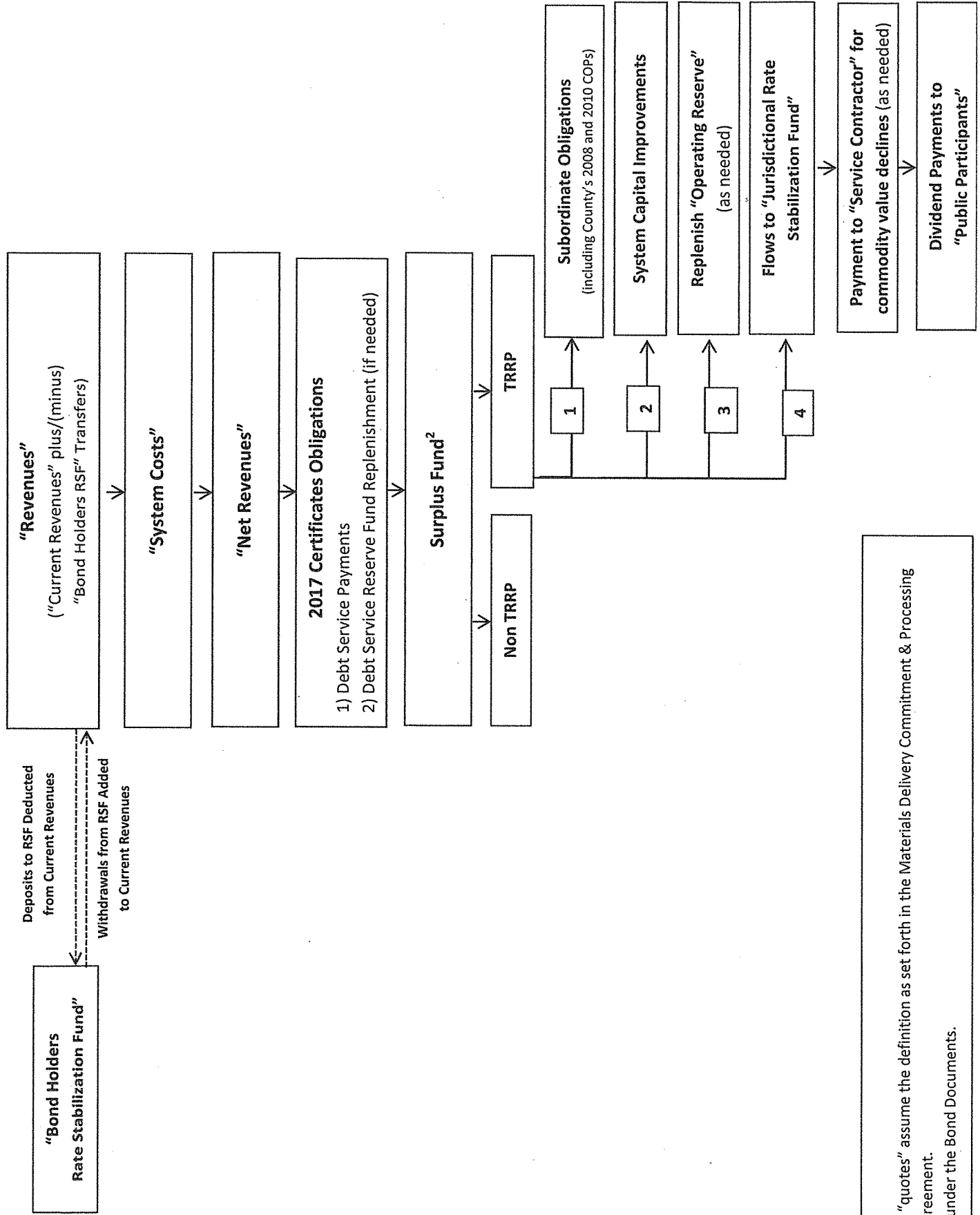
1537 An example summary of the amount due to the County for Solid Waste Management Services is shown
1538 below in in Table 6.

1539 **Table 6 - Summary of Amount Due to the County for Solid Waste Management Services**

Description	Annual Amount	Disposal and Solid Waste System Costs per Ton
County Service Cost (from Table 4)	\$13,799,210	\$80.36
Debt Service related to 2017 COPs	\$5,113,732	
Payments to Service Contractor	\$2,888,786	
Debt Service for Subordinate Obligations	\$942,215	
Capital Purchases	\$1,637,000	
Total Project Expenditures	\$24,380,943	
Revenue from Other Users (from Table 5)	(\$8,800,431)	(\$51.25)
Revenue from CREB subsidies	(\$1,517,334)	
Less: Project Revenues (Other Than from Project Participants)	(\$10,317,765)	
Amount Due to the County	\$14,063,178	
Revenue to Achieve Debt Service Coverage	\$6,199,428	
Total Revenue from Public Participants	\$20,262,606	
Total Tons from Public Participants	171,717	
Total Disposal and Solid Waste System Costs		\$29.11

1540

Solid Waste Revenue Certificates of Participation
 Exhibit F Bond Holder and System Flow of Funds¹



Footnotes:
 1. Terms in "quotes" assume the definition as set forth in the Materials Delivery Commitment & Processing Services Agreement.
 2. Defined under the Bond Documents.

ATTACHMENT 1:
PROJECTED AND MINIMUM ANNUAL DELIVERY
REQUIREMENT

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Table 2-1 (From Material Services Agreement):
 Projected Resource Recovery Project Tonnage

Participating Agency	Mixed Waste (Tons)	Source Separated Recyclable Materials (Tons)	Source Separated Organic Materials (Tons)	Projected Annual Delivery TOTAL TONS
Franchised Waste				
County of Santa Barbara	40,474	9,536	400	50,410
Santa Barbara	59,224	16,073	0	75,297
Goleta	22,074	5,618	600	28,292
Solvang	3,632	0	0	3,632
Buellton	4,064	1,319	0	5,383
<i>Subtotal</i>	<i>126,361</i>	<i>32,546</i>	<i>4,107</i>	<i>163,014</i>
Other Waste				
Other Agency*	6,000	900	803	7,703
County Facility Self-Haul	20,000	0	0	20,000
<i>Subtotal</i>	<i>26,000</i>	<i>900</i>	<i>803</i>	<i>27,703</i>
Total	152,361	33,446	4,910	190,717

1544

*UCSB, Chumash Reservation, State Parks

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1546