

Baseline Trash Load and Short-Term Trash Load Reduction Plan

Submitted by:



500 Castro St. Mountain View, CA 94041-2010

In compliance with Provisions C.10.a(i) and C.10.a(ii) of Order R2-2009-0074

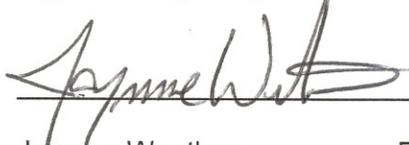
February 1, 2012

**City of Mountain View
SHORT-TERM TRASH LOAD REDUCTION PLAN**

CERTIFICATION STATEMENT

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signature by Duly Authorized Representative:

 Jan 26, 2012

Jaymae Wentker
Fire Marshal

Date

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ABBREVIATIONS

BASMAA	Bay Area Stormwater Management Agencies Association
BID	Business Improvement District
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CASQA	California Stormwater Quality Association
CDS	Continuous Deflection Separator
CEQA	California Environmental Quality Act
CY	Cubic Yards
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
GIS	Geographic Information System
MRP	Municipal Regional Stormwater NPDES Permit
MS4	Municipal Separate Storm Sewer System
NGO	Non-Governmental Organization
NPDES	National Pollutant Discharge Elimination System
Q	Flow
SFRWQCB	San Francisco Regional Water Quality Control Board
SWRCB	State Water Resource Control Board
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency
Water Board	San Francisco Regional Water Quality Control Board
WDR	Waste Discharge Requirements

PREFACE

This Baseline Trash Load and Short-Term Trash Load Reduction Plan (Plan) is submitted in compliance with provision C.10.a(i) and C.10.a(ii) of the Municipal Regional Stormwater NPDES Permit (MRP) for Phase I communities in the San Francisco Bay (Order R2-2009-0074). This Plan was developed using a regionally consistent format developed by the Bay Area Stormwater Management Agencies Association (BASMAA). Based on new information that becomes available during the implementation of this Short-Term Plan (e.g., revisions to baseline loading estimates or load reduction credits of quantification formulas), the City of Mountain View may choose to amend or revise this Plan. If revisions or amendments are necessary, a revised Short-Term Plan will be submitted to the Water Board via the City of Mountain View's annual reporting process.

1.0 INTRODUCTION

The Municipal Regional Stormwater NPDES Permit for Phase I communities in the San Francisco Bay (Order R2-2009-0074), also known as the Municipal Regional Permit (MRP), became effective on December 1, 2009. The MRP applies to 76 large, medium and small municipalities (cities, towns and counties) and flood control agencies in the San Francisco Bay Region, collectively referred to as Permittees. Provision C.10 of the MRP (Trash Load Reduction) requires Permittees to reduce trash from their Municipal Separate Storm Sewer Systems (MS4s) by 40 percent before July 1, 2014.

Required submittals to the San Francisco Bay Regional Water Quality Control Board (Water Board) by February 1, 2012 under MRP provision C.10.a (Short-Term Trash Loading Reduction Plan) include:

1. (a) Baseline trash load estimate, and (b) description of the methodology used to determine the load level.
2. A description of the Trash Load Reduction Tracking Method that will be used to account for trash load reduction actions and to demonstrate progress and attainment of trash load reduction levels.
3. A **Short-Term Trash Loading Reduction Plan** that describes control measures and best management practices that will be implemented to attain a 40 percent trash load reduction from its MS4 by July 1, 2014;

This Short-Term Trash Load Reduction Plan (Short-Term Plan) is submitted by the City of Mountain View in compliance with the portions of MRP provision C.10.a.i listed as 1a and 3 above. In compliance with 1b, BASMAA submitted a progress report on behalf of Permittees that briefly describes the methodologies used to develop trash baseline loads (BASMAA 2011a). These methods are more fully described in BASMAA (2011b, 2011c). Lastly, the *Trash Load Reduction Tracking Method Technical Report* (BASMAA 2011d) was submitted by BASMAA on behalf of Permittees in compliance with submittal 2 described above. The Baseline Loading Rates and Tracking Method projects are briefly described below.

Baseline Trash Generation Rates Project

Through approval of a BASMAA regional project, Permittees agreed to work collaboratively to develop a regionally consistent method to establish baseline trash loads from their MS4s. The project, also known as the *BASMAA Baseline Trash Generation Rates Project* assists Permittees in establishing a baseline to demonstrate progress towards MRP trash load reduction goals (i.e., 40 percent). The intent of the project was to provide a scientifically-sound method for developing (default) baseline trash generation rates that can be adjusted, based on Permittee/site specific conditions; and used to develop baseline loading rates and loads. Baseline loads form the reference point for comparing trash load reductions achieved through control measure implementation.

Baseline trash loading rates are quantified on a volume per unit area basis and based on factors that significantly affect trash generation (e.g., land use, population density, and economic profile). The method used to establish baseline trash loads for each Permittee builds off "lessons learned" from previous trash loading studies conducted in urban areas (Allison and Chiew 1995; Allison et al. 1998; Armitage et al. 1998; Armitage and Rooseboom 2000; Lippner et al. 2001; Armitage 2003; Kim et al. 2004; County of Los Angeles 2002, 2004a, 2004b; Armitage 2007). The method is based off a conceptual model developed as an outgrowth of these studies (BASMAA 2011b). Baseline trash loading rates were

developed through the quantification and characterization of trash captured in Water Board recognized full-capture treatment devices installed in the San Francisco Bay area. Methods used to develop trash baseline loading rates are more fully described in BASMAA (2011b, 2011c, and 2012b).

Trash Load Reduction Tracking Method Summary

The trash load reduction tracking method, described in the *Trash Load Reduction Tracking Method Technical Report*, assists Permittees in demonstrating progress towards reaching trash load reduction goals defined in the MRP (e.g., 40 percent). The tracking method is based on information gained through an extensive literature review and Permittee experiences in implementing stormwater control measures in the San Francisco Bay Area. The literature review was conducted to evaluate quantification methods used by other agencies to assess control measure effectiveness or progress towards quantitative goals. Results are documented in the *Trash Load Reduction Tracking Method: Technical Memorandum # 1 – Literature Review* (BASMAA 2011d).

Methods attributable to specific trash control measures fall into two categories: 1) trash load reduction quantification formulas; and 2) load reduction credits (BASMAA 2012a). Quantification formulas were developed for those trash control measures that were deemed feasible and practical to quantify load reductions at this time. Load reduction credits were developed for all other control measures included in the methodology development. Both categories of methods assume that as new or enhanced trash control measures are implemented by Permittees, a commensurate trash load reduction will occur. Progress towards load reduction goals will be demonstrated through comparisons to established trash baseline load estimates developed through the BASMAA *Baseline Generation Rates Project*.

Short-Term Trash Load Reduction Plan

The purpose of this Short-Term Plan is to describe the current level of implementation of control measures and best management practices, and identify the type and extent to which new or enhanced control measures and best management practices will be implemented to attain a 40 percent trash load reduction from their MS4 by July 1, 2014. The Short-Term Plan was developed using a template created by BASMAA through a regional project. New and enhanced trash control measures (i.e., Best Management Practices) that Permittees may implement to demonstrate trash load reduction goals are included in Table 1.1. This list was developed collaboratively through the BASMAA Trash Committee, which included participation from Permittee, stormwater program, Water Board and non-governmental organization (NGO) staff. The list of control measures is based on: 1) the potential for Permittees to implement; 2) the availability of information required to populate formulas and develop credits; and 3) the expected benefit of implementation. Load reductions associated with each control measure are demonstrated either through a quantification formula (QF) or credits (CR) described in the *Trash Load Reduction Tracking Method Technical Report* (BASMAA 2012a).

