



# TOWN OF FAIRFAX

## STAFF REPORT

### December 4, 2019

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager *GT*

**SUBJECT:** Adopt Resolution establishing maximum rates collected by Marin Sanitary Service for Solid Waste Services, to be effective January 1, 2020, and Approving a Second Amendment to the Contract Between the Town of Fairfax and Marin Sanitary Service

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#### **RECOMMENDATION**

- 1) Conduct public hearing
- 2) Adopt Resolution establishing maximum rates collected by Marin Sanitary Service for Solid Waste Services, to be effective January 1, 2020, and Approving a Second Amendment to the Contract Between the Town of Fairfax and Marin Sanitary Service

#### **BACKGROUND**

Marin Sanitary Service (MSS) provides residential, commercial and multi-family solid waste services, including garbage, recycling and organics collection and processing. MSS also provides garbage, recycling and organics pick-up for Town of Fairfax (Town) facilities, parks, and sidewalk receptacles downtown and throughout Fairfax. Each year, the Town Council holds a public hearing to set the maximum collection rates that can be charged by MSS in Fairfax.

MSS submitted its application for rates to be effective January 1, 2020, in Fairfax. In its submittal, MSS presented two versions of its application: 1) a 4.94% increase prepared in accordance with the Marin Franchisor's Group (MFG) Exhibit B Rate Setting Methodology, and 2) a 6.38% increase prepared using the current rate-setting methodology set by MSS' contract with the Town Exhibit B. Both versions were prepared using an Indexed Rate Year approach. The MFG methodology uses one index (Water and Sewer and Trash Collection, or WST) to adjust the majority of operating costs, while the Town's current methodology uses five indices to adjust various expense categories in addition to projecting depreciation and interest expense.

The MFG methodology was developed to streamline and simplify the overall rate setting process. It is currently under consideration by the Town of San Anselmo, and has been adopted by all MFG members: San Rafael, Larkspur, Ross, the Las Gallinas Valley Sanitary District, and the County of Marin, including within the Ross Valley Sanitary District boundaries.

The current contract with MSS was signed in 2011 for a ten year term, and amended in 2016 to modify Exhibit A Description of Services in order to better serve the residents of Fairfax. The contract is set to expire on December 1, 2021. Per Section 2 Term, Fairfax and MSS shall enter

into discussions concerning extension of the contract, prior to the expiration of the initial term, to negotiate in good faith to determine whether to extend.

## **DISCUSSION**

At the April 2019 meeting to consider the 2019 MSS rate request, the Council subcommittee consisting of Vice-Mayor Goddard and Councilmember Lacques indicated they would be reviewing the proposed MFG methodology and report back to the Council with its recommendations at a future meeting. *Given the MSS request to the Town to consider a new rate-setting methodology, staff and the Council subcommittee thought it would be more prudent to consider the MSS request within the broader context of discussions to extend the contract.*

Staff has been working with R3 Consulting Group (R3), the same firm that conducted the review of the last MSS rate application, to assist with negotiations and discussions regarding the MSS rate application and other contract updates, including the evaluation of the MFG methodology and contract extension. Staff and R3 received policy guidance and direction from the Council subcommittee. R3 served in a similar role with the Marin Franchisor's Group (MFG).

The following summarizes the recommendations from the Council subcommittee and staff:

### **1. Extend Contract for 10 Years**

The proposed second amendment would extend the contract term for an additional 10 years. The new expiration date would become November 30, 2031, allowing for the continued provision of high quality solid waste services (with some updates for clarity and to address industry shifts, detailed below). A 10 year term is also beneficial as it allows MSS to purchase and replace equipment as needed to serve Fairfax under more favorable financial terms, which are shared in by the Town's rate payers. At its option, the Town may offer two (2) additional extension terms of five (5) years each. MSS has indicated it would like to continue its discussions regarding the merits of the Town considering an evergreen contract in the future. Staff indicated we are willing to continue the discussion for future consideration.

### **2. Adopt New Methodology for Setting Rates**

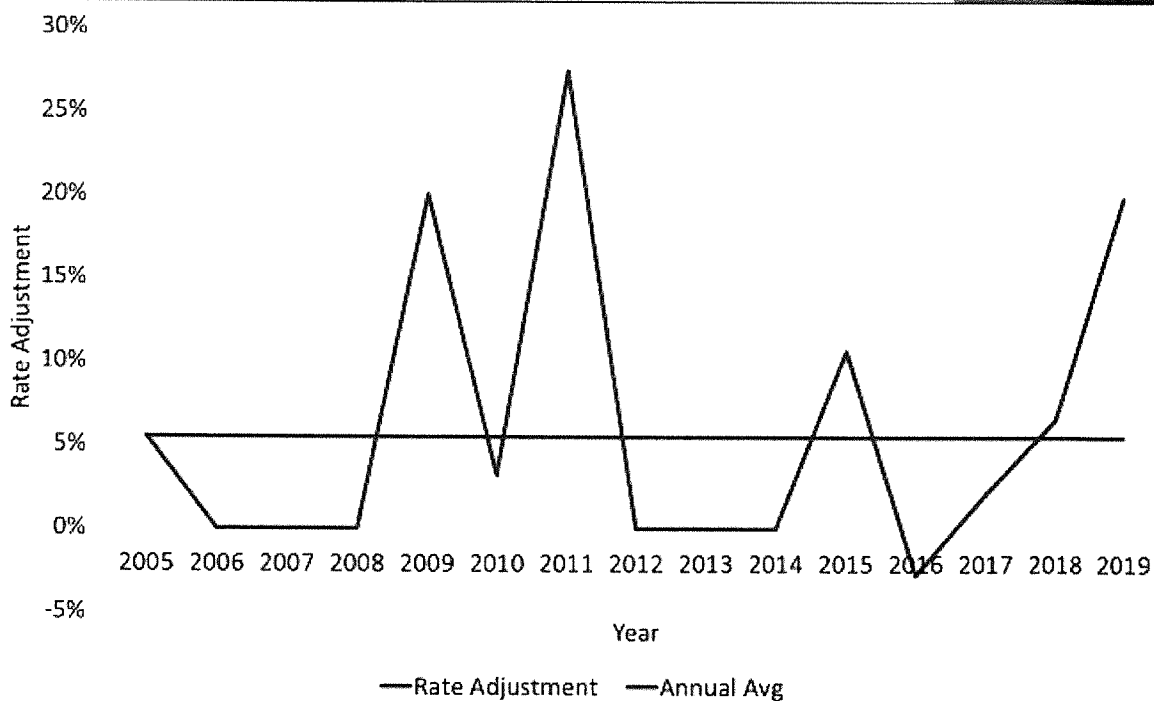
The proposed second amendment includes a streamlined and simplified annual rate adjustment methodology. Unlike the current methodology, which sets rates based on actual MSS costs and profits (aka a "cost-plus contract") the new methodology would set rates based on set revenues due to MSS, which would be escalated annually based on one simple Water, Sewer, and Trash (WST) index, which has increased between 2 to 5% annually in recent years.

This will streamline and simplify the rate setting process, placing more incentive on MSS to live within the regulated revenue amount, and will significantly reduce annual costs and time for consultants and staff to conduct the annual reviews. Every 5 years MSS or the Town may request a detailed review should there be a need. This differs from the current Agreement, which stipulates an automatic detailed review every 3rd year. All true-up provisions of the old methodology would also be removed. Staff expects a 70-80% reduction in time and costs annually to prepare the rate review. Should Fairfax not adopt the new methodology, the current methodology would remain in effect with greater cost and time burden to be carried by the Town and rate payers.

Specifically, MSS proposes a 4.94% increase prepared in accordance with the new rate-setting methodology in Exhibit B to the proposed Second Amendment to the agreement with MSS. Under the current methodology, MSS proposes a 6.38% increase. We are recommending the Town adopt this new methodology as part of the 2020 rate setting process for a 4.94% rate increase effective January 1, 2020.

In addition to the streamlining stated above, the proposed second amendment would include a 2.5% minimum and a 5% maximum rate cap for MSS' operational expenses. This excludes franchise/agency fees and the cost of processing, recycling, composting and disposal (the latter of which are not subject to MSS control but are subject to fluctuation based on market conditions and amounts of waste generated by residents and businesses). This will not eliminate the possibility of experiencing an overall rate increase greater than 5% on occasion, but generally should curtail the likelihood of large future year rate increases. The graph below shows large fluctuations in rate increases since 2011 with a low of approximately -2.8% in 2016 and a high of 19.8% in 2019.

## Fairfax Rates Over Time



Since 2012, under the current agreement, the average annual increase was approximately 4.9%.

As part of the analysis, R3 conducted a thorough review of MSS' expenses and revenues. This was important to do concurrently with the new amendment to the Franchise Agreement in order to have 3rd party verified figures for a better understanding of the projected costs and revenues

for future years using a new methodology. Under the new methodology, and barring any significant upsets in the industry, R3 believes rates are more likely to adjust by approximately 3-4% annually. This new proposed rate setting methodology would require MSS to manage all of their controllable expenses to the greatest extent possible while also providing greater rate certainty with which to do so.

To further simplify the rate setting process, the contract will no longer require a newspaper notice for rate hearings. The rate hearing notice will follow the regular public hearing noticing requirements.

### 3. Establish New Performance Metrics

MSS agreed to establish new performance metrics for outreach and education as well as regular operations, billing, and customer service. Details of the specific performance metrics and MSS reporting procedures will be established collaboratively between the Town and MSS. However, there is now a provision for conducting formal performance reviews (at the direction of the Franchisors Group, which, assuming the new rate setting methodology is adopted, Fairfax could participate in going forward). MSS is known for quality services, a dedication to recycling and composting, and environmental stewardship. This allows for quantifying and analyzing where there is real impact and where there is room for improvement going forward.

### 4. Provide for Succession Planning & Assignment

Although MSS has stated they are not selling nor are they interested in selling the company, they agreed to prepare formal succession planning documentation to be provided in the coming year, and regularly thereafter. They have also developed and provided new assignment language for the Franchise Agreement that would give the Town more control over any proposed sale of the company. MSS will now provide up to \$200,000 for the Town and MFG, collectively, to review and analyze the assignment if the MSS were to sell in the future, while ensuring that the MSS standards of service continue to be met.

### 5. Confirm Vegetation Management Fee

The Brush Clearing/Fuel Reduction Fee has been renamed as the Vegetation Management Fee to better describe its purpose and allow for greater discretion over funds for fire prevention. The amount of the fee would remain the same (\$10,000 year), however could be adjusted at a future date if the Town's needs change. MSS will also provide additional debris boxes for the Chipper Day events.

### 6. Add Zero Waste Events Fee

MSS shall pay to Fairfax a Zero Waste Event Fee of \$10,000 per year. The purpose of the fee is to compensate the Town in lieu of additional zero waste event services previously provided by MSS (see Section 9 below for more details). The Town could use a portion of these funds to pay for Conservation Corp. North Bay to sort garbage/recycling at the Fairfax Festival.

### 7. Revise to Reflect State Regulatory Compliance

The partnership between the Town and MSS to comply with new state regulations is to be recognized and reaffirmed through the proposed second amendment. In particular, MSS shall

continue to provide the Town with outreach, education, technical assistance, monitoring and compliance services to residents, multi-family dwellings and commercial businesses. The Town and MSS intend for these services to: provide information to customers regarding the services offered by MSS as provided for via the contract; encourage, incentivize and maximize participation in recycling and organics collection programs, and; implement the requirements of state laws AB 341, AB 1826, SB 1383, and any other solid waste, recycling and organics state law requirements applicable to Town and/or MSS.

#### 8. Revise Residential Organics Collection

The current contract allows for the curbside set out of up to five additional 32 gallon customer provided containers as part of regular organics collection service. This practice has proven problematic due to increased worker injury and variability in set outs leading to greater routing inefficiency and cost. Additionally, MSS equipment is not compatible with customer owned containers and in result these containers can end up broken on the tipper arm or lost in the hopper of the truck.

In alternative, the proposed second amendment outlines a transition to MSS provided tipper carts. Beginning January 1, 2020, MSS may provide each residential customer with up two organics collection carts (the second cart to be provided upon customer request) at no additional cost. Up to four additional carts beyond those provided at no additional cost can be requested for a nominal fee. Only MSS provided tipper carts will be allowed for the weekly collection of organic waste. Residents may request, free of charge, MSS to collect their existing user-owned containers for recycling.

#### 9. Revise and Clarify Municipal Services

- Events: revision to MSS services to better fit the Town's event needs, including the Fairfax Festival and an MSS staffed educational both at select Town events. In lieu of solid waste service at a second Town event, MSS will pay a Zero Waste Events Fee (described in Section 6 above). In addition, management of the portable toilets service for the Fairfax Festival will transition to the Town over the next 1-2 years, with the cost of this service to be covered by a portion of the Zero Waste Events Fee.
- Public Containers: clarification regarding MSS servicing of public containers. MSS shall service Town-owned cans in public areas and parks based upon mutually agreed upon parameters by Town and MSS, up to 70 cubic yards per year.
- Corporation Yard: flexibility for right sizing service levels at the Town's Corporation Yard and other facilities based upon mutually agreed upon parameters by Town and MSS.

In conclusion, the Council subcommittee, staff, MSS, and R3 concur that this proposed second amendment to the contract would help achieve the following outcomes:

- Stable and predictable rates for the next 4 years, and a firm basis for rate control in future years,
- Continued verifiable high levels of quality services for the City's residents, businesses and institutions, and
- Simplified annual rate setting methodology that saves significantly on consultant costs and staff time to conduct while improving accuracy and transparency.

The second amendment is included as Attachment B. If approved, changes would go into effect for the rate setting process beginning this year and applicable to the 2020 rates.

### **FISCAL IMPACT**

Increasing MSS's rates will result in slight increases to the franchise fees paid by MSS to the Town. Approving these amendments will reduce the annual cost for consultants to review the rate applications each year. In addition, the financial intent of the new methodology is to provide for greater rate stability and predictability and to reduce the potential for large rate increases in the future.

### **ATTACHMENT**

Attachment A: MSS Rate Application

Attachment B: Resolution approving Second Amendment with:

- Exhibit A: revised description of service
- Exhibit B: revised methodology
- Exhibit C: new rate schedule

Attachment C: Current Franchise Agreement with MSS

# Marin Sanitary Service

CONSERVATION - OUR EARTH, OUR MISSION, OUR JOB

October 10, 2019



Sent via e-mail

Mr. Garret Toy  
Town Manager  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

Mr. Garth Schultz  
Principal  
R3 Consulting Group  
2600 Tenth Street, Suite 424  
Berkeley, CA 94710

**Subject: 2020 Town of Fairfax Rate Application**

Dear Messrs. Toy and Schultz,

Attached is Marin Sanitary Service's (MSS) rate calculation for rates to be effective January 1, 2020, in the Town of Fairfax (Town). Two versions of the Rate Application have been prepared. The first version, resulting in an increase of 4.94%, was prepared in accordance with the Marin Franchisor's Group (MFG) Exhibit B Rate Setting Methodology. This is the same methodology that was used in the 2019 rate-setting process. The second version, resulting in a 6.38% increase, was prepared using the rate-setting methodology in the current contract with the Town (also referred to as Exhibit B).

Both versions are prepared using an Indexed Rate Year approach. The MFG methodology uses one index (Water and Sewer and Trash Collection, or WST) to adjust the majority of operating costs. The Town methodology differs in that five indices are used to adjust various expense categories and depreciation and interest expense are based on projections, rather than adjusted by an index. Supporting schedules have been prepared for both versions and we will provide those to R3 Consulting Group, Inc. for their review.

We look forward to working with the Town and R3 Consulting Group, Inc. to conclude the current contract negotiations and review of the rate application.

As always, we remain at your disposal.

A handwritten signature in black ink, appearing to read "Patty Garbarino".

Patty Garbarino  
President

Attachment

CC: Roger Williams, Marin Sanitary Service  
Kim Scheibly, Marin Sanitary Service  
Ray Holmes, Marin Sanitary Service

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**ATTACHMENT** A



**Marin Sanitary Service  
Fairfax Rate Application - 2020  
Index Rate Year Calculation - MFG Exhibit B Methodology**

	2020 Rate Amount
<b>MSS Operating Expense</b>	
Collector Operations	\$ 1,329,205
Garbage Landfilling and Organics Processing	320,768
-	-
-	-
-	-
-	-
-	-
<b>MSS Operating Expense (Subject to Profit)</b>	<b>\$ 1,649,973</b>
<b>MSS Revenue Requirement</b>	
MSS Operating Expense (Subject to Profit)	\$ 1,649,973
Operating Profit (90.5% Operating Ratio)	173,202
Recyclables Processing	69,569
Interest	21,154
Zero Waste Marin Fees	27,076
Franchise Fees	224,275
Other Agency Fees (MIF, etc)	77,500
-	-
-	-
<b>MSS Revenue Requirement - 2020</b>	<b>\$ 2,242,749</b>
<b>MSS Revenue Requirement - 2019</b>	<b>\$ 2,137,229</b>
<b>2020 Rate Increase Percentage</b>	<b>4.94%</b>



**Marin Sanitary Service  
Fairfax Rate Application - 2020  
Index Rate Year Calculation - Fairfax Exhibit B Methodology**

	2020 Rate Amount
<b>MSS Operating Expense</b>	
Labor	523,226
Benefits	348,391
Garbage Landfilling and Organics Processing	342,826
Maintenance	129,138
Depreciation and Leases	133,377
Fuel and Oil	98,669
General and Administrative	178,696
	-
	-
<b>MSS Operating Expense (Subject to Profit)</b>	<b>\$ 1,754,323</b>
<b>MSS Revenue Requirement</b>	
MSS Operating Expense (Subject to Profit)	1,754,323
Operating Profit (90.5% Operating Ratio)	184,155
Recyclables Processing	-
Interest	28,279
Zero Waste Marin Fees	-
Franchise Fees	228,029
Other Agency Fees (Street Sweeping, etc)	77,500
Lost Profit in 2019 from Category Reclass	8,006
	-
	-
<b>MSS Revenue Requirement - 2020</b>	<b>\$ 2,280,292</b>
<b>MSS Revenue at Current Rates - 2019</b>	<b>\$ 2,143,496</b>
<b>2020 Rate Increase Percentage</b>	<b>6.38%</b>

**RESOLUTION 19-**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
APPROVING A GARBAGE AND RECYCLING SERVICE RATE INCREASE EFFECTIVE  
JANUARY 1, 2020 AND APPROVING A SECOND AMENDMENT TO THE FRANCHISE  
AGREEMENT WITH MARIN SANITARY SERVICES**

**WHEREAS**, Fairfax Town Code Section 8.08.110 provides that the Town may enter into an exclusive contract with any responsible individual, firm or corporation for the collection, removal and disposal of garbage collected and accumulated within the Town, under the terms and conditions as may be prescribed by the Town Council; and

**WHEREAS**, the Town of Fairfax has entered into such an agreement with Marin Sanitary Service for the provision of solid waste and recycling services (the "Franchise Agreement"); and

**WHEREAS**, in accordance with the Franchise Agreement, Marin Sanitary Service (MSS) may submit an application to the Town for an increase in garbage and recycling service rates; and

**WHEREAS**, Marin Sanitary Service has submitted an application for rate review, requesting an increase in service charges effective January 1, 2020; and

**WHEREAS**, the Franchise Agreement with MSS expires on December 1, 2021 and the Town is quite satisfied with the services provided by MSS and has limited desire to issue a request for proposals for solid waste and recycling services prior to the expiration of the existing Franchise Agreement; and

**WHEREAS**, the Town thought it prudent to negotiate an extension to the Franchise Agreement well in advance of the expiration date; and

**WHEREAS**, the Town's subcommittee consisting of Vice-Mayor Goddard and Councilmember Lacques provided policy direction to staff and a professional firm to negotiate the business terms of the Second Amendment to Franchise Agreement ("Second Amendment"); and

**WHEREAS**, the Second Amendment extends the agreement for 10 years and modifies the rate-setting methodology; and

**WHEREAS**, the Town conducted an independent review of the rate application in accordance with the modified rate-setting methodology set forth in the "Second Amendment," and

**WHEREAS**, the modified rate-setting methodology results in a lower rate increase than the current methodology; and

**WHEREAS**, the proposed Second Amendment is attached hereto and incorporated herein as Exhibit A; and

**ATTACHMENT** B

**WHEREAS**, the new rate schedule proposed by Marin Sanitary Service is attached as Exhibit C to the Second Amendment; and

**WHEREAS**, in accordance with the requirements of the Franchise Agreement, as well as state law, the Town of Fairfax posted a notice of the November 14, 2019, public hearing in the three designated places in Town and published a notice of public hearing in the Marin Independent Journal; and

**WHEREAS**, the Town Council of the Town of Fairfax held a public hearing on December 4, 2019, to consider the requested increase, at which time any person interested, including all persons owning property within the Town, was invited to appear and be heard on the matters set forth in the public hearing notice; and

**WHEREAS**, Fairfax Town Code Section 8.08.030 provides that garbage service charges will be set forth in a resolution of the Town Council,

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Fairfax as follows:

**SECTION 1.** The recitals set forth above are adopted as further findings of the Town Council.

**SECTION 2.** The Town Council has reviewed the rate schedule requested by Marin Sanitary Service, as set forth in Exhibit A hereto, and finds that the proposed rates and charges are not discriminatory or excessive and will be sufficient under California Government Code Section 54515 and will comply with the provisions of Chapter 6 of Part 1 of Division 2 of Title 5 of the California Government Code and will be in compliance with law.

**SECTION 3.** The Town Council hereby adopts the rate schedule set forth in Exhibit A (i.e., Exhibit C of the Second Amendment), with such new rates effective as of the 1<sup>st</sup> day of January 2020.

**SECTION 4.** The Town Manager is hereby authorized to do everything necessary and appropriate to execute the Second Amendment to the Franchise Agreement.

The forgoing Resolution was duly passed and adopted at a special meeting of the Town Council of the Town of Fairfax held in said Town on the day of December 2019 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Attest:

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BARBARA COLER, Mayor

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Michele Gardner, Town Clerk  
Exhibit A attached

**SECOND AMENDMENT TO THE CONTRACT  
BETWEEN THE TOWN OF FAIRFAX AND  
MARIN SANITARY SERVICE**

This Second Amendment to the Contract between the Town of Fairfax and Marin Sanitary Service ("Agreement") is effective as of December 1, 2021.

**RECITALS**

WHEREAS, the Town of Fairfax (Town) and Marin Sanitary Service (MSS) entered into a written agreement on December 1, 2011, as amended on March 2, 2016 (together the "Agreement") pursuant to which MSS renders Solid Waste, Recyclable Material and Green Waste/Food Waste collection, processing and disposal services to businesses, residents and government institutions in the Town; and

WHEREAS, the term of the contract continues through November 30, 2021, and, pursuant to the terms and conditions of the Agreement, the Town and MSS entered into discussions concerning extension of the contract and negotiated in good faith;

WHEREAS, the Town and MSS desire to modify the Agreement in order to better serve the residents of Town and extend to contract term through November 30, 2031; and

WHEREAS, the Town and MSS also mutually desire to amend the Agreement to establish a streamlined and simplified rate setting methodology that will provide for rate stabilization and predictability of future rate increases, clarify certain services and update certain obligations of MSS.

NOW THEREFORE, the parties agree as follows:

1. **Section 2 Term**, is amended to read:

The term of this contract shall commence on December 1, 2021, and shall continue through November 30, 2031. At the Town's sole discretion, the Town shall have the option to offer extension of the Term of this Agreement for two (2) extension terms of five (5) years each. If the Town elects to offer this option and the Company accepts, it shall give written notice to Company at least one hundred and eighty (180) calendar days prior to the end of the initial or the extended Term, as the case may be.

2. **Section 3 Performance**, is amended to include:

(n) Performance Review. Town may conduct periodic reviews of Contractor's performance

(“Performance Review”). Reviews may be scheduled at the Town’s discretion, with up to one (1) Performance Review occurring every three years, with the first such Performance Review being possible between 2020 and 2022. The Town agrees to conduct its performance review as part of the Performance Review conducted for the benefit of the Franchisors’ Group.

