

**Franchise Agreement
For
Refuse and Recycling
Collection and Disposal**

Between

Pittsburg Disposal & Debris Box Service, Inc.

and

The City of Pittsburg

June 21, 1999

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DEFINITIONS

In this Agreement, unless the context otherwise requires, the definitions contained in this Article govern this agreement.

1. "AB 939" or the "Act" means the California Integrated Waste Management Act of 1989, Public Resources Code sections 40000, et seq., as it exists on the date of this Agreement or as hereafter amended.
2. "Affiliate" means all business (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to the Company by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" Company and included within the term "Affiliates" as used herein. An affiliate shall include a business in which Company owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in the company and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Company.
3. "Agreement" means this Agreement for the Residential Solid Waste and Recycling Collection and Commercial Solid Waste Collection between Pittsburg Disposal & Debris Box Service, Inc. and the City of Pittsburg.
4. "Authorized recycling agent" means a person authorized by City contract to collect recyclable waste materials in the City.
5. "Authorized Rate" means the per ton fee charged by Operator for the delivery of mixed Waste by municipal haulers to the RCTS.
6. "Billings" means any and all statements of charges for services rendered, howsoever made, described or designated by Company, or made by others for Company, to owners or occupants of property, including residential property and commercial and industrial property, served by Company for the collection of franchised solid waste, recyclable materials, and green waste.
7. "California Integrated Waste Management Act" means Public Resources Code, Section 40,000 et seq., as amended.
8. "City" means the City of Pittsburg.
9. "City Manager" means the City Manager of the City of Pittsburg.
10. "City's or Pittsburg's Waste Stream" means Waste generated in the City of Pittsburg.

11. "Collect/Collection" means to take possession of, transport, and remove materials from the service area where the materials is produced or generated.
12. "Collection" means the collection and disposal of garbage and rubbish.
13. "Commercial and/or Industrial Property" means property upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding business conducted upon residential property which are permitted under applicable zoning regulations and are not the primary use of the property. Industrial Property is further defined as those properties utilizing "debris boxes".
14. "Commercially Generated Recyclable Materials" means recyclable materials generated at commercial and/or industrial property and separated by the waste generator for collection in a manner different from franchised solid waste.
15. "Construction Debris" means used or discarded construction materials removed from a premises during the construction or renovation of a structure.
16. "Container" means any and all types of franchised solid waste, recyclable materials or green waste receptacles.
17. "Customer" means those who have contracted with the Company for the collection processing, and marketing of franchised solid waste, recyclable materials or green waste as provided herein, or who may be required by local ordinance to accept and pay for said service.
18. "Demolition Debris" means used construction materials removed from a premises during the razing or renovation of a structure.
19. "Designated Hauler" means a person or business entity operating under a franchise or license agreement with City to collect and transport franchised solid waste, recyclable materials or green waste generated within franchise area.
20. "Disposal Site" means the disposal facility cited in Article X, Section 1, to which the Franchise Holder shall transport for disposal franchised solid waste collected within the service area.
21. "Effective Date" means the first date upon which this agreement is legally effective following all signatures and approvals required by the parties by law.
22. "Environmental Laws" means all federal and state statues, county, local and City of Pittsburg ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Federal Comprehensive Environmental Response,

Compensation and Liability Act of 1980, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Toxic Substances Account Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §1300 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

23. "Facility" means any plant or site, owned or leased and maintained and/or operated or used by the Company for purposes of performing under this Agreement.
24. "Fiscal Year" means the period commencing January 1 of a year and concluding December 31 of the same year for Company. For City, it means the period commencing July 1 of one year and concluding June 30 of the subsequent year.
25. "Franchise" means the special right granted by City to operate a public utility for franchised solid waste, recyclable materials or green waste collection services within City.
26. "Franchised Solid Waste" means all solid waste produced, generated, or accumulated in City's franchise area, other than (1) hazardous waste, designated waste, medical waste and other waste excluded by the terms of this agreement, or the disposal of which at designated landfill facility is prohibited by law, regulation or permit, (2) solid waste hauled directly to the disposal site by a member of the public, (3) solid waste collected by a person or entity and hauled directly to a disposal site where such collection is incidental to the principal business of such person or entity as landscaping, tree service or gardening contractor, a construction or demolition contractor (whether by means of trucks, drop boxes or roll-off container owned or operated by such self-haulers) and (4) recyclable materials, green waste, and wood waste.
27. "Green Waste" means tree trimmings, grass cuttings, dead plants, leaves, branches and dead trees (note more than six (6) inches in diameter) and similar materials generated at a premises.
28. "Hazardous Substance" shall mean any of the following: (1) any substances defined, regulated or listed (directly or by reference) as "hazardous substances", "hazardous materials", "hazardous wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (I) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 42 USC "9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resources Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et

seq., and (vii) California Water Code §13050; (b) any amendments to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local environmental laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyls (PCBs”), petroleum, natural gas and synthetic fuel products, and by-products but only to the extent such substances have been identified as hazardous to human health or the environment.

29. “Hazardous Waste” means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State of California, and all other state entities with jurisdiction over such materials, in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as hazardous waste by the U.S. Environmental Protection Agency, pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq., and all future amendments thereto or any regulations thereunder. Hazardous Waste also means radioactive wastes and a waste which is hazardous only because it contains an inorganic substance or substances which cause it to pose a chronic toxicity hazard to human health or the environment and which meets all of the criteria and requirements of Title 22 of the California Code of Regulations Section 66261.122 and has been classified as a “special waste” pursuant to Title 22 of the California Code of Regulations Section 66261.124.
30. “Household Hazardous Waste (HHW)” means hazardous waste generated at residential premises.
31. “Landfill” means the Potrero Hills Landfill located in Solano County, California, or the Keller Canyon Landfill located in Contra Costa County, or the Altamont Landfill located in Alameda County (each such landfill must have the requisite other agency permits prior to receiving residual waste from the RCTS). It includes such other landfill (s) or disposal site(s) subsequently approved by the City Council under this Agreement and the RCTS Conditional Use Permit for the final treatment, utilization, processing or deposit of any Waste received under this Agreement and which meets the requirements of Title 40 of the California Code of Regulations Part 258, as amended, and all other federal, state or local laws applicable to landfills and/or disposal sites.
32. “Legislation” means any code, ordinance, resolution or any other forms/enactment of the governing body of City which now exists or which may hereafter be adopted which constitutes law or regulation governing the operation of the Company.
33. “Medical Waste” means all materials defined as medical waste in California Health and Safety Code Section 25023.2, or the regulations promulgated thereunder, as amended from time to time.

34. "MSI Study" is the local management services institute study which recommended a fee structure for the actual cost of services performed by the City.
35. "Multi-Family Dwelling" means any premises, other than a single unit dwelling, used for residential purposes.
36. "Occupied" means when a person or person has taken or is/are holding possession of the premises for temporary or permanent use. For the purpose of determining whether a premises was occupied during periods when franchised solid waste collection service was available to such premises, the premises shall be presumed to have been so occupied unless evidence is presented that no gas, electric, telephone or water utility services were consumed on such premises during such periods or such other evidence is presented to the satisfaction of City.
37. "Order" means any instruction or direction issued by the City Manager relating to the Operator's services provided pursuant to this Agreement.
38. "Owner" means the person holding the legal title to the real property constituting the premises to which franchised solid waste, recyclable materials, or green waste collection services is to be provided under this agreement.
39. "Parties" means the City of Pittsburg and the Pittsburg Disposal & Debris Box Service, Inc.
40. "Pass-Through Cost" means a cost, such as disposal cost and the fees to which no element of overhead, administrative expense, profit, or other cost is added nor with respect to which any other amount is credited, such that the specific amount of such costs is included without modification in the calculations, or reports to which such costs pertain.
41. "Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, counties, towns, cities, and special purpose districts.
42. "Program" refers to the recycling program as described in this agreement.
43. "Premises" means any land, or building in City where franchised solid waste, recyclable materials, or green waste is generated or accumulated.
44. "RCTS" - means the Recycling Center and Transfer Station located at 1300 Loveridge Road, Pittsburg, California.
45. "Recycling" means the process of separating for collection, collecting, treating and/or reconstituting recyclable materials which would otherwise be discarded and returning them to the economy in the form of raw materials for new, reused, or reconstituted products.