In efforts to reduce trash discharged from MS4s, Permittees may choose to implement control measures that are not included in Table 1.1 or described more fully in BASMAA (2012a). If a Permittee chooses to do so, methods specific to calculating trash load reductions for that control measure would need to be developed. Additionally, at that point, consideration should be given to updating this Short-Term Plan.

Additionally, based on new information that becomes available during the implementation of this Short-Term Plan (e.g., revisions to baseline loading estimates or load reduction credits of quantification formulas), the City of Mountain View may amend or revise this Plan. If revisions or amendments are

necessary, a revised Short-Term Plan will be submitted to the Water Board via the City of Mountain View’s annual reporting process.

Table 1.1. Trash control measures for which load reduction quantification credits or formulas were developed to track progress towards trash load reduction goals.

Load Reduction Credits
Single-use Carryout Plastic Bag Ordinances
Polystyrene Foam Food Service Ware Ordinances
Public Education and Outreach Programs
Activities to Reduce Trash from Uncovered Loads
Anti-Littering and Illegal Dumping Enforcement Activities
Improved Trash Bin/Container Management Activities
Single-Use Food and Beverage Ware Ordinances
Quantification Formulas
On-land Trash Pickup (Volunteer and/or Municipal)
Enhanced Street Sweeping
Partial-Capture Treatment Devices
Enhanced Storm Drain Inlet Maintenance
Full-Capture Treatment Devices
Creek/Channel/Shoreline Cleanups (Volunteer and/or Municipal)

This Short-Term Plan is organized into the following sections:

- Introduction;
- Trash Baseline Load Estimate;
- Load Reduction Calculation Process
- Planned Implementation of New or Enhanced Control Measures;
- Implementation Schedule; and
- References

2.0 BASELINE TRASH LOADING ESTIMATE

Note: Tables and information presented in this section are subject to change based on the results of a third monitoring event of the BASMAA Baseline Trash Generation Rates Project. Therefore, this section of the Short-Term Plan may be updated with revised trash generation rates, baseline loading rates, and baseline loads.

This section provides the estimated annual trash baseline load from the City of Mountain View's Municipal Separate Storm Sewer System (MS4). In compliance with Provision C.10.a.ii of the MRP, the City of Mountain View worked collaboratively with other MRP Permittees through BASMAA to develop data and the process necessary to establish baseline trash loading estimate from our MS4. The collaborative project was managed through the BASMAA Trash Committee and included a series of steps described in BASMAA (2012b) and listed below. The approach was intended to be cost-effective and consistent, but still provide an adequate level of confidence in trash loads from MS4s, while acknowledging that uncertainty in trash loads still exists. The approach entailed the following steps:

1. Conduct literature review;
2. Develop conceptual model;
3. Develop and implement sampling and analysis plan;
4. Test conceptual model;
5. Develop and apply default trash **generation rates** to Permittee effective loading areas;
6. Adjust default trash generation rates based on baseline levels of control measure implementation by the Permittee to develop trash **baseline loading rates**; and,
7. Calculate Permittee-specific annual trash **baseline load**.

Through the collaborative BASMAA project, default baseline trash generation rates (volume per area) were developed for a finite set of categories, based on factors that significantly affect trash loads (e.g., land use). These trash generation rates were then applied to effective loading areas in applicable jurisdictional areas within the City of Mountain View. Trash generation rates were then adjusted based on baseline street sweeping, storm drain inlet maintenance, and stormwater pump station maintenance conducted in each applicable area. The sum of the trash loads (i.e., rate multiplied by area) from each effective loading area represents the City of Mountain View's baseline trash load from its MS4. A full description of the methods by which trash baseline loads were developed is included in BASMAA (2012a) and is summarized below.

Permittee Characteristics

Incorporated in 1902, the City of Mountain View is located in Santa Clara County, and has a jurisdictional area of 7,755 acres. According to the 2010 Census, it has a population of 74,066, with a population density of 6,034.7 people per square mile, and average household size of 2.31. Of the 74,066 who call the City of Mountain View home, 19.7% are under the age of 18, 7.3% are between 18 and 24, 38.6% are between 25 and 44, 23.8% are between 45 and 64, and 10.6% are 65 or older.

Companies such as Google, Symantec, El Camino Hospital, Microsoft, Intuit, Synopsys, Palo Alto Medical Foundation, KPMG, LinkedIn, and Omnicell are located in the City of Mountain View. The median household income was \$69,362 in 2000¹.

Default Trash Generation Rates (Regional Approach)

A set of default trash generation rates was developed via the BASMAA regional collaborative project (BASMAA 2012a). Default generation rates were developed based on a comparison between trash characterization monitoring results, land uses, economic profiles, and other factors that were believed to possibly affect trash generation. Three trash characterization monitoring events were scheduled via the *Trash Generation Rates Project*. Due to the compliance timeline in the MRP, only two of three trash characterization monitoring events were used to develop trash generation rates described in BASMAA (2012a) and presented in this section. Following the completion of the third characterization event (Winter 2011/12), this section of the Short-Term Plan may be updated to reflect the most up-to-date trash generation and loading rates available. Trash generation rates based on the results of two of the three characterization events are shown in Table 2-1 for each trash loading category.

Table 2-1. Regional Default Annual Trash Generation Rates by Land Use Category.

Land Use Category	Generation Rates (Gallons/Acre)
Retail and Wholesale	29.99
High Density Residential	17.04
K-12 Schools	13.14
Commercial and Services/ Heavy, Light and Other Industrial	7.08
Urban Parks	2.14
Low Density Residential	1.25
Rural Residential	0.17

Jurisdictional and Effective Loading Areas

Default trash baseline generation rates presented in Table 2-1 were applied to effective loading areas with jurisdictional areas within the City of Mountain View. The City of Mountain View’s jurisdictional areas includes all urban land areas within the City of Mountain View boundaries that are subject to the requirements in the MRP. Land use areas identified by a combination of the ABAG 2005 land use dataset and Permittee knowledge that were not included within the City’s jurisdictional areas include:

- Federal and State of California Facilities and Roads (e.g., Interstates, State Highways, Military Bases, Prisons);
- Roads Owned and Maintained by Santa Clara County;
- Colleges and Universities (Private or Public);
- Non-urban Land Uses (e.g., agriculture, forest, rangeland, open space, wetlands, water);

¹ From the 2000 Census. The median household income for the City of Mountain View from the 2010 Census is not currently available.

- Communication or Power Facilities (e.g., PG & E Substations);
- Water and Wastewater Treatment Facilities; and
- Other Transportation Facilities (e.g., airports, railroads, and maritime shipping ports).

Once the City of Mountain View’s jurisdictional area was delineated, an effective trash loading area was developed by creating a 200-foot buffer on each side of the streets within the City’s jurisdictional area. The purpose of the effective loading area is to eliminate land areas not directly contributing trash to the City’s MS4 (e.g., large backyards and rooftops). Both the jurisdictional and the effective loading areas for the City of Mountain View are presented in Table 2-2.

Table 2-2. Jurisdictional areas and effective loading areas in the City of Mountain View by land use classes identified by ABAG (2005).