- (a) MSS shall be responsible for the cost of each Performance Review in an amount not exceeding \$60,000 per Performance Review for all the Members of the Franchisors’ Group (and including the Town of Fairfax and the Town of San Anselmo), escalated annually by the annual change in the Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG, with a floor of 2.5% and a cap of 5%. Payment is due in full prior to the start of each Performance Review and is considered an allowable cost for the purposes of a Base Year approach rate review.
- (b) The Performance Reviews may be performed by the Franchisors’ Group or its consultant. In the event the Franchisors’ Group intends to retain a consultant to perform any Performance Review, it may seek and accept comments and recommendations from MSS.
- (c) The Performance Reviews may be designed to verify that: rates have been properly calculated and that they correspond to the level of service received by customers; franchise fees and other fees required under this Agreement have been properly calculated and paid to Town; MSS has complied with the reporting requirements and performance standards of the Agreement; MSS’s customer service, outreach, education, compliance and internal auditing functions meet or exceed industry best practices; and reports provided by MSS are accurate.
- (d) MSS shall cooperate fully with the Performance Review and provide all requested data, including operational data, financial data and other data reasonably requested by Town (or its designated consultant) within thirty (30) work days.
- (e) The Franchisors’ Group (or its designated consultant) may utilize a variety of methods in the execution of the Performance Review, including analysis of relevant documents, on-site and field observations, and interviews.
- (f) Franchisors’ Group (or its designated consultant) will review and document the items in the Agreement that require MSS to meet specific performance standards, submit information or reports, perform additional services, or document operating procedures, that can be objectively evaluated.
- (g) Franchisors’ Group (or its designated consultant) may also review the customer service functions and structure utilized by MSS. This may include MSS’s protocol for addressing customer complaints and service

interruption procedures. Complaint logs may be reviewed, along with procedures and systems for tracking and addressing complaints. On-site and field observations by Franchisors' Group (or its designated consultant) may include, but are not necessarily limited to:

- a) Interviews and discussions with MSS's administration and management personnel;
  - b) Interviews and discussions with MSS's financial and accounting personnel;
  - c) Interviews and discussions with route dispatchers, route drivers, vehicle maintenance staff, field and service supervisors, and managers;
  - d) Review and observation of MSS's customer service functions and structure, and vehicle maintenance practices;
  - e) Review of public education and outreach materials;
  - f) Review of on-route collection services, including observation of driver performance and collection productivity and visual inspection of Residential routes before and after collection to evaluate cart placement and cleanliness of streets;
  - g) Review of vehicle and equipment maintenance log and accident or vehicle incident records, if any.
- (h) In the event that the Performance Review concludes that MSS is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, Town may conduct an additional Performance Review via the Franchisors' Group to ensure that that MSS has remedied any such area of non-compliance. MSS shall be responsible for the cost of any such additional Performance Review, at a maximum cost of \$40,000, escalated annually by the annual change in the Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG, with a floor of 2.5% and a cap of 5%. Costs for additional Performance Reviews per this section are not considered allowable costs for the purposes of a Base Year approach rate review.

3. **Section 8(e) Brush Clearing/Fuel Reduction Fee**, is amended to read:

(e) Vegetation Management Fee.

MSS shall pay to Fairfax a Vegetation Management Fee. The purpose of the fee is to compensate the Town for removing, chipping and disposing of heavy brush that may pose a fire threat to the Town. The fee is \$10,000 per year and shall be paid in monthly installments of \$833.33 on the 15th of the month. Upon request of Town, MSS shall include notification to residents of brush clearing in quarterly billing at no direct charge to Town. MSS shall also allow delivery of wood chips to Marin Resource Recovery Center at no direct charge to the Town. All costs incurred by MSS to provide this service

shall constitute costs of operations included in the rate base and compensated through the rates. Town may request changes to this fee periodically in order to align with the vegetation management needs of Fairfax.

4. **Section 8 Payments to Town**, is amended to include:

(f) Zero Waste Event Fee.

MSS shall pay to Fairfax a Zero Waste Event Fee. The purpose of the fee is to compensate the Town in lieu of additional zero waste event services previously provided by MSS. The fee is \$10,000 per year and shall be paid in monthly installments of \$833.33 on the 15th of the month.

5. **Section 11. Special Free Pick Up**, is hereby removed and held in reserve. Services previously listed under Section 11 are described in Exhibit A.

6. **Section 14. Rate Setting**, is amended to read:

MSS and Fairfax intend to create a rate structure which is intended to and will provide reasonable and fair compensation, including a reasonable profit, to MSS from the services rendered to residents and businesses within the Town throughout the duration of this contract and any extensions thereof. In this regard, MSS and Fairfax agree that a review and any increase or decrease of said rates or charges, in the future, shall be based upon a rate setting methodology as set forth in Exhibit B, which is attached hereto and incorporated by reference, and as said Exhibit may be amended by the Town Council, with the consent of MSS, from time to time. For this purpose, the books and records and other financial data of MSS shall be open to inspection and audit by the Town Council or their designee(s).

7. **Section 16. Notice of Rate Review**, is amended to read:

Upon submission by MSS of any rate review application, the Town, or its designee, shall review the application for compliance with this Agreement. After the review is completed, the Town Manager shall schedule a public hearing as soon as practical before the Town Council.

8. **Section 19. Assignments, Sub-Companies, and Change of Ownership**, is amended to read:

- (a) No interest in this Agreement may be assigned, sold or transferred, either in whole or in part, by MSS without the prior written consent of the Town which the Town may grant or refuse in its reasonable discretion. MSS shall promptly notify the Town in writing at least one hundred twenty (120) days in advance of the proposed closing of any such proposed assignment, sale or transfer. MSS is encouraged to notify the Town as soon as possible of any proposed assignment, sale or transfer.

In the event that the Town Council approves of any assignment, sale or transfer, said approval shall not relieve MSS of any of its obligations or duties under this Agreement unless this Agreement is modified in writing to that effect.

- (b) Any such assignment, sale or transfer made by MSS without the consent of the Town shall be null and void and the attempted assignment, sale or transfer shall constitute a material breach of this Agreement and give the Town grounds to terminate this Agreement upon written notice to MSS, and upon such termination, all liability of the Town under this Agreement to MSS shall cease, and the Town shall have the right to call the performance bond and shall be free to negotiate with other contractors.
- (c) The Town may not assign its rights or subrogate its obligations under this Agreement without the prior written consent of MSS, except to a joint powers authority authorized by Govt. Code Sec. 6500 et seq.
- (d) For purposes of this section, "assignment, sale or transfer" shall include, but not be limited to:
  - 1) A sale, exchange or other transfer to a third party of outstanding common stock of MSS which results in a Change in Control (as defined below);
  - 2) Any sale to a third party of all or substantially all of MSS's assets dedicated to providing the services required by this Agreement;
  - 3) Any subcontracting of MSS's services required under this Agreement, except to an affiliate of MSS (defined as an entity that is controlled by Joseph John Garbarino or his lineal descendants and/or the lineal descendants of Joseph and Angelina Garbarino) or for processing or landfilling services customarily subcontracted by MSS;
  - 4) Any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction that results in a Change in Control;
  - 5) Any assignment by operation of law, including insolvency or bankruptcy, assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of MSS's property, or transfer occurring in a probate proceeding that results in a Change in Control; and
  - 6) Any combination of the foregoing (whether or not related or contemporaneous transactions), which has the effect of a Change in Control.
- (e) MSS acknowledges that this Agreement involves rendering a vital service to the



Town's residents and businesses, and that the Town has selected MSS to perform the services specified herein based on:

- 1) MSS's experience, skill and reputation for conducting its solid waste management operations in a safe, effective and responsible fashion, at all times in keeping with applicable local, state and federal environmental laws, regulations and best waste management practices; and
  - 2) MSS's financial resources to maintain the required equipment and to support its indemnity obligations to Town under this Agreement. The Town relied on each of these factors, among others, in choosing MSS to perform the services to be rendered by MSS under this Agreement.
- (f) The Town is concerned about the possibility that an assignment, sale or transfer could result in significant rate increases, as well as a change in the quality of service. Accordingly, the following standards have been set to ensure that any assignment, sale or transfer shall result in continued quality of service. At a minimum, no request by MSS for the Town's consent to an assignment, sale or transfer need be considered by the Town unless and until MSS has met the following requirements:
- 1) Marin Sanitary Service shall reimburse the Town for its reasonable, documented expenses for attorneys and other consultants engaged by the Town to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment. However, it is likely that other agencies of the Franchisors' Group served by Marin Sanitary Service (the "Members") may also be considering the request for consent to the assignment, sale or transfer. In consideration of the payment described in this subsection, the Members and the Town agree to work together to reasonably avoid duplication of such costs among them, given the common requests for consent. In furtherance of Marin Sanitary Service's obligation to all such Members and the Town, upon notice by Marin Sanitary Service of its intention to assign its rights hereunder and under each of its franchise agreements with the other Members, Marin Sanitary Service shall pay the sum of two hundred thousand dollars (\$200,000), escalated annually by the annual change in the Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG, with a floor of 2.5% and a cap of 5%, into an escrow account towards the total of all such costs incurred by the Town and the Members and the Town and the Members shall direct Marin Sanitary Service to pay a pro rata share of that amount to each of them with the apportionment of such payments at the sole discretion of the Town and the Members, it being understood that the Town and each Member shall address Marin Sanitary Service's request for consent to such assignment, sale or transfer on a separate basis;

- 2) MSS shall furnish the Town with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
- 3) MSS shall furnish the Town with satisfactory proof:
  - a) That the proposed assignee has at least ten (10) years of solid waste management experience including the handling of solid waste, recyclable and organic materials on a scale equal to or exceeding the scale of operations conducted by MSS under this Agreement;
  - b) That in the last five (5) years, neither the proposed assignee nor any of its affiliates have suffered significant major citations or other charges from any federal, state or local agency having jurisdiction over its waste management operations due to any significant failure to comply with state, federal or local environmental laws and that the assignee has provided the Town with a complete list of such citations and charges;
  - c) That the proposed assignee has conducted its operations in a reasonably environmentally safe and conscientious fashion;
  - d) That the proposed assignee has conducted its solid waste management practices in good faith and substantial compliance with sound waste management practices, including all federal, state and local laws regulating the collection and disposal of solid waste, including hazardous wastes; and
  - e) Provide any other available information required by Town to ensure that the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.
- (g) Under no circumstances shall the Town be obliged to consider any proposed assignment, sale or transfer by MSS if MSS is in material breach of any provision of this Agreement at the time of the request or at any time during the period of consideration of the request. The Town will provide MSS with a reasonable opportunity to be heard before the Town Council and the opportunity to correct any such claimed failure of performance or material breach.
- (h) In the case of any assignment, sale or transfer, the assignee shall not be entitled to request any adjustment in rates other than as provided under this Agreement.
- (i) A Change in Control shall occur when Joseph John Garbarino or his lineal descendants and/or the lineal descendants of Joseph and Angelina Garbarino shall cease to have the power, directly or indirectly, to control the management, operation

and policies of MSS, directly or indirectly whether through the ownership of a majority of voting securities, as trustee, by contract or otherwise.

- (j) MSS shall provide an annual written update to the Town by October 1 of each year detailing MSS's plans, actions, accomplishments and next steps with respect to its internal succession planning. MSS shall meet with the Town on request to discuss details of MSS's succession planning efforts.

9. **Exhibit A Description of Services**, is replaced in its entirety as attached hereto.

10. **Exhibit B Contractor's Compensation and Rate Adjustment**, is replaced in its entirety as attached hereto.

11. **Exhibit C Refuse Collection Rates**, is replaced in its entirety as attached hereto.

12. **Town and MSS agree and acknowledge that**, except as explicitly modified by this Amendment, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties have executed the foregoing Second Amendment to the Agreement.

Town of Fairfax,  
A municipal corporation

Marin Sanitary Service,  
a California corporation

\_\_\_\_\_  
Town Manager

\_\_\_\_\_  
President

Attest

\_\_\_\_\_  
Town Clerk

# **EXHIBIT A**

## **DESCRIPTION OF SERVICES**

### **I. GENERAL**

#### **A. Recyclable Materials Processing Facility**

MSS shall continue to provide full-service processing, marketing and sale of Recyclable Materials collected by MSS within the Town at the Recyclable Materials processing facility located at 535 Jacoby Street in San Rafael (the “Marin Recycling Center”), which is operated by MSS’s affiliated MSS, Marin Recycling & Resource Recovery Association. MSS and Town agree that the charges for rate revenues for Recyclable Materials processing to be billed by MSS as described in Exhibit B are predicated on MSS continuing to process Recyclable Materials at the Marin Recycling Center. Under no circumstances may MSS cease processing of the Recyclable Materials at the Marin Recycling facility without prior approval of the Town. MSS may temporarily ship Recyclable Materials to other processing facilities at its discretion as needed while repairs or upgrades are made to the Marin Recycling facility, but any such temporary shipment of Recyclable Materials is at MSS’s sole expense and risk without any change in the rate revenues and charges for Recyclable Materials processing via either an Indexed Year approach or a Base Year approach.

#### **B. Education, Outreach, Technical Assistance, Monitoring, Compliance Services**

MSS shall continue to provide Town with outreach, education, technical assistance, monitoring and compliance services to residents, Multi-Family dwellings and Commercial businesses. The Town and MSS intend for these services to: provide information to customers regarding the services offered by MSS as provided for via the Agreement; encourage, incentivize and maximize participation in Recycling and organics collection programs, and; implement the requirements of state laws AB 341, AB 1826, SB 1383, and any other solid waste, Recycling and organics local and/or state law requirements applicable to Town and/or MSS. The Town and MSS further intend to define specific and quantifiable performance targets and reporting requirements for these services so that the Town and MSS can accurately and consistently evaluate and monitor progress towards landfill diversion goals and state laws. To that end, the Town and MSS agree to develop standard service area wide quantitative performance targets and reporting requirements for these services. These will supplement other reporting and performance requirements in the Agreement and are not intended to change or replace them in any way.

MSS shall provide Collection services using modern automated and semi-automated equipment with MSS’s name and telephone number clearly visible from the outside of the vehicle or equipment.

MSS shall provide Carts or bins to Residential, Multi-Family, and Commercial

Customers that are clearly labeled for their allowable contents, with Solid Waste, Recyclable Materials or Organic Waste. All containers provided by MSS are the property of MSS.

MSS to provide customer billing and payment options including automatic billing, credit card billing, and online payments.

**C. Manual or Vehicle Distance Charge**

A Manual or Vehicle Distance Charge (see Exhibit C) will apply to all containers located more than five feet (5'), but less than fifty feet (50) from the curb or designated collection location. An additional distance charge will be applied to containers located more than fifty feet (50') from the curb for each additional fifty feet (50') or portion thereof, up to a maximum of three hundred feet (300'). This may be adjusted as we develop standard service area pricing.

Shared Distance Charge: If distance is traveled by the collection vehicle while performing service at more than one (1) customer in a private driveway, that distance charge will be split between the number of customers sharing that distance. If a customer on a shared driveway elects curb collection then only the remaining distance customers will share the charge.

Liability Waiver: If MSS determines that a Load Liability Waiver is required and the property owner or owner's refuses to sign a Load Liability Waiver, the garbage container(s) for those properties must be placed at the curb or designated collection location.

MSS has the sole right and ability to determine if distance collection is Manual or Vehicular.

**D. Hours of Collection**

Collection of Solid Waste, Recyclable Materials, and/or Compostables (Green Waste/Food Waste) may occur only within hours authorized by the Town. Contractor may not collect Solid Waste before 3:30 a.m.; Recyclable Material prior to 5:00 a.m.; or Compostable Waste prior to 6:00 a.m. local time or later than sunset. Town, in collaboration with MSS, reserves the right to change the hours of collection. Town Manager may allow MSS to begin collection earlier for safety reasons; provided, however, that Town Manager may in his/her sole and absolute discretion submit such a request to the Town Council for consideration. Town Manager may also request that MSS begin collection in limited areas of Town at later times. MSS shall not unreasonably deny Town Manager's request for later collection time in limited areas of Town.

MSS shall notify all affected Residential customers at least fourteen (14) calendar days prior to any change in their scheduled Solid Waste, Recyclables and/or

Compostables collection. MSS shall not permit any Residential customer to go more than seven (7) days without service. MSS shall notify all Commercial customers at least five (5) calendar days prior to any change in service. Except by prior arrangement with the Commercial customer, no change in service shall temporarily reduce the weekly frequency of collection.

## **II. RESIDENTIAL SERVICE (THREE OR FEWER UNITS IN A SINGLE STRUCTURE)**

### **A. Solid Waste**

MSS shall provide automated or semi-automated tipper Carts in 20-, 32-, 64-, and 96-gallon capacities to be placed at the curb or MSS-designated location for one time per week Collection at the rates and fees listed in Exhibit C. Carts should be placed at the designated Collection location the night before the day of service. Lids of carts must close. Customers may place additional bags not to exceed 32 gallons in size and 60 pounds by weight for a fee as listed in Exhibit C. Items placed outside the Cart or overflowing Carts will incur an additional charge as listed in Exhibit C. Carts are the property of MSS. MSS will determine the appropriate Collection location. Solid Waste placed in MSS-provided Carts or at the curb for Collection is the property of MSS. Low-income rates are available for customers who meet the PG&E CARE Program qualifications.

### **B. Recyclable Materials**

As part of the Residential Customer rates, MSS shall provide all Residential Customers with one (1) 64 or 96-gallon Split cart for Recyclable Materials with one side for paper and fiber products, and one side for acceptable glass, metal and plastic excluding polystyrene, plastic bags and compostable plastics. Acceptable materials may change depending on the markets. A full list of accepted materials is available on MSS's website ([marinsanitaryservice.com](http://marinsanitaryservice.com)). Cardboard must be broken down small enough to easily slide out of the cart. Large cardboard boxes may also be broken down and tied into 24" x 24" bundles and left beside the Recycling container. Carts must be placed at the curb or, upon approval of MSS, the designated Collection location next to their Solid Waste container for one time per week Collection by 5:00 am the day of service. All Residential Customers must be offered Recyclable Materials Collection services. Additional split carts are available for a nominal monthly fee as listed in Exhibit C.

Recyclable Materials placed in MSS-provided Carts or at the curb for Collection are the property of MSS, and the theft thereof is a crime.

### **C. Compostable (Organic) Materials (Green Waste/Food Waste)**

Beginning January 1, 2020, as part of the Residential Customer rates, MSS may provide each Residential Customer with up to (2) 32 or 64-gallon Compostable Materials Carts (the second cart is upon customer request only) to be placed at the curb or MSS-approved designated Collection location next to their Solid Waste container for one time per week Collection by 6:00 am the day of service.

Customers may also request up to four (4) additional Organic Waste Carts, at the rates specified in Exhibit C, beyond the two (2) carts included as part of the service bundle.

All Organic Waste Carts shall be placed at the curb or MSS-approved designated Collection location next to their Solid Waste container for one time per week Collection by 6:00 am the day of service. All Residential Customers must be offered Organic Waste Collection for the collection of accepted Yard Trimmings, Food Waste and Food Soiled Papers in the same Container. A full list of accepted materials is available on MSS's website (marinsanitaryservice.com).

Effective January 1, 2021, use of owner cans will be entirely discontinued. MSS provided tipper carts will be required for the weekly collection of Organic Waste. MSS Customers may request that MSS collect and recycle or properly dispose of "customer owned cans".

MSS shall inform customers of the new service changes in 2020. The Town may conduct separate accompanying outreach to residents regarding service level changes. As a part of this outreach, MSS shall:

- 1) Send direct mail letters to customers in January and June 2020 explaining new program and options to every resident in Town (direct mail);
- 2) Tag owner cans with cart hanger with new program and options; and
- 3) Provide information via bill inserts in February 2020, May 2020, August 2020 and November 2020.

**D. Notification of Improper Recycling/Organic Waste Set Out**

To improve communication between MSS route drivers and the customers, drivers will leave cart hanger notices for the customers. The most common reasons for leaving notices are:

- 1) To educate customers on proper cart placement.
- 2) To inform customers of collection polices for overweight or compacted carts and ability to rent additional Organic Waste and Recycling Carts for a nominal fee.
- 3) To educate customers about contamination.
- 4) To inform customers about the procedure for having broken carts repaired.
- 5) To document that MSS has collected extras and additional charges will be billed to the account.

**E. Additional Services**

- 1) Clean Up Programs  
MSS shall provide Residential Customers with two (2) scheduled Clean-up Collection events per calendar year for extra Solid Waste, Recyclable Materials, and/or Compostable Materials at no additional cost to the



Customers provided that MSS's costs for such events shall constitute costs of operation included in the rate base and compensated for through the rates. MSS shall also provide all Residential Customers with two (2) on-call pickups of Bulky Items per calendar year on their regularly scheduled Collection day, upon Customer request. MSS will also provide on-call Bulky Item pickups beyond two (2) per Residential Customer per calendar year for an additional fee as listed in Exhibit C. These Bulky Items may be Collected in non-compaction vehicles, or in compaction vehicles if the materials are not compacted, and taken to the Designated Processing Facility for sorting.

MSS shall schedule Clean-up Collection events in such a manner that all Residential Customers shall receive Clean-up Collection services on their regularly scheduled Collection day. Extra Solid Waste, Recyclable Materials and/or Compostable Materials can also be Collected for a fee as listed in Exhibit C in customer provided bags, not to exceed 32 gallons in size and 60 pounds by weight, when placed next to the regular container on Collection day. If an Operations Manager determines it is safe to collect overweight or oversized items, an additional fee will be charged as listed in Exhibit C to cover the cost of extra labor and/or equipment.

2) Semi-Annual Scheduled Clean-Up Service Guidelines

For each Clean-up Collection event, each Customer shall be permitted to place up to two (2) cubic yards (equivalent to fourteen (14) standard 32-gallon bags) of Solid Waste, Recyclable Materials and/or Organic Waste for Collection by MSS at no charge. In the event Customer places more than two (2) cubic yards of materials for Collection, MSS shall charge the Customer for additional Collection services as listed in Exhibit C.

MSS shall require Customers to adhere to the following guidelines:

- a. No Bulky Items will be collected.
- b. No rocks, cement, dirt or Hazardous Waste shall be accepted.
- c. Materials shall be placed in disposable bags/containers, cardboard boxes or customer owned 32-gallon cans or bags. MSS will only empty customer owned cans that are not more than 32 gallons in volume and are less than 60 pounds in weight. Recyclables and/or yard waste should be placed in paper bags or cardboard boxes to ensure they are recycled.
- d. Discarded materials to be Collected in the Clean-up event shall be placed at the designated Collection location by the Generator the night before the pickup day to ensure Collection, but in no case shall be placed more than twenty-four (24) hours prior to the pick-up day.

3) On-Call Bulky Item Service Guidelines

Each Residential Customer may call prior to their regular Collection day and schedule two (2) collections of up to two Bulky Items each per calendar year.

MSS shall require Customers to adhere to the following guidelines:

- a. Customer must call in at least 24 hours on a regular business day (excluding weekends and holidays) prior to their regular Collection day to have Bulky Items collected and give the approximate size and weight of the Item so appropriate truck, equipment and number of drivers can be determined.
- b. No more than two (2) Bulky Items will be collected.
- c. Any Bulky Item that is over 60 pounds, greater than 6 feet in length, or that cannot be collected safely by one driver-operator, will be charged an additional special handling fee as set forth in Exhibit C.

MSS may provide on-call Bulky Item pickups beyond two (2) per Residential Customer per calendar year for an additional fee as listed in Exhibit C. These Bulky Items will be Collected in non-compaction vehicles and taken to the Designated Processing Facility for sorting.

4) Low Income Service Discount

MSS shall provide low income discount service to customers with financial need. To qualify, customers must be enrolled in the PG&E CARE Residential program and provide documentation to MSS showing enrollment qualification annually.

5) Christmas Tree Collection

Christmas trees will be Collected curbside on the regularly-scheduled pickup day during a two (2) week period beginning on the Monday following the first Saturday after January 1. If trees are greater than six (6) feet in length, they must be cut in half. All metal stands, plastic tree bags, ornaments, and decorations of any sort must be removed. Flocked trees will not be accepted. Trees collected after this time period will incur a cost per tree per Exhibit C.