The collection, transportation or disposal of franchised solid waste not intended for, or capable of, reuse is not recycling.

46. "Recycling Equipment" refers to vehicles and containers to be used in the curbside recycling program, the use of which equipment will be limited to the City of Pittsburg's curbside program.
47. "Recyclable" means a material which can be processed into a form suitable for reuse through reprocessing or re-manufacture consistent with the requirements of the California Integrated Waste Management Act.
48. "Recyclable Materials" means domestic, commercial or industrial by-products of some potential economic or re-use value, which are set aside, handled, packaged, or offered for collection in a manner different from that of franchised solid waste. "Recyclable materials" may also include commingled mixtures of one or more "recyclable materials" and franchised solid waste, as long as the mixture includes no more than ten percent franchised solid waste by weight or volume. "Recyclable Materials" also includes items selected from materials set out as franchised solid waste for re-use or recycling during processing at a materials recovery facility.
49. "Refuse" means garbage and rubbish.
50. "Representative" means the authorized representative of the Operator or City as designated in accordance with Article I, Section 4.
51. "Residential Property" means property used for residential purposes, irrespective of whether such dwelling units are rental units or are owner-occupied.
52. "Rubbish" includes all refuse other than garbage, including paper, rags, leaves, grass, vines, sawdust, cans, ashes, and tree trimmings, but does not include rocks, bricks, dirt, concrete, and similar solid materials, not disposed of for recycling purposes.
53. "Service Area" means properties in the incorporated area under the jurisdiction of City of Pittsburg.
54. "Single Family Dwelling" means each premises used for or designated as a single family residential dwelling, including each unit of a duplex or triplex in all cases in which there is separate or individual franchised solid waste, recyclable materials, or green waste collection service.
55. "Solid Waste" means all solid waste as defined in California Public Code Section 40191 and regulations promulgated thereunder, as amended from time to time, with the exception of (1) designated waste, hazardous waste, medical waste, wastewater treatment by-products such as sewage sludge, and other wastes which designated landfill capacity is not allowed

by law, regulation or permit to accept and any special wastes requiring special handling which a land fill is not permitted to accept, and (2) any materials collected as recyclable materials for the purposes of recycling, where such materials are not disposed of but are actually recycled. Notwithstanding any provision herein to the contrary, "solid waste" includes those minimal quantities or concentrations of Hazardous Substances or household hazardous waste remaining in franchised solid waste following implementation of (1) a program by or on behalf of City in accordance with law for the safe collection, recycling, treatment and/or disposal of hazardous waste generated in households, and (2) a program by the designated hauler, in accordance with California waste industry standards, for load checking and screening to identify and remove such hazardous wastes generated in households or by other customers.

56. "Source Reduction Program" means any program that reduces the amount of franchised solid waste that would otherwise be disposal of in a landfill, including without limitation recycling, processing, salvaging and waste-to-energy projects.
57. "Source Separation" means the segregation into separate containers by the waste generator of individual components of material which otherwise would become refuse of garbage, such as glass bottles, metal cans, newspapers, plastic containers, etc., for the sole purpose of recycling.
58. "Suspect Waste" means either Unacceptable Waste or waste that the Operator suspects is Unacceptable Waste delivered to the RCTS.
59. "Unacceptable Waste" means (1) any material, the handling, transportation or disposal of which at a landfill would constitute a violation of any federal, state or local law, regulation, rule, code, permit or permit condition; (2) Hazardous Waste, except for de minimis volumes or concentrations of Hazardous Waste, as defined here in above and "Hazardous Substances" (as that term is defined in 42 U.S.C. Section 9601 (14), which remain in the waste stream following implementation of a program by the Operator or by the individual collection companies using the RCTS, for the safe collection, recycling, treatment and disposal of hazardous wastes generated in households in compliance with Public Resources Code Sections 41500 and 41802; (3) any other Waste expressly excluded from the definition of Waste.
60. "Waste" or "Garbage" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial waste, manure, appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as defined in Section 40191 (a) of the Act. Mixed "Waste" refers to waste from municipal or other services jurisdiction franchised haulers that has not been separated prior to delivery to the RCTS. "Waste" shall not include hazardous waste or low-level radioactive waste regulated under Health and

Safety Code Section 25015 and medical waste which is regulated pursuant to the Medical Waste Management Act under Health and Safety Code Section 25015.

61. "Waste Generator" means any person as defined by Section 40170 of the Public Resources Code, whose act or process produced solid waste as defined in Public Resources Code Section 40191, or whose act first causes franchised solid waste to become subject to regulation.
62. "Waste Types" means identified wastes having the features of a group or class of wastes which are distinguishable from any other waste type, as identified by the waste classification system contained in Section 18722 of Article 6.1 of the California Integrated Waste Management Act, except where a component-specific requirement provides alternative means of classification.

**FRANCHISE AGREEMENT FOR
REFUSE AND RECYCLING COLLECTION AND DISPOSAL**

ARTICLE I - GRANT AND ACCEPTANCE OF FRANCHISE

Section 1 – Terms and Purpose

The City grants to Pittsburg Disposal & Debris Box Service, Inc. the exclusive right, privilege and franchise to provide Residential and Multi-family Dwelling Solid Waste Collection Service, Residential and Multi-Family Recycling Collection Service and Commercial and Industrial Solid Waste Collection Service within the Service Area.

Section 2 – Contract Period and Renewal Option

This Franchise Agreement is effective beginning July 1, 1999 and expires at the end of June 30, 2010. Franchise Holder has the option to renew this Franchise Agreement for a seven year period, upon written notice received by the City 6 months prior to expiration date, in which case said renewal period will expire at the end of June 30, 2017. Franchise Holder has the option to renew this Franchise Agreement for a second seven year period, upon written notice received by the City 6 months prior to expiration date, in which case the second renewal period will expire at the end of June 30, 2024.

Section 3 – Compliance With Municipal Code Required

This Franchise Agreement is granted and accepted upon the express condition that all garbage, refuse and recyclables shall be collected and disposed of in strict compliance with the terms of this agreement and the Pittsburg Municipal Code, Chapter 8.04, 8.05, and 8.06.

Section 4 – Enforcement of Franchise Agreement

The administration and enforcement of this franchise shall be the responsibility of the City Manager or his designated representative.

ARTICLE II – FRANCHISE FEE

Section 1 – Residential Solid Waste Franchise Fee

The service charge and franchise fees are to be paid the City by the Franchise Holder for the granting of this franchise and the services rendered. The Franchise Holder shall pay to the City a franchise fee of seven percent (7%) of the total gross fees collected, including special collections

and mandatory recycling service charges as provided herein, billed to all occupants or owners of residential premises within the City.

Section 2 - Multi-Family Dwelling, Commercial, and Industrial Solid Waste Franchise Fee

A franchise fee shall be paid to the City by the Franchise Holder for the exclusive right to furnish multi-family dwelling, commercial, and industrial garbage and trash collection and disposal services of 3% of the total gross fees collected, including special collection fees as provided herein, charged to multi-family dwelling, commercial, and industrial customers. The fee will be effective October 1, 1999 through September 30, 2002, however, total fees paid during this period shall not be less than those fees representing 4% of the total gross fees collected for commercial garbage, trash collection and disposal services. Beginning October 1, 2002 the fee will be 4.%. Beginning October 1, 2005 the fee will be 5 %. Beginning October 1, 2010 the fee will be 6%. Beginning October 1, 2017 the fee will be 7% until June 30, 2024.

ARTICLE III - GENERAL FRANCHISE CONDITIONS

Section 1 – Billing and Collection

Franchise Holder shall bill and collect from all occupants or owners of real property for the regular collection and disposal of refuse. The franchise fee shall be paid to the City on the fifteenth (15th) day after the end of each quarter of the year for the preceding three- (3) month period. Each quarter shall end on March 31, June 30, September 30 and December 31 of each year.