Land Use Category	Jurisdictional Area (Acres)	Effective Loading Area (Acres)	% of Effective Loading Area
High Density Residential	1,497	1,326	28
Low Density Residential	1,858	1,774	37
Rural Residential	15	11	0
Commercial and Services/ Heavy, Light and Other Industrial	1,764	1,098	23
Retail and Wholesale	468	353	7
K-12 Schools	221	100	2
Urban Parks	329	123	3
TOTAL	6,151	4,785	100%

Permittee-Specific Baseline Trash Loading Rates

Regional default trash generation rates developed through the BASMAA regional collaborative project were applied to effective loading areas within the City of Mountain View based on identified land uses. These generation rates were then adjusted based on the calculated effectiveness of baseline street sweeping, storm drain inlet maintenance and pump station maintenance implemented by the City. These adjustments were conducted in GIS due to the site specificity of baseline generation rates and baseline control measure implementation. The following sections describe the baseline level of implementation for these three control measures. A summary of trash baseline generation and loading rates for the City of Mountain View are provided in Table 2-3 and areas associated with these rates are illustrated in Figure 2-1.

Baseline Street Sweeping

A "baseline" street sweeping program is defined as the sweeping frequency and parking enforcement implemented by the City of Mountain View prior to effective date of the MRP. Baseline street sweeping differs from "enhanced" street sweeping, which includes increased parking enforcement and/or sweeping conducted at a frequency greater than baseline ceiling (i.e., once per week for retail land uses

and twice per month for all other land uses). The baseline ceiling was created to not penalize implementers of enhanced street sweeping programs prior to the effective date of the MRP. For those Permittees that sweep less frequent than the baseline ceiling, their current sweeping frequency serves as their baseline.

The City of Mountain View's baseline street sweeping program includes sweeping nearly all streets within the City twice per month. Parking enforcement signs for street sweeping are posted on some streets in high-density residential neighborhoods, and parking enforcement equivalent occurs on some arterial streets. The estimated trash load reduced via baseline street sweeping is presented in Table 2-3.

Baseline Storm Drain Inlet Maintenance

Within the City of Mountain View, storm drain inlets were cleaned at a baseline level of one time per year prior to the effective date of the MRP. Based on this baseline frequency and the effectiveness rating developed in BASMAA (2012b), the baseline storm drain maintenance program in the City of Mountain View has an annual effectiveness rating of 5%. The estimated trash load reduced via baseline storm drain inlet maintenance is presented in Table 2-3.

Baseline Stormwater Pump Station Maintenance

The City of Mountain View owns and maintains five stormwater pump stations. Of these stations, four have trash racks that capture trash and allow for removal during maintenance. For those pump stations with trash racks, the estimated volume of trash removed annually from each pump station prior to the effective date of the MRP is considered the baseline level of implementation. To determine the baseline volume of trash removed from pump stations, an effectiveness rating of 25% removal of the baseline trash load attributable to the area draining to the pump station is assumed. This effectiveness rating is based on methods developed in BASMAA (2012b). The estimated trash load reduced via baseline pump station maintenance is presented in Table 2-3.

Baseline Trash Loading Estimate

The estimated baseline trash load from the City of Mountain View was calculated as the sum of the loads from the City's effective loading area, adjusted for baseline implementation of street sweeping, storm drain inlet maintenance, and pump station maintenance. The preliminary annual trash baseline load for the City of Mountain View is presented in Table 2-3. Preliminary baseline trash loading rates are presented in Figure 2-1 to provide a geographical illustration of areas with estimated low, moderate, high and very high trash loading rates.

Table 2-3. Preliminary annual trash baseline load for the City of Mountain View.

Category	Annual Load (gallons)
Preliminary Generation Trash Load	44,736
Load Removed via Baseline Street Sweeping	16,131
Load Removed via Baseline Storm Drain Inlet Maintenance	1,430
Load Removed via Baseline Stormwater Pump Station Maintenance	1,132
Preliminary Trash Baseline Load	26,043

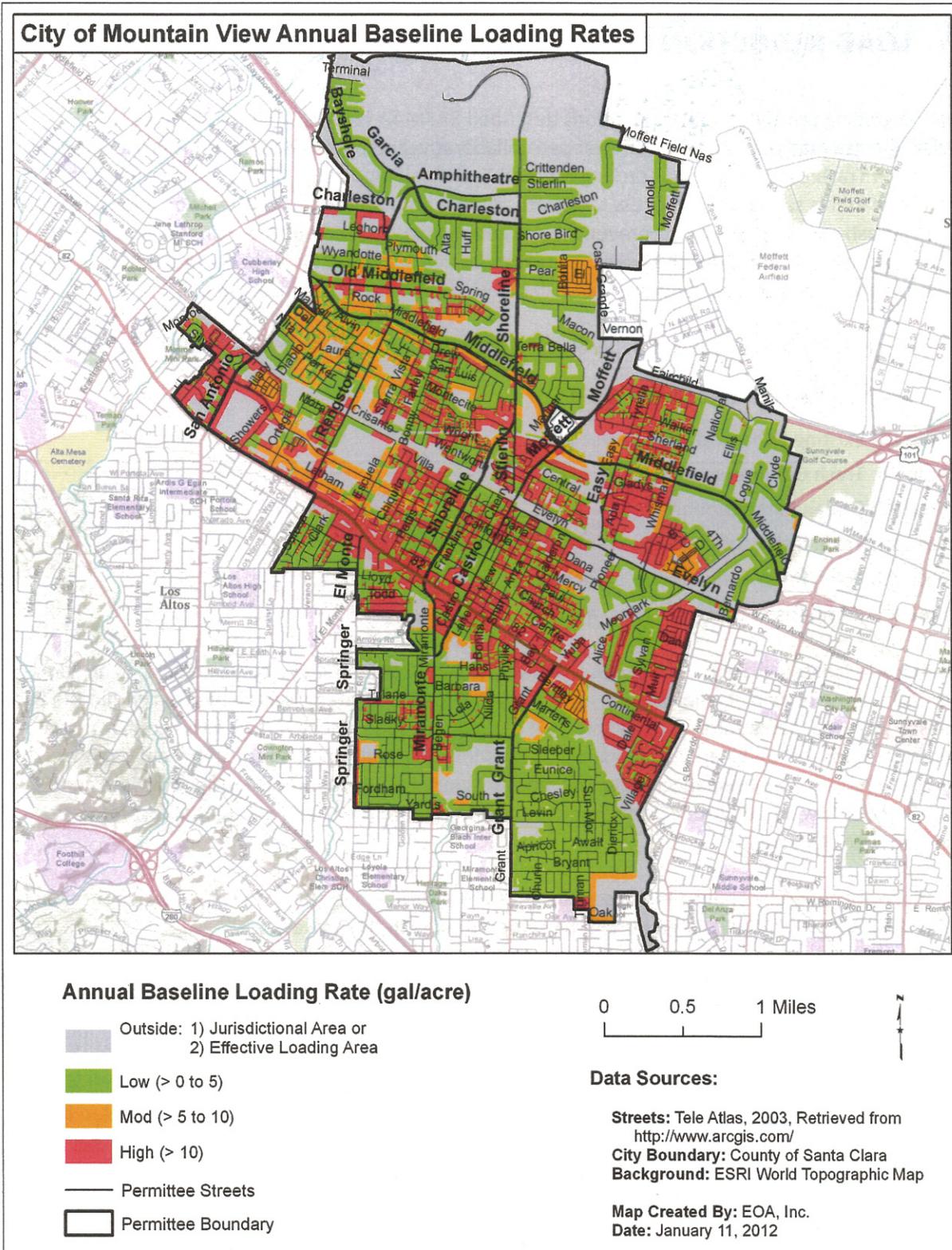


Figure 2-1. Estimated trash baseline loading rates for geographical areas in the City of Mountain View.