### **III. MULTI-FAMILY SERVICE (4 OR MORE SERVICE UNITS)**

#### **A. Solid Waste**

MSS shall provide semi-automated or automated tipper Carts in 32-, 64-, and 96-gallon capacities to be placed for Collection at the curb or, upon approval of MSS, the designated Collection location. MSS will also provide Bins with 1-6, 10-, or 18-cubic yard capacities for large volumes of material. MSS will determine the size and type of container depending on materials generated, recycled and diverted, safety, collection vehicle and service location. Service levels shall range from one time per week to six times per week but should be adequate for the volume of material generated. Lids of containers must close and should not be overflowing. Extra fees may be incurred for extra bags or overloaded bins as listed in Exhibit C. Each Multi-Family Customer must maintain a 32 gallon per living unit equivalency minimum service level, which MSS may reduce based on actual waste reduction and diversion results. MSS retains approval of all service locations for carts not at the curb and for bins. MSS shall also service Customer-owned compactor units for the fees as listed in Exhibit C. For safety and equipment purposes, MSS retains right of approval as to the type of compactor to be serviced and the service location.

#### **B. Recyclable Materials**

MSS shall provide all Multi-Family Customers with unlimited collection of acceptable glass, metal and plastic excluding polystyrene, plastic bags and compostable plastics. Acceptable materials may change depending on the markets. A full list of accepted materials is available on MSS's website ([marinsanitaryservice.com](http://marinsanitaryservice.com)). These materials will be collected in MSS provided 32 or 64-gallon color-coded tipper carts: blue for paper and paper-fiber products, and brown for accepted commingled glass, metal and plastics. Collection is available from one time per week to six times per week. Cardboard placed in carts must be broken down small enough to easily slide out of the cart. Large cardboard boxes may also be broken down and tied into 24" x 24" bundles and left beside the Recycling container. 1-2 cubic yard rear loading bins are available for large amounts of cardboard collection with MSS's approval of size and location. MSS will evaluate the appropriate container sizes on an individual customer basis. Pickups can be scheduled from one time per week to six times per week. Recyclable Materials placed in MSS-provided containers or at the curb for Collection are the property of MSS.

#### **C. Compostable (Organic Waste) Materials (Green Waste/Food Waste)**

MSS will provide post-consumer Compostable Material collection at all Multi-Family Dwellings that parallel the Single-Family Residential program. Customers will be provided up to four (4) 32- or 64-gallon tipper green carts for the collection of accepted Yard Trimmings, Food Waste and Food Soiled Paper in the same Container. A full list of accepted materials is available on MSS's website ([marinsanitaryservice.com](http://marinsanitaryservice.com)). Additional carts beyond four may be rented at a nominal monthly fee as listed in Exhibit C.

In addition, Multi-Family tenants may receive kitchen pails at no additional cost to

the tenant or property manager for the collection of Compostable Materials after participating in a MSS provided training.

**D. Notification of Improper Recycling/Organic Waste Set Out**

To improve communication between MSS route drivers and the customers, drivers will leave cart hanger notices for the customers. The most common reasons for leaving notices are:

- 1) To educate customers on proper cart placement.
- 2) To inform customers of collection polices for overweight or compacted carts and ability to rent additional Organic Waste and Recycling carts for a nominal fee.
- 3) To educate customers about contamination.
- 4) To inform customers about the procedure for having broken carts repaired.
- 5) To document that we have collected extras and additional charges will be added to the account.

**E. Additional Services**

MSS is to perform a visual waste audit at least one time per year for each Multi-Family account to provide an estimate of the amount of Recyclable Materials and Organic Waste still in the Solid Waste container to help guide the Customer in service changes to increase diversion.

MSS will provide services to comply with all local and state laws regarding Recycling and Organic Waste diversion.

On-site Collection of Solid Waste, Recyclable materials and Organic Waste carts not at the curb is available for an extra charge as set forth in Exhibit C.

During January, apartment managers/owners may schedule one collective Christmas tree pickup at no charge. Any trees collected after the scheduled collection will be considered a special pickup and a fee per tree will be applied to the monthly bill per Exhibit C.

Special pickups of Bulky Items may be requested by Multi-Family Customers for an additional fee as listed in Exhibit C, provided that such a request may only be made by the bill payer (Property Manager or Owner) and not by the occupant of an individual unit. If an individual occupant pays his or her own collection service bill, only then will they be allowed to schedule special pick-ups. MSS may provide fee estimates to Customer while scheduling the pickup. These Bulky Items may be Collected in non-compaction vehicles, or in compaction vehicles if the materials are not compacted, and taken to the Designated Processing Site for sorting resulting in greater re-use and Recycling. Extra material can be Collected for a fee as listed in Exhibit C in customer provided bags not greater than 32 gallons in size and 60 pounds by weight when placed next to the regular container on Collection day.

#### **IV. COMMERCIAL SERVICE**

##### **A. Solid Waste**

MSS shall provide semi-automated or automated tipper Carts in 32-, 64-, and 96-gallon capacities to be placed for Collection at the curb or, upon approval of MSS, the designated Collection location. MSS will also provide Bins with 1-6, 10-, or 18-cubic yard capacities for large volumes of material. MSS will determine the size and type of container depending on materials generated, recycled and diverted, safety, collection vehicle and service location. Service levels shall range from one time per week to six times per week. Each Commercial Customer must subscribe to a level of service that is adequate for the volume of material generated. Lids of containers must close and should not be overflowing. Extra fees may be incurred for extra bags or overloaded bins as listed in Exhibit C. MSS retains approval of all service locations for carts not at the curb and for bins. MSS shall also service Customer-owned compactor units for the fees as listed in Exhibit C. For safety and equipment purposes, MSS retains right of approval as to the type of compactor to be serviced and service location.

##### **B. Recyclable Materials**

MSS shall provide all Commercial Customers with unlimited collection of acceptable glass, metal and plastic bottles, jugs and containers excluding polystyrene, plastic bags and compostable plastics. Acceptable materials may change depending on the markets. A full list of accepted materials is available on MSS's website ([marinsanitaryservice.com](http://marinsanitaryservice.com)). These materials will be collected in MSS provided 32 or 64-gallon tipper carts color-coded carts: blue for paper and paper-fiber products, and brown for accepted commingled glass, metal and plastics. Collection is available from one time per week to six times per week. Cardboard placed in carts must be broken down small enough to easily slide out of the cart. Large cardboard boxes may also be broken down and tied into 24" x 24" bundles and left beside the Recycling container. 1-2 cubic yard rear loading bins are available for large amounts of cardboard collection with MSS's approval of size and location. MSS will evaluate the appropriate container sizes on an individual customer basis. Pickups can be scheduled from one time per week to six times per week. Recyclable Materials placed in MSS-provided containers or at the curb for Collection are the property of MSS.

##### **C. Compostable (Organic Waste) Materials (Green Waste/Food Waste)**

Two options are available for Commercial Business for collection of Organic materials. Both programs are offered at a discounted rate to Commercial customers as listed in Exhibit C.

###### **1) Commercial Composting**

MSS will provide post-consumer Organic Waste collection at Commercial Businesses that would parallel the Single-Family Residential program. Customers will be provided 32- or 64-gallon tipper green carts for the collection of accepted Yard Trimmings, Food Waste and Food Soiled Papers in the same Container. A full list of accepted materials is available on MSS's

website (marinsanitaryservice.com). By special request and upon approval of MSS, 1-2 cubic yard bins may be available. Larger containers may be provided on a per case basis. Monthly collection fees are listed in Exhibit C.

**2) Commercial Food to Energy (F2E) program in partnership with Central Marin Sanitation Agency**

MSS will provide restaurants, grocery stores, cafeterias, and other similar businesses with 32 and/or 64-gallon tipper dark green carts for the collection of a subset of Food Waste consisting of fruits, vegetables, meats, dairy, fish, breads, pastas and other food scraps. A full list of accepted materials is available on MSS's website (marinsanitaryservice.com). This pre-consumer Food will be anaerobically digested for energy production at Central Marin Sanitation Agency. Monthly collection fees for this service are set forth in Exhibit C.

**D. Notification of Improper Recycling/Green Waste/Food Waste Set Out**

To improve communication between MSS route drivers and the customers, drivers will leave cart hanger notices for the customers. The most common reasons for leaving notices are:

- 1) To educate customers on proper cart placement.
- 2) To inform customers of collection polices for overweight or compacted carts and ability to rent additional Organic Waste and Recycling carts for a nominal fee.
- 3) To educate customers about contamination.
- 4) To inform customers about the procedure for having broken carts repaired.
- 5) To document that we have collected extras and additional charges will be billed to the account.

**E. Additional Services**

MSS is to perform a visual waste audit at least one time per year for each Commercial Business account to provide an estimate of the amount of Recyclable Materials and Organic Waste still in the Solid Waste container to help guide the Customer in service changes to increase diversion.

MSS will provide services to comply with all state laws regarding Recycling and Organic Waste diversion.

On-site Collection of Solid Waste, Recyclable Materials and Organic Waste Carts not at the curb, is available for an extra charge as set forth in Exhibit C.

Special pickups of large, hard to handle or bulky items may be requested for an additional fee as listed in Exhibit C. Estimates can be provided. These bulky items will be collected in non-compaction vehicles and taken to the Marin Resource Recovery Center for sorting resulting in greater re-use and Recycling. Extra material can be collected for a fee as listed in Exhibit C in cans or bags not greater than 32-

gallons in size or 60 pounds by weight when placed next to the regular container on collection day.

## **V. MUNICIPAL SERVICES**

MSS shall provide service to each Town facility and those Town-owned cans in public areas and parks based upon mutually agreed upon parameters by Town and MSS. These services shall constitute costs of operation included in the rate base and compensated for through the rates of all Residential, Commercial and Multi-Family Customers. Town may request additions and/or changes to these services periodically and it is incumbent on MSS to notify Town if such changes constitute a “Change in Scope” as defined and described in Exhibit B.

### **A. Solid Waste**

MSS shall provide semi-automated or automated tipper Carts in 32-, 64-, and 96-gallon capacities to be placed for Collection at the curb or, upon approval of MSS, the designated Collection location. MSS will also provide Bins with 1-6, 10-, or 18-cubic yard capacities for large volumes of material. MSS will determine the size and type of container depending on materials generated, recycled and diverted, safety, collection vehicle and service location. Service levels shall range from one time per week to six times per week. Each Town facility must subscribe to a level of service that is adequate for the volume of material generated. Lids of containers must close and should not be overflowing. MSS retains approval of all service locations for carts not at the curb and bins. For safety and equipment purposes, MSS retains right of approval as to the type of compactor to be serviced and service location.

### **B. Recyclable Materials**

MSS shall provide all Town facilities with unlimited collection of acceptable glass, metal and plastic excluding polystyrene, plastic bags and compostable plastics. Acceptable materials may change depending on the markets. A full list of accepted materials is available on MSS’s website ([marinsanitaryservice.com](http://marinsanitaryservice.com)). These materials will be collected in MSS provided 32 or 64-gallon tipper carts color-coded carts: blue for paper and paper-fiber products, and brown for accepted commingled glass, metal and plastics. Collection is available from one time per week to six times per week. Cardboard placed in carts must be broken down small enough to easily slide out of the cart. Large cardboard boxes may also be broken down and tied into 24” x 24” bundles and left beside the Recycling container. 1-2 cubic yard rear loading bins are available for large amounts of cardboard collection with MSS’s approval of size and location. MSS will evaluate the appropriate container sizes on an individual customer basis. Pickups can be scheduled from one time per week to six times per week. Recyclable Materials placed in MSS-provided containers or at the curb for Collection are the property of MSS.

### **C. Compostable (Organic Waste) Materials**

Two options are available for Town facilities for collection of Organic materials.

**1) Composting**

MSS will provide post-consumer Organic Waste collection at Town facilities that would parallel the Single-Family Residential program. Facilities will be provided 32- or 64-gallon tipper green carts for the collection of accepted Yard Trimmings, Food Waste and Food Soiled Papers in the same Container. A full list of accepted materials is available on MSS's website (marinsanitaryservice.com). By special request and upon approval of MSS, 1-2 cubic yard bins may be available.

**2) Food to Energy (F2E) program in partnership with Central Marin Sanitation Agency**

MSS will provide Town facilities with cafeterias or other similar food service facilities with 32 and/or 64-gallon tipper dark green carts for the collection of a subset of Food Waste consisting of fruits, vegetables, meats, dairy, fish, breads, pastas and other food scraps. A full list of materials accepted is available on the website. This pre-consumer Food will be anaerobically digested for energy production at Central Marin Sanitation Agency.

**D. Municipal Facility Services**

<b>TOWN FACILITY</b>	<b>SERVICE PROVIDED</b>	<b>COLLECTION FREQUENCY</b>	<b>MATERIAL</b>
Corporation Yard	3CY Bin	Once per week	Landfill
	6CY Bin	Twice per week	Yard Waste
	10 CY Roll-off (on-call)	Not to exceed three times per week	General Dry Debris
	(6) 64G Carts	Once per week	Yard Waste
	(4) 64G Carts	Once per week	Paper
	(3) 96G Carts	Once per week	Paper
Fairfax Women's Club	(14) 64G Carts	Three times per week	Containers
	(2) 64G Carts	Once per week	Landfill
	(1) 64G Carts	Once per week	Yard Waste
	(2) 64G Carts	Once per week	Split Recycling Carts
Pavilion	Services shared with Corp Yard		
Fairfax Fire Department	Services shared with Corp Yard		
Town Hall, Police, Police Dept.	Services shared with Corp Yard		
	Battery Collection		

MSS will work with the Town to further define and formalize municipal service levels to maximize source separation (e.g., landfill bins, yard waste bins, and general debris box).



**E. Community Events**

MSS will collaborate with the Town for two (2) community events annually as detailed below. MSS will provide these services at no additional cost to the Town provided, however, that MSS's costs shall constitute costs of operation included in the rate base with compensation to MSS through the rates.

<b>EVENT</b>	<b>SERVICE</b>	<b>FREQUENCY</b>	<b>MATERIAL</b>
Fairfax Festival	Up to 30 cubic yards; Subcontract for Portable toilets	One empty per container	Cardboard, Compostables, Recyclables and Debris
Spring Take Back Day	Document shredding	Mobile Truck	Paper

- 1) Fairfax Festival
  - a. Debris box service for the collection of organics, cardboard, recycling and landfill materials.
  - b. Portable Toilets service order assistance to accommodate attendees for the two-day event; management of this service order shall transition to the Town over the next 1-2 years with support from MSS.
- 2) Spring Take Back Day
  - a. MSS will provide oversight, coordination, and direct services to support the annual Take Back Day. Direct services will consist of Document Shredding. MSS will provide coordination between other organizations/vendors for the collection of other materials which may include but not limited to medications, mattresses, and electronic wastes. MSS will assume oversight responsibility for planning and conducting the event.

In addition, MSS agrees to have an educational booth at select Town events to be determined in collaboration with MSS.

**F. Collection from Public Containers**

MSS shall Collect Discarded Materials from all street-side public litter and Recycling containers based upon mutually agreed upon parameters by Town and MSS up to 7 days per week not to exceed 70 cubic yards annually. Town shall be responsible for maintaining such containers. Public Area Collection Areas are listed below.

<b>LOCATIONS</b>
Broadway/Center (between Azalea and Pastori) including the Parkade
Mono Ave (between Bolinas and Bank Street)
Peri Park (Park Street between School St. and Bolinas)
Elsie Lane and Bank St. (between Bolinas and Broadway)
Bolinas Rd. (between Park and Broadway)

**G. Additional Services**

- 1) Illegal Dumping Clean-up  
MSS shall provide the occasional on-call pick-up of illegally dumped Discarded Materials at Town’s request. MSS shall provide such service within twenty-four (24) hours of such request, provided that the Town authorizes or directs the service so that all costs incurred by MSS in providing the service shall constitute costs of operations included in the rate base and compensated for through the rates.
  
- 2) Compost Delivery Program  
MSS shall distribute 15 cubic yards of compost four (4) times per year, at the request of the Town Manager or his/her designee. The Town shall provide a designated location and will provide a bunker.
  
- 3) Chipper Days Program  
Town shall decide on eight Saturdays for MSS to provide up to a maximum of 500 cubic yards roll-off box service on an annual basis. MSS shall also provide up to 75 cubic yards of debris box service for non-compostable yard waste (bamboo, yucca, palm and poison oak).

**H. Services Subject to Change**

Services provided by MSS are subject to “Change in Scope” as defined and described in Exhibit B to the Agreement. Town and MSS shall meet and confer to establish any such change in scope. Agreed upon changes of scope shall be effective irrespective of whether this Exhibit A – Description of Services or any other exhibits are subsequently amended to reflect such Changes in Scope.

# **EXHIBIT B**

## **MSS'S RATE REVENUE REQUIREMENT AND RATE ADJUSTMENT**

### ***Note Regarding Exhibit B***

This Exhibit B is an exhibit to the Franchise Agreement (“Agreement”) for Solid Waste, Recycling and Organic Waste Services dated January 1, 2020 between the Town of Fairfax (“Town”) and Marin Sanitary Service (“MSS”). It is intended to conform to the Agreement and related exhibits. Certain terms in this Exhibit B may not conform to the defined terms used elsewhere in the Agreement. In the event of any inconsistency between the terms of the Agreement and this Exhibit B, the terms of this Exhibit B shall control. The rates for Rate Year 2020 are as set forth in Exhibit C to the Agreement.

### **I. MSS'S RATE APPLICATION**

#### **Overview**

MSS provides Solid Waste, Recycling and Organic Waste Services to the Town of Fairfax, The Town of San Anselmo and to the members of the “Franchisors’ Group” (comprised of the cities of Larkspur, Ross and San Rafael, the Las Gallinas Valley Sanitary District and the County of Marin). Because MSS provides services and incurs related expenses that are unrelated to the Town, its revenues and expenses are allocated between the Town and these other agencies. MSS’s rates are based on its rate revenue requirement for the Rate Year<sup>1</sup> calculated in accordance with either Section II or Section III below. Because both the forecasted rate revenue requirement and the revenues from the approved rates involve assumptions about future events and because such assumptions usually differ from actual events and these differences can be material, MSS is not guaranteed a profit.

#### **MSS’s Rate Applications**

By August 1 (in a Base Year) or September 1 (in an Indexed Year), MSS shall submit an application requesting the amount of MSS’s rate revenue requirement and rate adjustment for the next Rate Year, commencing January 1 of the following calendar year. The application is prepared using either the Base Year approach (Section II) or the Indexed Year approach (Section III). In either case, the application shall be submitted in the format described in Attachment 1 of this Exhibit B. In addition to the application MSS shall provide a description and schedule of forecasted revenues and costs of new programs agreed to by MSS and the Town or proposed by MSS.

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<sup>1</sup> The Rate Year is the year for which rates are being calculated, the Current Rate Year is the year during which the rates are being calculated and the Prior Rate Year is the most recently completed Rate Year. For example, in the application for rates effective January 1, 2021 the Rate Year refers to the period from January 1, 2021 to December 31, 2021, the Current Rate Year refers to the period from January 1, 2020 to December 31, 2020 and the Prior Rate Year refers to the period from January 1, 2019 to December 31, 2019.

- A. **Base Year Application:** The Town and MSS agree to use the Base Year approach for the same Rate Years as the members of Franchisors' Group. As such, the Town agrees to abide by the time schedule for use of the Base Year approach adopted and requested by the Franchisors' Group or MSS as defined below.

Beginning with the application for the 2025 Rate Year, either MSS or the Franchisors' Group may request use of the Base Year approach, with such written request due by March 1 of the year preceding the January 1 for which rate revenues are requested to be adjusted via a Base Year approach. If no such request is made, the 2025 Rate Year application will be prepared using the Indexed Year approach (Section III). Thereafter, the Base Year approach may be requested for any succeeding Rate Year, by either MSS or the Franchisors' Group, by providing a written request as provided above. Once the Base Year approach is requested and prepared for a Rate Year, use of the Base Year approach may next be requested by either MSS or the Franchisors' Group for the fifth Rate Year following the last Base Year approach. For example, if a Base Year application is prepared for the 2027 Rate Year, either MSS or the Franchisors' Group may request use of the Base Year approach for the 2032 Rate Year. However, nothing contained herein shall prevent MSS and the Franchisors' Group from mutually agreeing to use the Base Year approach earlier than would be allowed in the schedule stated above.

The Base Year application shall be based on: MSS's actual financial results of operations for the Prior Rate Year; audited financial statements for the Prior Rate Year; year-to-date financial results of operations for the Current Rate Year; and MSS's forecasted costs for the next Rate Year. This shall be called the "Base Year Rate Revenue Requirement." The Base Year approach application's cost projections shall be directly derived from and directly reference revenues and costs by category as listed in MSS's audited financial statements such that all figures presented as the basis for MSS's application can be tied back to the financial statements for the most recently completed fiscal year preceding the given August 1 rate application due date.

In its rate application, MSS shall assemble and submit its forecasts of revenues at current rates and subscription levels (with no adjustments for bad debt or projected migration or service level changes), annual cost of operations, pass-through costs, and profit, for the coming year. MSS shall clearly explain in its rate application the method used to produce such forecasts, and such information as is necessary to support the assumptions made with regard to such forecasts (such as projected population growth or migration, service or operational changes, projected changes in tonnages, known or reasonably expected cost increases, etc.).

MSS shall provide all financial information and supporting documentation required for the completion of the Base Year approach in a format acceptable to the Town or its designated consultant in a timely manner. MSS shall allow for all required information and supporting documentation to be provided to the Town or its designated consultant via physical mail, e-mail, or any other delivery method approved by the Town, including on-site review of information at MSS's offices. MSS shall present forecasted amounts for each of the categories listed in Section II below calculated in accordance with such Section.

- B. **Indexed Year Application:** Every year that there is no use of the Base Year approach, commencing with the rate application for the 2021 Rate Year, the application shall be based on the Base Year Rate Revenue Requirement adjusted as described below. This shall be called the “Indexed Year Rate Revenue Requirement.” The Indexed Year approach is the default method for annual rate adjustments and shall continue indefinitely unless use of the Base Year approach is allowed and requested in accordance with Section I.A. above.

### **Review of Rate Application**

The Town or a consultant engaged by the Town will review MSS's rate application to ensure mathematical accuracy, conformance with this Exhibit B, reasonableness of expense and revenue projections, and to review necessary supporting documentation for figures stated by MSS in the rate application. MSS shall reimburse the Town for its proportionate share of the aggregate cost of its consultant and the consultant(s) for the members of the Franchisors' Group, not to exceed an aggregate amount of \$15,000 (for the Town and such members) for an Indexed Year application, or \$125,000 (for the Town and such members) for a Base Year application, with such limits to increase annually in accordance with the annual change in the Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG, between the Index value for June of the current year and the corresponding Index value for June of the prior year, rounded to the nearest hundredth of a percent, subject to a minimum increase of 2.5% and a maximum increase of 5%.

The amount of reimbursement for an Indexed Year application is included in the Base Year Rate Revenue Requirement for 2020, and as such the Town will be reimbursed annually up to the limit stated above (and including applied annual increase) without additional Indexed Rate Revenue Requirement amounts being necessary. If the full amount of reimbursement is not requested by the Town, then any amounts of reimbursement below the limit will be subtracted from the Rate Revenue Requirement in MSS's application (Indexed or Base Year) for the following Rate Year. For a Base Year application the amount of such reimbursement will be included in MSS's Base Year Rate Revenue Requirement.

The Town shall make its best efforts to complete the review in a timely manner so that rates may be adjusted effective January 1 of each Rate Year. If MSS submits its rate application on or before the application submittal date (August 1 or September 1, as applicable), and the Town delays approving the annual rate adjustment until after January 1 of the following Rate Year, then MSS shall be entitled to retroactively apply the rate adjustment to January 1. If MSS submits its rate application after the application submittal date (August 1 or September 1, as applicable), a retroactive adjustment will be at the discretion of the Town.

## **II. CALCULATION OF MSS'S BASE YEAR RATE REVENUE REQUIREMENT**

The Base Year application shall clearly document MSS's calculation of MSS's Base Year Rate Revenue Requirement and proposed rate adjustment based on the methodology described in this Section II. MSS's Base Year Rate Revenue Requirement shall equal the sum of the forecasted amounts set forth in this Section II, each of which shall be calculated in accordance with this Section II.

