



City of
Los Banos
At the Crossroads of California

ADDENDUM NO.3

May 7, 2020

Proposal for
Residential and Commercial Garbage, Recyclable Material
And Organic Waste Collection Services

City of Los Banos
Publics Works Department
411 Madison Avenue
Los Banos, CA 93635
209-827-7056

William Via, MPA
Public Works Operations Manager

Please note the following changes and/or additions to the above referenced Request for Proposal. The Proposer is required to acknowledge receipt of Addendum No. 3. Signed acknowledgement must be included with the Proposal.

Proposers must sign below and include with their proposals.

Print Company Name

Print Name

Signature

Date

1. Proposal Submission Deadline

As a result of the mandatory Pre-Proposal Meeting and the Deadline to submit RFP questions being postponed a week, the deadline to submit Proposals to the City has been extended until 4:00 p.m. PT on May 27, 2020.

2. Updated Form H

As a result of the changes in deadline dates, the dates referenced in Form H are no longer correct. Attached is an updated Form H. Proposers must submit this updated Form H with their Proposals.

3. Questions & Answers

The following table contains every question submitted to the City, with corresponding answers.

#	Question	Answer
1.	[Proposer] would like to request that the city expedite the release of Tables 3 & 5 so that proposers may seek required approvals within the given timeline for the RFP process.	See Addendum No. 2, released on April 24, 2020.
2.	The City encourages CNG vehicles, can you please provide information about existing CNG fueling stations within the city. If CNG fueling stations do not exist, will the city accept proposals from haulers assuming the use of diesel trucks?	The City currently has no information on the current fleet or fueling stations. The new Collection Vehicles have to be CARB Compliant.
3.	Billing and Customer Service – Please confirm that the City of Los Banos intends to perform all billing for residential, commercial, and roll-off customers and that the selected contractor must invoice the city to collect revenue?	Confirmed. See Section 4.01 of the Franchise Agreement
4.	Will the city accept alternative alternate solutions to billing?	The City will review any proposed alternatives; however the City has no obligation to accept any proposed billing alternatives. Your proposal must be based on the City's requirements.
5.	Will the city provide excel format rate forms for proposers?	Yes, excel format rate form will be sent to each Proposer no later than Friday, May 8, 2020.
6.	The current hauler provides collection services from a satellite yard within city limits. Is this site leased from the city and will there be an opportunity for the awarded hauler to lease that yard?	This site is not owned by the City.
7.	COVID-19 has changed the way that haulers are doing business within a short timeframe. We would like to request a one-month extension of the proposal due date to allow additional time for preparation.	See Item No. 1 of this Addendum.
8.	Can the city please provide the following detailed information for roll-off services: temporary service rates and quantities, as well as permanent rates, quantities and frequency of collection?	Available Service Data has been Provided. See Question #1.

#	Question	Answer
9.	Contractors are to provide 1-32 gallon recycling and 1-32 gallon organic cart per MFD; can you please provide the total number of MFD complexes and unit counts for each?	Available Service Data has been Provided. See Question #1.
10	MFD waste service levels were not specified in provided data; should it be assumed that they were included in commercial service data?	Yes.
11.	Please confirm all material collected in the City of Los Banos is flow controlled to the Merced County Regional Waste Management Authority (Authority).	All Trash, Recyclable Material, and Greenwaste collected within Merced County is currently flow controlled to Authority Facilities. See Addendum No. 2 for the JPA Agreement.
12.	Please provide a disposal/processing rate for each commodity type.	See Addendum No. 2 for Authority Facility disposal and processing rates.
13.	Does the Authority have any planned price increases between now and July 1, 2021?	The City has no knowledge of future rate increased by the Authority. See Addendum No. 2 for the JPA Agreement.
14.	Will the Authority have organic processing capability by July 1, 2021, or January 1, 2022?	See Addendum No. 2 for the Authority's position on organics processing.
15.	If not, does the City intend, and will the Authority allow for the Contractor to be responsible for the processing of organic material?	See Addendum No. 2 for the Authority's position on organics processing.
16.	Does the City intend to provide SFD Service Units used Oil Collection Service? Used Oil Collection is listed under the definition of SFD Collection Service, but there is no other mention in the Draft Franchise Agreement.	Yes, the Used Oil Collection Service will be continued. Up to 2 gallons of used motor oil and bagged oil filters may be placed on curb adjacent to Recyclable Materials Collection Containers during the Service Recipient's regular weekly collection day for pickup. The Draft Franchise Agreement will be updated to reflect this.
17.	Please confirm the City intends to provide the holiday tree collection through the second Friday in January for SFD and MFD?	Confirmed. See Sections 7.08.6 and 8.04.6 of the Draft Franchise Agreement.
18.	Please provide additional clarification on the SFD Large Item Collection Service.	See Section 7.09 of the Draft Franchise Agreement.
19.	Does the City intend for the SFD Large Item Collection to be provided within five days as outlined in Section 3.2.5 and are to be scheduled on the same day as the regular collection services? Scheduling on-call bulky collection on the same day as the regular collection services provides multiple advantages. It increases efficiencies by limiting the SFD Large Item Collection to a portion of the City and assists in limiting illegal dumping by allowing the City and the	Currently SFD Large Item Collection is to be provided as directed in the Franchise Agreement. However, the Proposer is welcome to provide this frequency option as an alternative option for the City to consider.