3.0 LOAD REDUCTION CALCULATION PROCESS

Using the guiding principles and assumptions described BASMAA (2012a), a stepwise process for calculating trash load reductions was developed collaboratively through BASMAA. This process is fully described in Trash Load Reduction Tracking Method Technical Report (BASMAA 2012a) and is briefly summarized in this section. The process takes into at what point in the trash generation and transport process a trash control measure: 1) prevents trash generation, 2) intercepts trash in the environment prior to reaching a water body, or 3) removes trash that has reached a water body. In doing so, it avoids double-counting of trash load reductions associated with specific control measures.

To demonstrate trash load reductions, baseline trash loading rates will be adjusted using the following process:

- Step #1:** Existing Enhanced Street Sweeping
- Step#2:** Trash Generation Reduction
- Step #3:** On-land Interception
- Step #4:** Trash Interception in the Stormwater Conveyance System
- Step #5:** Trash Interception in Waterways
- Step #6:** Comparison to Baseline Trash Load

Reductions calculated in Steps 2 and 5 are assumed to be implemented at a constant rate on an “area-wide” basis. For example, if a new region-wide public education strategy is implemented within the San Francisco Bay area, all Permittees can apply load reduction credits associated with this control measure. In contrast, Steps 1, 3 and 4 are “area-specific” reductions that only apply to specific areas within a Permittee’s jurisdiction. Area-specific control measures include full-capture treatment devices and enhanced street sweeping. Area-specific reductions may require the use of a Geographic Information System (GIS) to calculate.

Reductions are generally applied in the sequence as described below, although some reductions may be applied “in-parallel” and calculated during the same sub-step in the process.

Step #1: Existing Enhanced Street Sweeping

Trash load reductions due to existing enhanced street sweeping implemented prior to the effective date of the MRP and conducted at levels above baseline levels are not incorporated into each Permittee’s trash baseline load. Therefore, load reductions associated with existing enhanced are accounted for first in the trash load reduction calculation process. Existing enhanced street sweeping includes street sweeping conducted at a frequency greater than **1x/week** for streets within retail land use areas or greater than **2x/month** for streets in all other land use areas. The result of adjustments made to trash baseline loads due to the implementation of existing enhanced street sweeping is a set of **current baseline loading rates** and a **current baseline load**.

Step #2: Trash Generation Reduction Control Measures

Trash generation reduction control measures prevent or greatly reduce the likelihood of trash from being deposited onto the urban landscape. They include the following area-wide control measures:

- CR-1: Single-Use Carryout Plastic Bag Ordinances
- CR-2: Polystyrene Foam Food Service Ware Ordinances
- CR-3: Public Education and Outreach Programs
- CR-4: Reduction of Trash from Uncovered Loads
- CR-5: Anti-Littering and Illegal Dumping Enforcement
- CR-6: Improved Trash Bin/Container Management
- CR-7: Single-Use Food and Beverage Ware Ordinances

Load reductions associated with trash generation reduction control measures are applied on an area-wide basis.² Therefore, reductions in current baseline loading rates are adjusted uniformly based on the implementation of the control measure and the associated credit claimed.

Baseline loading rate adjustments for all generation reduction controls measures implemented may be applied in-parallel, but should be applied prior to calculating on-land interception measures discussed in Step #3. The result of adjustments to trash baseline loading rates due to the implementation of these enhanced control measures will be a set of **street loading rates**. The **street load** is the volume of trash estimated to enter the environment and available for transport to the MS4 if not intercepted via on-land control measures described in Step #3.

Step #3: On-land Interception Control Measures

Once trash enters the environment, it may be intercepted and removed through the following control measures prior to reaching the stormwater conveyance system:

- QF-1: On-land Trash Cleanups (Volunteer and/or Municipal) (Area-wide)
- QF-2: Enhanced Street Sweeping (Area-specific)

Since on-land trash cleanups can affect the amount of trash available to street sweepers, load reductions associated with their implementation will be quantified first, followed by street sweeping enhancements. On-land trash cleanups will be applied as an area-wide reduction and all effective loading rates will be adjusted equally. Enhanced street sweeping, however, is an area-specific control measure and only those effective loading rates associated with areas receiving enhancements will be adjusted. Due to the spatial nature of enhanced street sweeping, GIS may be needed to conduct this step.

² The only exception to this statement are load reductions associated with the establishment of Business Improvement Districts (BIDs) or equivalent, which are specific to geographic areas and considered "area-specific".

The result of adjustments to effective loading rates due to the implementation of these enhanced control measures will be a set of **conveyance system loading rates**. The **conveyance load** is the volume of trash estimated to enter the stormwater conveyance system (e.g., storm drains).

Step #4: Control Measures that Intercept Trash in the MS4

Control measures that intercept trash in the stormwater conveyance system are area-specific. Therefore, they only apply to land areas and associated trash loads reduced. Conveyance system loading rates developed as a result of Step #3 should be adjusted in-parallel for the following control measures:

- QF-3a: Partial-capture Treatment Device: Curb Inlet Screens (Area-specific)
- QF-3b: Partial-capture Treatment Device: Stormwater Pump Station Trash Racks Enhancements (Area-specific)
- QF-4: Enhanced Storm Drain Inlet Maintenance (Area-specific)
- QF-5: Full-Capture Treatment Devices (Area-specific)

Load reductions for these control measures are calculated in-parallel because they are applied to independent geographical areas. Reductions from all control measures described in this step are area-specific and may require the use of GIS to calculate a set of **waterway loading rates**. Once waterway loading rates have been determined, a **waterway load** will be developed and used as a starting point for calculating load reductions associated with trash interception in waterways discussed in Step #5.

Step #5: Control Measures that Intercept Trash in Waterways

The load of trash that passes through the stormwater conveyance system without being intercepted may still be removed through interception in waterways. There are two control measures associated with interception in waterways:

- QF-3c: Partial-capture Treatment Device: Litter Booms/Curtains (Area-wide)
- QF-7: Creek/Channel/Shoreline Cleanups (Volunteer and/or Municipal) (Area-wide)

As these control measures are implemented, load reduction estimates can be calculated in-parallel for these two measures.

Step #6: Comparison to Baseline Trash Load

Applying the five steps described in the processes above will provide an estimated trash load (volume) remaining after trash control measures are implemented. As depicted in the following equation, the relative percent difference between the baseline load and the load remaining after control measures are implemented is the percent reduction that will be used to assess progress towards MRP trash load reduction goals.

$$\frac{\text{Baseline Load} - \text{Remaining Load}}{\text{Baseline Load}} \cdot 100 = \% \text{ Reduction}$$

4.0 ENHANCED TRASH CONTROL MEASURES

This section describes the new or enhanced trash control measures planned for implementation by the City of Mountain View. The enhanced control measures described are designed to reach a 40% reduction by July 1, 2014. New and enhanced control measures that will be implemented by the City of Mountain View include those listed in Table 4.1.