A. **Forecasted Annual Cost of Operations.**

The forecasted annual cost of operations consists of the sum of forecasted:

1. Labor expense
2. Benefits expense (including workers' compensation)
3. Garbage landfiling and Organics processing expense (including Commercial mixed waste processing expense and adjustment for the Town's transfer/transport expenses)
4. General and administrative expense (including other operating expenses)
5. Depreciation and lease expense
6. Maintenance expense (equipment and vehicles)
7. Fuel and oil expense

B. **Methodology for Forecasting Annual Cost of Operations.**

1. **Determine Actual Costs.** MSS's audited financial statement shall be reviewed to determine MSS's actual costs necessary to perform all the services in the manner required by this Agreement. MSS's auditor shall determine that costs have actually been incurred and have been assigned to the appropriate cost category as described below:
2. **Allocation of Costs.** The audited financial statements include costs of operations unrelated to the Town. These include costs reported for the following MSS's departments:

Department Number	Department Name	Part of the Town
100	Garbage Collection	Allocation
101	San Anselmo Collection	No
102	County (RVSD-N) Collection	No
103	Fairfax Collection	Yes
104	San Quentin Collection	No
200	Debris Box Collection	No
300	Transfer Station	No
400	Shop	Allocation
500	General & Administrative	Allocation
600	Recycling Collection	Allocation
700	MRRC Operations	No
800	Shredding/Street Sweeping	No

MSS shall include only costs for Department 103 - Fairfax Garbage Collection, plus allocated Shop (Department 400), General and Administrative costs (Department 500), management salaries (Department 500), Garbage Collection (Department 100), and Recycling Collection (Department 600) when performing these procedures. In allocating costs among these departments MSS shall use the following procedures.

- a. Shop costs (Department 400) shall be allocated by truck route hours.
- b. General & administrative costs (Department 500) are allocated using an average of:
  - i. Each department's percentage of projected revenue
  - ii. Each department's percentage of annual customer counts
  - iii. Each department's percentage of wages

For example:

Revenue		
Total Revenue (all departments)		\$100
Franchisors Group (Dept 100) Revenue		\$75
Franchisors Group (Dept 100) Percentage		75% <b>A</b>
Annual Customer Counts		
Total Annual Customer Counts (all departments)		100
Franchisors Group (Dept 100) Annual Customer Counts		73
Franchisors Group (Dept 100) Percentage		73% <b>B</b>
Wages		
Total Wages (all departments)		\$100
Franchisors Group (Dept 100) Wages		\$25
		25% <b>C</b>
Allocation % for General & Administrative Costs to Dept 100		58% (A+B+C)/3

- c. Management salaries (Department 500) shall be allocated based on the study completed for the Rate Year ended December 31, 2017 reporting the time spent by management related to the Town and other non-Town activities.
  - d. Garbage Collection (Department 100) shall be allocated by route hours or truck hours, as appropriate.
  - e. Recycling Collection (Department 600) shall be allocated by route hours or truck hours, as appropriate.
  - f. MSS shall identify the allocated portion of MSS's financial statement costs that are allocated to the Town.
3. **Calculate Adjusted Costs.** MSS shall adjust actual costs allocated to the Town to eliminate costs that are unnecessary or unreasonable for the performance of the services required by the Agreement. These non-allowable costs include the following:
- a. Costs of any category or type not actually incurred, not necessary for the provision of services under this Agreement or unreasonable in amount.

- b. Payments to directors and/or owners of MSS, unless paid as reasonable compensation for services actually rendered.
- c. Fines for penalties of any nature.
- d. Federal or state income taxes.
- e. Charitable or political donations.
- f. Depreciation or interest expense for collection vehicles, containers, other equipment, offices and other facilities if such items are leased from a related party at more than their actual cost.
- g. Attorneys' fees and other expenses incurred by MSS in any court proceeding in which the Town and MSS are adverse parties, unless MSS is the prevailing party in such proceeding.
- h. Attorneys' fees and other expenses incurred by MSS arising from any act or omission by MSS in violation of the Agreement.
- i. Attorneys' fees and other expenses incurred by MSS in any court proceeding in which MSS's own negligence, violation of law or regulation, or wrongdoing are at issue.
- j. Payments to related-party entities for products or services, in excess of the cost to the related-party entities for those products or services.
- k. Goodwill.
- l. Transfer and transport, disposal, and/or processing costs whose rate/ton exceeds comparable charges for the same services under the same conditions (e.g., transport distances to processing and disposal facilities) by other companies in the San Francisco Bay Area.

The Allocated Costs (from Step 2 above), adjusted for non-allowable costs (from this Step 3), shall be considered "Allowed Costs" for the purposes of forecasting costs.

- 4. **Forecasted Rate Year Allowed Cost of Operations.** The Allowed Cost of operations for the Rate Year shall be forecasted in the following manner:
  - a. **Labor expense** for the Rate Year shall be forecasted based on negotiated labor agreements for represented employees as well as reasonable wage and salary adjustments for non-represented employees. Reasonableness will be determined by such factors such as a comparison to industry standards for comparable operations in the San Francisco Bay Area.
  - b. **Benefit expense** for the Rate Year shall be forecasted based on negotiated labor agreements for represented employees, reasonable adjustments for non-represented employees, and changes in insurance premiums net of any refunds. Benefits includes workers' compensation expense, which shall be calculated by multiplying the



wages established in the Step 4.a above by the applicable premium rates from MSS's insurance carrier for the projected Rate Year.

c. **Garbage landfilling and Organics processing expense** for the Rate Year shall be forecasted in the following manner:

i. Garbage expense:

Projected Rate Year Disposal Expense = (Rate Year projected disposal tip fee per Ton) X (total annualized actual tons for the first six months of the Current Rate Year subject to reasonable adjustments for anticipated changes).

ii. Commercial mixed waste processing expense:

Projected Rate Year Processing Expense = (Rate Year projected processing fee per Ton) X (total annualized actual tons for the first six months of the Current Rate Year subject to reasonable adjustments for anticipated changes). This tonnage includes waste collected from municipal facilities, parks, cans, and illegally dumped material.

The Commercial mixed waste processing rate per ton shall be \$100.12 for the Rate Year ending December 31, 2020 and thereafter shall be adjusted annually by multiplying the Processing rate per Ton contained in the most recent Indexed Year Rate Revenue Requirement by one (1) plus the percentage change in the "Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG" between the Index value for June of the current year and the corresponding Index value for June of the prior year, rounded to the nearest hundredth of a percent.

The above rate per ton may change subject to final approval by the Franchisors' Group of MSS's pending 2020 Rate Application.

iii. Organics processing expense:

Forecasted Organics processing expense = (Organics projected processing rate per Ton as calculated below) X (annualized actual total Tons of Organics for the first six months of the Current Rate Year subject to reasonable adjustments for anticipated changes).

The Organics Processing rate per Ton shall be set at \$52.40 for the 2020 Rate Year and thereafter shall be adjusted annually by multiplying the Processing Rate per Ton contained in the most recent Indexed Year Rate Revenue Requirement by one

(1) plus the annual percentage change in the "Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG" between the average Index value for June of the current year and the corresponding Index value for June of the previous year, rounded to the nearest hundredth of a percent.

The above rate per ton may change subject to final approval by the Franchisors' Group of MSS's pending 2020 Rate Application.

iv. Food Scraps processing expense:

Forecasted Food scraps processing expense = (Food scraps projected processing rate per Ton) X (annualized actual Tons of Food scraps for the first six months of the Current Rate Year subject to reasonable adjustments for anticipated changes).

v. Transfer/transport adjustment shall be calculated in the following manner:

Forecasted Transfer/Transport Adjustment = (Transfer/Transport projected Fee per ton as calculated below) X (annualized actual total disposal Tons for the Town for the first six months of the Current Rate Year subject to reasonable adjustments for anticipated changes). The Transfer/ Fee per ton shall be \$24.12 for the 2020 Rate Year and thereafter shall be determined as part of the Base Year Rate Revenue Requirement.

The above fee per ton may change subject to final approval by the Franchisors' Group of MSS's pending 2020 Rate Application.

d. **General and administrative expense** for the Rate Year shall be forecasted based on historical costs adjusted for MSS's forecasts as approved by the Town.

e. **Depreciation and lease expense** for the Rate Year shall be forecasted based on MSS's actual depreciation, which shall reflect the retirement and addition of assets. Projected depreciation shall include anticipated purchases in the next Rate Year. The Allocation of depreciation and lease expense between the Town and other operations shall be based on truck usage.

f. **Maintenance expense** for the Rate Year shall be forecasted based on historical costs adjusted for changes in the number of equipment and vehicles to be maintained and the cost of such maintenance.

- g. **Fuel and oil expense** for the Rate Year shall be forecasted based on actual annualized costs and gallons of fuel and oil consumed for the first six months of the Current Rate Year.
- 5. **Calculated profit.** MSS's calculated profit for the Rate Year shall be forecasted by dividing the forecasted annual cost of operations (from steps 1-4 above) by 0.905 and subtracting the forecasted annual costs of operations from the dividend.
- 6. **Forecasted Other Costs.** The Other Costs for the Rate Year, which are not used for the basis of calculating MSS's Profit as described above, shall be forecasted in the following manner:
  - a. **Recyclables Net Processing Expense.** The 2020 Rate Year Recyclable Materials processing rate revenue category is set at \$69,569 and is calculated as the product of a projected 1,412 tons of Recyclable Materials to be collected by MSS from the Town in Rate Year 2020, times a net Recyclable Materials processing cost of \$49.27 per ton, which is set and shall be adjusted annually, in both Base Years and Indexed Years, as described below. Under no circumstances will MSS charge a net Recyclable Materials processing cost to the Town that would exceed the net Recyclable Materials processing cost charged by MSS or its affiliates to any other agency whose Recyclable Materials are delivered to the Marin Recycling Center.

The amounts reflected in items 6.a, 6.a.i, and 6.a.ii may change subject to final approval by the Franchisors' Group of MSS's pending 2020 Rate Application.

Recyclables Net Processing Expense shall be forecasted in the following manner:

- i. Rate Year 2020 Net Recyclable Materials Processing Cost Per Ton: The net Recyclable Materials processing cost of \$49.27 per ton is set to incentivize MSS to maximize revenues from the sale of Recyclable Materials and is calculated as the difference between the per ton Recyclable Materials processing costs (set at \$208.05 per ton for Rate Year 2020) and the per ton Recyclable Materials revenue (set at \$158.78 per ton for Rate Year 2020) for the Marin Recycling Center.

MSS's Rate Year 2020 per ton Recyclable Materials processing cost amount of \$208.05 is calculated as 90% of the projected Recyclable Materials processing cost (90% of a projected \$5,796,839 yielding \$5,217,155 in incentivized processing cost) divided by the projected total tons of Recyclable Materials processed at the Marin Recycling Center

(set at 25,077 tons for Rate Year 2020), rounded to the nearest cent. \$5,217,155 divided by 25,077 tons is \$208.05 per ton. MSS's Rate Year 2020 per ton Recyclable Materials revenue amount of \$158.78 per ton is calculated as 90% of projected Recyclable Materials sales revenues (90% of a projected \$4,424,083 yielding \$3,981,675 in Recycling revenues) divided by the projected total tons of processed Recyclable Materials (set at 25,077 tons for Rate Year 2020), rounded to the nearest cent. \$3,981,675 divided by 25,077 tons is \$158.78 per ton.

- ii. Annual Adjustments in Net Recyclable Materials Processing Cost Per Ton: The Rate Year 2020 \$5,217,155 incentivized Recyclable Materials processing cost shall increase annually by the annual change in the Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG between the Index value for June of the current year and the corresponding Index value for June of the prior year, rounded to the nearest hundredth of a percent, rounded to the nearest dollar.

For example, using the same 3.47% increase shown in Section III.A. below, the Rate Year 2021 incentivized processing cost would be \$5,398,190. That amount shall be divided by the number of all tons of Recyclable Materials processed at the Marin Recycling Center from July 1 of the Prior Rate Year through June 30 of the Current Rate Year. As a sample calculation, if the Marin Recycling Center processes 26,000 tons of Recyclable Materials between July 1, 2019 and June 30 of 2020, then MSS's Rate Year 2021 per ton Recyclable Materials processing cost would be \$5,398,190 divided by 26,000 tons, equaling \$207.62 per ton.

The Rate Year 2021 per ton Recyclable Materials revenue amount shall be calculated based on 90% of the total revenue received by the Marin Recycling Center in the categories of "Salvage Support (Processing Fee Income)", "Salvage Income (Buyback Scrap, Paper, Plastics, Aluminum, Glass)", "Redemption Income – Plastics, Aluminum, Glass (Net of Buyback Purchases)", "Sales Adjustments (Other Salvage Income)" and "Miscellaneous Income (Other Redemption Income-State)" from July 1 of the Prior Rate Year through June 30 of the Current Rate Year. The total of those revenues shall be divided by the number of all tons of Recyclable Materials processed at the Marin Recycling Center during that same time period, yielding the same number of tons as

calculated for the per ton Recyclable Materials processing cost, above. For example, using the same example of 26,000 tons from July 1, 2019 through June 30, 2020, and a placeholder example of \$4,500,000 in total revenue received in the categories stated above, MSS's Rate Year 2021 per ton Recyclable Materials revenue amount would be \$4,500,000 times 90% divided by 26,000 tons, equaling \$155.77 per ton. Based on the examples shown above, MSS's Rate Year 2021 net Recyclable Materials processing cost would be \$207.62 per ton minus \$155.77 per ton, equaling \$51.85. Notwithstanding the foregoing, (a) Salvage Income for Paper shall be reduced by non-processed paper brokerage sales for third parties, and (b) the calculation will not include income or tons from recyclable materials processed for third parties or agencies that were not customers of MSS or the Marin Recycling Center as of December 31, 2018.

- iii. Revisions to Incentivized Recyclable Materials Processing Cost: The Town and MSS agree that the methodology to incentivize MSS to maximize revenues from the sale of Recyclable Materials described herein (specifically the use of 90% of costs and 90% of revenues) is appropriate given current market conditions. However, in the event that markets for Recyclable Materials change substantially resulting in two (2) consecutive Rate Years of annual decreases or increases of 10% or greater in the total revenue received by the Marin Recycling Center in the categories of "Salvage Support (Processing Fee Income)", "Salvage Income (Buyback Scrap, Paper, Plastics, Aluminum, Glass)", "Redemption Income – Plastics, Aluminum, Glass (Net of Buyback Purchases)", "Sales Adjustments (Other Salvage Income)" and "Miscellaneous Income (Other Redemption Income-State)" between July 1 of the Prior Rate Year and June 30 of the Current Rate Year, then the Town and MSS agree to mutually consider necessary and appropriate revisions to the incentive mechanism described herein. Such revisions would be considered inasmuch as they would maintain fair and equitable cost to Town ratepayers while continuing to provide incentives for MSS to maximize efficiencies and the amount of revenue generated from the sale of Recyclable Materials. Any change in the incentive methodology as described herein would be via Amendment to the Agreement. In addition, in a Rate Year subject to a Base Year approach only, MSS may propose to update the Recyclable Materials processing cost component based on changes in its costs to process Recyclable Materials.

- b. **Forecasted Interest Expense** for the Rate Year shall be based on MSS's actual interest from its loan amortization schedules for actual and projected capital expenditures for services under this Agreement.
  - c. **Zero Waste Marin (JPA) Fees Expense** for the Rate Year shall be based on the tons collected in the Town for the period determined and rate established by the JPA.
  - d. **Forecasted Other Agency Fees Expense.** Forecasted Other Fees expense (including the Vehicle Impact Fee and additional Other Fees not based on tonnage as they may be implemented throughout the Term) for the Rate Year shall be calculated using the appropriate methodology and the forecasted values.
7. **Forecasted Revenues at Current Rates.** MSS shall provide detailed forecasts of revenues at current rates and subscription levels, with no adjustments for bad debt or projected migration or service level changes.
8. **Forecasted Other Revenues.** Forecasted other revenues for the Rate Year shall include revenues received by MSS from related and third parties from the use of assets (including but not limited to vehicles and transfer station equipment) or provision of services by employees (including but not limited to drivers, operators, and processors).
9. **Forecasted Franchise Fees Expense.** Forecasted Franchise Fees expense for the Rate Year shall be calculated by multiplying the applicable Town Franchise Fee percentage (which is set to be a percentage of gross rate revenues collected by MSS) times the projected Town revenues for the Rate Year. Projected revenues for the Rate Year are calculated by multiplying Forecasted Revenues at Current Rates (Step 7, above) times the Rate Adjustment Factor (calculated in accordance with Section II.C, below). Note that this is a circular calculation wherein: the Rate Adjustment Factor is dependent on the Total MSS's Rate Revenue Requirement (calculated in accordance with Step 10, below); the Total MSS's Rate Revenue Requirement is dependent on the Forecasted Franchise Fees; the Forecasted Franchise Fees are dependent on the Rate Year Revenues, and; the Rate Year Revenues are dependent on the Rate Adjustment Factor. Because of this circular relationship, this is best calculated using a computer which can run iterative calculations to resolve this circular reference and yield accurate calculations for each of the interdependent elements described in this Section.
10. **Forecasted Total MSS's Rate Revenue Requirement.** MSS's Total Base Year Rate Revenue Requirement necessary to perform all the services and pay all fees in the manner required by this Agreement for the Rate Year shall be equal to the sum of the following:

- a. Forecasted annual cost of operations (determined in accordance with Step 4 above); plus
- b. Profit (determined in accordance with Step 5 above); plus
- c. Forecasted Other Costs (determined in accordance with Step 6 above); plus
- d. Calculated Franchise Fees at projected Rate Year rates (determined in accordance with Step 9, above); plus or minus
- e. Starting with the 2022 Rate Year, the difference between the Prior Rate Year Rate Revenue Requirement and the total amount of MSS's billings to all Town customers during the Prior Rate Year. The Draft Rate Revenue Requirement for Rate Year 2020 is \$2,242,749. For example, if the total amount of 2020 charges billed by MSS to all Town customers is \$2,265,000 then the Rate Year 2022 Rate Revenue Requirement adjustment would be \$2,242,749 minus \$2,265,000, yielding negative \$22,251, thus decreasing the Rate Year 2022 Rate Revenue Requirement by \$22,251. Likewise, if the total amount of 2020 charges billed by MSS to all Town customers is \$2,225,000 then the Rate Year 2022 Rate Revenue Requirement adjustment would be \$2,242,749 minus \$2,225,000, yielding positive \$17,749, thus increasing the Rate Year 2022 Rate Revenue Requirement by \$17,749.

C. **Rate Adjustment Factor.** The Rate Adjustment Factor shall be calculated for the Town via the following:

1. Total Forecasted Revenues, which are calculated as the sum of Forecasted Revenues at Current Rates (Step 7, above) and Forecasted Other Revenues (Step 8, above); minus
2. The Total MSS's Rate Revenue Requirement for the coming Rate Year (inclusive of calculations of Franchise Fees and Other Agency Fees).
3. The difference between the Total Forecasted Revenues minus Total MSS's Rate Revenue Requirement will equal either a negative Shortfall (requiring a rate increase) or a positive Surplus (requiring a rate decrease).
4. The Rate Adjustment Factor is calculated by dividing the Shortfall or Surplus by Forecasted Revenues at Current Rates. For example, using overall Town amounts as shown in Attachment 1 to this Exhibit B:

**Total Forecasted Revenues** = \$2,437,901 in Revenues at Current Rates + \$0 in Forecasted Other Revenues = **\$2,437,901.**

**Surplus or Shortfall** = \$ 2,437,901 in Total Forecasted Revenues minus \$2,518,351 in Total MSS's Rate Revenue Requirement for the Rate Year = **Shortfall of \$80,450.**

**Rate Adjustment Factor** = Shortfall of \$80,450 divided by \$2,437,901 in Revenues at Current Rates = **3.30% Rate Adjustment Factor (as an increase to rates).**

- D. **Adjustment of Rates.** Each rate approved for the Current Rate Year shall be multiplied by the Rate Adjustment Factor to calculate the effective rate for the Rate Year.

### **III. DETERMINATION OF MSS'S INDEXED RATE REVENUE REQUIREMENT**

The Indexed Year application shall clearly document MSS's calculation of MSS's Indexed Year Rate Revenue Requirement and rate adjustment based on the methodology described in this Section III. MSS's Indexed Year Rate Revenue Requirement shall equal the sum of the forecasted amounts for the categories set forth in this Section III, each of which shall be calculated in accordance with the procedures set forth below. The Town and MSS have agreed after thorough review that the Rate Year 2020 monthly service rates set by the Town, described in Exhibit C to the Agreement, and charged and billed by MSS are necessary to collect rate revenues for the following rate revenue categories, yielding a Draft Rate Year 2020 Base Year Rate Revenue Requirement of \$2,242,749. Amounts shown below are 2020 totals for the Town.



**Town of Fairfax  
2020 Rate Revenues by Category  
Basis for Indexed Rate Revenue Requirement Calculation**

Rate Revenue Category	2020 Year Amounts
Collector Operations	\$ 1,329,205
Garbage Landfilling and Organics Processing	320,768
<b>Subtotal for Profit Calculation</b>	<b>\$ 1,649,973</b>
Operating Profit (90.5% Operating Ratio)	173,202
Recyclables Processing	69,569
Interest	21,154
Zero Waste Marin Fees	27,076
Franchise Fees	224,275
Other Agency Fees (VIF)	77,500
<b>Total 2020 Rate Revenue Requirement</b>	<b>\$ 2,242,749</b>

A. **Collector Operations**. The Collector Operations rate revenue category for the Rate Year consists of the sum of the following categories as described below:

1. Labor expense
2. Benefits expense
3. General and administrative expense
4. Depreciation and lease expense
5. Maintenance expense
6. Fuel and oil expense

The Collector Operations rate revenue category increases annually from the Prior Rate Year, whether such category for the Prior Rate Year was determined by the Base Year approach or the Indexed Year approach, by the percentage change in the Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG, subject to a minimum increase of 2.5% and a maximum increase of 5.0%. The percentage change is

calculated by dividing the Index value for June of the current year by the Index value for June of the prior year, rounded to the nearest hundredth of a percent.

For example, the Rate Year 2021 Collector Operations rate revenue category shall be the product of the Draft 2020 Collector Operations rate revenue category of \$1,329,205 times the Index value in June of 2020 divided by the Index value in June of 2019 (which was 244.505), rounded to the nearest dollar. If the Index value in June of 2020 is 253.00, then the Rate Year 2021 Collector Operations rate revenue category shall equal \$1,329,205 times 253.00 divided by 244.505, which is \$1,375,386 (a 3.47% increase over the Prior Rate Year).

- B. **Garbage Landfilling and Organics Processing.** The Rate Year 2020 Garbage Landfilling and Organics processing rate revenue category is set at \$320,768 and is calculated based on the sum of the products of the projected Rate Year 2020 Town tons and the per ton tipping fees for the following categories: Residential garbage, Residential green waste/organics, Commercial garbage, Commercial mixed waste for processing, Commercial food scraps, Town waste delivered to MSS and Town clean-ups collected by MSS. This sum is increased by the product of the projected Rate Year 2020 Town transfer station tons times the per ton charge for transfer and hauling of those tons.

The total of the above for Rate Year 2020 is \$320,768. The specific tons and per ton rates used for the basis of the Rate Year 2020 calculation are shown below.

Type	Tons	Rate per Ton	Amount
Residential garbage	1,229.2	\$59.86	\$73,580
Commercial garbage	1,157.9	\$59.86	\$69,312
Commercial mixed waste	255.3	\$100.12	\$25,561
Organics/yard waste	1,747.3	\$52.40	\$91,559
Commercial food scraps	130.9	\$24.29	\$3,179
Subtotal	4,520.6		\$263,191
Transfer/transport adjustment for Town T/S volume	2,387.1	\$24.12	\$57,577
<b>Garbage Landfilling and Organics Processing</b>			<b>\$320,768</b>

The above amounts may change subject to final approval by the Franchisors' Group of MSS's pending 2020 Rate Application.