Section 2 - City's Right to Direct Services Changes

At any time during the term of this Agreement, City Manager may determine that additional services and/or a modification in existing services exclusively held under this Agreement are needed. In the event that the City Manager determines that additional services and/or programs are needed, he/she will notify Franchise Holder in writing of such determination. The Franchise Holder shall respond to direction from the City in writing within forty-five (45) days, with an implementation plan including time lines, and, if necessary, a proposed modification in compensation, and if requested by the City, in rates. Failure to timely respond shall be a waiver of any rights of Franchise Holder to provide services pursuant to the notice. The parties shall negotiate in a timely and expeditious manner regarding any modification in compensation attributable to the new service. Franchise Holder shall, on schedule agreed to by the City, commence the new or changed service once the appropriate change in compensation has been determined.

In addition, the City Manager may determine that pilot programs and innovative services including but not limited to new collection methods, different kinds of services, new requirements for waste generators, and/or programs related to commercially generated

recyclable materials are necessary to further the goals and objectives as provided herein. The City Manager shall notify Franchise Holder in writing of such determination and a date by which Franchise Holder may respond. Within a reasonable time frame designated by the City Manager, Franchise Holder may respond in writing with a proposal that includes but is not limited to description of program or services to be provided, implementation plan including time lines, rates, and any proposed modifications in compensation. Failure to timely respond shall be a waiver of any rights of Franchise Holder to provide services pursuant to the notice. City Manager shall determine whether or not Franchise Holder proposal is acceptable and shall notify Franchise Holder of his/her decision. Franchise Holder may appeal the City Manager's decision to the City Council. The City Council's decision shall be final and binding.

In the event that City accepts Franchise Holder's proposal(s), said proposal(s) shall become incorporated as part of this Agreement and Franchise Holder agrees to be bound by the terms and conditions of the Agreement in the performance of the services defined in the proposal.

City and Franchise Holder acknowledges that proposals from other persons as defined herein may contain proprietary or confidential information and that upon request of such person(s) such information shall not be disclosed by City.

Section 3 – Ownership of Franchised Solid Waste, Recyclable Materials, Green Waste

Once franchised solid waste, recyclable materials, or green waste are placed in containers and properly presented for collection, ownership and the right to possession shall transfer directly from the waste generator to Franchise Holder. Refuse, green waste, recyclable materials, construction debris and demolition debris, or any part thereof, which is disposed of at a disposal site or sites (whether landfill, transformation facility, transfer station, or material recovery facility) shall become the property of Franchise Holder.

Section 4 – Special Collection Services

The Franchise Holder shall bill and collect for all special collections in addition to regular collection and disposal of refuse, and for all refuse collections and disposal from nonresidential premises.

ARTICLE IV – COLLECTION SERVICES

A. RESIDENTIAL

Section 1 – Collection Service Days, Time and Exceptions

The Franchise Holder shall provide regular residential refuse collection service to the residents of the City during the term of this agreement. No residential collection shall be made on Sundays, Christmas Day, and New Year's Day, nor shall any collection be made on any day in any residential area except between the hours of four a.m. and four p.m.

Section 2 - Change in Collection Schedule

For changes in schedule that will significantly alter the configuration and/or scheduling of an existing route, the Franchise Holder will notify the Customer of the proposed changes at least 14 days in advance with a copy to the City. Franchise Holder will ensure that no customer goes more than seven (7) days without services as a result of a change in collection schedule.

Section 3 - Conditions and Frequency of Service

Refuse shall be collected from a residential dwelling at least once a week. All refuse created, provided, or accumulated on all other premises shall be collected from such premises at least once each week or as reasonable as necessary and as set forth in the Pittsburg Municipal Code Chapter 8.04. Backyard collection will be made available to Customers with special needs.

Section 4 - The Franchise Holder's Responsibility While Engaged in Refuse and Garbage Collection

The Franchise Holder shall not litter premises in the process of making collections, nor allow refuse or garbage to blow or fall from any vehicle used for collection. Franchise Holder must avoid spillage in the collection operations, and must leave all premises in as clean a condition as he or she finds them.

B. COMMERCIAL / INDUSTRIAL

Section 1 - Commercial, Industrial, and Multi-Family Dwelling Units

Franchise Holder shall collect from Franchised Holder-provided containers not less than once per week. Special consideration shall be given when determining the pick up area for commercial, industrial, and/or multi-family accounts to ensure that the flow of traffic is not impeded and that it does not result in aesthetic degradation of an area. Franchise Holder will take care not to disrupt the peace of nearby residential neighborhoods.

Section 2 - Commercial Industrial and Multi-Family Dwelling Rates

Commercial, Industrial, and Multi-Family Dwelling Rates will be agreed upon between Franchise Holder and the individual Commercial, Industrial, and Multi-Family Dwelling Customers and are to be fixed at a rate or figure commensurate with the time expended, the frequency of collection and the character of Refuse collected. In case of dispute, the dispute shall be decided by the City Manager. If either party disagrees with the decision, that party shall have the right to appeal the decision to the City council.

Section 3 - City Facilities' Collection

Franchise Holder shall collect and transport all franchised solid waste generated at premises owned and/or operated by the City. Franchise Holder shall make collections from cans Monday through Friday or except on Franchise Holder's non-working holidays. Commercial (bin) and industrial (debris box) collections shall be scheduled at a time mutually agreed upon by the Franchise Holder and the City.

Section 4 - Construction and Temporary Bins/Roll-off Service

Franchise Holder shall provide construction and temporary bins/roll-off service for the purpose of collection of non-hazardous franchised solid waste. Franchise Holder shall deliver and collect bins at the direction of the customer. Bins shall be free of graffiti and in good repair. Bins must be clearly marked and identifiable as belonging to Franchise Holder. Franchise Holder shall not unreasonably impair or impede the flow of traffic in any public right-of-way.

Section 5 - Special Collections

The following substances shall be the subject of special collections, upon request of the owner or occupant of a premises: loose building materials, sod and earth, sludge, boxes which are not placed in the standard container, any items exceeding 75 pounds in weight or five feet in length, and refuse in excess of the capacity of the standard container in regular use on the premises.

Collection of materials beyond the regular weekly collection subscribed to by the customer is subject to agreement between the Franchise Holder and the customer. Charges for special collections shall be agreed upon between the Franchise Holder and the customer, at a figure commensurate with the time spent, the equipment required, the character of the refuse removed, and any special requirements of the customer. In case of dispute, the City Manager shall fix the special collection charge.

C. GENERAL SERVICES

Section 1 - Level of Service

The Franchise Holder shall provide a level of service equal to that service historically provided by the prior Franchise Holder under all prior refuse and collection agreements. The level of service to be provided shall be determined by the City Council.

Section 2 - Residential Annual Clean-ups

Franchise Holder shall provide services for two (2) service area residential clean-ups annually on a schedule agreed to by the City at no additional cost to customers or the City. The dates

for the clean up shall be proposed in writing by Franchise Holder no less than thirty (30) days prior to January 1 of each year and approved by the City in writing.

Franchise Holder shall notify each customer of the clean-up procedures, restrictions and dates for collection two weeks in advance of the event. Notification format and content require approval by the City before mailing. Franchise Holder shall pick up authorized annual clean-up items from all single-family dwelling at the curbside and transport to a disposal site.

City may require Franchise Holder to provide written documentation evidencing the class and weight of material collected during clean-up events.

ARTICLE V - SERVICE INQUIRIES AND COMPLAINTS

Section 1 - General Requirements

All services inquiries and complaints shall be directed to the Franchise Holder. The Franchise Holder will handle all service complaints in a prompt and efficient manner. In the case of a dispute between the Franchise Holder and a customer, the matter will be reviewed and a decision made by the City Manager or his designated representative.

The Franchise Holder shall provide, upon the request of the City, a report on the disposition of any unresolved complaint involving a claim of damage to private or public property as a result of actions on the Franchise Holder's employees, agents, or subcontractors.