Table 4.1. Trash control measures that will be implemented by The City of Mountain View to reach the 40% trash load reduction.

Control Measure
Single-use Carryout Plastic Bag Ordinances
Polystyrene Foam Food Service Ware Ordinances
Public Education and Outreach Programs
Activities to Reduce Trash from Uncovered Loads
Anti-Littering and Illegal Dumping Enforcement Activities
Improved Trash Bin/Container Management (Municipally or Privately-Controlled)
On-land Trash Pickup (Volunteer and/or Municipal)
Full-Capture Treatment Devices
Creek/Channel/Shoreline Cleanups (Volunteer and/or Municipal)

CR-1: Single-use Carryout Plastic Bag Ordinance

Single-use plastic carryout bags have been found to contribute substantially to the litter stream and to have adverse effects on marine wildlife (United Nations 2009, CIWMB 2007, County of Los Angeles 2007). The prevalence of litter from plastic bags in the urban environment also compromises the efficiency of systems designed to channel storm water runoff. Furthermore, plastic bag litter leads to increased clean-up costs for the Permittees and other public agencies.

Based on recent experiences of municipalities throughout the State, the process Permittees must go through to enact a single-use carryout plastic bag policy/ordinance is difficult due to intense scrutiny and opposition from not only public interest groups and lobbyists, but also merchants and community members. In most cases, most opposition groups are pressing for the development of Environmental Impact Reports (EIRs) in accordance with the California Environmental Quality Act (CEQA).

Baseline Level of Implementation

Prior to adoption of the MRP, Permittees within the Bay area have enacted policies or ordinances on Single-use Carryout Plastic Bags. To avoid penalizing these early implementers, an applicable control measure implemented by a Permittee prior to the effective date of the MRP will be credited equally to a control measure implemented after the effective date. Therefore, the baseline level of implementation is not applicable for this control measure.

Enhanced Level of Implementation

The City of Mountain View *plans to adopt* an ordinance prohibiting the distribution of single-use carryout plastic bags. While an exact date of when the single use carry out bag ban will be enacted is unknown, City Staff are currently developing a Work Plan Development for banning Single-Use Carry-Out Bags. The implementation of this work plan and subsequent ordinance is contingent upon approval by the City Council. That said, staff is confident that the ordinance can be adopted and fully implemented prior to July 1, 2014. The ordinance is currently planned to include the following components:

- A prohibition on the provision of plastic single-use, carry-out bags at supermarkets and stores that sell prepackaged food.

The total percent trash reduced from MS4s as a result of implementing a single-use carryout plastic bag ordinance will be reported in the Annual Report submitted each September to the Water Board.

Percent Reduction from Enhancements

The City of Mountain View will receive an 8% percent reduction credit for implementing specific enhanced control measures described in Enhanced Level of Implementation section above. The 8% percent reduction credit will be applied to the City of Mountain View's baseline trash load. This percent reduction credit is consistent with methods presented in the BASMAA (2012a). A summary of all load reductions anticipated through the implementation of this plan are included in Section 5.0. The City will consider expanding the scope of the plastic bag ordinance to include

prohibition of single-use, carry-out bags at all retail stores. If the ordinance is expanded, the City will receive an additional 2 percent reduction credit.

CR-2: Polystyrene Foam Food Service Ware Policy

Polystyrene foam is used as food ware in the food service industry. According to the USEPA, floatable debris in waterways, such as products made of polystyrene, is persistent in the environment and has physical properties that can have serious impacts on human health, wildlife, the aquatic environment and the economy (USEPA 2002). Due to its properties, polystyrene foam used as food ware is typically not recycled. Since 1990, over 100 government agencies within the United States, including over twenty within the Bay area have enacted full or partial bans on polystyrene foam food service ware.

Baseline Level of Implementation

Prior to adoption of the MRP, over twenty agencies within the Bay area enacted full or partial bans on polystyrene foam food service ware. To avoid penalizing these early implementers, an applicable control measure implemented by a Permittee prior to the effective date of the MRP will be credited equally to a control measure implemented after the effective date. Therefore, the baseline level of implementation is not applicable for this control measure.

Enhanced Level of Implementation

The City of Mountain View *plans to adopt* an ordinance banning polystyrene foam food service ware at the point-of-sale. A Mountain View polystyrene ordinance would most likely be similar to that adopted by Palo Alto and many other California communities, including:

- A prohibition on the use of expanded polystyrene (sometimes known as Styrofoam[®]) containers by food vendors to provide prepared food or beverages to customers;
- Applicability to all City facilities and events using City facilities;
- An exemption for foods prepared or packaged outside the City limits.

The implementation adoption and implementation of the ordinance is contingent upon approval by the City Council. That said, staff is confident that the ordinance can be adopted and fully implemented prior to July 1, 2014. The percent trash reduction from MS4s as a result of implementing a polystyrene foam food service ware ordinance will be reported in the Annual Report submitted each September.

Percent Reduction from Enhancements

The City of Mountain View will receive an 8 percent reduction credit for implementing specific enhanced control measures described in *Enhanced Level of Implementation* section above. The 8% percent reduction credit will be applied to the City of Mountain View's baseline trash load. This percent reduction credit is consistent with methods presented in the BASMAA (2012a). A summary of all load reductions anticipated through the implementation of this plan are included in Section 5.0.

CR-3: Public Education and Outreach Programs

Permittees in the San Francisco Bay Area have implemented public education and outreach programs to inform residents about stormwater issues relating to pollutants of concern, watershed awareness and pollution prevention. Public education and outreach efforts include developing and distributing brochures and other print media; posting messages on websites and social networking media (Facebook, Twitter etc.), attending community outreach events, and conducting media advertising. In recent years, some municipal agencies have implemented anti-litter campaigns to increase public awareness about the impacts of litter on their communities and water quality; and to encourage the public to stop littering.

Baseline Level of Implementation

The City of Mountain View implemented various public education and outreach control measures prior to the effective date of the MRP. These outreach activities included ‘tabling’ the annual Arbor Day event, the Annual Art & Wine Festival, and the four, annual “Thursday Night Live” events. Typically the type of outreach material we’d provide to residents/visitors revolved around pesticide use reduction (Arbor Day), proper disposal of pharmaceuticals and other potentially hazardous household items (Art & Wine and Thursday Night Live events, and the differences between wastewater and stormwater (all events). These control measures are considered baseline because they were either not related to trash reduction specifically. New actions or actions started prior to the effective date of the MRP and continued into the future are described under the next section. These control measures are considered baseline because they were either not related to trash reduction specifically, or they are not planned to be continued during the term of the MRP. New actions or actions started prior to the effective date of the MRP and continued into the future are described under the next section.

Enhanced Level of Implementation

The City of Mountain View will implement the following public education and outreach control measures prior to July 1, 2014.

Litter Reduction Advertising Campaign(s)

BASMAA Youth Outreach Campaign (Regional)

Through participation and funding of the regional **BASMAA Youth Outreach Campaign** the City of Mountain View will implement an outreach campaign designed to reduce littering from the target audience in the Bay Area. The Youth Outreach Campaign was launched in September 2011 (post-MRP effective date) and aims to increase the awareness of Bay Area Youth (ages 16-24) on litter and stormwater pollution issues, and eventually change their littering behaviors. Combining the ideas of Community Based Social Marketing with traditional advertising, the Youth Campaign aims to engage youth to enable the peer-to-peer distribution of Campaign messages. The Campaign will at least run from FY 11-12 through FY 13-14. A brief description of the Campaign activities is provided below:

- Raising Awareness: The Campaign will begin by raising awareness of the target audience on litter and stormwater pollution issues. Partnerships with youth commissions, high

schools, and other youth focused organizations will be developed to reach the target audience. Messages targeted to youth will be created and distributed via paid advertising, email marketing, Campaign website and social networking sites (e.g., Facebook and twitter).