#	Question	Answer
	Contractor to quickly determine piles inappropriately placed due to the day of the week and the area of the City.	
20.	Please clarify that the City intends to allow three cubic yards of non-containerized solid waste as part of the Large Item Collection Service and does not intend to limit the service to large items, as defined in Section 1.70.F, and bagged material.	Confirmed. See Sections 7.09 and 8.05 of the Draft Franchise Agreement.
21.	Please confirm, as part of the SFD Collection Services, the City will require the Contractor to provide one 96-gallon recycling cart and one 96-gallon organic cart as part of the residential base services.	Confirmed. See Section 7.01.1 of the Draft Franchise Agreement.
22.	Will the Contractor be required to provide pricing for additional 96-gallon recycling and organic carts.	Yes. See Section 7.05.6 of the Draft Franchise Agreement.
23.	Section 7.08 of the Franchise Agreement states, "Starting July 1, 2021 CONTRACTOR's SFD Organic Waste Collection Service is required to include only Green Waste to comply with AB 1594. However, CONTRACTOR must expand the SFD Organic Waste Collection Service to include Food Waste and Other Organics as part of the SFD Organic Waste Collection Services by July 1, 2022, or as may be required by CalRecycle to comply with SB 1383." SB 1383 requires the collection of food waste by January 1, 2022. Does the City intend for the Contractor to implement food waste collection on January 1, 2022, or July 1, 2022?	Residential Food Waste Collection to be implemented by January 1, 2022.
24.	Please clarify the definition of a Multi-Family Unit. Section 1.52 and 1.67 of the Draft Franchise Agreement are inconsistent.	5 independent units serviced by common bins and/or carts are to be considered a MFD? The Draft Franchise Agreement will be updated to reflect this change.
25.	Please clarify the holiday schedule. The holiday schedule outlined in the RFP and Franchise Agreement does not match the current holiday schedule or the holiday schedule observed by the MCRWA and Billy Wright Landfill. Does the City wish to change current practices and have the contractor deliver material to an alternative disposal facility on holidays not observed in the draft franchise agreement but observed by MCRWA and Billy Wright Landfill?	The City does not want to change current practices. The Draft Franchise Agreement will be updated to reflect this.
26.	Is the City eliminating both the HHW drop off location and the HHW event requirements?	The HHW Event is not a separate event from the Residential Clean-Up Day HHW material can be dropped off during the Clean-Up Events. In respect to HHW material, the Contractor will coordinate with the Authority. The Draft Franchise Agreement will be updated to clarify this.
27.	Can the City provide clarification on how the City will calculate the Administrative Fee and the AB 939 Fee? It is our understanding that	The Administrative Fee and AB 939 Support Fee combine for 10% of the