ARTICLE VI - OPERATIONS

Section 1 - General Requirements

The Franchise Holder shall not change his firm name without the consent of the City. Said consent shall not be unreasonably withheld. The Franchise Holder shall establish and maintain an office where service may be applied for and complaints made. Such officer shall be equipped with a listed telephone, shall be located in a commercially-zoned district of the City of Pittsburg and shall have a responsible person in charge between the hours 9:00 am and 12:00 noon and 1:00 pm and 5:00 pm of each day except Saturday, Sunday and holidays.

The work to be done by the Franchise Holder pursuant to this agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve the Company of the duty to furnish all others, as may be required, whether enumerated or not.

The work to be done by the Franchise Holder pursuant to this agreement shall be accomplished in a thorough and professional manner so that the residents and business within the City are provided reliable, courteous and high-quality solid waste collection at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve the Franchise Holder of the duty of accomplishing all other aspects in the manner provided in this section, whether such other aspects are enumerated elsewhere in the agreement or not.

Section 2 – Franchise Holder’s Obligation to Provide Information

The Franchise Holder shall at the request of the City, at it's expense, supply the City with current maps and schedules of collection routes, and shall supply all occupants of premises with printed information cards containing information regarding refuse which will be collected, complaint procedures, rates, regulations and days of collection. Such cards shall be replaced every two-(2) years, and in addition, upon request by occupants or owners of any premises, and in advance of any route, rate, or regulation changes. Copies of this information shall be provided at the request of the City by January 15th each year.

Section 3 – Equipment and Equipment Maintenance

All equipment used by the Franchise Holder for the collection or hauling of garbage or a combination of garbage and rubbish shall be of the compactor type truck and shall be so maintained as to prevent leakage, spillage, or over-flow.

Equipment used exclusively for the collection and hauling of rubbish may be of any suitable type, but shall be so constructed and maintained as to prevent leakage, spillage, or overflow, and shall be equipped so that rubbish will be covered enroute to the disposal area. The Franchise Holder shall keep all trucks and equipment in a clean and sanitary condition, and presentable condition.

All trucks and equipment shall be clearly identified by the firm name and telephone number of the Franchise Holder affixed thereto, and shall display the permit number assigned by the County Health Department.

ARTICLE VII - RESIDENTIAL RECYCLING COLLECTION

Section 1 – General Recycling Economics

It is the policy of the City to consider recycling programs as alternatives to existing solid waste management and disposal programs in the region. As such, recycling programs are not expected to operate solely on revenues generated from the sale of recovered materials. In evaluating the costs of recycling programs, consideration shall be given to the quantities of

materials diverted from landfill disposal to the marginal costs of traditional collection and disposal methods.

Section 2 - Green Waste Program

No later than August 15, 1999, Franchise Holder shall develop and implement a pilot weekly curbside collection program of green waste placed in containers furnished by the Customer on the same day as residential franchised solid waste collection from the City's single-family dwellings.

No later than January 1, 2000, Franchise Holder shall have implemented a City wide curbside collection recycling program for green waste involving mulching, composting, alternative daily cover, transformation or other programs necessary to achieve the City's green waste diversion requirements, in accordance with the City's SRRE, and the programs set out in this Agreement. If the City determines that additional containers are required to meet appropriate objectives as stated herein, Franchise Holder shall provide such containers at an additional cost to customers. The parties shall negotiate in a timely and expedition manner any additional costs proposed by Franchise Holder.

Section 3 - Mandatory Service Charge

There will be a recycling charge assessed on each Pittsburg resident's garbage bill to cover the program's costs. This charge is mandatory so that the recycling costs will be equally shared by all Pittsburg residents. Residents may elect to participate in the program or not; however, the charge for the program will be shared equally by all residents and is not optional.

Section 4 - Recycling Material Collection and Separation

Pittsburg Disposal & Debris Box Service Inc. shall provide curbside pickup of recyclable (glass, aluminum cans, PET plastic, cardboard and newspaper) for all Pittsburg single family residences.

The citywide curbside collection-recycling program shall be carried out as follows:

a) Containers

Pittsburg Disposal & Debris Box Service Inc., shall purchase and provide all participating residents with two (2) plastic reusable containers for the disposal of the recycling materials. The ownership of these containers are that of the Franchise Holder and additional containers shall be made available at no additional charge.

The Franchise Holder shall be responsible for delivering Recyclable Materials separated into two (2) components as follows:

- (1). a. newspapers (including inserts)

- b. old corrugated cardboard (OCC); and
- (2)
 - a. commingled glass (clear, amber and green)
 - b. aluminum cans
 - c. tin cans
 - d. plastics (Numbers 1 and 2)

b) Pickup Schedule

There shall be a weekly pickup of the recyclable materials on the same day as the regularly scheduled refuse pickup.

c) Sale of Recycled Materials

It is understood and agreed that except as otherwise provided herein, all recyclable waste material collected by Pittsburg Disposal & Debris Box Service Inc., shall become the property of Pittsburg Disposal & Debris Box Service Inc. All responsibilities for the safe and proper delivery of the Recyclable Materials to the Materials Recycling Facility shall be with the Franchise Holder. Recyclable materials delivered or collected which are not accepted due to excess contamination shall be transported and disposed of at the designated disposal facility. All disposal costs shall be the responsibility of the Franchise Holder.

Section 5 – City Recycling Collection Program – “Model City”

The Franchise Holder will provide a comprehensive Recycling Collection Program for all City Departments and Offices. The Franchise Holder will provide collection containers for inner offices for the collection of the following items:

- mixed glass
- aluminum cans
- plastic (Numbers 1 and 2)
- newspaper
- white paper
- mixed paper

Franchise Holder will supply roll-offs or containers to collect inner office recyclable materials as well as old corrugated cardboard to be transported to the designated materials recycling facility. These containers are that of the Franchise Holder will be an inclusive service with the City's Solid Waste Services.

The Franchise Holder will provide a program to the City Manager for review and approval.

ARTICLE VIII - AB 939 REQUIREMENTS

Section 1 - AB 939 Compliance Reporting

During the term of this Agreement, Franchise Holder shall, at its sole expense, submit to the City Manager information and reports required by City to meet its reporting and compliance obligations imposed by AB 939, and the regulations implementing AB 939, in the time and manner approved or required by City. The Franchise Holder shall submit such reports and information on computer discs, or by modem, in format compatible with City's computers or written reports, at no additional charge, if requested by the City Manager. Franchise Holder is solely responsible for the accuracy and validity of all information provided.

In the event that City retains a consultant for the purpose of developing and monitoring reporting requirements methodologies and mechanisms, Franchise Holder agrees to reimburse City for not less than fifty percent (50%) of the costs associated with the consultants fees and costs.

Section 2 - Diversion Requirements Under Franchise Agreement

Notwithstanding the diversion requirements under section 3 below, Franchise Holder shall recover for reuse or recycling a minimum of ten percent (10%) of the materials collected residential, commercial and industrial, whether curbside or through special programs.

Section 3 - Additional Diversion Requirements Under Separate Transfer Station Agreement

Franchise Holder shall comply with the terms of the "Agreement for the Operation of a Transfer Station between Contra Costa Waste Service, Inc. and the City of Pittsburg," wherein a minimum of fifteen percent (15%) of the total volume of City's Waste Stream received at the RCTS (calculated by weight) shall be recovered for reuse or recycling, excluding materials already collected as source separated.

ARTICLE IX - EDUCATION AND PUBLIC AWARENESS

Section 1 - General

The degree of success in recycling programs, as measured by the level of participation and the amount of materials recycled, is directly proportional to the quantity and quality of recycling information disseminated to the public. It is the policy of the City to actively promote the dissemination of recycling information to the citizens of Pittsburg and to encourage the implementation of and participation in recycling programs.

Franchise Holder acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve AB 939 requirements. Accordingly, at the direction from the City Manager, Franchise Holder shall expand public and customer

knowledge concerning needs and methods to reduce, reuse and recycle and to cooperate fully with the City in this effort. (Exhibit1).