MSS shall use the same methodology to calculate the Garbage Landfilling and Organics Processing revenue category amount for each Rate Year after the 2020 Rate Year by using the annualized actual tons by category shown above for the first six months of the Current Rate Year subject to reasonable adjustments for anticipated

changes as the basis for projecting tons for the coming Rate Year. For example, MSS shall use tons in the above categories from January 1, 2020 to June 30, 2020 as the basis for projecting tons for Rate Year 2021, and so forth. MSS shall multiply the projected tonnages by the actual per ton tipping fees for each category for the coming Rate Year, if available; if actual per ton tipping fees for the coming year are not available for any category, then MSS will project the coming year per ton tipping fees for such categories by increasing the actual per ton tipping fee in the Current Rate Year by the annual percentage change in the Consumer Price Index for Water and Sewer and Trash Collection, U.S. city average, Bureau of Labor Statistics Series I.D. CUSR0000SEHG between the Index value for June of the current year and the corresponding Index value for June of the prior year, rounded to the nearest hundredth of a percent, subject to a minimum increase of 2.5% and a maximum increase of 5.0%.

- C. **Collector Profit.** The Collector Profit rate revenue category is calculated based on the sum of the Collection Operations (per Section III.A. above) and Garbage Landfilling and Organics Processing (per Section III.B. above) for the Rate Year, divided by 0.905 and subtracting the same sum, rounded to the nearest dollar. For example, if the sum of Collector Operations and Garbage Landfilling and Organics Processing for the Rate year is \$1,700,000 then the Collector Profit rate revenue category shall be \$1,700,000 divided by 0.905 (yielding \$1,878,453), minus \$1,700,000, equaling \$178,453.
- D. **Recyclable Materials Processing.** The Recyclable Materials Processing rate revenue category for each Rate Year shall be calculated in accordance with Section II.B.6.a. above.
- E. **Interest.** The Interest rate revenue category shall be increased in the same manner as Collector Operations, in accordance with Section III.A. above.
- F. **Franchise Fees.** The Forecasted Franchise Fees category for the Rate Year shall be calculated in accordance with Section II.B.9. above.
- G. **Other Agency Fees.** The Forecasted Other Agency Fees category (including the Vehicle Impact Fee and additional Other Fees as they may be implemented throughout the Term) for the Rate Year shall be calculated in accordance with Section II.B.6.d. above.
- H. **Zero Waste Marin (JPA) Fees.** The Zero Waste Marin (JPA) Fees category amount for each Rate Year shall be calculated based on the amounts of Zero Waste Marin (JPA) Fees in the Current Rate Year times the percentage increase in Zero Waste Marin (JPA) Fees to be paid by MSS in the Rate Year.
- I. **Annual Rate Revenue Reconciliation.** The annual rate revenue reconciliation for each Rate Year shall be calculated in accordance with Section II.B.10.e. above.
- J. **Collector's Total Rate Revenue Requirement for Rate Year.** Collector's Total Rate Revenue Requirement for the Rate Year shall be equal to the sum of the amounts calculated in accordance with subsections A through I of this Section III.
- K. **Rate Adjustment Factor.** The Rate Adjustment Factor for the Rate Year shall equal the Total Rate Revenue Requirement (inclusive of calculations of Franchise Fees and

Other Agency Fees) for the Rate Year divided by the Total Rate Revenue Requirement for the Current Rate Year, rounded to the nearest hundredth of a percent. For example, if the 2021 Total Rate Revenue Requirement, calculated in accordance with subsections A through J, above, is \$2,320,000, then dividing that amount by the Draft Rate Year 2020 total Rate Revenue Requirement of \$2,242,749 yields a Rate Adjustment Factor, effective January 1, 2021, of an increase of 3.44% overall for the Town.

- L. **Adjustment of Rates.** Each rate approved for the Current Rate Year shall be multiplied by the Rate Adjustment Factor to calculate the effective rate for the Rate Year.

#### **IV. RATES FOR CHANGES IN SCOPE, CHANGES IN LAW, CHANGES IN FEES, EXTRAORDINARY COSTS**

In the event of any Change in Scope or Change in Law (each as described below) that results in an increase or decrease in MSS's costs or revenues, in the event of an Extraordinary Cost Increase (as defined below), or in the event of any Change in Fees (as described below), an appropriate adjustment will be made in the rates in order to compensate, to the maximum extent possible, for such increase or decrease in costs, revenues or Fees, commencing from the date(s) such increase or decrease first occurs while maintaining MSS's Profit (as defined in this Exhibit B). Any rate adjustment due to a Change in Scope, a Change in Law or an Extraordinary Cost Increase shall be in the reasonable discretion of the Town.

"Change in Scope" shall mean any change in the services provided by MSS under the Agreement, whether proposed by MSS or by the Town.

"Change in Law" shall mean the enactment, adoption, promulgation, issuance, modification or written change in any law, regulation, order or judgment of any governmental body that affects MSS's performance of services under the Agreement or under any Other Franchise Agreement, including, without limitation, the issuance of final regulations under existing laws, such as SB 1383.

"Change in Fees" shall mean any change in Franchise Fees, vehicle impact fees and other fees charged to MSS by any governmental agency in connection with the services provided by MSS under the Agreement or any Other Franchise Agreement, including, without limitation, Franchise Fees, Other Agency Fees, Zero Waste Marin (JPA) Fees, the cancellation of any existing fees, and the adoption of any new fees.

"Extraordinary Cost Increase" shall mean a substantial increase in MSS's operating or capital costs or expenses that is outside of MSS's control but not due to a Change in Scope or Change in Law.

In the case of a Change in Scope, a Change in Law or an Extraordinary Cost Increase, MSS shall provide the Town with projected operational, cost and revenue data reflecting the entire financial effect of such Change or Increase, including any change in MSS's Profit. The Town reserves the right to require that MSS supply any additional operational, cost and revenue data, or any other information it may reasonably need, to ascertain the appropriate financial

impact of the Change or Increase and any necessary adjustment to rates resulting from such Change or Increase.

Rate adjustments for a qualifying Change in Scope or Change in Law, for a Change in Fees, or for an Extraordinary Cost Increase shall take effect as of the beginning of the next Rate Year; provided, however, that, in the case of any Change in Fees charged by the Town, the rate adjustment shall take effect as of the effective date of such Change in Fees. The underlying service, cost, revenue or Fee changes supporting any rate adjustment under this Section IV will be added to the appropriate category under Sections II and III above for purposes of future rate adjustments.

Any rate adjustment under this Section IV that results from a Change in Scope, Change in Law, Change in Fees or Extraordinary Cost Increase may be imposed on only the rate-payers of the Town in amounts necessary to compensate MSS for the financial effects of such Change or Increase.

**Attachment 1 to Exhibit B: Sample Format of Rate Application: Base Year Application  
Marin Sanitary Service  
2025 Base Year Rate Application**

<b>2025 Operating Expense</b>	
Labor	\$573,546
Benefits	371,354
Garbage Landfilling and Organics Processing	379,879
Maintenance	147,354
Depreciation and Leases	142,546
Fuel and Oil	124,587
General and Administrative	91,234
<b>2025 Operating Expense (Subject to Profit)</b>	<b>\$ 1,830,500</b>
<b>2025 Revenue Requirement</b>	
2025 Operating Expense (Subject to Profit)	\$ 1,830,500
Operating Profit (90.5% Operating Ratio)	192,152
Recyclables Processing	81,579
Interest	25,678
Zero Waste Marin Fees	38,407
2023 Rate Revenue Requirement Adjustment	8,700
<b>2025 Revenue Requirement</b>	<b>\$ 2,177,016</b>
<b>2025 Pass Through Costs</b>	
Projected 2025 Franchise Fees	\$ 251,835
Vehicle Impact and Street Sweeping Fees	89,500
<b>Projected 2025 Pass Through Costs</b>	<b>\$ 341,335</b>
<b>2025 Revenue Requirement</b>	
2025 Revenue Requirement	\$ 2,177,016
2025 Pass Through Costs	341,335
<b>2025 Revenue Requirement</b>	<b>\$ 2,518,351</b>
<b>2025 Revenue Shortfall at Current 2024 Rates</b>	
Rate Revenue at Current 2024 Rates	\$ 2,437,901
Other Revenue	-
<b>2025 Total Revenue at Current 2024 Rates</b>	<b>\$ 2,437,901</b>
Less: 2025 Revenue Requirement	(2,518,351)
<b>2025 Revenue less 2025 Rate Revenue Requirement</b>	<b>\$ (80,450)</b>
2025 Rate Increase Percentage	3.30%
<b>2025 Revenues after Rate Adjustment</b>	
Calculated 2025 Rate Revenue	\$ 2,518,351
Other Revenue	-
<b>Projected 2025 Revenue at Adjusted Rates</b>	<b>\$ 2,518,351</b>
<b>2025 Revenue Requirement</b>	<b>\$ 2,518,351</b>

**Attachment 2 to Exhibit B: Sample Format of Rate Application: Indexed Year Application**

**EXAMPLE 2021 Indexed Rate Adjustment Calculation**

<b>Rate Revenue Category</b>	<b>2021 Year Amounts</b>
Collector Operations	\$ 1,388,831
Garbage Landfilling and Organics Processing	331,589
Subtotal for Profit Calculation	\$ 1,720,420
Operating Profit (90.5% Operating Ratio)	180,597
Recyclables Processing	74,352
Interest	21,889
Zero Waste Marin Fees	28,932
Franchise Fees	233,743
Other Agency Fees (VIF)	77,500
Total 2021 Rate Revenue Requirement	\$ 2,337,433
Total 2020 Rate Revenue Requirement	\$ 2,242,749
2021 Rate Revenue Adjustment	4.22%

**EXHIBIT C**  
**TOWN OF FAIRFAX**  
**CUSTOMER RATES FOR SOLID WASTE,**  
**RECYCLABLE, AND ORGANIC WASTE COLLECTION**

TOWN OF FAIRFAX	RESIDENTIAL COLLECTION RATES				Rate Increase
					4.94%
					Effective 1/1/2020
<b>RECURRING CHARGES</b>	<i>Residential Service (Bundled service includes 1 landfill (garbage) cart, 2 organic waste carts*, 1 Recycling split cart)</i>				
	Weekly Service Rates (Billed Quarterly)	2020 Flat Rate		2020 Hill Rate	
		Monthly Rate	Quarterly Rate	Monthly Rate	Quarterly Rate
	20 gallon cart	\$35.69	\$107.07	\$41.66	\$124.98
	32 gallon cart	\$42.78	\$128.34	\$49.98	\$149.94
	64 gallon cart	\$85.58	\$256.74	\$99.97	\$299.91
	96 gallon cart	\$128.36	\$385.08	\$149.95	\$449.85
	Low income – 20 gal cart**	\$28.55	\$85.65	\$33.33	\$99.99
	Low income – 32 gal cart**	\$34.22	\$102.66	\$39.98	\$119.94
	Low income – 64 gal cart**	\$68.46	\$205.38	\$79.98	\$239.94
	Additional Organic Waste Cart Rental (35 or 64 gallon cart, up to 4 total carts)	\$2.26	\$6.78	\$2.26	\$6.78
	Additional Split Cart Rental (64 or 96 gallon cart)	\$2.26	\$6.78	\$2.26	\$6.78
	Additional Monthly Charges	Monthly Fee (per cart, each way)	Quarterly Fee		
	Distance 5' - 50'	\$6.39	\$19.17		
Distance Over 50'	\$12.71	\$38.13			

\*2<sup>nd</sup> organics waste cart is available upon request by customer only.

\*\*Must meet PG&E CARE program eligibility requirements. 20% discount on regular rates.

NOTE: MSS may not be able to accommodate any collection requests NOT at the curb due to a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.



ONE TIME SERVICE FEES	<b>Residential Additional Service Fees per Occurrence</b>	<b>Fee</b>
	Return Fees - Off day	\$25.00
	Return Fees - Same day	\$10.00
	Resume Service/Late Fee	\$35.00
	Contamination (cart) any size cart	\$30.00
	Overload/Overweight (cart)	\$25.00
	Extra bag garbage	\$15.00
	Extra bag yard waste	\$10.00
	Steam Clean (cart)	\$15.00
	Special Collection	\$35.00
	Special Handling (Bulky items)	\$30.00
	Bulky item fees per item	Fees Vary
	Cart Strap Set-up Admin Fee	\$25.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
	96 Gal Cart Replacement Fee	\$75.00
64 Gal Split Cart Replacement Fee	\$90.00	
96 Gal Split Cart Replacement Fee	\$100.00	

TOWN OF FAIRFAX		COMMERCIAL COLLECTION RATES					4.94% Increase Effective 01/01/20	
RECURRING CHARGES	Commercial Cart, Bins, and Roll-Offs	Collections per Week						Additional 1 Time Empty
	Garbage	1	2	3	4	5	6	
	20 gallon cart*	\$42.89	\$85.78	\$128.67	\$171.56	\$214.45	\$257.34	\$9.90
	32 gallon cart	\$50.46	\$100.92	\$151.38	\$201.84	\$252.30	\$302.76	\$11.64
	64 gallon cart	\$100.92	\$201.84	\$302.76	\$403.68	\$504.60	\$605.52	\$23.29
	96 gallon cart	\$151.38	\$302.76	\$454.14	\$605.52	\$756.90	\$908.28	\$34.93
	1 yard bin	\$251.56	\$423.81	\$595.85	\$768.22	\$940.41	\$1,112.58	\$58.05
	2 yard bin	\$420.59	\$745.25	\$1,069.78	\$1,394.37	\$1,719.16	\$2,043.69	\$97.06
	3 yard bin	\$589.76	\$1,066.84	\$1,543.77	\$2,020.85	\$2,497.65	\$2,888.16	\$136.10
	4 yard bin	\$841.53	\$1,553.14	\$2,198.84	\$2,844.54	\$3,490.23	\$4,135.92	\$194.20
	5 yard bin	\$950.02	\$1,735.13	\$2,487.47	\$3,239.79	\$3,992.16	\$4,744.48	\$219.24
	6 yard bin	\$1,058.50	\$1,917.12	\$2,776.08	\$3,635.05	\$4,494.09	\$5,353.05	\$244.27
	10 yard roll-off	\$1,764.17	\$3,195.19	\$4,626.80	\$6,058.42	\$7,490.14	\$8,921.76	\$407.12
	18 yard roll-off	\$3,175.51	\$5,751.34	\$8,328.25	\$10,905.15	\$13,482.26	\$16,059.17	\$732.81
	20 yard roll-off	\$3,528.33	\$6,390.38	\$9,253.61	\$12,116.83	\$14,980.29	\$17,843.51	\$814.23
	25 yard roll-off	\$4,410.42	\$7,987.98	\$11,567.01	\$15,146.04	\$18,725.37	\$22,304.40	\$1,017.79
	Organic Waste Cart (F2E or Compost)	1	2	3	4	5	6	Additional 1 Time Empty
	32 gallon	\$19.70	\$39.40	\$59.10	\$78.80	\$98.50	\$118.20	\$4.55
	64 gallon	\$39.39	\$78.78	\$118.17	\$157.56	\$196.95	\$236.34	\$9.09
	1 yard	\$137.61	\$275.22	\$412.83	\$550.44	\$688.05	\$825.66	\$31.76
	2 yard	\$275.22	\$550.44	\$825.66	\$1,100.88	\$1,376.10	\$1,651.32	\$63.51
	3 yard	\$412.82	\$825.64	\$1,238.46	\$1,651.28	\$2,064.10	\$2,476.92	\$95.27
	10 yard roll-off	\$1,234.91	\$2,469.82	\$3,704.73	\$4,939.64	\$6,174.55	\$7,409.46	\$284.98
	18 yard roll-off	\$2,222.84	\$4,445.68	\$6,668.52	\$8,891.36	\$11,114.20	\$13,337.04	\$512.96
	20 yard roll-off	\$2,469.83	\$4,939.66	\$7,409.49	\$9,879.32	\$12,349.15	\$14,818.98	\$569.96
	25 yard roll-off	\$3,087.28	\$6,174.56	\$9,261.84	\$12,349.12	\$15,436.40	\$18,523.68	\$712.45
	Garbage Compactors (Per empty)							
	Roll-off Compactor Tipping fee per ton	\$167.80		Roll-off Compactor Hauling charge		\$214.40		
	Stationary FL (Per Compacted Yard)	\$108.50		Roll-off Compactor Special handling		Rates Vary		
	Other Charges	Service		Fee		Details		
		Lock		\$25.00		Monthly fee		
		Box rental		Fees Vary		Min. Bi-monthly fee		
		Distance < 50ft		\$6.39		Monthly fee per cart, each way		
		Distance > 50ft		\$12.71		Monthly fee per cart, each way		

\*Customers must have a sufficient level of service for the volume of material generated. Requests for 20-gallon carts require assessment and approval of a Route Manager.

NOTE: All container types and size may not be available at all locations depending on a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.

ONE TIME SERVICE FEES	<b>Commercial Additional Service Fees per Occurrence</b>	
		<b>Fee</b>
	Return Fee - BIN	\$75.00
	Return Fee - CART -same day	\$10.00
	Return Fee - CART -off day	\$25.00
	Late Fee/Resume Service Fee	\$35.00
	Contamination (BIN)	\$50.00
	Contamination (CART)	\$30.00
	Overload/Compaction (BIN)	\$60.00
	Overload/Compaction (CART)	\$25.00
	Extra Bag Garbage	\$15.00
	Additional Empty BIN	Fees vary
	Extra Bag Yard Waste	\$15.00
	Steam Clean (1-6 yard BIN)	\$95.00
	Steam Clean (CART)	\$15.00
	Steam Clean (COMPACTOR/ROLL-OFF)	\$225.00
	Lock Set-up Admin Fee	\$25.00
	Lock Single Use Fee	\$5.00
	Lock Purchase Fee	\$20.00
	Lock Bar Bin Set-up Fee	\$75.00
	Overweight Charge Per Ton*	\$205.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
96 Gal Cart Replacement Fee	\$75.00	
64 Gal Split Cart Replacement Fee	\$90.00	
96 Gal Split Cart Replacement Fee	\$100.00	
Bin Repair/Replacement Fee**	Fees vary	

TOWN OF FAIRFAX		MULTI-FAMILY COLLECTION RATES						4.94% Increase Effective 01/01/20
<b>RECURRING CHARGES</b>	MFD Carts, Bins, Roll-Offs	<i>Collections per Week</i>						Additional 1 Time Empty
	Garbage	1	2	3	4	5	6	
	20 gallon cart*	\$36.36	\$72.72	\$109.08	\$145.44	\$181.80	\$218.16	\$8.39
	32 gallon cart	\$42.78	\$85.56	\$128.34	\$171.12	\$213.90	\$256.68	\$9.87
	64 gallon cart	\$85.58	\$171.16	\$256.74	\$342.32	\$427.90	\$513.48	\$19.75
	96 gallon cart	\$128.36	\$256.72	\$385.08	\$513.44	\$641.80	\$770.16	\$29.62
	1 yard bin	\$251.56	423.81	\$595.85	\$768.22	\$940.41	\$1,112.58	\$58.05
	2 yard bin	\$420.59	\$745.25	\$1,069.78	\$1,394.37	\$1,719.16	\$2,043.69	\$97.06
	3 yard bin	\$589.76	\$1,066.84	\$1,543.77	\$2,020.85	\$2,497.65	\$2,888.16	\$136.10
	4 yard bin	\$841.53	\$1,553.14	\$2,198.84	\$2,844.54	\$3,490.23	\$4,135.92	\$194.20
	5 yard bin	\$950.02	\$1,735.13	\$2,487.47	\$3,239.79	\$3,992.16	\$4,744.48	\$219.24
	6 yard bin	\$1,058.50	\$1,917.12	\$2,776.08	\$3,635.05	\$4,494.09	\$5,353.05	\$244.27
	10 yard roll-off	\$1,764.17	\$3,195.19	\$4,626.80	\$6,058.42	\$7,490.14	\$8,921.76	\$407.12
	18 yard roll-off	\$3,175.51	\$5,751.34	\$8,328.25	\$10,905.15	\$13,482.26	\$16,059.17	\$732.81
	20 yard roll-off	\$3,528.33	\$6,390.38	\$9,253.61	\$12,116.83	\$14,980.29	\$17,843.51	\$814.23
	25 yard roll-off	\$4,410.42	\$7,987.98	\$11,567.01	\$15,146.04	\$18,725.37	\$22,304.40	\$1,017.79
	Organic Waste Cart	1	2	3	4	5	6	Additional 1 Time Empty
	Additional Organic Waste Cart Rental (35 gallon cart) after 4 total carts.	\$2.26	N/A	N/A	N/A	N/A	N/A	N/A
	Additional Organics Waste Cart Rental (64 gallon cart) after 4 total carts.	\$2.26	N/A	N/A	N/A	N/A	N/A	N/A
	1 yard	\$137.61	\$275.22	\$412.83	\$550.44	\$688.05	\$825.66	\$31.76
2 yard	\$275.22	\$550.44	\$825.66	\$1,100.88	\$1,376.10	\$1,651.32	\$63.51	
3 yard	\$412.82	\$825.64	\$1,238.46	\$1,651.28	\$2,064.10	\$2,476.92	\$95.27	
Garbage Compactors (Per empty)								
Roll-off Compactor Tipping fee per ton	\$167.80			Roll-off Compactor Hauling charge	\$214.40			
Stationary FL (Per Compacted Yard)	\$108.50			Roll-off Compactor Special handling	Rates Vary			
Other Charges	<b>Service</b>			<b>Fee</b>		<b>Details</b>		
	Lock			\$25.00		Monthly fee		
	Box rental			Fees Vary		Min. Bi-monthly fee		
	Distance < 50ft			\$6.39		Monthly fee per cart, each way		
Distance > 50ft			\$12.71		Monthly fee per cart, each way			

\*Minimum service level is 32 gallons per unit or equivalent volume. Decrease to 20 gallon per unit is subject to MSS review and approval.

NOTE: Up to four (4) Organic Waste carts provided at no additional charge. Additional carts may be rented for a nominal monthly fee.

NOTE: All container types and sizes may not be available at all locations depending on a variety of factors including safety, accessibility, and efficiency.

	<b>MFD Additional Service Fees per Occurrence</b>	
		<b>Fee</b>
<b>ONE TIME SERVICE FEES</b>	Return Fee - BIN	\$75.00
	Return Fee - CART -same day	\$10.00
	Return Fee - CART -off day	\$25.00
	Late Fee/Resume Service Fee	\$35.00
	Contamination (BIN) Per Yard	\$50.00
	Contamination (CART)	\$30.00
	Overload/Compaction (BIN)	\$60.00
	Overload/Compaction (CART)	\$25.00
	Additional Empty Bag	\$15.00
	Extra Bag Yard Waste	\$15.00
	Additional Empty Garbage	Fees vary
	Steam Clean (BIN)	\$95.00
	Steam Clean (CART)	\$15.00
	Steam Clean (COMPACTOR/ROLL-OFF)	\$225.00
	Lock Set-up Admin Fee	\$25.00
	Lock Single Use Fee	\$5.00
	Lock Purchase Fee	\$20.00
	Lock Bar Bin Set-up Fee	\$75.00
	Overweight Charge Per Ton*	\$205.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
	96 Gal Cart Replacement Fee	\$75.00
	64 Gal Split Cart Replacement Fee	\$90.00
	96 Gal Split Cart Replacement Fee	\$100.00
	Bin Repair/Replacement Fee**	Fees vary

**CONTRACT BETWEEN THE TOWN OF FAIRFAX  
AND  
MARIN SANITARY SERVICE**

THIS CONTRACT is made and executed as of December 1, 2011, by and between the TOWN OF FAIRFAX, a municipal corporation, hereinafter referred to as "Fairfax" or "Town," and MARIN SANITARY SERVICE, a California corporation, hereinafter referred to as "MSS" or "Contractor."