- Engage the Youth - The advertisements will encourage the audience to participate in the Youth Campaign by joining a Facebook page, entering a contest, taking an online quiz, etc., and providing their contact information. At the beginning of FY 12-13, a video contest will be launched to get Bay Area youth further involved in the Campaign. An online voting system will be used to select the winning entry. Media advertising will be conducted to promote the winning entry.
- Change Behaviors: To move the audience along the behavior change continuum, the Campaign will use electronic platforms such as email marketing and social networking sites to encourage participants to engage in increasingly more difficult behavior changes, such as participating in a clean-up, organizing a clean-up, etc.
- Maintain Engagement: The Campaign will continue to interact with the target audience through email marketing and social media websites.

The Youth Campaign will include a pre and post campaign survey to evaluate the effectiveness of outreach. The pre-campaign survey will be conducted in FY 11-12 and the post campaign survey in FY 13-14. Other evaluation mechanisms, such as website hits, number of youth engaged in the Campaign's social networking website, etc. will also be used to evaluate its effectiveness in increasing awareness and changing behavior.

Watershed Watch Campaign (Countywide)

In addition to the BASMAA Campaign, the City of Mountain View will continue to implement the countywide **Watershed Watch Campaign** through active participation and funding of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). This Campaign conducts media advertising that includes anti-litter messages. Anti-litter advertisements for television, print, transit and radio have been developed and are used each year and will continue in the future. A telephone survey is conducted every five years to measure the effectiveness of outreach and increase in awareness about litter and stormwater related messaging.

Outreach to School-age Children or Youth

ZunZun (Countywide)

Through participation and funding of the SCVURPPP countywide ZunZun Program the City of Mountain View, plans to continue to implement litter reduction outreach to elementary school-age children. Up to 50 ZunZun assemblies at elementary schools are conducted in the Santa Clara Valley each year. These bilingual musical assemblies educate elementary school students and their teachers on watersheds and urban runoff pollution prevention, including litter. ZunZun performances use physical comedy, audience participation and musical instruments to educate teachers and children. Handouts, including teacher and student activity sheets, are distributed following the assembly.

The SCVURPPP Schools and Youth Education and Outreach Work Group provides a list of schools for ZunZun to contact. In addition to schools with high Hispanic populations, the list includes schools with high Asian/Pacific Islander populations.

ZunZun assemblies are evaluated using postage-paid evaluation cards that are distributed to all teachers present at the performances. Teachers mail the completed evaluation cards to SCVURPPP, and results are compiled by SCVURPPP staff. Based on the teacher feedback, changes are made to future assemblies and/or handouts.

Who Dirtied the Bay – 3rd Grade Education Program (Mountain View Only)

The focus of this program is on stormwater and how the pollutants impact the Baylands and Water Environment. Pollution Prevention solutions are discussed. Students also learn the difference between wastewater and stormwater (where it comes from, where it goes); the water cycle; the definition and function of a watershed; and the principles of, “reduce/reuse/recycle/rot/respect.” Mountain View schools are reached through the Palo Alto Regional Water Quality Control Plant’s school outreach program, which the city of Mountain View is a partner. The City of Palo Alto administers the program and effectiveness evaluation reports are available with the City of Palo Alto.

Media Relations

BASMAA Regional Media Relations Project (Regional)

Through participation and funding of the **BASMAA Regional Media Relations Project**, the City of Mountain View plans to continue to implement a media relations project partially designed to reduce littering from target audiences in the Bay Area. The goal of the BASMAA Media Relations Project is to generate media coverage that encourages individuals to adopt behavior changes to prevent water pollution, including littering. At least two press releases or PSAs focus on litter issues each year (e.g., creek clean-up activities, preventing litter by using reusable containers, etc.).

Media Relations (Local)

The City of Mountain View Fire Department maintains a Facebook page which is updated multiple times a week and it used to disseminate information regarding upcoming community events, including Community Outreach activities pertaining to Trash Reduction.

Community Outreach Events (Local)

Thursday Night Live Street Fair/ Farmer’s Market: City Staff will provide information and resources to the public regarding Trash Reduction and stormwater awareness. These 4 events occur every other Thursday in the months of August and September.

Arbor Day: City Staff will staff a table and provide information and resources to the public regarding Trash Reduction and stormwater awareness. This event occurs annually in early March.

Art and Wine Festival: City Staff will provide information and resources to the public regarding Trash Reduction and stormwater awareness. The Art & Wine Festival occurs Saturday and Sunday during the 2nd week of September.

Percent Reduction from Enhancements

The City of Mountain View will receive a total of 8 percent reduction credit for implementing specific enhanced control measures described in *Enhanced Level of Implementation* section above. This percent reduction is comprised of the following credits, consistent with the *Load Reduction Tracking Method*:

- Litter Reduction Advertising Campaigns – 3%
- Outreach to School-age Children or Youth – 2%
- Media Relations – 1%
- Community Outreach Events - 2%

These 8 percent reduction credits will be applied against the City of Mountain View's baseline trash load. This percent reduction credit is consistent with methods presented in the BASMAA (2012a). A summary of all load reductions anticipated through the implementation of this plan are included in Section 5.0.

CR-4: Reduction of Trash from Uncovered Loads

Although it is currently illegal to operate a vehicle that is improperly covered and which its' contents escapes³, vehicles remain an important trash source to MS4s and local waterways. Specifically, vehicles that do not secure or cover their loads when transporting trash and debris have a high risk of contributing trash to MS4s. Land areas that generate trash from vehicles include roads, highways (on/off ramps, shoulders or median strips) and parking lots. To help address the dispersion of trash from unsecured or uncovered vehicles destined for landfills and transfer stations, Permittees may require municipally-contracted trash haulers to cover or secure loads or work with municipal or private landfill and transfer station operators to educate waste haulers on securing loads and/or to enhance enforcement of existing regulations.

Baseline Level of Implementation

The baseline trash load described in Section 2.0, assumes that prior to adoption of the MRP the City of Mountain View has not adopted control measures to reduce trash from vehicles with uncovered loads. Therefore, implementation of any of the control measures described in this section is considered to be enhanced implementation.

Enhanced Level of Implementation

The City of Mountain View plans to, or already has implemented the following enhanced control measures to reduce trash from vehicles with uncovered loads:

- Require Municipal Trash Haulers to Cover Loads – Development and inclusion of language in a Permittee's hauling service contract(s) that requires contracted trash and construction debris haulers to cover loads when transporting trash and debris to municipally or privately-owned landfills and transfer stations;
- Adoption of an ordinance to the Mountain View City Code, Chapter 35, prohibiting the transportation of trash or debris without a cover; and
- Citations and fines for vehicles spotted on roads in an individual Permittee's jurisdictional area with uncovered loads.