Franchise Holder shall maintain its own program of providing information relevant to billing and franchised solid waste, recyclable materials and green waste services, issues and needs with its bills. Franchise Holder shall also include in customer bills' information memo any additional news as directed by City. All public education materials shall be approved in advance by the City.

Section 2 - Community Events and School Education Promotion

At the direction of the City, the Franchise Holder shall participate in and promote recycling and other diversion techniques at community events and local activities. Such participation would normally include providing, without cost, educational and publicity information promoting the goals for the City's franchised solid waste, recyclable materials, and green waste program.

Earth Day

America Recycles Day

School Programs

City Community Programs and Festivals

Tours of Mt. Diablo Recycling Center and the Transfer Station

Additional programs and events may arise over the terms of this agreement and may be added or replaced to the list above. In establishing these programs and events, the Franchise Holder shall provide the City assistance with coordinating these events and programs as necessary.

Section 3 - Waste Generation/Characterization Studies

Franchise Holder acknowledges that the City may wish to do franchised solid waste generation and disposal characterization studies periodically. Franchise Holder agrees to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports as needed to determine weights and volumes of franchised solid waste recyclable materials and green waste and characterized franchised solid waste and recyclable generated, disposed, transformed, diverted or otherwise handled/processed.

ARTICLE X – REFUSE DISPOSAL INDEMNIFICATION, INSURANCE AND LEGAL LIABILITIES

Section 1 – Site Location

Franchise Holder shall, subject to the City Council's approval, designate the disposal area for receipt of refuse collected in the City of Pittsburg. Such approval may not be unreasonably withheld.

Section 2 – Insurance

Pittsburg Disposal & Debris Box Service Inc., shall hold City free, clear and harmless from all claims of third persons for damages arising out of Pittsburg Disposal & Debris Box Service Inc., and its agents performance under this contract and in furtherance thereof, Pittsburg Disposal & Debris Box Service Inc., shall take out and maintain during the period of this Agreement such public liability and property damage insurance as shall protect the City from claims for bodily injury and property damages which may arise because of the nature of the work or from the performance of this Agreement, whether such operations be by Pittsburg Disposal & Debris Box Service Inc., or by any subcontractor of anyone directly or indirectly employed by either of them. The amounts of such insurance shall be as follows:

Pittsburg Disposal & Debris Box Service Inc., liability insurance providing bodily injury liability limits of not less than one million dollars (\$1,000,000) for each person, and two million dollars (\$2,000,000) for each accident or occurrence, and property damage liability limits of not less than five hundred thousand dollars (\$500,000) for each accident or occurrence for claims which may arise from the operation of Pittsburg Disposal & Debris Box Service Inc., in the performance of this Agreement. Said liability insurance shall be an event occurrence and not a claim's made policy.

Automobile liability insurance covering all vehicles used in the performance of this Agreement providing bodily injury liability limits of not less than one million dollars (\$1,000,000) for each person, and two million dollars (\$2,000,000) for each accident occurrence, and property damage liability limits of not less than five hundred thousand dollars (\$500,000) for each accident or occurrence which may arise from the operations of Pittsburg Disposal & Debris Box Service Inc., in performing this Agreement.

Pittsburg Disposal & Debris Box Service Inc., shall comply with all State requirements relative to Workers' Compensation Insurance.

Section 3 – Public Liability Insurance

The Franchise Holder shall submit to the City an insurance certificate indicating the above level of protection. Copies of such policies or certificates evidencing such policy shall be

provided to the City Clerk. Termination provisions with respect to said policy shall not be less than thirty (30) days. Notification of cancellation shall be provided to the City.

Pittsburg Disposal & Debris Box Service Inc., shall at all times maintain these insurance policies in full force and effect, and upon demand of the City Council or its properly authorized agent, furnish proof of this fact. The policies mentioned in this section shall name the City as additional insured, provide for a ten (10) day notice of cancellation to City, and shall be delivered to the City within ten (10) days of executing this Agreement by all parties. In lieu of actual delivery of such policies, a certificate issued by the insurance carrier showing such policies, amendments and endorsements, as herein provided to be in force for the period covered by the contract may be delivered to the City.

Should any policies be cancelled before final completion of the Agreement and Pittsburg Disposal & Debris Box Service Inc., fails to immediately reinstate same or procure other insurance as herein required, then the City may have the option of considering this Agreement breached or any procure such insurance and bill the cost thereof to Pittsburg Disposal & Debris Box Service Inc.

Section 4 - Indemnification

Franchise Holder shall defend, indemnify and hold harmless the City, its Boards, and their officials, employees and agents from and against any and all demands, claims, causes of action, liability, loss liens, damage, costs, and expenses (including attorney's fees), whether or not reduced to judgement or paid through settlement, arising from or in any way connected or alleged to be connected with Franchise Holder's performance as defined herein as permitted by law, and from any act or omission, willful misconduct, or negligence (active or passive) by or alleged to be by Franchise Holder, its employees, agents, or subcontractors, either as a sole or contributory cause, sustained by any person or entity (including employees or representatives of the City or the Franchise Holder). The foregoing shall not apply to claims or causes of action caused by the sole negligence of the City, its Boards, or their officials, employees, or agents.

Section 5 - Indemnity Obligation

Any indemnity obligation directly or indirectly related to the failure of the City to comply with the requirements imposed under the Solid Waste Diversion Program pursuant to AB939 upon either party to this Agreement shall be in accordance with the applicable restrictions and procedures provided therein. Nothing under this section precludes either party from seeking any other remedy under law or equity for breach or failure of performance of any terms or provisions of this Agreement.

Section 6 – Permits and Licenses

The Franchise Holder shall obtain, maintain and pay for, at Franchise Holder's sole expense, all permits, licenses and approvals required by federal, state and local law for its operation and activities under this Agreement.

The Franchise Holder shall be solely liable for all fines or civil penalties that may be imposed by any regulatory agency for the Franchise Holder's violations of permits, laws or regulations; the city shall not be liable for and shall not reimburse Franchise Holder for payment of those fines or penalties. The Franchise Holder may contest the validity of any fine or civil penalty by paying such fine or penalty under protest with a reservation of rights. The Franchise Holder shall defend, indemnify and hold City, its officers, agents and employees harmless against any and all such fines or civil penalties in accordance with Article X, Section 4.

ARTICLE XI- RATES AND RATE ADJUSTMENT

Section 1 – Rates Set by Resolution

Residential collection rates shall be set by resolution of the City Council.

Section 2 – Rates Shall be Collected by the Franchise Holder

Residential collection rates and Commercial, Industrial, and Multi-Family Dwelling collection rates shall be collected by the Franchise Holder.

Section 3 – Recycling Service Rate

The initial rate agreed upon for this Recycling Service Rate, \$.80 per month per single family residence, is based upon projected program costs. The charge shall be added to the normal garbage bill and may be billed three (3) months in advance.

Section 4 – Application for Rate Adjustment

The Franchise Holder may elect to apply for either a discretionary rate adjustment, referred to in this Article XI Section 5, or a cost of living adjustment, referred to in this Article XI Section 7, one year after the effective date this Agreement, and thereafter once annually from the effective date of this Agreement under Article 1, Section 2.

An application for either a discretionary rate adjustment or a cost of living adjustment which is denied in whole or in part may not be renewed until after the next date of execution of this agreement.