#	Question	Answer
	the City is requesting the Contractor to submit customers rates in our final submittal, which include all contractor costs, disposal, processing, Administrative Fee, AB 939 Fee, and Vehicle Impact Fees.	Gross Billings of services provided. The City will retain that 10% of the gross billing revenue, as well as the amount associated with disposal and processing costs. The remainder will be paid to the Contractor. See Section 4.08 of the Draft Agreement.
28.	Will the franchise fee be charged on the total billed amount or the Contractor's costs?	Both the Franchise Fee and the AB 939 Support Fee will be charged on the total amount billed.
29.	Please clarify if the City will manage customer billing and payment to the Contractor in the same manner as under the current contract? Under the current contract, the City bills and collects customer rates, withholds all Cities fees, disposal and processing fees, and remits the remaining revenue to the Contractor. Or conversely, will the Contractor be assured of receiving the full amount of the then current customer rates applied to the service levels and not have any risk associated with how much the City is able to collect from the customer base?	The City will compensate the Contractor in the same manner as the current contract. The City will bill and collect customer rates, withhold all Cities fees, disposal and processing fees, and remit the remaining revenue to the Contractor. The City will only pay the Contractor on the accounts that pay the City.
30.	Section 3.5.3 of the RFP requires the Contractor to conduct on-site waste audits and providing written summary reports for all Service Recipients at least once per year for the first four (4) years of the term. However, the Draft Franchise Agreement does not include this requirement. Please confirm the City will require waste audits for all Service Recipients. If so, please provide additional clarification of the City's expectation for waste audits and do they apply to all customers or just commercial, MFD, and roll-off service recipients?	The RFP is correct, and the Draft Franchise Agreement will be updated to clarify this requirement. The waste audits must include all customers.
31.	Is the waste flow-controlled to a landfill per the JPA?	Yes. See Addendum No. 2 for the JPA Agreement
32.	Are the recyclables flow-controlled per the JPA?	Yes. See Addendum No. 2 for the JPA Agreement
33.	Is the greenwaste flow-controlled per the JPA?	Yes. See Addendum No. 2 for the JPA Agreement
34.	Is there an organics facility for foodwaste in Merced County and is that material flow-controlled per the JPA?	See Addendum No. 2 for the position of the Authority on Food Waste.
35.	The City currently pays for all disposal of waste, greenwaste, and recyclables. Will the City pay for disposal or will the Contractor be responsible for payment in this RFP?	City will pay the Disposal and Processing Fees. Contractor is responsible for paying the procurement process.
36.	If the Contractor must pay disposal for waste, recyclables, and greenwaste, what is the rate per ton for each material type for the City of Los Banos? (assumes flow-controlled to JPA site(s))	See Addendum No. 2 for the Authority Rates.
37.	Will the City accept a \$50,000 cashiers check in lieu of a bid bond?	Yes.

#	Question	Answer
38.	How many routes by type does the current contractor run daily?	Available Service Data has been provided. See Addendum No. 2 for the residential route map.
39.	Is all roll off work franchised or just a portion? If just a portion, what portion is not franchised?	All Roll-Off is franchised.
40.	Please provide the current rates that the City is paying to the current contractor.	The City does not feel this is relevant information.
41.	The winning proposer must offer employment to the current employees. Does the current contractor have a collective bargaining agreement? If so, does the collective bargaining agreement for the employees have to be honored for the incoming company?	Yes, the drivers are represented by the CBA. The City does not require the CBA be honored by incoming Contractor.
42.	For MFD (multi-family dwellings), can the 32-gallon equivalent per unit be serviced with commercial bins? (202 gallons = 1 CY, or six MFD units).	Yes.
43.	Section 3.10 Diversion Standards...are there penalties or liquidated damages for not reaching the diversion requirements?	Should the Contractor fail to meet minimum Diversion Standards, they must submit a Corrective Action Plan within 30 Calendar days to the City. If the Contractor fails to submit a Corrective Action Plan to the City within the deadline, the City can assess and apply Administrative Charge to the Contractor. See Item# 4 of this Addendum for the updated Article 5 Diversion Standards. The Draft Franchise Agreement will be updated with this language.
44.	The RFP asks for the Key Staff Persons who will be assigned to the City. At this point we can only identify the transition team and current management team who will assist in the start up and some who will remain ongoing for Los Banos in support roles. For proposal response purposes, can we identify the Key Positions only that will be assigned to the City as most proposers will not have specific names yet?	Identify Key Positions and Qualifications. If Proposers are currently unable to identify specific individuals to fill key positions, City will consider the qualifications for those key positions as provided by Proposer. Please note that the City retains its right to approve of any individuals in key positions that have not been identified in the Proposal.
45.	The local office indicates it must be open Monday through Saturday, 8 am to 6 pm. The current agreement states that the office must be open Monday through Friday. Can the Saturday requirement be removed?	Yes, the local office requirement in the Draft Franchise Agreement will be modified to indicate that Saturdays are only required if collection occurs following a holiday.
46.	Page 44 of RFP indicates a due date of April 6, 2020. Should be corrected.	Comment noted. See Item# 1 of this Addendum.