**RECITALS**

- A. Previously, Fairfax and FAIRFAX GARBAGE DISPOSAL entered into a contract dated April 19, 1993 (the "1993 Agreement"), providing for the exclusive right of collection, removal and disposal of garbage within the Town of Fairfax; and
- B. The 1993 Agreement was duly extended such that the term thereof is now scheduled to terminate on June 30, 2013; and
- C. The 1993 Agreement was duly transferred, approved by the Town, and assigned to MARIN SANITARY SERVICE on March 10, 2004; and
- D. MSS has, since said transfer, satisfactorily performed all of the duties imposed upon it by the 1993 Agreement; and
- E. Fairfax wishes to modify the 1993 Agreement to enhance recycling within the Town, support the Zero Waste resolution enacted by the Town Council, and meet Zero Waste Goals established by the Town; and
- F. Fairfax and MSS now desire to enter into this contract with MSS, which shall replace and supersede the 1993 Agreement and all previous amendments and modifications thereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

SECTION 1. DEFINITIONS. As used throughout this contract, it is understood by the parties that the following terms shall have the meanings set forth below:

- (a) "E-Waste" means electronic devices that are presumed to be hazardous wastes and that are "covered electronic device[s]" pursuant to chapter 8.5 of part 3 of division 30 of the Public Resources Code section 42460 et seq., if they have a viewable screen size [as defined in sec. 66260.201, (b)(3)(C)] greater than four inches, unless it is determined that the electronic device is not a hazardous waste pursuant to the procedures set forth in section 66262.11. The hazardous characteristic that serves as a basis for identifying electronic devices is toxicity. E-Waste includes, but is not limited to, the following:

**ATTACHMENT C**

- (1) Cathode ray tube (CRT)-containing devices (CRT devices);
- (2) CRTs;
- (3) CRT-containing computer monitors;
- (4) Liquid crystal display (LCD)-containing laptop computers;
- (5) LCD-containing desktop monitors;
- (6) CRT-containing televisions;
- (7) LCD-containing televisions (excluding LCD projection televisions);
- (8) Plasma televisions (excluding plasma projection televisions); and
- (9) Portable DVD players with LCDs.

(b) “Green Waste/Food Waste” means a subset of organic Recyclable Materials consisting of, but not limited to, grass cuttings, weeds, leaves, pruning’s, branches, dead plants, brush, tree trimmings, dead trees (not more than six (6) inches in diameter), meat and poultry, dairy products, cooking oils and grease, fruit, vegetables, egg shells, coffee grounds, tea bags, pizza boxes, all paper plates, napkins, waxed paper and waxed cardboard, paper towels, and similar materials generated at residential, commercial or industrial properties within the Town, separated and set out for collection, processing, and recycling. Green Waste does not include materials such as, but not limited to, brick, rock, and gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil and wood or sod products. Palm fronds and diseased plants and trees are also excluded from Green Waste.

(c) “Recycling” is a subset of Solid Waste and means the collection of Recyclable Materials which would otherwise be discarded without receiving compensation and returning them to the economy in the form of raw materials for new, reused, or reconstituted products in compliance with AB 939 diversion requirements.

(d) “Recyclable Materials” means segregated residential, commercial or industrial by-products of some potential economic value, set aside, handled, packaged, or offered for collection in a manner different from refuse. Recyclable Materials include, but are not limited to, paper, glass, cardboard, plastics, ferrous metal, aluminum and green waste.

(e) “Solid Waste” means waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, § 40191 and includes all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes. For the purposes of this Agreement, “Solid Waste” does not include abandoned vehicles and parts thereof, Hazardous Waste, Radioactive waste, or Medical Waste.

SECTION 2. TERM. The term of this contract shall commence on December 1, 2011, and shall continue through November 30, 2021. An additional five (5) year term extension shall be granted to MSS upon expiration of this contract, in 2021, provided that both parties hereto consent in writing thereto. Fairfax and MSS shall enter into discussions concerning extension of this contract, prior to the expiration of the initial term of this contract in sufficient advance time so as to allow a determination on whether to extend this contract for the additional five (5) year period specified herein. The parties will have an obligation to negotiate in good faith for a reasonable time regarding an extension, but each party shall retain the discretion as to whether it wishes to extend the contract. The 1993 Agreement is hereby terminated as of December 1, 2011.

SECTION 3. PERFORMANCE.

(a) General Description of Services.

(1) MSS shall, during the term of this contract, and any extension thereof, perform all services required of it by the provisions of the Municipal Code of the Town of Fairfax relating to Solid Waste, Recyclable Materials and Green Waste/Food Waste collection, processing and disposal. Fairfax agrees, through its officers and agents, to require residents and business owners of the Town of Fairfax to comply with the terms and provisions of this contract insofar as the collection and removal of Solid Waste, Recyclable Materials and Green Waste/Food Waste are concerned.

(2) MSS shall conduct its Solid Waste collection, Recycling and Green Waste/Food Waste business in the Town of Fairfax in compliance with all California State laws and applicable sanitation regulations, health laws, and ordinances of the Town of Fairfax now in force or which may be adopted at any time during the term of this contract or any extension hereof, and in accordance with good business practices and methods customary in the conduct of such business.

(3) The services to be provided by MSS hereunder are further described in Exhibit A which is attached hereto and expressly made a part of this contract. Exhibit A may be amended as agreed to by both MSS and the Town. MSS and the Town shall meet no less frequently than annually to discuss proposed changes to the services provided hereunder and other matters covered under this Agreement. MSS shall report to the Town no less frequently than annually on advancements in technology regarding services provided under this Agreement.

(4) MSS shall have no obligation to collect, remove or dispose of Solid Waste or Recyclable Materials or Green Waste/Food Waste from any premises if the owner or resident of said premises is in arrears in the payment of Town approved Solid Waste removal charges.

(5) During the term of this contract and any extension hereof, MSS shall have the sole and exclusive right to receive, collect and remove all Solid Waste and Recyclable Materials and Green Waste/Food Waste within the Town limits of Fairfax; provided, however, that a Customer may donate their Recyclable Materials and Green Waste to a non-profit or community group special event, or sell their Recyclable Materials to a recycling buyback center.



(b) Zero Waste/Greenhouse Gas Goals. Marin Sanitary Service shall extend its best efforts to meet Zero Waste and green house gas reduction goals. Town requests Contractor to establish Zero Waste diversion goals of 80% for the third year, 86% for the sixth and 94 % for the ninth year of the contract term. At each of the milestones, if the Town and Contractor fail to meet the goal both parties agree to meet and review all programs and consider reasonable adjustments in their obligations.

(c) Re- Direction of Compostable Material. If a public or private composting facility in Marin County is permitted to operate during the term of the agreement, the Town shall have the option to request a proposal from MSS to re- direct all or part of the compostable component of the waste stream to the facility; provided, however, that any rate adjustment shall be made in accordance with Exhibit B.

(d) Reporting.

(1) **General**. Annual reports shall be submitted no later than August 31 for the previous service year, beginning August 31, 2012. Quarterly and monthly reports shall be submitted as provided below. Monthly, quarterly and annual reports shall be submitted in hard copy, and shall be provided electronically via e-mail. The Town shall in advance approve the format, specific content, and software used for each type of report. All costs associated with preparation of the required reports are the sole responsibility of the Contractor.

(2) **Monthly Reporting**. MSS shall once per month submit to the Town Public Works Director a report of all customer service complaints (the "Complaint Log") and any action taken by the company in response to these complaints. Customer calls for new starts, final service, or the exchange of carts for a different size shall not constitute a complaint. Calls for missed pickups or any other call including accidents and injuries, and property damage shall be listed in the Complaint Log.

(3) **Annual Reporting**. MSS shall provide a comprehensive report annually that will provide a description and progress of all Zero Waste programs and the status of new technologies and industry practices that could enhance progress towards zero waste. The report shall include public education activities undertaken during the year, including distribution of bill inserts, collection notification tags, community information and events, tours and other activities related to collection services. The report shall discuss the impact of these activities on Recycling and Green Waste/Food Waste program participation and amounts collected for single family, multi-family and commercial customers. As a way to track how well the outreach program is progressing, the annual report shall include information on the residential mix of bin sizes on land-filled tonnage to track diversion.

(4) **Quarterly Reporting**. MSS shall provide quarterly and annual reporting on quantities and type of Recyclable Material and Green Waste/Food Waste collected. MSS shall provide quarterly reporting on curbside recycling tonnage diverted and shall report quarterly on per capita landfill tonnages generated. MSS shall report on market value of these materials (unit prices) including compost. MSS shall provide information in its quarterly reporting on how many residents use the Household Hazardous Waste ("HHW") service. In

addition MSS shall provide updates to the Town on the progress of the new itemized billing system discussed in Section 18.

(e) Hours of Collection. Collection of Solid Waste, Recyclable Materials, and/or Green Waste/Food Waste may occur only within hours authorized by the Town. Contractor may not collect Solid Waste prior to 3:30 a.m. Recyclable Material prior to 5:00 a.m., or Green Waste prior to 6:00 a.m. local time or later than sunset.

(f) Noise. MSS will work with the Town to minimize nuisance noise impacts. All refuse collection operations shall be collected as quietly as possible and shall conform to applicable state and local noise level regulations with the noise level during the stationary compaction process not to exceed 80 decibels at a distance of 25 feet from the collection vehicle. The Town may conduct random checks of noise emission levels to ensure such compliance. MSS shall promptly resolve any complaints of noise to the satisfaction of the Town representative.

(g) Minimization of Spills. Contractor shall use due care to prevent Solid Waste, Recyclable Material or Green Waste/Food Waste from being spilled or scattered during the collection or transportation process. If any Solid Waste, Recyclable Material or Green Waste/Food Waste is spilled, Contractor shall promptly clean up all spilled materials whether on private or public property. Each collection vehicle shall carry a broom and shovel at all times for this purpose.

(h) Marketing Efforts. Contractor shall use its best efforts in marketing and promoting the sale of all Recovered Materials. As used in this section "Recovered Materials" includes finished compost. Contractor shall employ its best marketing strategy in effecting disposition of Recovered Materials, and shall use its best efforts to obtain the best possible prices for Recovered Materials consistent with prevailing conditions in the markets, whether foreign or domestic.

(i) Marketing Plan. Contractor shall submit to Town on or before January 1 of each year, a plan for marketing of Recovered Materials for the forthcoming year. The Marketing Plan shall include the following: Quantities: estimated quantities of Recovered Materials in each of the following categories which Contractor expects to process for marketing during the year: Compost; Newsprint; and Glass Bottles broken down by the type and grade of material; Plastics labeled #1-7, mixed Paper, Corrugated Cardboard and E-Waste.

(j) Compost Bins. MSS will highlight County compost program in their periodic newsletter and include relevant web site for compost bin suppliers. MSS shall publish a list of at least three (3) bin suppliers in their Quarterly newsletter.

(k) Certificate of End Use. If requested by the Town, Contractor will obtain a certification of end use documentation from the purchaser purchasers/recipients of Recovered Materials establishing that the materials sold have been, in fact, recycled or reused acquired for uses that will allow the Recovered Materials to qualify as having been diverted from disposal. The documentation shall be sufficient in form and content to satisfy the California Department of Resources, Recycling and Recovery (CalRecycle) that the materials have been diverted.

(l) Goal to Reduce Can Size. Town goal is to reduce 64 gallon cans to less than 100 residents and eliminate 96 gallon cans on or before December 1, 2016. If this goal is not achieved MSS and the Town will confer to evaluate options including imposing disincentive fees for 64 and 96 gallon containers. As a way to track how well the outreach program is progressing, MSS shall provide annual reporting on the residential mix of bin sizes.

(m) Green Waste. Green Waste/Food Waste collected by MSS shall be processed at a permitted composting facility, or other facility representing the highest and best use as defined by Cal Recycle. Green Waste may not be used as alternative daily cover as defined in the California Code of Regulations.

SECTION 4. TERMINATION FOR NON-PERFORMANCE. If MSS fails to comply with any of the terms hereof, or any applicable laws, ordinances or regulations referred to herein, or otherwise defaults under any provision of this contract, and does not cure such failure within thirty (30) days' written notice thereof from the Town, then, a hearing, following at least ten (10) days advance written notice of same having been first provided to MSS, shall be conducted by the Fairfax Town Council, at which MSS shall be entitled to present any evidence it deems necessary or appropriate in connection with the making of a response to the notice received from Town. At the conclusion of said hearing, and upon the Town Council's finding that MSS has failed to comply with, or defaulted under, this contract, Fairfax shall be entitled to terminate this contract, which remedy shall not be deemed an election and shall be in addition to any and all rights and remedies against MSS which Fairfax may have by law or hereunder.

SECTION 5. INSURANCE. MSS shall provide workers' compensation insurance as required by California State Law and a liability policy for the protection of both MSS and Fairfax in accordance with Exhibit E. Coverage shall be a minimum of \$6 million. The Town of Fairfax, its officers, agents and employees shall be named as additionally insured. MSS will furnish to Fairfax certificates indicating all such required insurance.

SECTION 6. INDEMNIFICATION. Contractor shall indemnify, defend and hold harmless Town, its officers, employees and agents, from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit, of any and every kind and description, whether judicial, quasi-judicial or administrative in nature including, but not limited to, injury to and death of any person, damage to property, alleged anti-trust, anti-competitive or unfair business practices, or for contribution or indemnity claimed by third parties (collectively, the "Claims"), arising out of or occasioned in any way by, directly or indirectly, Contractor's performance of, or its failure to perform, its obligations under this Contract. The foregoing indemnity shall not apply to the extent that the Claim is caused solely by the negligence or intentional misconduct of Town, its officers, employees or agents, but shall apply if the Claim is caused by the joint negligence of Contractor or other persons. Upon the occurrence of any Claim, Contractor, at Contractor's sole cost and expense, shall defend (with attorneys reasonably acceptable to Town) Town, its officers, employees, and agents.

#### SECTION 7. SAFETY.

(a) MSS shall employ and use only drivers properly licensed by the California Department of Motor Vehicles, and shall make available to Fairfax, upon request, certified

California Department of Motor Vehicle records demonstrating that all persons who drive vehicles in connection with the services provided in this contract are properly licensed.

(b) MSS shall maintain and make available to Town on its request all records necessary to demonstrate that all trucks owned or used by MSS have been properly inspected and are in proper operating condition, as required by any law including, without limitation, all California Highway Patrol and Federal Motor Vehicle Safety Standard rules and regulations.

(c) MSS shall, upon the request of Town, demonstrate that it maintains and actively implements a reasonable program of drug abuse prevention and treatment designed to assure that no driver of any vehicle owned or used by MSS uses any drug unlawfully, or uses any drug lawfully which in any way impairs the driver's ability to operate a motor vehicle.

#### SECTION 8. PAYMENTS TO TOWN

(a) Franchise Fee. MSS agrees to pay to Fairfax an amount equal to ten percent (10%) of the gross receipts of MSS for services provided under this contract. This fee shall be paid monthly on the 15th day of the month, computed on the previous month's gross receipts. It is further agreed that this paragraph may be modified by Fairfax, either decreasing or increasing the percentage of gross receipts above specified upon advance notice of such intention and an opportunity for response thereto being provided to MSS before implementing any such modification hereunder. Should Fairfax change the percentage, the rates in Schedule C shall be adjusted accordingly to compensate MSS for the impact of the change. MSS shall agree that Town has option at any time to increase the fee up to a total of 15%. This fee shall be a line item on the new customer bill.

(b) AB 939 Fee. MSS agrees to pay to Fairfax an amount equal to 0 percent (0%) of the gross receipts of MSS for services provided under this contract. This fee shall be paid monthly, on the 15th day of the month, computed on the previous month's gross receipts. It is further agreed that this paragraph may be modified by Fairfax, either decreasing or increasing the percentage of gross receipts above specified upon advance notice of such intention and an opportunity for response thereto being provided to MSS before implementing any such modification hereunder. Should Fairfax change the percentage, the rates in Schedule C shall be adjusted accordingly to compensate MSS for the impact of the change. This fee shall be a line item on the new customer bill.

(c) Road Impact Fee. MSS shall pay to Fairfax a Road Impact Fee as outlined in Town Resolution 2340-B. The purpose of the fee is to compensate the Town for costs associated with the repair and maintenance of roadways resulting from the use of Town roadways by MSS vehicles. The annual amount of the fee is \$48,000 and shall be paid in monthly installments of \$4000 on the 15th day of the month. Should Fairfax undertake to change the amount of the fee, it shall first give notice of such intention to MSS and provide an opportunity for MSS to respond to such proposed action by Town before implementing any such change in said fee. Should Fairfax undertake to change the amount of the fee, the rates in Schedule C shall be adjusted accordingly to compensate MSS for the impact of the change.

(d) Consultant Fee. To defray the Town's costs of retaining a consultant to analyze MSS's reports submitted hereunder, MSS shall pay a consultant fee of \$3000 per year, which shall be paid in monthly installments of \$250 on the 15th of the month.

(e) Brush Clearing /Fuel Reduction Fee. MSS shall pay to Fairfax a Brush Clearing/Fuel Reduction Fee. The purpose of the fee is to compensate the Town for removing, chipping and disposing of heavy brush that may pose a fire threat to the Town. The fee is \$10,000 per year and shall be paid in monthly installments of \$833.33 on the 15th of the month. This fee shall be a line item on the new customer bill. Upon request of Town, MSS shall include notification to residents of brush clearing in quarterly billing at no charge to Town. MSS shall also allow delivery of wood chips to Marin Resource Recovery Center free of charge.

SECTION 9. EXAMINATION OF RECORDS. MSS shall maintain full and separate financial and accounting records pertaining to cash, billing, and the provision of services under this contract. Fairfax shall have the right to examine any of these records. MSS will keep, maintain, and if requested by Town, furnish copies to Fairfax, of records of charges, receipts, route maps, route lists, and other necessary books of account for a period of not less than the preceding five (5) years, measured from the date of Town's request made to MSS hereunder.

SECTION 10. RIGHT OF INSPECTION. MSS hereby agrees that it will, at any reasonable time, whenever requested to do so, permit any inspector, appointed for such purpose by Fairfax, to accompany MSS in the course of collection, removal, processing or disposal of Solid Waste or Recyclable Materials and Green Waste/Food Waste, and to inspect the manner in which collection, removal, processing and disposal is made, and the size of any containers from which such materials may be, or have been, collected, and the amount of materials collected therefrom.

SECTION 11. SPECIAL FREE PICK UP.

(a) MSS shall, for customer convenience, and to increase Recycling, collect up to five (5) additional 32 gallon cans or equivalent size bio-degradable bags of Green Waste on each regularly scheduled collection day (see Exhibit A, page 1).

(b) MSS shall remove at no cost, as needed, any and all Solid Waste and Recyclable Materials containers from each and all of the Town government buildings, the downtown area of the Town of Fairfax, and other public areas.

(c) MSS shall, at no cost empty once per week a 20 cubic yard debris box from the Town Corporation Yard; such box shall be used only for leaves, brush, grass, grass cuttings, tree or brush clippings, and similar materials.

(d) MSS shall cooperate with the Town of Fairfax and/or any other volunteer group in the Town of Fairfax to divert e-waste from landfill disposal pursuant to the approvals of the Ross Valley Fire Service, the City of San Rafael Fire Department, and the Marin County Hazardous and Solid Waste Joint Powers Authority.

SECTION 12. PUBLIC INFORMATION PROGRAM (PIP). Customer information will be provided throughout the year by MSS in quarterly newsletters. MSS agrees to maintain a

community education program that will include a classroom and education coordinator. MSS will provide, upon request, tours of the Marin Recycling Center and Marin Resource Recovery Center to all customers within Fairfax with an emphasis on schools. Recycling handouts, flyers, and other written materials will be provided by MSS upon request to inform customers of recycling collection guidelines. Exhibit D lists other details of the PIP.

In addition, MSS will advertise the availability of the low income rates provided in Exhibit C at least once per year in the newsletter and in a once per year bill insert. The low income rate will also be published on the MSS web site.

SECTION 13. RATES. The current rates in effect at the time of execution of this Contract for service are provided in the rate schedule, "Exhibit C", which is attached hereto and made a part of this contract. Exhibit C shall be updated from time to time as circumstances warrant, for changes to rates as provided for in the contract. Subsequent versions of the rate schedule shall be numbered consecutively (i.e., C-2, C-3, etc.) and considered to be part of the contract, replacing and superseding the previous version. References in the contract to Exhibit C shall mean the version of the rate schedule that is then currently in effect.

SECTION 14. RATE SETTING. MSS and Fairfax intend to create a rate structure which is intended to and will provide reasonable and fair compensation, including a reasonable profit, to MSS from the services rendered to residents and businesses within the Town throughout the duration of this contract and any extensions thereof. In this regard, MSS and Fairfax agree that a review and any increase or decrease of said rates or charges, in the future, shall be based upon a rate setting methodology as set forth in Exhibit B, which is attached hereto and incorporated by reference, and as said Exhibit may be amended by the Town Council, with the consent of MSS, from time to time. For this purpose, the books and records and other financial data of MSS shall be open to inspection and audit by the Town Council or their designee(s). MSS and the Town agree that on or about January 1, 2015 the rate allocation methodology described in Exhibit B will be reviewed to determine if it is equitable. If the Contractor or the Town determines that it is not equitable, then the Contractor or the Town shall have the option to require use of the MFG percentage increase each year under this contract without calculating the amount attributable to Fairfax.

SECTION 15. SPECIAL INTERIM RATE REVIEW. Rates will be adjusted January 1 of each year according to Section 14 and the procedures described in Exhibit B. However, MSS may apply for the consideration of a special interim rate review and adjustment at any time should an event or circumstance arise which substantially affects the economic operation of MSS. A special application will be considered if:

(a) An event or circumstance occurs which was not reasonably foreseen, and is extraordinary and not a usual business risk, or is beyond the control of MSS, and will cause significant financial hardship to MSS or,

(b) A change is made to MSS payments to the Town under Section 8 of this Agreement or,

(c) Changes in disposal methods or sites, or in recycling programs, are mandated by any political authority having legal jurisdiction, or,

(d) It is necessary for MSS to make a substantial change in operation or substantial capital investment in order to perform obligations under this contract.

MSS will prepare an Interim Rate Review application similar in form to the methodology described in Exhibit B. Fairfax, or its designee, will review the application for compliance with this Agreement, accuracy, and reasonableness.

SECTION 16. NOTICE OF RATE REVIEW. Upon submission by MSS of any rate review application, the Town, or its designee, shall review the application for compliance with this Agreement. After the review is completed, the Town Manager shall schedule a public hearing as soon as practical before the Town Council. The Town shall provide notice of the public hearing in a local newspaper, at least twenty (20) days in advance of the hearing.

SECTION 17. HILL AND FLAT. Rates assigned to "Hill" and "Flat" areas shall be as shown and designated upon a map to be prepared and submitted to the Town for review and approval following execution of this contract. Said map shall be entitled "Map Showing Flat Areas and Hill Areas of the Town of Fairfax Establishing Garbage Collection Rates."

SECTION 18. BILLING. MSS shall be responsible for billing and collecting all rates for franchise services as established by this Agreement. Commercial and apartment customers will be billed monthly in arrears of service. Residential customers will be billed quarterly, in the middle of the service period. MSS is currently studying a new billing system, with the Franchisors Group and HF&F that would provide the customer with expanded information including detailed billing statement with line item costs for land filled waste, recyclables and green/food waste. Each item should include the proportion of the franchise and AB939 fee associated with the total rate. MSS shall implement the new billing system no later than December 31, 2012.

SECTION 19. ASSIGNMENTS, SUB-COMPANIES, AND CHANGE OFF OWNERSHIP.

(a) No interest of Contractor in this Agreement may be assigned, sold, subcontracted or transferred, either in whole or in part, without the prior approval by the Town Council. Town will not unreasonably withhold consent to any assignment, sale, subcontract or transfer. Contractor shall promptly notify the Town in writing in advance of any proposed assignment, sale subcontract or transfer. In the event that the Town Council approves of any assignment, sale, subcontract or transfer, said approval shall not relieve Contractor of any of its obligations or duties under this Agreement unless this Agreement is modified in writing to that effect. Contractor shall also notify the Town of any change in control and/or ownership. For purposes of this Agreement, change of ownership or control is presumed to include, without limitation, the sale or transfer of at least twenty-five percent (25%) of Contractor's assets or at least twenty-five percent (25%) of Contractor's voting stock.

(b) Neither party shall assign its rights nor delegate or otherwise transfer its obligations under this Agreement to any other person without the prior written consent of the

other party. Any such assignment made without consent of the other party shall be void and the attempted assignment shall constitute a material breach of this Agreement. The Town may, however, assign its rights and subrogate its obligations under this Agreement to a joint powers authority authorized by California Government Code subsection 6500 *et seq.*, without the prior written consent of Contractor.