Section 5 – Rate Application (Discretionary Adjustment)

If the Franchise Holder elects to apply for a discretionary rate adjustment, written application must be submitted to the City Manager. The application shall set forth the specific changes requested in rates or conditions of service, and it shall be accompanied by a complete written statement, with supporting schedules and exhibits, of all facts data and information relied upon by the applicant in support of the requested change. Any such request shall be in writing and shall be furnished at the sole expense of the Franchise Holder, as the City Council may reasonably require to support and justify and such request. The request shall include the following:

Financial statements, audited if available, for the full refuse collection operations, including income statement and end-of-year balance sheet for the most recent completed fiscal year;

An income statement for the Franchise Holder's full refuse collection operation (audited by unaudited) for the period from the end of the period coverage by the financial statements required by item (a) above, to the month ended no more than forty-five days prior to the filing of the application, and its balance sheet as of the same month end;

A projected income statement for the Franchise Holder's full refuse collection and disposal operations, prepared in accordance with generally accepted accounting principles, for the twelve months beginning with the date at which the change in rates is proposed to become effective, showing pro-forma net operating results for the Franchise Holder's refuse collection and disposal operations at the proposed rates and at the rates if effect at the time the application is filed;

A schedule in support of the projected income statement required by item, above, which reconciles all differences in projected revenues and operating expenses from those reflected in the financial statements submitted in response to items (a) and (b) above, including a statement of all pertinent assumptions on which the projection is based and a showing as to the reasonableness of such assumptions;

An allocation of the projected operating results provided in response to item, above, segregated as between services provided by the Franchise Holder to and within the City of Pittsburg and services provided by the Franchise Holder in and for other communities, with a statement of all factors used in making that allocation.

A Statement of the Franchise Holder costs used in making the projections of operating results required by items and (e), above, segregated as between costs of collection, transportation to disposal facility (transfer station or land fill site), processing and handling at any transfer station, land fill disposal, landfill closure, and administrative costs;

If any charge of any related corporations, owned and operated by Pittsburg Disposal & Debris Box Service Inc., are included in the rate adjustment request, then information regarding

those corporations and their charges shall be provided to the City and to the expert the City may deem necessary to justify the inclusion of these charges in any rate granted by the City.

Further, statements of the allocation or methods of allocation between, Pittsburg Disposal & Debris Box Service Inc., and its related corporations shall be required to support any inter-company charges reflected in the financial statements provided by Pittsburg Disposal & Debris Box Service Inc. Shared expenses relate to common services (e.g. gas, electricity, telephones) and facilities (e.g. storage yard, repair facilities). Such other information as may be reasonably necessary, in City's opinion, to explain and/or justify the requested rate adjustment.

Such other data as the Franchise Holder may wish to offer in support of its application.

The Council may consider information relating to closure costs referred to in Article XII, Section 5.

All material submitted in support of any application for a change in rates shall be submitted in such formats and detail, with supporting statistics, as may from time to time be prescribed by the City Council and shall be submitted with verification under penalty of perjury. Applications not meeting all of the foregoing requirements shall not be accepted for filing. The City Council shall review the application and make a determination concerning the requested rate adjustment. The City Council's determination is final.

Section 6 – Action by the City Council

The City Council shall consider any request for a discretionary adjustment within sixty (60) days after receipt of the request and hold a public hearing thereon after notice given as provided in Section 6066 of the Government Code of the State of California. The City Council shall render its decision thereon within ninety (90) days of the receipt of the request. The City Council's decision shall be final and without right of further appeal.

Section 7 – Rate Application – Cost of Living Adjustment

If the Franchise Holder elects to apply for a cost of living adjustment the rates for residential service may be adjusted without a public hearing in the following manner: the rate shall be adjusted not to exceed the change in the San Francisco/Oakland Consumer Price Index since the last rate adjustment. In order to implement this adjustment, Pittsburg Disposal & Debris Box Service Inc. shall provide a written list of the newly proposed rates based upon the change in the Consumer Price Index, together with written calculations supporting the rate adjustment being proposed, to the City Manager, on or before November first preceding the year the rates will go into effect. Rates would go into effect the following January first and shall remain effective for a one year period.

Thereafter, the City Manager shall review the proposed rates. If he disagrees with them, he shall communicate the reason to Franchise Holder and allow the Franchise Holder an opportunity to provide further justification for the proposed rate. Once the City Manger has reviewed the further justification, he shall make a determination concerning the appropriate rate amount, which determination shall be final.

Section 8 – Rate Disputes

In cases were disputes arise between a customers and Pittsburg Disposal & Debris Box Service Inc. as to the rate charged or to be charged for any service provided in these provisions the matter shall be referred to the City Manager for investigation and determination.

Section 9 – MSI Fee

A city wide management review recommended the City charge the Franchise Holder for the road deterioration that occurs to the road surface when loaded garbage trucks travel repeatedly down residential streets. The study recommends a fee setting structure to determine the attributable costs that should be charged back to the Franchise Holder. The actual fee would be based upon the total accounts and service in a year's period. As of the effective date of this Agreement, such fee will not be imposed. The City reserves the right to impose such a fee in the future after negotiations with Franchise Holder.

ARTICLE XII –RECORDS, REPORTS AND INFORMATION REQUIREMENTS

Section 1 – Franchise Holder Should Be Maintained as an Independent Entity

The operations of the Franchise Holder under this franchise shall be conducted as an independent entity and the assets, liabilities, revenues, expenses, and net worth shall not be combined, consolidated, or in any way incorporated with those of any other operation.

Section 2 – Accounting Records

The accounting records of the Franchise Holder shall be kept on the “accrual basis” and the operating year for January 1 through December 31.

Section 3 – Financial Information

The Franchise Holder shall provide on an annual basis ten (10) copies of internal financial statements and tax returns prepared by a Certified Accountant. Further, the City Manager may inspect the financial records of the Franchise Holder at all reasonable times with reasonable notice for any purposes relevant to the performance or enforcement of the franchise provisions. In the event the City deems an audit necessary, the City may direct the Franchise Holder to provide an audited statement prepared by a Certified Public Accountant. The cost of said audit

shall be borne by the City unless said audit reveals an overall financial statement discrepancy in excess of five percent (5%) and in such event, the cost of the audit shall be paid by the Franchise Holder.

Section 4 – Assets Owned and Acquired

Assets of the Franchise Holder owned or acquired for the purpose of discharging its obligations under this franchise shall be recorded and depreciated pursuant to federal guidelines and as consistent with the Internal Revenue Service.

Section 5 – Closure Fee

The Franchise Holder shall provide information on an annual basis, based upon public documents and inquiry of the operator(s) of the landfill where the City's refuse is proposed to be deposited, indicating the percent of the rate request which represents the landfill's then current projected closure and postclosure costs. Such statement should include information concerning the basis for such projections, including engineering estimates, the amount currently reserved to meet those projections, and the amount still required, on a per-ton basis, to achieve said projections.

Section 6 – Recycling Records

Franchise Holder shall maintain such accurate accounting, statistical, and other records as shall be necessary to account for all monies received by them for the collection of recyclables under the terms of this Agreement.

Section 7 – Accounting Required

Pittsburg Disposal & Debris Box Service Inc., shall provide the City with an annual accounting of its operating costs for the curbside-recycling program. The annual accounting shall be due on January 15, and shall cover the preceding year.

Said accounting shall include the number of participating households; the volume of each of the materials collected; the costs incurred for such collections; income from the sale of recyclables; copies of weight tags; the volume of non-recyclable materials disposed of at a landfill; and additional information reasonably required by City to enable City to determine and reduce garbage collection and disposal costs, determine percent reduction in residential waste stream, and net income or loss from the curbside recycling program.

Should the annual accounting yield information that indicates the program is not operating in an efficient and effective manner, then either Pittsburg Disposal & Debris Box Service Inc., or the City may initiate an immediate review of the program to determine what changes, if any, need to be implemented.

Pittsburg Disposal & Debris Box Service Inc. may sell the recyclable materials at fair market value to any company engaged in the purchasing of recyclable materials, including Mt. Diablo Recycling. City may conduct a survey of companies which purchase recyclable materials to assure that the income received from the sale of recycled materials by Pittsburg Disposal & Debris Box Service Inc., is competitive with the market value for sale of recyclable materials by other recycling companies. Monthly records of the quantities or weight and value of each type or class of recyclable materials (i.e. aluminum, glass, newspaper, plastic or other categories) sold by Pittsburg Disposal & Debris Box Service Inc., to any company engaged in purchasing recyclable materials shall be retained by Pittsburg Disposal & Debris Box Service Inc. and shall be reported to the City on a monthly basis.