#	Question	Answer
47.	Due to the COVID-19 pandemic and employees working from home, this adds a different dynamic in proposal response procedure within many organizations. Is there a possibility of extending the due date beyond May 20, 2020?	See Item #1 of this Addendum.
48.	Is it possible to extend the start date to later than July 1, 2021? Procuring trucks during the pandemic has slowed the process due to manufacturing. Most new contractors will not have additional trucks to do a start up.	No. The current Franchise Agreement expires on June 30, 2021. The new Agreement start date will not be pushed back.
49.	<p>There are two similar but not identical descriptions of what the final bid package is to look like:</p> <ul style="list-style-type: none"> ▪ Page 44, Section 5.1 - 5 hard copies and 1 reproducible sealed proposals will be accepted until 4:00 pm PT on April 6, 2020 at the office listed below. (should also have changed the date to May 20, 2020.) ▪ Page 45 Section 5.4 - 6 sets of the proposal (1 single-sided original proposal and 5 double-sided copies) all placed in binders with a cover indicating proposer name and proposal title and number must be submitted. Proposer shall also provide a digital copy of the complete proposal in a single PDF file on a USB drive. 	<p>Provide 5 double sided complete hard copies and one reproducible (digital) complete proposal as a single PDF file on a USB drive.</p> <p>See Item# 1 of this Addendum for the updated submission deadline.</p>
50.	New trucks and containers are required. Can the “spare” trucks (not front line) be used trucks?	All Collection vehicles must be new. See Section 12.01.3 of the Draft Agreement.
51.	What are the 15 City-sponsored events and what level of service is required?	Currently there are 10 City-Sponsored Events. The service levels vary by event. The City may increase this up 15 total events annually at a later date. The Contractor is to provide this at no cost to the City.
52.	On pages 17 and 18 is a blank Table 2 and states “will be provided as an addendum”. When will that information be available? Proposers will need that information ASAP to determine number and sizes of carts and bins, and service level.	See Addendum No. 2.
53.	Section 3.5.3 of the RFP states that ALL service recipients must have on-site waste audits and written summary reports. Does this include the residential customers (over 11,000 homes) or is this specific to commercial?	See Question# 30.
54.	With Regard to the City's diversion requirement of 75% by 2031, is that the AB 939 diversion rate? Or a ton-per-ton actual recycling rate with actual tons collection, not counting self-haul and source reduction?	See Question# 43.
55.	Will the City continue using the Merced JPA diversion rate of 76%, or will the City break away from the JPA CalRecycle recordkeeping and use a 'ton-per-ton' recycling rate?	See Question# 43.