(c) For purposes of this section, "assignment" shall include, but not be limited to:

(1) A sale, exchange or other transfer to a third party of at least twenty-five percent (25%) of Company's assets dedicated to service under this Agreement; and

(2) A sale, exchange or other transfer to a third party, including other shareholders (but excluding any transfers between related family members of either the family of Joseph, John and Sally Garbarino, and/or the family of Joseph and Angelina Garbarino, or between such family members(s) and a trust whose trustor, trustees, and beneficiaries are limited to members of either or both of these families) to which Contractor or any of its shareholders is a party which results in a change of ownership or control of Contractor; and

(3) Any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or reissuance, voting trust, pooling agreement, escrow agreement, liquidation or other transaction (but excluding any transfers between related family members of either the family of Joseph John and Sally Garbarino, and/or the family of Joseph and Angelina Garbarino, or between such family member (s) and a trust whose trustor, trustees, and beneficiaries are limited to members of either or both of these families) to which Contractor or any of its shareholders is a party which results in a change of ownership or control of MSS; and

(4) Any assignment by operation of law, including insolvency or bankruptcy, assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Contractor's property, or transfer occurring in the probate proceeding; and

(5) Any combination of the foregoing (whether or not related or contemporaneous transactions), which has the effect of any such transfer or change of ownership or change of control of MSS.

(d) Contractor acknowledges that this Agreement involves rendering a vital service to Town residents and businesses; and that Town has selected Contractor to perform the services specified herein based on:

(1) Contractor's experience, skill and reputation for conducting its solid waste management operations in a safe, effective and responsible fashion, at all times in keeping with applicable local, state and federal environmental laws, regulations and best waste management practices; and

(2) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to Town under this Agreement. Town has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.



(e) The Town is concerned about the possibility that assignment could result in significant rate increases, as well as a change in the quality of service. Accordingly, the following standards have been set to ensure that assignment will result in continued quality of service. In addition, Town reserves the right to solicit competitive bids for these services if the assignment results in a request by the assignee for rate increases that are higher than the then Consumer Price Index (CPI) for the San Francisco/Oakland Bay Area and do not reflect value changes in service standards. At a minimum, no request by Contractor for consent to an assignment need be considered by Town unless and until Contractor has met the following requirements:

(1) Contractor shall undertake to pay Town its reasonable expenses for attorneys' fees and to investigate the suitability of any proposed assignee, and to review and finalize any documentation as required as a condition for approving any such assignment;

(2) Contractor shall furnish Town with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) years;

(3) Contractor shall furnish Town with satisfactory proof:

a) That the proposed assignee has at least ten (10) years of solid waste management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement;

b) That in the last five (5) years, the proposed assignee or affiliates have not suffered significant major citations or other charges from any federal, state or local agency having jurisdiction over its waste management operations due to any significant failure to comply with state, federal or local environmental laws and that the assignee has provided Town with a complete list of such citations and charges;

c) That the proposed assignee has conducted its operations in a reasonably environmentally safe and conscientious fashion;

d) That the proposed assignee has conducted its solid waste management practices in good faith and substantial compliance with sound waste management practices, in good faith and substantial compliance with all federal, state, and local laws regulating the collection and disposal of solid waste including hazardous waste; and

e) Provide any other available information required by Town to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe, and effective manner.

Under no circumstances shall the Town be obliged to consider any proposed assignment by Contractor, if Contractor has not performed the Agreement or is in material breach of any provision at any time during the period of consideration.

(f) Assignment of Agreement; Requests for Rate Adjustments. In the case of any assignment, sale, lease, subcontract, or transfer of all or any part of Contractor's assets or stock, the acquiring party shall not be entitled to request any adjustment in rates based on the purchase

price or any other consideration associated with said assignment, purchase, lease, subcontract, or transfer. In addition, any such acquiring party shall not be entitled to request any adjustment in rates under this Agreement for any cost which said acquiring party incurs prior to the assignment, sale, lease, subcontract or transfer of Contractor's assets or stocks.

SECTION 20. CONTRACT DULY EXECUTED. The parties executing this contract each warrant and represent that they have been duly authorized to do so and that this contract constitutes a legal, valid and binding obligation of the parties.

SECTION 21. ATTORNEY'S FEES. If any legal action or proceeding arising out of or relating to this contract is brought by any party to this contract, the prevailing party shall be entitled to receive, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action or proceeding by the prevailing party.

SECTION 22. NOTICES. All notices required or permitted under the terms of this License shall be in writing and sent to:

Town: Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930  
Attention: Town Manager

MSS: Marin Sanitary Service  
565 Jacoby Street  
San Rafael, CA 94901  
Attention: Patty Garbarino

SECTION 23. TIME IS OF THE ESSENCE; ENTIRE AGREEMENT; MODIFICATION. Time is of the essence of each of the terms and provisions of this contract. This contract constitutes the entire agreement among the parties as to the subject matter hereof, and no modification, alteration, or amendment of any part thereof shall be affective unless in writing signed by both parties.

SECTION 24. SUCCESSORS AND ASSIGNS. This contract shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties.

SECTION 25. GOVERNING LAW. This contract shall be interpreted according to, and shall be governed by, the procedural and substantive laws of the State of California.

*[Signatures appear on next page.]*


IN WITNESS WHEREOF, the parties have executed the foregoing contract as of the day and year first above written.

TOWN OF FAIRFAX,  
A Municipal Corporation

by   
MAYOR

by   
TOWN MANAGER

MARIN SANITARY SERVICE  
A California Corporation

by   
PRESIDENT 16 Dec 11

## **EXHIBIT A**

### **Description of Services**

#### **RESIDENTIAL (less than four units)**

##### **Solid Waste:**

MSS provides semi-automated “tipper” cans in 20-, 32-, 64- or 96-gallon capacities to be placed at the curb for one time per week collection. Cans must be placed at the curb, or other MSS designated collection location, the night before service. Cans not placed at the curb will incur additional charges as specified in Exhibit C, commonly referred to as “distance charges”.

##### **Recycling:**

MSS provides one (1) 64-gallon split compartment can (dual-sort can) for collection of Recyclable Materials. One compartment is for fiber (paper, junk mail, newspaper, cardboard, etc.). The other compartment is for containers (glass, plastic, cans, etc.). Cans must be placed at the curb for collection or the can will not be serviced. Customers are required to use the dual-sort can, recycling buckets will not be provided.

Additional quantities of Recyclable Materials that do not fit in the can may be placed beside the can. Cardboard must be broken down and tied into bundles no larger than 24” x 24” x 24”. Other fiber materials must be bundled, bagged, or otherwise contained, if not placed inside the can. Additional containers must be placed in bags, or otherwise contained, and placed next to the recycling can.

##### **Green Waste/Food Waste:**

MSS provides one (1) 64-gallon capacity green can to each customer for the collection of Green Waste/Food Waste one time per week. The can must be placed at the curb, or MSS designated collection location, the night before service. Up to five (5) additional 32-gallon cans (customer required to provide cans), or equivalent size bio-degradable bags (also required to be customer provided) of Green Waste may be placed at the curb for collection. Cans not placed at the curb for collection will not be serviced.

##### **Improved Notification of Improper Recycling/Green Waste/Food Waste Set Out**

Once initial stock of text notices is gone, MSS will institute bold graphical notices for notification of improper recycling/Green Waste/Food Waste set out. MSS shall implement the change no later than June30, 2012

##### **Free On-Call Household Hazardous Waste (HHW) Pickup:**

MSS shall provide residential customers (businesses are excluded from this program) one HHW on-call pickup each calendar year at no additional charge by prearranged appointment on their regularly scheduled collection day.

There will be no charge for the following items:

- Household batteries, individually wrapped (no automotive batteries)
- Latex paint in sealed containers (limit 3 gallons)
- Motor oil in sealed or capped containers (limit 2 gallons)
- Oil filters
- Pesticides (limit 3 gallons)
- Fluorescent lights or tubes
- Aerosol cans partially filled (empty aerosol cans may be placed in Dual Sort Cart)
- Computers and computer monitors
- Printers
- Televisions
- Cell phones

No flammable, toxic, or hazardous material will be accepted. All items must be contained in boxes or bags. Customers must call Monday-Friday during normal business hours at least 24 hours in advance to schedule an appointment.

MSS shall implement this program no later than January 1, 2012

#### **MULTI FAMILY COMPLEX (4 or more units)**

##### **Solid Waste:**

MSS provides tipper cans in 32-, 64-, or 96-gallon capacities or bins in larger sizes as specified in Exhibit C. Service may be provided from one (1) to six (6) times per week. At a minimum, the apartment complex must maintain, and will be charged for, the equivalent of one (1) 32-gallon can per unit picked up one time per week. Can must be placed at the curb, or MSS designated collection location, the night before service. Cans not placed at the curb will incur additional charges as specified in Exhibit C, commonly referred to as “distance charges”.

##### **Recycling:**

MSS provides unlimited recycling collection for bottles, cans, newspaper, office paper, and cardboard. Tipper cans or bins are provided as requested by the customer. Service may be provided from one (1) to six (6) times per week.

**Green Waste:**

MSS provides one (1) 64-gallon capacity green can to each customer for the collection of Green Waste one time per week. The can must be placed at the curb, or MSS designated collection location, the night before service. Up to five (5) additional 32-gallon cans(customer provided) of Green Waste may be placed at the curb for collection. Cans not placed at the curb for collection will not be serviced.

**Food Waste Pilot Program**

MSS shall develop a food waste pilot program at three (3) multifamily units to be designated by the Town. MSS will prepare a scope and schedule for the Pilot Program on or before January 1, 2012, for approval by the Town. On or about one (1) year from commencement of the program, MSS and the Town shall meet to confer about the merits of expanding the program to other parts of the Town.

**COMMERCIAL**

**Solid Waste:**

MSS provides tipper cans in 32-, 64-, or 96-gallon capacities or bins in larger sizes as specified in Exhibit C. Service may be provided from one (1) to six (6) times per week. At a minimum, commercial establishments must maintain, and will be charged for, one (1) 32-gallon can, picked up one time per week.

**Recycling:**

MSS provides unlimited commercial recycling collection for bottles, cans, newspaper, office paper, and cardboard. Tipper cans or bins are provided as requested by the customer. Service may be provided from one (1) to six (6) times per week.

**Green Waste:**

MSS provides one (1) 64-gallon capacity can to each customer for the collection of Green Waste one time per week. The can must be placed at the curb, or MSS designated collection location, the night before service. Up to five (5) additional 32-gallon cans (customer provided) of Green Waste may be placed at the curb for collection. Cans not placed at the curb for collection will not be serviced.

**MUNICIPAL**

MSS will provide weekly, and remove as needed, any and all Solid Waste and recycling containers from each and all of the Town government buildings and from the Town's receptacles in the downtown area, parks and other public areas of Fairfax.

MSS will empty, on a weekly basis, a 20 cubic yard debris box from the Town corporation

yard, which box shall be used only for leaves, brush, grass, grass cuttings, tree or brush

**Collaboration on Zero Waste Events**

Once per year, during the Fairfax Festival, and one other major event designated by the Town, MSS will furnish, at no cost to the promoters, as needed up to ten (10), 3 cubic yard debris boxes (or the equivalent) for use by the Town at its corporation yard. These debris boxes are to be used solely for solid waste generated by the events. MSS shall also furnish Recycling and Food Waste collection, and portable toilet services. Beginning in January 1, 2014 and every three (3) years thereafter the Town and MSS shall review the Town's event requirements and agree to any adjustments regarding service and cost.

**Community Compost Availability**

MSS shall distribute 15 tons of compost three times per year, spring, summer, and fall at no cost to residents.

The Town shall provide a designated location and will provide a bunker. Compost delivery will commence in the fall of 2011.

**Annual Paper Shredding E-waste and Unused Medicine Collection Day.**

This will be an annual event to be scheduled by the Town. MSS shall provide paper shredding service at no cost to the resident.

MSS will coordinate with local non-profits for the collection of e-waste. The Town and MSS shall coordinate with the Marin County Sheriff's Department for the collection of unused medications. Together these three items will be collected jointly at a location convenient for the Town at no cost to the resident.

MSS shall provide overall management for the event in cooperation with the Town and include the cost of the entire event in the rate.

**ADDITIONAL SERVICES**

Extra garbage may be collected in cans or bags and placed next to the regular can on collection day. This will result in an additional charge to the customer.

Disabled and low-income residential customers (must be enrolled in PG&E CARE Program to qualify) are eligible to receive distance service (refuse collection not at the curb) at no additional charge, as listed in Exhibit C.

## EXHIBIT B

### CONTRACTOR'S COMPENSATION AND RATE ADJUSTMENT

#### I. CONTRACTOR'S APPLICATION

By October 15, 2012, and by each subsequent anniversary thereof, Contractor shall submit a rate application to the Town requesting the amount of Contractor's compensation and calculating the necessary adjustment to rate revenue for the next Rate Period commencing January 1 of the following year. The Town Council shall conduct a public hearing to consider Contractor's application for a rate adjustment at the earliest possible date.

#### **Allocation Method**

The rate application will allocate the Town's costs based on the overall costs incurred by the Contractor in utilizing the Marin Franchise Group ("MFG") rate methodology (as described below), which may be used by the Town's consultant to calculate the Contractor's costs attributable to Fairfax based on specific criteria such as wages, benefits, disposal fees, fuel, maintenance, depreciation and other general and administrative ("G&A") expenses that reflect the proportion of the cost of serving Fairfax compared to that of the MFG service area and other jurisdictions participating in the cost allocation. Contractor agrees that the Town shall have full access to the MFG audit to review the rate application submitted by the Contractor for rate adjustment.

The Contractor and the Town agree that on or about January 1, 2015, this method of allocating cost will be reviewed to determine if it is equitable. If the Contractor or the Town reasonably determines that it is not equitable, then the Contractor or the Town shall have the option to require use of the MFG percentage increase each year under this contract without calculating the amount attributable to Fairfax.

#### **Rate Methodology**

Once every three years, commencing with the application to be prepared for the year ending December 31, 2012, Contractor shall submit a rate application to the Town containing the following information: the Contractor's actual financial results of operations for the preceding rate year ending December 31; year-to-date financial results of operations for the current rate year; audited financial statements for the preceding year ending December 31; and Contractor's forecasted costs for the next year. This rate application shall be referred to herein as the "Base Year Revenue Requirement." The Base Year Revenue Requirement procedures will continue to be used one out of every three years, specifically, the years ending December 31, 2013, December 31, 2016, etc., throughout the term and any extension of the contract.

In the intervening years, when the Base Year Revenue Requirement procedures are not utilized hereunder, the rate applications requesting the amount of Contractor's compensation shall be based on the data contained in the Base Year Revenue Requirement adjusted as described below. These rate applications shall be referred to herein as the "Indexed Revenue Requirement." The Indexed Revenue Requirement procedures will continue to be used two out of every three years, specifically, the rate years ending December 31, 2014 and December 31, 2015, the rate years



ending December 31, 2017 and December 31, 2018, etc., throughout the term and any extension of the contract.

In either case, the application shall be submitted in the format described in Attachment 1. Contractor shall assemble and provide such information that is necessary to support the assumptions made by Contractor and that underlie the forecasted Contractor's compensation for the projected Rate Period.

## **II. DETERMINATION OF CONTRACTOR'S BASE YEAR REVENUE REQUIREMENT**

The Town or its representative will review Contractor's application for compliance with this Agreement, accuracy, and reasonableness. The application shall clearly document Contractor's calculation of Contractor's compensation and rate adjustment based on the methodology described in this Attachment.

Contractor's compensation shall equal the sum of the forecasted annual cost of operations, profit, forecasted interest expense and franchise fees, each of which shall be calculated in accordance with procedures set forth below.

**A. Forecasted Annual Cost of Operations.** The forecasted annual cost of operations consists of the sum of forecasted:

1. Wages and salaries expense
2. Benefits expense
3. Disposal expense
4. Fuel and oil expense
5. Maintenance expense
6. Depreciation/lease expense
7. Other operating expense

**B. Methodology for Forecasting Annual Cost of Operations.**

1. **Determine Actual Costs.** Contractor's audited financial statements shall be reviewed to determine Contractor's actual costs necessary to perform all the services in the manner required by this Agreement. The Contractor's auditor shall determine that costs have actually been incurred and have been assigned to the appropriate cost category.
2. **Calculate Adjusted Costs.** Contractor shall adjust actual costs to ensure that non-allowable costs are not included in actual costs. Non-allowable costs include the following:
  - a. Costs of any category or type which are not required to provide services under this Agreement, or are not actually incurred, or which are not necessary for the provision of services under this Agreement or which are unreasonable in amount.

- b. Payments to directors and/or owners of Contractor, unless paid as reasonable compensation for services actually rendered.
  - c. Fines or penalties of any nature.
  - d. Federal or state income taxes.
  - e. Charitable or political donations.
  - f. Depreciation or interest expense for collection vehicles, containers, other equipment, offices and other facilities if such items are leased from a related party at more than their actual cost.
  - g. Attorneys' fees and/or other expenses incurred by Contractor in any court proceeding in which the Town and Contractor are adverse parties, unless Contractor is the prevailing party in such proceeding.
  - h. Attorneys' fees and other expenses incurred by Contractor arising from any act or omission in violation of this Agreement.
  - i. Attorneys' fees and other expense incurred by Contractor in any court proceeding in which Contractor's own negligence, violation of law or regulation, or wrongdoing are at issue and determined, in a final adjudication, by a Court to have been proven.
  - j. Payments to Related-Party Entities for products or services, in excess of the cost to the Related-Party Entities for those products or services.
  - k. Goodwill.
  - l. Processing costs (net of revenues) for curbside Recyclable Materials in excess of \$8.00/ton unless supported by an analysis of the financial results of operations of the related party performing the services and an application submitted in a form consistent with those described herein.
  - m. Disposal costs (including transfer and transport costs) for solid waste whose rate/ton exceeds comparable charges by other companies in the San Francisco Bay Area.
3. **Summarize Allowed Costs.** The adjusted costs for the forecasted rate year shall be considered "Allowed Costs" for the purposes of forecasting costs following procedures described herein and shall be presented in the cost categories described below.

- a. Wages and salaries expense

- b. Benefits expense
  - c. Disposal expense
  - d. Fuel and oil expense
  - e. Maintenance expense
  - f. Depreciation/lease expense
  - g. Other operating expense
4. **Forecast Annual Cost of Operations.** Forecasted annual cost of operations for the forecasted rate year shall include allowed costs of operations determined in Step 3 above adjusted to reflect the impact of changes in costs and changes in operations. The forecasts shall be performed in the following manner:
- a. Forecasted wage and salaries expense shall be based on negotiated labor agreements, wage and salary adjustments for non-represented employees, as well as changes in customer demand.
  - b. Forecasted benefit expense shall be based on negotiated labor agreements, adjustments for non-represented employees, and changes in insurance premiums net of any refunds.
  - c. Forecasted disposal expense shall be based on the transfer, transport, disposal, and processing expense fees at the transfer station (which is comprised of the transfer and transport cost as well as the disposal fee at the landfill), recyclable material processing facility and yard waste processing facility and multiplied by the total tons of solid waste transferred for disposal.
  - d. Forecasted fuel and oil expense shall be based on anticipated changes in the consumption and price of these commodities.
  - e. Forecasted maintenance expense shall be based on changes in the number of equipment and vehicles to be maintained and the cost of such maintenance.
  - f. Forecasted depreciation and lease expense shall be based on the Contractor's asset and depreciation records, which shall reflect the retirement and addition of assets.
  - g. Forecasted other operating expense shall be based on Contractor's plans.
5. **Calculate profit.** Contractor shall be entitled to profit on forecasted annual costs of operations. Contractor shall calculate profit by dividing the forecasted annual cost of operations, which shall be determined in accordance with these procedures, by 0.905 and subtracting the forecasted annual costs of operations from the dividend.

6. **Interest Expense.** Forecasted interest expense shall be based on the Contractor's actual, necessary and reasonable interest expense incurred for services provided in accordance with this Agreement.
7. **Franchise Fees Expense.** Forecasted franchise fee expense shall be based on the appropriate methodology using the forecasted values and shall include any other required payments to the Town.
8. **Determine Contractor's Compensation for Base Year Rate Period.** Contractor's compensation necessary to perform all the services in the manner required by this Agreement for the rate year shall be equal to the sum of the following:
  - a. Forecasted annual cost of operations (determined in accordance with Step 4 above)
  - b. Profit (determined in accordance with Step 5 above)
  - c. Forecasted interest and franchise fee expense

### **III. DETERMINATION OF CONTRACTOR'S INDEXED REVENUE REQUIREMENT**

The Town or its representative will review Contractor's application for compliance with this Agreement, accuracy, and reasonableness. The application shall clearly document Contractor's calculation of Contractor's compensation and rate adjustment based on the methodology described in this Attachment.

Contractor's compensation shall equal the sum of the forecasted annual cost of operations, profit, forecasted interest expense and franchise fees, each of which shall be calculated in accordance with procedures set forth below.

- A. **Forecasted Annual Cost of Operations.** The forecasted annual cost of operations consists of the sum of forecasted categories of expense as described below:
  1. Wages and salaries expense
  2. Benefits expense
  3. Disposal expense
  4. Fuel and oil expense
  5. Maintenance expense
  6. Depreciation/lease expense
  7. Other operating expense
- B. **Methodology for Forecasting Annual Cost of Operations.** The forecasted annual cost of operations for the Indexed Revenue Requirement shall be based on Contractor's most recent Base Year Revenue Requirement adjusted as described below:

1. Wages and salaries expense shall be calculated by multiplying the wages and salaries expense contained in the Base Year Revenue Requirement by one (1) plus the percentage change in the “San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index (Urban Wage Earners; 1982-84=100)” between the June monthly index of the current year and the corresponding monthly index published twelve (12) months earlier, in the first year following the Base Year Revenue Requirement. This step will be repeated in the second year following the Base Year Revenue Requirement.
2. Benefits expense shall be calculated by multiplying the benefits expense contained in the most recent Base Year Revenue Requirement by one (1) plus the percentage change in the Employment Cost Index – Benefits (Private Industry Workers) between the June monthly index of the current year and the corresponding monthly index published twelve (12) months earlier, in the first year following the Base Year Revenue Requirement. This step will be repeated in the second year following the Base Year Revenue Requirement.
3. Forecasted disposal expense shall be based on the transfer, transport, disposal, and processing expense fees at the transfer station (which is comprised of the transfer and transport cost as well as the disposal fee at the landfill), recyclable material processing facility and yard waste processing facility and multiplied by the total tons of solid waste transferred for disposal or recycling.
4. Fuel and oil expense shall be calculated by multiplying the fuel and oil expense contained in the Base Year Revenue Requirement by one (1) plus the percentage change in the “U.S. City Average Consumer Price Index (All Urban Consumers; Motor Fuel Item (1982-84=100))” between the June monthly index of the current year and the corresponding monthly index published twelve (12) months earlier, in the first year following the Base Year Revenue Requirement. This step will be repeated in the second year following the Base Year Revenue Requirement.
5. Maintenance expense shall be calculated by multiplying the maintenance expense contained in the most recent Base Year Revenue Requirement by one (1) plus the percentage change in the “Motor Vehicle Maintenance and Repair Index (All Urban Consumers, U.S. City Average 1982-1984=100)” between the June monthly index and the corresponding monthly index published twelve (12) months earlier, in the first year following the Base Year Revenue Requirement. This step will be repeated in the second year following the Base Year Revenue Requirement.
6. Depreciation expense shall be based on the Contractor’s asset and depreciation records that shall reflect the retirement and addition of assets.
7. Other operating expense shall be calculated by multiplying the other operating expense contained in the most recent Base Year Revenue Requirement by one (1) plus the percentage change in the “San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index (All Urban Consumers; 1982-84=100)” between the

June monthly index of the current year and the corresponding monthly index published twelve (12) months earlier, in the first year following the Base Year Revenue Requirement. This step will be repeated in the second year following the Base Year Revenue Requirement.