The City of Mountain View contracts with Recology for garbage pick-up throughout the City. The City's contract with Recology includes requirements regarding litter abatement, the covering of loads, and illegal dumping. The contract requires that Recology shall place tarps on all open debris boxes during transport to the Disposal Site. Loads not properly covered are subject to an assessment of a fee by the operator of the Disposal Site and Recology shall be responsible for all such fees which shall be excluded from Allowable Expenses. Alternatively the facility operator may require Recology to purchase a tarp for the boxes on the vehicle. The fee as established by resolution of the city council for the truck tarp is currently set at \$25.00.

³ In accordance with the California Vehicle Code Sections 23114 and 23115, it is against the law to operate a vehicle on the highway which is improperly covered, constructed, or loaded so that any part of its contents or loads spills, drops, leaks, blows, or otherwise escapes from the vehicle. Exempted materials include hay and straw, clear water and feathers from live birds. Additionally, any vehicle transporting garbage, trash, or rubbish, used cans or bottles, waste papers, waste cardboard, etc. must have the load covered to prevent any part of the load from spilling on the highway (CVC 2011). Significant fines are possible for non-compliance.

Based on this enhanced level of implementation, the City goes beyond the requirement for Municipal Trash Haulers to cover loads with the adoption of the ordinance revisions and an increased awareness with enforcement by requiring payment of a fee for a tarp, if a load is uncovered.

City Police Officers write citations under the California Vehicle Code Section 23114 and 23115 for uncovered loads when they are observed, but active enforcement does not occur due to the lower priority of this issue when compared to crime suppression, traffic safety, and general calls for service.

In addition, the City has prescriptive language in municipal contracts for debris/garbage haulers that work within the city (City of Mountain View's contract with waste hauler is attached as an Addendum to this report). Haulers are required to have collection vehicles to have water-tight bodies and that the contractor places tarps over all open debris boxes during transport to the disposal site. The City of Mountain View also plans on revising its ordinance to specifically prohibit vehicles with uncovered loads by July 1, 2014.

Percent Reduction from Enhancements

The City of Mountain View will receive a 5 percent reduction credit for implementing specific enhanced control measures described in *Description of Enhanced Level of Implementation* section above. The 5 percent reduction credit will be applied to the baseline trash load to urban creeks from the municipal separate storm sewer system (MS4) owned and operated by the City of Mountain View. This percent reduction credit was obtained from the *Trash Load Reduction Tracking Method Report* (BASMAA 2012a) and is presented in the Trash Load Reduction Summary Table included in Section 5.0

CR-5: Anti-Littering and Illegal Dumping Enforcement Activities

Successful anti-littering and illegal dumping enforcement activities include laws or ordinances that make littering or dumping of trash illegal. Laws are enforced by various municipal agency staff (e.g., police, sheriff and public works department staff) who issue citations in response to citizen complaints or other enforcement methods (e.g., surveillance cameras, signage and/or physical barriers installed at illegal dumping hot spots). In some California jurisdictions, the minimum fine for littering is \$500 and the maximum penalty for highway littering is \$1000 (City of San Francisco 2001). However, it is difficult to enforce small littering events unless they are witnessed or solid proof exists linking the offender to the litter. As a result, enforcement tends to focus on larger scale illegal dumping activities.

Baseline Level of Implementation

The baseline trash load described in Section 2.0, assumes that the City of Mountain View has adopted a basic anti-littering and illegal dumping enforcement program that entails receiving and responding to complaints from citizens as resources allow.

Enhanced Level of Implementation

The City of Mountain View has implemented, or will implement the following enhanced anti-littering and illegal dumping enforcement control measures prior to July 1, 2014.

- **Anti-Littering and Illegal Dumping Enforcement Program** – Successful implementation of an active anti-littering and illegal dumping enforcement program in the year of interest that includes:
 - Thorough investigations of complaints received from citizen complaints via “Ask Mountain View” (online portal) and phone calls;
 - The implementation of enforcement procedures including citations (as warranted); and,
 - The collection of evidence(e.g., names, addresses, etc.) from illegal dump sites (i.e., public and private)

In addition to responding to interagency and citizen reports of illegal dumping via phone calls during business hours, The City of Mountain View will utilize a recently introduced feature on the City’s website called “Ask Mountain View”. This website is a portal where citizens can directly report non-emergency illegal dumping activities via e-mail, 24 hours a day, 7 days a week, and the complaint will be forwarded to the appropriate City Staff person for follow-up and ultimately clean-up of the illegal dumping site. The enforcement options utilized by City staff are detailed in the City’s Enforcement Response Plan (ERP) (City’s ERP is included as an Addendum to this report).

Percent Reduction from Enhancements

The City of Mountain View will receive a 2 percent reduction credit for implementing specific enhanced control measures described in *Description of Enhanced Level of Implementation* section above. The 2 percent reduction credit will be applied to the baseline trash load to urban

creeks from the municipal separate storm sewer system (MS4) owned and operated by the City of Mountain View. This percent reduction credit was obtained from the *Trash Load Reduction Tracking Method Report* (BASMAA 2012a) and is presented in the Trash Load Reduction Summary Table included in Section 5.0.

CR-6: Improved Trash Bin/Container Management

Receptacles used to place/store trash or recyclables prior to collection by a public agency or private waste hauler reduce the potential for littering and trash loading to stormwater conveyance systems and receiving waters (City of Los Angeles 2004). For the purposes of assigning trash load reduction credits, receptacles fall into the following two categories:

- **Private Trash/Recycling Bins:** A receptacle for placing trash or recyclables generated from a household, business, or other location that is serviced by a trash hauler. Bins are specifically-designed, heavy-duty plastic wheeled containers with hinged lids; or large multi-yard metal or plastic containers rectangular in shape.
- **Public Area Trash Containers:** A receptacle for placing incidental trash generated in public spaces that provides people with a convenient and appropriate place to dispose of trash. The design and size of public area trash containers vary widely, depending on their setting and use.

The effectiveness of bins/containers and bins in reducing trash in the environment is likely dependent upon: the location and density of the receptacles, size of the bin/container in relationship to the size needed to service users, frequency of maintenance, and the ability of the bin/container to capture and contain the trash deposited.

Baseline Level of Implementation

The baseline trash load described in Section 2.0, assumes that the City of Mountain View has not implemented enhanced trash bin/container management practices prior to effective date of the MRP.

Enhanced Level of Implementation

While many construction sites, food-service facilities, and industrial site inspections include inspecting the trash bin/compactor areas, the City of Mountain View has not implemented enhanced trash bin/container management actions.

The City of Mountain View plans to enact the following activities towards improving Trash Bin/Container management:

- **Ensuring Adequate Private Trash Service** – The City will continue to implement a program that identifies businesses or households that have inadequate trash service (i.e., insufficient trash collection or use of bins which are too small); and through municipal code enforcement and other authorities requiring businesses/households to have sufficient trash receptacles for their facility. The City of Mountain View will coordinate with waste haulers to assist with the identification of subject households/businesses.
- **Successful Establishment of Business Improvement Districts with Trash Reduction Control Measures** – The City of Mountain View's Downtown area (Castro St.) is comprised of exclusively retail and food service facilities. This area is referred to as a BID. City Staff maintain this area on a daily basis including sidewalk sweeping, litter pick-up and maintenance of trash containers at least once per week.

The City of Mountain View has also implemented the following improved trash bin/container management practices:

- Twice yearly visits to the restaurants and businesses within the BID and disseminating information regarding trash/compactor/dumpster area management and stormwater awareness. These visits are out-reach based, not inspection/enforcement based and the intent is to visit these businesses in the summertime, as well as visit before the rainy/holiday season.
- If trash container/compactor/ or dumpsters and their associated areas are found to be in poor condition during these outreach visits, the facility will be notified of the violations, given an appropriate time to correct the violations, and the facility will be re-inspected within 10 business days, or before the next rain event, to ensure the corrections have been implemented.