#	Question	Answer
56.	Does the City plan to be part of the JPA for record keeping or will the City provide its own record keeping?	This question is unclear. The City intends to remain part of the JPA for recordkeeping, and all Contractor reporting requirements that the JPA has on franchised Contractors will remain in place. In addition, the City requires the Contractor to provide reporting as required in the Franchise Agreement.
57.	Will you please provide route maps for the commercial sector for all service days?	City does not have commercial route maps.
58.	Will you please provide house counts to correlate with each residential service day?	Available Service Data has been provided. See Addendum No. 2.
59.	Will you please confirm that 32-gal garbage service is not currently available to Service Recipients?	Confirmed. Currently, 32-gallon garbage carts are not available to Service Recipients. The City wants this cart size available going forward.
60.	Will you please break out Multi-Family Dwelling Service Recipient data by frequency and service level at your earliest convenience? Alternatively, please confirm that the MFD data is captured within the provided Commercial Service Recipient data.	Available Service Data has been provided. See Addendum No. 2.
61.	Will you please also provide data for Service Recipients receiving permanent roll off service, including the number of accounts with roll off service and frequency of service, as well as all temporary roll off service?	Available Service Data has been provided. See Addendum No. 2.
62.	<p>Will you please provide additional tonnage and diversion data, as follows?</p> <ul style="list-style-type: none"> ▪ 2019 tonnage data ▪ Tonnage data broken into material types (garbage, recycle and yard trimmings) by sector (single family, multi-family and commercial). ▪ Current diversion rates for Recyclables Materials and Green Waste/Organic Materials 	Available Service Data has been provided. See Addendum No. 2.
63.	Will you please confirm that there is currently zero participation in the current hauler's Commercial Green Waste/Organics program?	Two (2) commercial customers participate with 96-gallon carts, but the City is moving forward with implementation and currently has a compliance plan in place with CalRecycle.
64.	Will you please provide current participation data in the existing SFD Bulky Waste Collection Service program?	Minimal occurrences of SFD Service Recipients participation (less than 10 per year)

#	Question	Answer
65.	Will you please provide data on the number of Multi-Family Dwelling customers/accounts, as well as the number of units per MFD, as that information is available?	Minimal occurrences of MFD Service Recipients participation.
66.	Will you please provide current participation data in the existing MFD Bulky Waste Collection Service program? The MFD customer/accounts data requested above (<i>Section 3.3, pg. 22</i>) is also critical to pricing this service.	Available Service Data has been provided. See Addendum No. 2.
67.	Will you please provide data on the number of City-Supported Events that currently take place in the City and the associated service levels?	See Question #51.
68.	Will you please provide data on the number of Non-City Large Venue and Events that currently take place in the City and the associated service levels?	Available Service Data has been provided. See Addendum No. 2.
69.	The RFP states that the selected Contractor must provide SFD and MFD Service Recipients with four (4) Clean-Up Day events annually. Will you please detail how the current hauler provides these clean ups, including staff involved, limitations on material, location of event, hours of the event, and if recurring trips are permitted?	Currently the Community Clean-Up Events are in the Spring and Fall. Republic provides front/rear load trucks and bins.
70.	Will you please confirm that if, due to a delay in award of the Agreement or other extenuating circumstances, new vehicles cannot be available to provide service on July 1, 2021, used vehicles may be used as long as the vehicle transition plan is clearly outlined in the proposal?	Confirmed.
71.	This section requires that the selected contractor offer employment to displaced employees of the prior contractor. Table 5 in Addendum 2 provides data on Republic's employees. Will you please provide the following details regarding the current employees: <ul style="list-style-type: none"> ▪ How many employees does the current contractor employ to fully service the existing Franchise Agreement, including office and supervisory staff? ▪ Is any office/administrative staff covered by the union? 	See Addendum No. 2, Table 5, for the Available Employee Data. The office/administrative staff is not covered by the union.
72.	Section 5.5.4.2 states that the Operations Plan should be separated into a Collection Service Operations Plan and an HHW Collection Plan. Please confirm that with the deletion of HHW Drop-Off Site requirement, a separate HHW Collection Plan is no longer required as part of the proposal.	The HHW Collection Requirement has been deleted (see Question# 26). Accordingly, the requirement for a HHW Collection Plan has also been deleted.
73.	Will an updated Form H be released, or should proposers use the Form H with the incorrect date?	See Item# 2 of this Addendum.
74.	Often RFPs request Cost Forms illustrating the Proposer's overall costs. It appears only Service Rates (Form I) need to be produced, not overall costs for providing service. Will you please confirm that no additional Cost Forms will be required as part of the proposal?	Confirmed.
75.	Please also confirm when the Form I Excel workbook will be made available to proposers.	Confirmed. See Question# 5.

4. Replacement Language for Article 5 Diversion Requirements

The following language for Diversion Requirements will replace the existing Article 5 Diversion Requirements in the Draft Franchise Agreement.