8. Forecasted annual cost of operations for the Indexed Revenue Requirement shall equal the sum of the preceding expenses.
- C. **Calculate Profit.** The Contractor shall calculate profit by dividing the forecasted annual costs of operations by 0.905 and subtracting the forecasted annual costs of the operations from the dividend.
  - D. **Interest Expense.** Forecasted interest expense shall be based on the Contractor's actual, necessary and reasonable interest expense incurred for services provided in accordance with this Agreement.
  - E. **Franchise Fees Expense.** Forecasted franchise fee expense shall be based on the appropriate methodology using the forecasted values and shall include any other payments to the Town.
  - F. **Determine Contractor's Compensation for Indexed Rate Period.** Contractor's Compensation for Rate Period shall be equal to the sum of the following:
    1. Forecasted annual cost of operations (determined in accordance with Step B above)
    2. Profit (determined in accordance with Step C above)
    3. Forecasted interest expense (determined in accordance with Step D above)
    4. Franchise fee expense (determined in accordance with Step E above)

#### IV. CALCULATION OF RATE ADJUSTMENT

In both the Base Year Revenue Requirement Application and Indexed Revenue Requirement Application, the Contractor shall calculate the rate adjustment in accordance with the following formula:

Revenue Requirement – Revenues from All Sources (including rate revenues at current rates and projected subscription levels)/Rate Revenues at Current Rates and Projected Subscription Levels.

MAFF		RESIDENTIAL REFUSE COLLECTION RATES			Rate 19.85%	
					Effective 1/1/2019	
<b>REOCCURRING CHARGES</b>	<i>Residential Service (Bundled service includes 1 landfill (garbage) cart, 1 organics cart, &amp; 1 recycling split cart )</i>					
	<b>Weekly Service Rates (Billed Quarterly)</b>		<b>2019 Flat rate</b>		<b>2019 Hill Rate</b>	
			<b>Monthly Rate</b>	<b>Quarterly Rate</b>	<b>Monthly Rate</b>	<b>Quarterly Rate</b>
	20 gallon cart		\$34.01	\$102.03	\$39.70	\$119.10
	32 gallon cart		\$40.77	\$122.31	\$47.63	\$142.89
	64 gallon cart		\$81.55	\$244.65	\$95.26	\$285.78
	96 gallon cart		\$122.32	\$366.96	\$142.89	\$428.67
	Low income - 20 gal* cart		\$29.56	\$88.68	\$34.54	\$103.62
	Low income - 32 gal* cart		\$35.48	\$106.44	\$41.42	\$124.26
	Low income - 64 gal* cart		\$70.95	\$212.85	\$82.84	\$248.52
	Additional Organics Cart Rental (35 or 64 gallon cart)		\$2.15	\$6.45	\$2.15	\$6.45
	Additional Split Cart Rental (64 or 96 gallon cart)		\$2.15	\$6.45	\$2.15	\$6.45
	<b>Additional Monthly Charges</b>		<b>Monthly Fee (per cart, each way)</b>	<b>Quarterly Fee</b>		
	Distance 5' - 50'		\$6.09	\$18.27		
Distance Over 50'		\$12.11	\$36.33			

\*Must meet PG&E CARE program eligibility requirements.

\*\*Customers with these rates prior to 2005 will keep the existing rate type. No new customers will be added with this rate type.

NOTE: We may not be able to accommodate any collection requests NOT at the curb due to a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.

<b>ONE TIME SERVICE FEES</b>	<b>Additional Service Fees per Occurrence</b>	<b>2019 Fee</b>
	Return Fees - Off day	\$25.00
	Return Fees - Same day	\$10.00
	Resume Service/Late Fee	\$35.00
	Contamination (cart) any size cart	\$30.00
	Overload/Overweight (cart)	\$25.00
	Extra bag garbage	\$15.00
	Extra bag yard waste	\$10.00
	Steam Clean (cart)	\$15.00
	Special Collection	\$35.00
	Special Handling (Bulky items)	\$30.00
	Bulky item fees per item	Fees Vary
	Cart Strap Set-up Admin Fee	\$25.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
	96 Gal Cart Replacement Fee	\$75.00
64 Gal Split Cart Replacement Fee	\$90.00	
96 Gal Split Cart Replacement Fee	\$100.00	

MAFF		COMMERCIAL REFUSE COLLECTION RATES						19.85% Increase Effective 1/01/19
COMMERCIAL CARTS, BINS, ROLL-OFFS		Collections per Week						Additional One Time Empty
Garbage	1	2	3	4	5	6	Additional One Time Empty	
20 gallon cart*	\$40.87	\$81.74	\$122.61	\$163.48	\$204.34	\$245.21	\$9.43	
32 gallon cart	\$48.08	\$96.17	\$144.25	\$192.34	\$240.42	\$288.50	\$11.10	
64 gallon cart	\$96.17	\$192.34	\$288.50	\$384.67	\$480.84	\$577.01	\$22.19	
96 gallon cart	\$144.25	\$288.50	\$432.75	\$577.01	\$721.26	\$865.51	\$33.29	
1 yard bin	\$239.72	\$403.86	\$567.80	\$732.06	\$896.14	\$1,060.21	\$55.32	
2 yard bin	\$400.79	\$710.17	\$1,019.42	\$1,328.73	\$1,638.23	\$1,947.48	\$92.49	
3 yard bin	\$562.00	\$1,016.62	\$1,471.10	\$1,925.72	\$2,380.07	\$2,752.20	\$129.69	
4 yard bin	\$801.92	\$1,480.03	\$2,095.33	\$2,710.63	\$3,325.93	\$3,941.22	\$185.06	
5 yard bin	\$905.30	\$1,653.45	\$2,370.37	\$3,087.28	\$3,804.23	\$4,521.14	\$208.92	
6 yard bin	\$1,008.67	\$1,826.87	\$2,645.40	\$3,463.93	\$4,282.53	\$5,101.06	\$232.77	
10 yard roll-off	\$1,681.12	\$3,044.78	\$4,409.00	\$5,773.22	\$7,137.55	\$8,501.77	\$387.95	
18 yard roll-off	\$3,026.02	\$5,480.60	\$7,936.20	\$10,391.80	\$12,847.59	\$15,303.19	\$698.31	
20 yard roll-off	\$3,362.24	\$6,089.56	\$8,818.00	\$11,546.44	\$14,275.10	\$17,003.54	\$775.90	
25 yard roll-off	\$4,202.80	\$7,611.95	\$11,022.50	\$14,433.05	\$17,843.88	\$21,254.43	\$969.88	
<b>Organics (F2E or Compost)</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>Additional One Time Empty</b>	
32 gallon	\$18.77	\$37.54	\$56.31	\$75.08	\$93.85	\$112.62	\$4.33	
64 gallon	\$37.54	\$75.08	\$112.62	\$150.16	\$187.70	\$225.24	\$8.66	
1 yard	\$131.13	\$262.26	\$393.39	\$524.52	\$655.65	\$786.78	\$30.26	
2 yard	\$262.26	\$524.52	\$786.78	\$1,049.04	\$1,311.30	\$1,573.56	\$60.52	
3 yard	\$393.39	\$786.78	\$1,180.17	\$1,573.56	\$1,966.95	\$2,360.34	\$90.78	
10 yard roll-off	\$1,176.78	\$2,353.56	\$3,530.34	\$4,707.12	\$5,883.90	\$7,060.68	\$271.56	
18 yard roll-off	\$2,118.20	\$4,236.41	\$6,354.61	\$8,472.82	\$10,591.02	\$12,709.22	\$488.82	
20 yard roll-off	\$2,353.56	\$4,707.12	\$7,060.68	\$9,414.24	\$11,767.80	\$14,121.36	\$543.13	
25 yard roll-off	\$2,941.95	\$5,883.90	\$8,825.85	\$11,767.80	\$14,709.75	\$17,651.70	\$678.91	
<b>Garbage Compactors (Per empty)</b>								
Roll-off Compactor Tipping fee per ton	\$159.90	Roll-off Compactor Hauling charge	\$204.31					
Stationary FL (Per Compacted Yard)	\$103.39	Roll-off Compactor Special handling	Rates Vary					
<b>Service</b>		<b>Fee</b>		<b>Details</b>				
Lock		\$25.00		Monthly fee				
Box rental		Fees Vary		Min. Bimonthly fee				
Distance < 50ft		\$6.09		Monthly fee per cart, each way				
Distance > 50ft		\$12.11		Monthly fee per cart, each way				

\* Customers must have a sufficient level of service for the volume of material generated. Requests for 20gal carts require assessment and approval of a Route Manager.  
 NOTE: All container types and sizes may not be available at all locations depending on a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.  
 NOTE: Roll-offs for organics available on request at 30% discount on above garbage rates.

**REOCCURING CHARGES**



ONE TIME SERVICE FEES	Commercial Service Fees	Fee
	Return Fee - <b>BIN</b>	\$75.00
	Return Fee - <b>CART</b> -same day	\$10.00
	Return Fee - <b>CART</b> -off day	\$25.00
	Late Fee/Resume Service Fee	\$35.00
	Contamination ( <b>BIN</b> )	\$50.00
	Contamination ( <b>CART</b> )	\$30.00
	Overload/Compaction ( <b>BIN</b> )	\$60.00
	Overload/Compaction ( <b>CART</b> )	\$25.00
	Extra Bag Garbage	\$15.00
	Additional Empty <b>BIN</b>	Fees vary
	Extra Bag Yard Waste	\$15.00
	Steam Clean (1-6 yard <b>BIN</b> )	\$95.00
	Steam Clean ( <b>CART</b> )	\$15.00
	Steam Clean ( <b>COMPACTOR/ROLL-OFF</b> )	\$225.00
	Lock Set-up Admin Fee	\$25.00
	Lock Single Use Fee	\$5.00
	Lock Purchase Fee	\$20.00
	Lock Bar Bin Set-up Fee	\$75.00
	Overweight Charge Per Ton*	\$205.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
	96 Gal Cart Replacement Fee	\$75.00
64 Gal Split Cart Replacement Fee	\$90.00	
96 Gal Split Cart Replacement Fee	\$100.00	
Bin Repair/Replacement Fee**	Fees vary by size up to \$1,200	

\*(Boxes exceeding 300lbs/yard)

\*\*Fees vary by size not to exceed current replacement value.

## REOCCURRING CHARGES

MAFF		Collections per Week						19.85% Increase Effective 1/01/19
MFD CARTS, BINS, ROLL-OFFS								Additional One Time Empty
Garbage	1	2	3	4	5	6	Additional One Time Empty	
20 gallon cart*	\$34.65	\$69.30	\$103.95	\$138.59	\$173.24	\$207.89	\$8.00	
32 gallon cart	\$40.77	\$81.55	\$122.32	\$163.09	\$203.86	\$244.64	\$9.41	
64 gallon cart	\$81.55	\$163.09	\$244.64	\$326.18	\$407.73	\$489.28	\$18.82	
96 gallon cart	\$122.32	\$244.64	\$366.96	\$489.28	\$611.59	\$733.91	\$28.23	
1 yard bin	\$239.72	\$403.86	\$567.80	\$732.06	\$896.14	\$1,060.21	\$55.32	
2 yard bin	\$400.79	\$710.17	\$1,019.42	\$1,328.73	\$1,638.23	\$1,947.48	\$92.49	
3 yard bin	\$562.00	\$1,016.62	\$1,471.10	\$1,925.72	\$2,380.07	\$2,752.20	\$129.69	
4 yard bin	\$801.92	\$1,480.03	\$2,095.33	\$2,710.63	\$3,325.93	\$3,941.22	\$185.06	
5 yard bin	\$905.30	\$1,653.45	\$2,370.37	\$3,087.28	\$3,804.23	\$4,521.14	\$208.92	
6 yard bin	\$1,008.67	\$1,826.87	\$2,645.40	\$3,463.93	\$4,282.53	\$5,101.06	\$232.77	
10 yard roll-off	\$1,681.12	\$3,044.78	\$4,409.00	\$5,773.22	\$7,137.55	\$8,501.77	\$387.95	
18 yard roll-off	\$3,026.02	\$5,480.60	\$7,936.20	\$10,391.80	\$12,847.59	\$15,303.19	\$698.31	
20 yard roll-off	\$3,362.24	\$6,089.56	\$8,818.00	\$11,546.44	\$14,275.10	\$17,003.54	\$775.90	
25 yard roll-off	\$4,202.80	\$7,611.95	\$11,022.50	\$14,433.05	\$17,843.88	\$21,254.43	\$969.88	
<b>Organics</b>	1	2	3	4	5	6	Additional One Time Empty	
Additional Organics Cart Rental (35 gallon cart) after 4 TOTAL carts per cart per month	\$2.15	NA	NA	NA	NA	NA	NA	
Additional Organics Cart Rental (64 gallon cart) after 4 TOTAL carts per cart per month.	\$2.15	NA	NA	NA	NA	NA	NA	
1 yard	\$131.13	\$262.26	\$393.39	\$524.52	\$655.65	\$786.78	\$30.26	
2 yard	\$262.26	\$524.52	\$786.78	\$1,049.04	\$1,311.30	\$1,573.56	\$60.52	
3 yard	\$393.39	\$786.78	\$1,180.17	\$1,573.56	\$1,966.95	\$2,360.34	\$90.78	
<b>Garbage Compactors (Per empty)</b>								
Roll-off Compactor Tipping fee per ton	\$159.90	Roll-off Compactor Hauling charge		\$204.31				
Stationary FL (Per Compacted Yard)	\$103.39	Roll-off Compactor Special handling		Rates Vary				
<b>Details</b>								
<b>Service</b>	<b>Fee</b>		<b>Monthly fee</b>					
Lock			\$25.00					
BOX rental			Fees Vary					
Distance < 50ft			\$6.09					
Distance > 50ft			\$12.11					

NOTE: Minimum service level is 32 gallons per unit or equivalent volume. Decrease to 20 gallon per unit is subject to company review and approval.  
 NOTE: Up to four (4) Organics carts provided at no additional charge. Additional carts may be rented for a nominal monthly fee.  
 NOTE: All container types and sizes may not be available at all locations depending on a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.

**FIRST AMENDMENT TO THE CONTRACT  
BETWEEN THE TOWN OF FAIRFAX AND  
MARIN SANITARY SERVICE**

This First Amendment to the Contract between the Town of Fairfax and Marin Sanitary Service ("Agreement") is effective as of March 2, 2016.

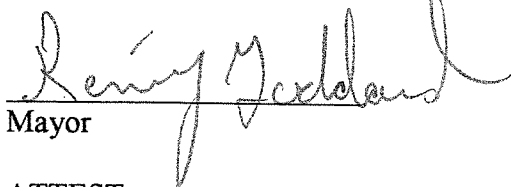
**RECITALS**

- A. Whereas the Town of Fairfax (Town) and Marin Sanitary Service (MSS) desire to modify Exhibit A, Description of Services to the Agreement, in order to better serve the residents of Town; and
- B. Whereas, the Town and MSS have mutually agreed to substitute the Free On-Call Household Hazardous Waste (HHW) Pick-up program with a Semi-Annual Curbside Clean-Up Service and an On-Call Bulky Item service; and
- C. Whereas, the HHW program is costly to maintain by MSS and rarely used by residents and the Curbside Clean-Up and On-Call Bulky Item program can be offered at no additional cost to the Town; and
- D. Whereas, the Town believe these new programs will be highly beneficial to the community; and
- E. Whereas pursuant to Section 3(a)(3) of the Contract Between the Town of Fairfax and Marin Sanitary Service, the Town and MSS have mutually agreed to amend Exhibit A.

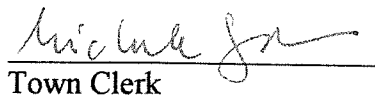
NOW THEREFORE, IT IS HEREBY AGREED by and between the parties that Exhibit A shall be amended by replacing it, in its entirety, with Exhibit A (modified). Exhibit A (modified) is attached hereto and expressly made a part of the Contract between the Town of Fairfax and Marin Sanitary Service through this First Amendment to the Agreement.

IN WITNESS WHEREOF, the parties have executed the foregoing First Amendment to the Agreement.

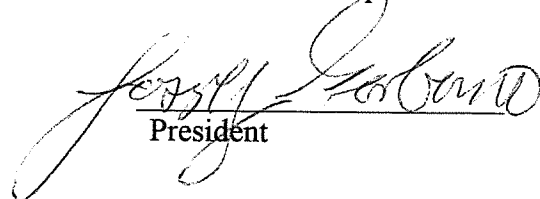
TOWN OF FAIRFAX,  
A municipal corporation

  
\_\_\_\_\_  
Mayor

ATTEST

  
\_\_\_\_\_  
Town Clerk

Marin Sanitary Service,  
a California corporation

  
\_\_\_\_\_  
President

## **EXHIBIT A**

### **Description of Services**

#### **RESIDENTIAL (less than four units)**

##### **Solid Waste:**

MSS provides fully and semi-automated “tipper” carts in 20-, 32-, 64- or 96-gallon capacities to be placed at the curb for one time per week collection. Carts must be placed at the curb, or other MSS designated collection location, the night before service. Carts not placed at the curb will incur additional charges as specified in Exhibit C, commonly referred to as “distance charges”.

##### **Recycling:**

MSS provides one (1) 64-gallon or one (1) 96-gallon split compartment cart (dual-sort cart) for collection of Recyclable Materials. One compartment is for fiber (paper, junk mail, newspaper, cardboard, etc.). The other compartment is for containers (glass, plastic, cans, etc.). Carts must be placed at the curb for collection or the cart will not be serviced. Customers are required to use the dual-sort cart, recycling buckets will not be provided.

Additional small quantities of Recyclable Materials that do not fit in the cart may be placed beside the cart. Cardboard must be broken down and tied into bundles no larger than 24” x 24” x 24”. Other fiber materials must be bundled, bagged, or otherwise contained, if not placed inside the cart. Additional recyclable bottles, cans, and containers must be placed in paper bags, or otherwise contained, and placed next to the recycling cart. If customers have significant volumes of extra recyclable materials, they may rent for a nominal fee, extra split recycling carts.

##### **Green Waste/Food Waste (Organics):**

MSS provides one (1) 64-gallon capacity green cart to each customer for the collection of Green Waste/Food Waste one time per week. The cart must be placed at the curb, or MSS designated collection location, the night before service. Up to five (5) additional 32-gallon cans (customer required to provide cans), or equivalent size compostable bags (also required to be customer provided) of Green Waste may be placed at the curb for collection for a total of 224 gallons of organics service. Customers may rent up to four (4) additional 64-gallon MSS green carts for a nominal monthly fee as specified in Exhibit C for a total of 320 gallons of organics service. Carts not placed at the curb for collection will not be serviced.

##### **Notification of Improper Recycling/Green Waste/Food Waste Set Out**

To improve communication between Marin Sanitary Service route drivers and the customers, drivers will leave cart hanger notices for the customers. The most common reasons for leaving notices are:

- a. To educate customers on proper cart placement.
- b. To inform customers of collection policies for overweight or compacted carts.
- c. To educate customers about contamination.
- d. To inform customers about the procedure for having broken carts repaired.

- e. To document that we have collected extras and an additional charge maybe added to the account.

### **Free Semi-Annual Curbside Clean-Up Service and On-Call Bulky Item service.**

For each Semi-Annual Clean-Up Collection event, each customer shall be permitted to place up to two (2) cubic yards (equivalent to fourteen (14) standard 32-gallon bags) of Solid Waste, Recyclable Materials and/or Compostable Materials for collection at no charge. With regard to the On-Call Bulky Item Service, each residential customer may call prior to their regular collection day and schedule two (2) collections of up to two (2) bulky items each per calendar year. These services would start in the fall of 2016 with one scheduled curbside and one on-call bulky item collection. This would increase to two of each in 2017.

### **MULTI FAMILY COMPLEX (4 or more units)**

#### **Solid Waste:**

MSS provides tipper carts in 32-, 64-, or 96-gallon capacities or bins in larger sizes as specified in Exhibit C. Service may be provided from one (1) to six (6) times per week. At a minimum, the apartment complex must maintain, and will be charged for, the equivalent of one (1) 32-gallon cart per unit picked up one time per week. Cart must be placed at the curb, or MSS designated collection location, the night before service. Carts not placed at the curb will incur additional charges as specified in Exhibit C, commonly referred to as "distance charges".

#### **Recycling:**

MSS provides unlimited recycling collection for bottles, cans, newspaper, office paper, and cardboard. Tipper carts or bins are provided as requested by the customer. Service may be provided from one (1) to six (6) times per week.

#### **Green Waste/Food Waste (Organics):**

MSS provides 35 or 64-gallon capacity green cart(s) to each customer for the collection of Green Waste/Food Waste one time per week. Customers will be provided with sufficient MSS tipper carts for the volume of organic material generated. No personal cans may be used for the collection of these materials. The cart(s) must be placed at the curb, or MSS designated collection location, the night before service. In addition, multifamily tenants who attend MSS workshops will receive kitchen pails for the collection of food scraps to increase participation. Carts not placed at the curb for collection will not be serviced.

#### **Food Waste Pilot Program**

MSS shall develop a food waste pilot program at three (3) multifamily units to be designated by the Town. MSS will prepare a scope and schedule for the Pilot Program on or before January 1, 2012, for approval by the Town. On or about one (1) year from commencement of the program, MSS and the Town shall meet to confer about the merits of expanding the program to other parts of the Town.

## **COMMERCIAL**

### **Solid Waste:**

MSS provides tipper carts in 32-, 64-, or 96-gallon capacities or bins in larger sizes as specified in Exhibit C. Service may be provided from one (1) to six (6) times per week. At a minimum, commercial establishments must maintain, and will be charged for, one (1) 32-gallon cart, picked up one time per week.

### **Recycling:**

MSS provides unlimited commercial recycling collection for bottles, cans, newspaper, office paper, and cardboard. Tipper carts or bins are provided as requested by the customer. Service may be provided from one (1) to six (6) times per week.

### **Green Waste/Food Waste (Organics):**

MSS provides two organics service options for Commercial Businesses for a fee as specified in Exhibit C.

#### **Commercial Composting Service:**

Customers are provided 35 or 64-gallon capacity MSS tipper green cart(s) to each customer for the co-collection of Green Waste/Food Waste one (1) to six (6) times per week. No personal cans may be used for the collection of these materials. The cart(s) must be placed at the curb, or MSS designated collection location, the night before service. Carts not placed at the curb for collection will not be serviced. These materials are co-collected with the residential organic materials and taken to a local compost facility to be turned into a nutrient rich soil amendment.

#### **Commercial Food to Energy**

Customers are provided 35 or 64-gallon capacity MSS tipper green cart(s) to each customer for the collection of source separated Food Waste one (1) to six (6) times per week. No personal cans may be used for the collection of these materials. The cart(s) must be placed at the curb, or MSS designated collection location, the night before service. Carts not placed at the curb for collection will not be serviced. These materials are collected, processed at MSS then delivered to Central Marin Sanitation Agency for anaerobic digestion.

## **MUNICIPAL**

MSS will provide weekly, and remove as needed, any and all Solid Waste and recycling containers from each and all of the Town government buildings and from the Town's receptacles in the downtown area, parks and other public areas of Fairfax.

MSS will empty, on a weekly basis, a 20 cubic yard debris box from the Town corporation yard, which box shall be used only for leaves, brush, grass, grass cuttings, tree or brush

### **Collaboration on Zero Waste Events**

Once per year, during the Fairfax Festival, and one other major event designated by the Town, MSS will furnish, at no cost to the promoters, as needed up to ten (10), 3 cubic yard debris boxes (or the equivalent) for use by the Town at its corporation yard. These debris boxes are to be used solely for solid waste generated by the events. MSS shall also furnish Recycling and Food Waste collection, and portable toilet services. Beginning in January 1, 2014 and every three (3) years thereafter the Town and MSS shall review the Town's event requirements and agree to any adjustments regarding service and cost.

### **Community Compost Availability**

MSS shall distribute 15 tons of compost three times per year, spring, summer, and fall at no cost to residents.

The Town shall provide a designated location and will provide a bunker. Compost delivery will commence in the fall of 2011.

### **Annual Paper Shredding E-waste and Unused Medicine Collection Day.**

This will be an annual event to be scheduled by the Town. MSS shall provide paper shredding service at no cost to the resident.

MSS will coordinate with local non-profits for the collection of e-waste. The Town shall coordinate with the Marin County Sheriff's Department for the collection of unused medications. Together these three items will be collected jointly at a location convenient for the Town at no cost to the resident.

MSS shall provide overall management for the event in cooperation with the Town and include the cost of the entire event in the rate.

### **ADDITIONAL SERVICES**

Extra garbage may be collected in cans or bags and placed next to the regular MSS tipper cart(s) on collection day. This will result in an additional charge to the customer as specified in Exhibit C.

Disabled and low-income residential customers (must be enrolled in PG&E CARE Program to qualify) are eligible to receive distance service (refuse collection not at the curb) at no additional charge, as listed in Exhibit C.