The monthly report shall be available to the City by the fifteenth day of each month. Notwithstanding any provisions of this Paragraph, City retains the right to direct the sale of recyclable materials in order to ensure that a fair market value is being received.

ARTICLE XIII - QUALITY OF PERFORMANCE OF CONTRACTOR

Section 1 - Performance Review

The City may annually review the performance of the Company based on customer complaints, timely payment of sums due, statistical reporting, program process, etc. This review will be conveyed to the City Manager. Franchise Holder may review the draft report and submit its own statement if it wishes.

ARTICLE XIV - INTERRUPTION OF SERVICE BY LABOR DISPUTE

Section 1 - The City's Right During a Labor Dispute

In the event the refuse collection and disposal services are interrupted by a labor dispute and scheduled collection and disposal services are discontinued for more than seventy-two (72) consecutive hours, the City shall have the right to make temporary use of all facilities and equipment of the Franchise Holder for the purpose of continuing the service which the Franchise Holder has agreed to provide in order to preserve and protect the public health and safety.

Section 2 - The Right to Use the Franchise Facilities & Equipment

The City shall have the right to retain possession of said facilities and equipment and to render the required service until the Franchise Holder can demonstrate with reasonable certainty to the City Council that required services can be resumed by the Franchise Holder.

Section 3 – Revenue Will Go to the City During Dispute

During any period in which the City has temporarily assumed the obligation of the Franchise Holder under Section 1 of Article XIV of this Agreement, the City shall be entitled to the gross revenue attributable to operations during such period. The City shall only pay those costs attributed to the costs of collection during this period exclusive of costs associated with the rental costs of trucks and other equipment. Any revenues in excess of City's costs under this section will be returned to Franchise Holder.

ARTICLE XV – TERMINATION OF FRANCHISE

Section 1 – Default in Performance of Any Covenant or Agreement

All terms and conditions of this franchise are considered material. In the event the Franchise Holder defaults in the performance of any of the covenants or agreements to be kept, done, or performed by it under the terms of said franchise, the City shall give said Franchise Holder ten (10) days written notice, either by Mail or by personal service, setting forth the default. If said Franchise Holder fails, neglects, or refuses for a period of more than ten (10) days thereafter to make good or perform the default, then City, without further notice and without suit or other proceeding, may cancel and annul the rights and privileges granted in said franchise.

Section 2 – Termination by Rescission Procedure

In addition to the right, privileges, and obligations of the parties described in this franchise, the City may, without penalty, terminate and rescind this franchise pursuant to the following procedure:

Upon the filing with City Clerk of a petition signed by persons representing twenty-five percent (25%) of the premises serviced by the Franchise Holder, stating that the residential refuse collection service furnished by the Franchise Holder is inadequate, unsatisfactory and contrary to the best interest and welfare of the City of Pittsburg, the City Council shall set the matter for public hearing.

Such hearing shall be held within thirty (30) days of the filing of the petition. Notice of the hearing shall be mailed by the City Clerk to the Franchise Holder at least ten (10) days prior to the date of hearing. The City Clerk shall cause said notice of hearing to be published in the Ledger Dispatch and or Contra Costa Times pursuant to Section 6066 of the Government Code. All interested persons may appear and be heard at the hearing.

Should the City Council determine that the service and operation of the Franchise Holder is below minimum standards prevalent in the County of Contra Costa and is inadequate and contrary to the best interest and welfare of the City of Pittsburg, the City Council shall prepare a list of findings in support of this determination. The Franchise holder shall then have sixty

(60) days to cure by meeting the objections as found by the City Council. If the Franchise Holder does not cure then this franchise may be terminated and rescinded subject to the provisions of this Section IX. Decision by the City Council shall be within ninety (90) days after the close of the public hearing.

Section 3 – Termination by Breach or Default

In the event of termination of the franchise for breach or default by the Franchise Holder, as here in above specified the Franchise Holder agrees and consents as follows:

That the City shall have the right forthwith to take possession of all trucks and other equipment of the Franchise Holder for the Purpose of Collecting and disposing of the refuse which the Franchise Holder agreed to do; provided, however, that reasonable compensation shall be made by the City to the Franchise Holder for the use of such trucks and equipment

That the City shall have the right to retain possession of said trucks and equipment which can be purchased or otherwise acquired by the City.

That the City shall have access to the Franchise Holder's records for the purpose of billing residential service accounts during the period the City is providing the refuse collection and disposal service.

That the City shall have the right to retain residential fees collected for services during the period of City operation.

Section 4 – Assignability

Franchise Holder may transfer its rights and obligations under this Agreement with the written consent of the City, whose written consent shall not be unreasonably withheld. The City's consent or refusal to consent shall be based solely upon whether, taken as a whole, the transferee represents at least the same financial risk, ability to perform, experience and reputation that Franchise Holder represents to the City at the time of the proposed transfer. Upon City's written consent to Franchise Holder to delegate its duties, City shall also provide Franchise Holder written release from all future performance of the Agreement, but Franchise Holder will not be released from liabilities incurred prior to that time.

Section 5 – Insolvency as an Event of Default

If the Franchise Holder becomes insolvent, or proceedings in bankruptcy are instituted by or against the Franchise Holder, or if the Franchise Holder is adjudged bankrupt or insolvent by any court, or if a receiver or trustee of any property of the Franchise Holder is appointed in any suit or proceeding brought by or against the Franchise Holder, or if the Franchise Holder

makes an assignment for the benefit of creditors, then this franchise may be immediately terminated by the City Council without notice of proceeding.

Section 6 – Franchise Holder’s Obligation To Provide Service

In the event of an injunction or other court order or the lawful order of any governmental agency which temporarily prevents the Franchise Holder from continuing the service required by this franchise and agreement, the City has the same rights to use Franchise Holder’s equipment and records and to operate the service and to terminate the franchise, as are enumerated in Article XV, Section 3. If the injunction or order permanently prevents Franchise Holder from providing the service, then City may terminate this franchise, as provided in the agreement.

ARTICLE XVI – PAYMENT FOR SERVICES

Section 1 – Collection and Enforcement of Payment

The Franchise Holder shall entitled to payment for the collection services rendered if the owner or occupant of any premises fails to pay any sum due or owing to the Franchise Holder when the same become due or owing. It shall be the duty and obligation of the Franchise Holder to collect and enforce payment of the same, and there shall be no obligation on the part of the City of its agents, officer, or employees, to collect the same.

ARTICLE XVII- MISCELLANEOUS

Section 1 - Legislation

It is the policy of the city to support State and Federal legislation that encourages recycling, removes barriers to recycling, provides funding for local recycling programs, or promotes waste reduction. At the same time, the City will oppose legislation, which would reduce local control and autonomy in dealing effectively with the region’s responsibility for solid waste management.

Section 2 – Administration

The City Manager is hereby designated as the city officer responsible for the administration of this Agreement. The Franchise Holder shall obey all lawful orders issued by the City Manager with reference to provisions of the City’s Municipal Code and/or this agreement.

The Franchise Holder shall, in writing, contemporaneously with the execution of this Agreement, designate a qualified person who shall be the responsible officer or employee of

the Franchise Holder for the purpose of administration of this Agreement. Such person shall be authorized by Franchise Holder to act on behalf of Operators, including but not limited to accepting all notices and Orders given by the City.

If at any time during the term of this Agreement, the City Manager issues to Franchise Holder any written interpretation of this Agreement or any Order which Franchise Holder believes is improper or not within the scope of its duties imposed pursuant to this Agreement, the Franchise Holder may, within ten (10) consecutive days following service upon Operator of the City Manager's Order, have the right to appeal to the City Council with reference to the issuance of such order. The City clerk upon receipt of such a request for review by the Franchise Holder shall place the matter on the next most convenient agenda of the City Council for consideration. The Franchise Holder shall be given at least ten (10) days written notice by the City Clerk of the time and place of the hearing on the City Manager's Order.