Article 5 Diversion Requirements

5.01 Minimum Requirements. City requires Contractor to achieve a minimum annual Franchised Diversion rate and assist City in complying with CalRecycle diversion standards as described in Section 5.02 and 5.03 below. Contractor must provide documentation to City within forty-five (45) days of the end of each calendar year stating and supporting that calendar year's diversion rate as set forth in Section 5.03. Contractor's Diversion Plan is outlined in **Exhibit 7**.

5.01.1 On July 1, 2022, and not more often than once every two (2) years, thereafter Contractor may request waiver or revision of Franchised Diversion requirements, the parties agree to meet and confer, and negotiate in good faith, regarding adjustments to the minimum diversion requirement, the availability of permitted facilities that are capable of processing material to achieve the required levels of diversion, the availability of commercially viable markets for Recyclable Materials or Organic Waste, and international trade embargoes. City may not unreasonably withhold approval of the waiver or revision provided that Contractor has presented sufficient documentation for its request.

5.01.2 If City fails to comply with CalRecycle diversion standards due to Contractor's failure to implement the Franchised Diversion and public education programs provided for in this Agreement and Contractor fails to achieve a minimum annual Franchised Diversion Rate as described in Section 5.03, Contractor must submit a corrective action plan to assist City to comply with section 41780 and other Applicable Laws, by May 15th following the year the diversion requirements were not met. Contractor's corrective action plan is subject to approval by the Agreement Administrator, and to be approved must constitute a good faith corrective action plan to allow City to comply with Public Resources Code section 41780 and other Applicable Laws. Implementation of the corrective action plan will be at Contractor's sole cost and expense. If Contractor fails to submit a corrective action plan acceptable to the City, Contractor may be subject to Administrative Charges as specified in Section 19.04. Provided that Contractor has implemented all required Contractor diversion and public education programs required under this Agreement, and has submitted a corrective action plan acceptable to the City, Contractor's failure to meet the Franchised Diversion requirements under Section 5.03 shall not constitute and event of default under this Agreement.

5.01.3 If Contractor fails to meet its Franchised Diversion requirements or if City fails to comply with CalRecycle diversion standards, and Contractor has implemented all required Contractor diversion programs, the City may direct Contractor to modify its programs, or implement new diversion programs. Any such modification of Contractor's existing diversion programs or addition of new diversion programs done at the City's request would be in accordance with Section 23.01.

5.01.4 Notwithstanding any other provision of this Agreement to the contrary, where CalRecycle has determined that there are no commercially viable markets for a specific type of Recyclable

Materials, or with written notice to City, Contractor is unable to identify a market for one or more Recyclable Materials despite the exercise of commercially reasonable efforts to process and market the material, and determines, in the interest of safeguarding public health, to dispose of the Recyclable Material(s), such a determination shall not constitute a failure to implement service, a failure to implement a program, or an event of default hereunder.

5.02 Diversion Rate Calculation.

5.02.1 Franchised Diversion Rate Calculation. For purposes of determining whether Contractor has met its Franchised Diversion requirements under this Agreement, City and Contractor agree the annual Franchised Diversion rate will be calculated using the following formula: *“the tons of materials Collected by Contractor from Collection Services in City that are delivered to a Materials Recovery Facility, Organic Waste Processing Facility, or any other processing facility, or that are otherwise handled in a manner that counts as diversion under applicable CalRecycle regulations (in each case, net of all residue from processing), divided by the total tons of materials Collected in the City by Contractor from the provision of Collection Services in each Calendar Year.”*

5.02.2 CalRecycle Diversion Requirement Calculation. For purpose of determining whether Contractor has met its CalRecycle diversion requirements under this Agreement, City and Contractor agree the CalRecycle diversion requirement rate will be calculated using the following formula: *“City’s Pounds Per Person Per Day disposal allowance divided by the Pounds Per Day generated in each Calendar Year.”*

5.03 Contractor’s Diversion Requirements. For purposes of Article 5, Contractor’s Franchised Diversion requirements are:

5.03.1 For Calendar Years 2021, 2022, and 2023, the minimum annual Franchised Diversion rate requirement will be forty-five percent (45%).

5.03.2 For Calendar Years 2024 and 2025, the minimum annual Franchised Diversion rate requirement will be fifty percent (50%).

5.03.3 For Calendar Years 2026, and for each Calendar Year thereafter during the term of this Agreement, the minimum annual Franchised Diversion rate requirement will be fifty-five percent (55%). In the event that CalRecycle or other State Agency having jurisdiction over the matter imposes higher or additional diversion rate requirements Contractor and City shall meet and confer in good faith as to how best to implement such new requirements.

5.03.4 As a member of the Merced County Regional Waste Management Waste Authority, Contractor acknowledges that CalRecycle diversion is reported on a regional bases. However, Contractor further acknowledges that a) the City retains the right to hold Contractor to its own CalRecycle diversion requirements in the event the City is no longer member of the Merced County Regional Waste Management Waste Authority, or b) the Merced County Regional Waste Management Waste Authority imposes higher diversion standards on its Member Agencies.

5.04 Warranties and Representations. Contractor warrants that it is aware of and familiar with City's waste stream, and that it has the ability to and must provide sufficient programs and services designed to ensure City will meet or exceed the diversion requirements as set forth in this Section 5.01, as well as the diversion requirements of the Applicable Laws (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) (including AB 341, AB 901, AB 909, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation), and that it will do so without imposing any costs or fees other than those set forth on **Exhibit 1**, except as provided in Section 23.01.1.

5.05 Mutual Cooperation. City and Contractor will reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by the Applicable Laws, including without limitation, AB 341, AB 901, AB 939, AB 1826, AB 1594, SB 1016, and SB 1383, and to meet Contractor's obligations under this Article 5. In this regard, City's obligations include, without limitation, making such petitions and applications as may be reasonably requested by Contractor for time extensions in meeting diversion goals, or other exceptions from the terms of Applicable Laws, and to agree to authorize such changes to Contractor's Solid Waste Collection Services, or Collection Service programs as may be reasonably requested by Contractor in order to achieve the minimum requirements of this Article 5.

5.06 Guarantee. Except programs Contractor is expressly instructed by City not to implement, Contractor guarantees that it will implement the diversion programs set forth in this Agreement such that: (i) Contractor and City will at all times be in compliance with the requirements of the Applicable Laws including without limitation AB 341, AB 901, AB 939, AB 1826, AB 1594, SB 1016, and SB 1383, and (ii) City will meet or exceed the diversion requirements (including, without limitation, amounts of Garbage to be diverted, time frames for diversion, and any other requirements) set forth in this Article 5 and the Applicable Laws, including without limitation, AB 341, AB 901, AB 939, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments thereto (subject to Section 21.02). In this regard Contractor agrees that it will, in addition to any other Agreement requirement, at its sole cost and expense:

5.06.1 Assist City in responding to inquiries from CalRecycle or any other regulatory agency;

5.06.2 Assist City in preparing for, and participating in, CalRecycle's biannual review of City's Source Reduction and Recycling Element, as the requirement for or name of may be amended or changed from time to time, pursuant to Public Resources Code section 41825;

5.06.3 Assist City in applying for any extension, including under Public Resources Code section 41820.5, if so directed by City;

5.06.4 Assist City in any hearing conducted by CalRecycle, or any other regulatory agency, relating to City's compliance with the Applicable Laws, including without limitation, AB 341, AB 901, AB 939, AB 1826, AB 1594, AB 901, SB 1016, and SB 1383, and all amendments thereto;

5.06.5 Assist City with the development of and implement a public awareness and education program that is consistent with City's plans and policies as well as any related requirements of the Applicable Laws; and

5.06.6 Provide City with Recycling, source reduction, and other technical assistance as may be needed to comply with the Applicable Laws, including without limitation, AB 341, AB 901, AB 939, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments thereto.