Section 3 - Business License

The Franchise Holder and each person authorized by him to provide rendering services, shall be required to obtain annual business licenses in accordance with the applicable provisions of the Pittsburg Municipal Code; provided, however, that nothing shall be construed as a authorization for the City to grant any such permit unless expressly consented to in writing by the Franchise Holder.

Section 4 - Severability

If any portion, part, section, subsection, sentence, clause, provision or condition (collectively "portion") of this Agreement is held invalid, inoperative, or unenforceable by a court or arbitrator of competent jurisdiction, then such portion shall be considered severed from this Agreement and the remainder of this Agreement shall continue in full force and effect unless modified or amended by mutual consent of the parties. In such event, the parties shall use their best efforts to negotiate an amendment to give effect to their intent as to the invalidated portion.

Notwithstanding the termination of this Agreement pursuant to the provisions hereof and/or provisions of applicable law, the right of the parties to prosecute legal claims against each other, and against other parties, shall survive such termination and shall not be affected by such termination.

Section 5 - Recycling Procurement Policy

The Franchise Holder shall acknowledge the City's Recycling Procurement Policy and assist with the goals of its policy's by submitting reports to the City on recycled paper, containing a minimum of 20% post-consumer content and promote the procurement policy within it's organization.

Section 6 – Notification

All notices required or given pursuant to this franchise and agreement shall be deemed properly served when deposited, postage prepaid, in the United States Mail, addressed to Franchise Holder at its office maintained in the City at the address indicated below, or at such other address as the Franchise Holder may from time to time designate in writing to City at address indicated below:

City of Pittsburg
Jeffrey C. Kolin
City Manager
P.O. Box 1518
65 Civic Drive
Pittsburg, California 94565-0518

Pittsburg Disposal & Debris Box
Services, Inc.
Attention: Silvio Garaventa, Jr.
P.O. Box 5397
4080 Mallard Drive
Concord, California 94520

Section 7- No Modification Unless in Writing

Except as otherwise provided herein, no modification of, or amendment or addition to, this Agreement shall be valid or enforceable unless in writing and signed by both parties.

Section 8 - Entire Agreement

This Agreement including all Exhibits constitutes the full and final understanding and agreement of the parties with the respect to the matters provided for herein, and supercedes all previous understandings, representations, commitments or agreements, oral or written, pertaining to the services provided herein.

Section 9 - Interpretation

No provision of this Agreement is to be interpreted for or against either party because that party's legal representative drafted such provision, but this Agreement is to be construed as if it were drafted by both parties hereto.

Section 10 - Waiver

No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision shall not be deemed to be a waiver of any breach of the same or any other provision hereof.

Section 11 -Independent Contractor

This Agreement does not, is not intended, nor shall it be construed to created the relationship of agent, employee, or joint venture between the City and Franchise Holder. The City shall not be responsible or liable for the direct payment of any salaries, wages, benefits including

but not limited to workers' compensation benefits, or other compensation to any Franchise Holder personnel performing services hereunder.

Section 12 - Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California. City and Franchise Holder agree that the courts of the County of Contra Costa shall have exclusive jurisdiction over any litigation between the parties arising from this Agreement.

Section 13 - Mediation of Disputes

Unless otherwise provided herein, any controversy involving the construction or application of any of the terms, provisions, or conditions of this Agreement shall, upon the written request of either party served on the other, be submitted to mediation. City and the Franchise Holder shall mutually agree to the selection of an individual to serve as the mediator of the dispute. The mediator shall hear and determine the issues of the dispute and shall work with the parties to resolve the controversy. The cost of mediation shall be shared equally between the parties. During attempts to resolve the dispute, the parties shall continue to perform under the terms and conditions of the Agreement. Discussions during the course of the mediation proceedings are inadmissible as evidence in any civil action or administrative proceeding unless the parties determine otherwise. Either party that has participated in the mediation and is dissatisfied with the outcome may elect to pursue any and all legal remedies available herein.

Section 14 - Prior Agreements Rescinded

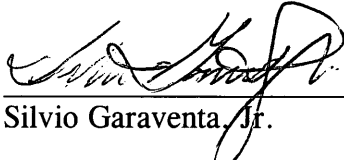
The prior existing franchise agreement, dated August 1, 1980, as amended November 17, 1980 and again by Resolution 84-6869 on June 1, 1984, is hereby superseded and rescinded.

The prior existing franchise agreement, dated October 15, 1990, is hereby superseded and rescinded.

The prior existing recycling agreement, dated February 6, 1990, is hereby superseded and rescinded.

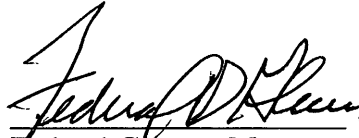
IN WITNESS THEREOF, the parties hereto have executed this franchise and agreement the day and year first written above.

PITTSBURG DISPOSAL &
DEBRIS BOX SERVICE INC.
A California Corporation



Silvio Garaventa, Jr.

CITY OF PITTSBURG
A Municipal Corporation



Federal Glover, Mayor

ATTEST:



Lillian Pride, City Clerk

*Deputy
City Clerk*

APPROVED AS TO FORM:



Michael Wood, City Attorney

Recycling, Composting, & Education Programs			
<u>"Model City"</u>	Provide City with improve recycling throughout City Departments and buildings Mixed Paper Program, cardboard, Glass, Plastic, Cans, Newspaper, etc. Collection containers in offices and outside for collection	<i>Pittsburg - Healthy City Model</i> Separate tracking and reports for City materials.	Present Program to City Manager in June 1999. Begin Implementation. All phases, glass, cans, newspaper, white paper, mixed paper, etc... Inside and outside collection containers.
Wood Material	ADC program and reporting status & progress	Monthly Report to City Manager .until - Quarterly Reporting thereafter - Correspondence from CIWMB regarding program acceptance	Begin reporting next QTR. Breakdown ACD vs. salvage. Provide City confirmation ADC program approved at Potrero Hills by State and LEA. Dec. 1998.
City Programs & Events	City Events - ie Clean Your Files Day, etc...		Support citywide recycling campaign - Earth Day.
Public Education	Partnership with City to provide School Programs on recycling - events, tours, materials, etc. Continuous education for public. Promote & educate on HHW material. (Pittsburg Disposal & RCTS) Advertise new Permanent HHW Facility once built.	Newsletters, pamphlets, etc Quarterly Themes... City to review all public education material	Pittsburg Disposal to do Newsletter Biannually. Newsletter to focus on Pittsburg. City may have section of newsletter. Two mailing yearly to apartment and multi dwelling complexes residents (not owners) to promote special recycling program. Two yearly mailings promoting HHW issues, safety, etc. Present schedule each January to CMO. Provide tours to classrooms Support education in classroom - joint presentations. Yearly promotion - New school year with book covers, etc Events - Earth Day, Recycles Day, etc..
Expansion of Curbside Program	Offer cardboard curbside recycling and other materials. Create and implement education and quarterly promotion program.	Time frame and materials	Will begin cardboard program in December for implementation in January. Education flyer mailed to all residents in Pittsburg on proper technique, etc.

	Phone Books Christmas Trees		Phone Books - est. at Many Hands by Pittsburg Disposal. Christmas Trees accepted curbside at no charge to residents for recycling at Transfer Station.
Green Waste Program for City Establish Pilot Program	Identify Markets & Programs: composting, ADC, etc. Explore alternatives to avoid drastic rate increase Curbside green waste program - Costs, timeline, disposal methodology and markets (compost, ADC, etc.)		Present program to City Manager -
Recycling Program with School District	Recycling Program for School District and Schools - Expansion - Cardboard, Paper, Glass, etc. Collection containers for schools, bins, etc	Establish, expand, reports	Prepare program to service school district with benefits and promotion.
Expansion of Commercial Recycling Program	Expand recycling program - Create and implement education program promoting expansion as well as overall program - aggressive marketing -	(Many Hands)	Expand recycling services to businesses not presently services by Many Hands.
Specialty Industries	Educate Restaurants and business on fast food container ordinance and provide recycling services for containers		Promote program twice a year to restaurants and provide alternatives; Food Banks information, rendering information, etc.