Form H
PASS/FAIL REQUIREMENTS

PROPOSER NAME _____

(name of the entity that will sign the Franchise Agreement in the event one is awarded)

Key Contact Information

Name: _____

Title: _____

Address: _____

Telephone Number: _____

Email: _____

The Undersigned hereby certifies as follows (initial next to each statement):

_____ The Proposer has attended the **MANDATORY** pre-proposal video conference held on April 20, 2022 at 2:00 p.m. PT.

_____ The Proposer has provided all required items in Section 1 of their Proposal, including Cover Letter, Executive Summary, Proposal Bond, Performance Bond Commitment Letter, and Signed Copies of Addenda.

_____ The Proposer certifies that Proposer has agreed to meet the specifications and instructions for the services to be done as set forth in Sections 1 – 6 of this RFP.

_____ The Proposer certifies that Proposer has agreed to meet the specifications and requirements as set forth in the Draft Franchise Agreement.

_____ The Proposer certifies that Proposer has made an examination of the services as applicable to the proposal, and fully understands the character of the work to be done.

_____ The Proposer warrants that the requirements of the Draft Franchise Agreement as described in this RFP, its enclosures, and all addenda have been thoroughly reviewed and the Proposer has conducted all due diligence necessary to confirm material facts upon which the proposal is based.

_____ The Proposer certifies that **all** proposed transfer and processing facilities are fully permitted and capable of handling the City of Los Banos' Solid Waste during the term of the Franchise Agreement. **Processing facilities must have appropriate permits from all applicable regulatory entities (including but not limited to CalRecycle and the Local Enforcement Agency) in place at all times.**

_____ The Proposer agrees to pay the City for the cost of each of the three (3) **Performance Reviews**, up to **\$75,000 each**, during the base term of the Agreement, with one potential additional Performance Review (at the same cost) during the potential extension period. This amount will be escalated annually by the percentage increase of 80% of the percentage change in the "Consumer Price Index (San Francisco – Oakland – Hayward, All Urban Consumers, Not Seasonally Adjusted)," (or another mutually agreed-upon index if this one is no longer published) between the most recently published February index and the corresponding index published twelve months earlier, or 3.5% whichever is less, with an adjustment floor set at 0.0%. Adjusted cost shall be rounded to the nearest cent.

Form H
PASS/FAIL REQUIREMENTS

_____ The Proposer agrees to submit a **Performance Bond or Letter of Credit** in the amount of **\$1,500,000** effective July 1, 2021.

_____ The Proposer agrees to pay the City a **Proposal Development Payment** for the cost of this procurement up to but no more than One Hundred and Fifty Thousand Dollars (**\$150,000**). This one-time payment is due for consultant fees for the preparation of this Request for Proposals and negotiation costs and shall be payable to the City within thirty (30) days after the Franchise Agreement is executed.

_____ The Proposer acknowledges the validity of the proposal contents, including proposed Service Rates and pricing for a period of one hundred eighty (180) days from the proposal due date.

Having made the necessary examination, the undersigned hereby proposes to furnish all materials, vehicles, plant, equipment and facilities, and to perform all labor and services which may be required to do said work within the time fixed and upon the terms and conditions provided in the Franchise Agreement, at the service rates set forth on Form I:

PROPOSER NAME _____

(name of the entity that will sign the Franchise Agreement)

President/Partner/Owner/Managing Member _____

Secretary _____

Firm Name _____

Individual: Partnership: Joint Venture:

Corporation _____, A _____ Corporation (State of Incorporation)

Signature _____

Date _____

Signature Instructions:

If business is a CORPORATION, name of the corporation should be listed in full and both President and Secretary must sign the form, OR if one signature is permitted by corporation by-laws, a copy of the by-laws shall be furnished to the City as part of the proposal.

If business is a PARTNERSHIP, the full name of each partner should be listed followed by d/b/a (doing business as) and firm or trade name; any one partner may sign the form.

If the business is INDIVIDUAL PROPRIETORSHIP, the name of the owner should appear followed by d/b/a and name of the company.

If the business is a LIMITED LIABILITY COMPANY, the Managing Member must sign the form.

If business is a JOINT VENTURE, the full name of each joint venturer should be listed in full and each joint venturer must sign the form, OR if one signature is permitted by the joint venture agreement or by-laws, a copy of the agreement or by-laws shall be furnished to the City as part of the proposal.