Percent Reduction from Enhancements

The City of Mountain View will receive a 4.4 percent reduction credit for implementing specific enhanced control measures described in *Description of Enhanced Level of Implementation* section above. The 4.4 percent reduction credit will be applied to the baseline trash load to urban creeks from the municipal separate storm sewer system (MS4) owned and operated by the City of Mountain View. This percent reduction credit was obtained from the *Trash Load Reduction Tracking Method Report* (BASMAA 2012a) and is presented in the Trash Load Reduction Summary Table included in Section 5.0.

QF-1: Enhanced On-Land Trash Cleanups (Volunteers and/or Municipal)

On-land cleanups conducted by Permittees and volunteers have been successful in removing trash from identified trash hot spots and engaging local citizenry in improving their communities. Permittees have several programs in place to address on-land trash. Municipal efforts relate to ongoing beautification of impacted areas and coordination of cleanup events. Volunteer on-land cleanups involve the meeting of individuals, creek and watershed groups, civic organizations, businesses and others at designated or adopted on-land sites to remove trash. On-land trash cleanups are conducted as single-day or throughout the year.

Baseline Level of Implementation

The City of Mountain View implemented the following on-land cleanup activities prior to the effective date of the MRP.

- Routine or Regularly Scheduled Litter Pickup and Removal
- Removal of Homeless Encampments
- Illegal Dump Site Response and Abatement
- Interagency Cleanup Coordination and Cleanup
- Business Improvement District Cleanups
- Routine Cleanups of Selected Hot Spots

These control measures are considered baseline because they were accounted for in the preliminary trash generation rates established through the BASMAA *Baseline Trash Loading Rates Project*. New or enhanced actions that began or are planned to begin after to the effective date of the MRP are described under the next section.

Enhanced Level of Implementation

Prior to July 1, 2014, the City of Mountain View will be conducting or coordinating the following new or enhanced on-land trash cleanup activities listed below. These on-land cleanups will be conducted or coordinated each year and the volume of trash removed will be tracked to demonstrate trash loads reduced.

Prior to July 1, 2014, the City of Mountain View will be conducting or coordinating the following on-land trash cleanups described below. These on-land cleanups will be conducted or coordinated each year and the volume of trash removed will be tracked to demonstrate trash loads reduced. Please note that **only trash that has the potential of entering the MS4 was tracked**. As a result, large items (e.g., appliances, shopping carts, furniture, mattresses, televisions, tires, lumber, etc.) removed during on-land trash cleanups is not part of the volume determination since they do not have the potential of entering the MS4.

The City of Mountain View plans to support and organize the “Keep America Beautiful” litter clean up event in the spring (March/April) time frame each year beginning in 2013. The number of clean-up sites/central collection spots may vary from year to year, depending on staffing availability, but it is our intent to start with one neighborhood check-in spot for the event that

will clean up an area approximately a half of a square mile around the check-in site. Through the annual volunteer event, coordinated by City staff, the expected waste load reduction will be approximately 100 gallons.

The City has identified 2 areas in the City that tend to accumulate trash from roadway traffic, but these areas are difficult to access on a regular basis. These areas (described in QF-1: Enhanced On-Land Trash Clean-ups chart) will be cleaned by City Crews annually in the month of April. The expected load reduction from these 2 locations is 50 gallons/ year.

City Staff and volunteers patrol Stevens Creek Trail daily and pick up trash and litter on their patrols, and report illegal dumping sites to City Staff for clean-up of such sites. These patrols occur year round, and the expected load reduction from these clean-up activities is 100 gallons/year.

Percent Reduction from Enhancements

The total estimated annual volume of trash that will be reduced beginning July 1, 2014 as a result of implementing on-land trash cleanups is 250 gallons. This volume is equal to approximately a 0.9 percent reduction in the baseline trash load to urban creeks from the municipal separate storm sewer system (MS4) owned and operated by the City of Mountain View. Both values provided within this section are included in Trash Load Reduction Summary Table included in Section 5.0.

QF-5: Full-Capture Treatment Devices

As defined by the Municipal Regional Stormwater Permit (MRP), a full-capture system or device is any single device or series of devices that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate (Q) resulting from a one-year, one-hour, storm in the sub-drainage area. A list of the full-capture systems and devices recognized by the San Francisco Bay Regional Water Quality Control Board (Water Board) is included in *Trash Load Reduction Tracking Method Report* (BASMAA 2012a). Trash loads reduced via publically or privately owned and operated devices within a Permittee's jurisdictional area that have been recognized by the Water Board as full-capture may be used to demonstrate attainment of trash load reduction goals.

Baseline Level of Implementation

Prior to adoption of the MRP, some Permittees installed and maintained full capture devices. To avoid penalizing these early implementers, an applicable control measure implemented within a Permittee's jurisdictional area prior to the effective date of the MRP will be credited equally to a control measure implemented after the effective date. Therefore, the baseline level of implementation is no trash full-capture devices have been installed.

Enhanced Level of Implementation

A total of 25 trash full-capture treatment devices have been or will be installed in the City of Mountain View prior to July 1, 2014. A list of these full-capture devices is included in Table QF-6-1. All devices listed within this table are enhanced trash control measures. Table QF-6-1 also includes the area treated and the calculated trash load reduced from each full-capture treatment device. These calculations are consistent with the approach described in the *Trash Load Reduction Tracking Method Report* (BASMAA 2012a). The City of Mountain View also plans to install a full capture treatment device in cooperation with and with assistance from the Association of Bay Area Governments, in accordance with the current Municipal Regional Permit. The exact site and area treated have not yet been determined, but the device will be installed by November of 2012. This short term plan will be updated to reflect the installation of the full capture trash device when it occurs.

Percent Reduction from Enhancements

The total estimated annual volume of trash that will be reduced by July 1, 2014 as a result of implementing full capture devices is 139 gallons. This volume is equal to approximately a 0.4% reduction in the baseline trash load to urban creeks from the municipal separate storm sewer system (MS4) owned and operated by the City of Mountain View. Both values provided within this section are included in Trash Load Reduction Summary Table included in Section 5.0.

City of Mountain View

Table QF-6-1. Trash full-capture treatment devices within the jurisdictional boundaries of the City of Mountain View that are planned for installation by July 1, 2014.

Device ID	Public or Private	Device Name	Location (Cross Streets)	Installation Date/Anticipated Installation Date	Total Area Treated (acres)	Trash Load Reduced
El Camino Hospital	Private	Hydrodynamic Separator (3)	2500 Grant Rd.	2007	8.16	13
Pear Avenue Center	Private	Hydrodynamic Separator	1380 Pear Avenue	2007	1.76	5
Sierra Greens	Private	Hydrodynamic Separator	276 Sierra Vista Avenue	2007	2.58	6
Gables End	Private	Hydrodynamic Separator (3)	1950 Colony Street	2008	5.88	10
New Central Park Apts.	Private	Hydrodynamic Separator	111 Montebello Avenue	2007	9.43	38
West Dana Place	Private	Hydrodynamic Separator	125 West Dana Street	2008	2.91	13
The Vineyard	Private	Hydrodynamic Separator	465 Whisman Drive	2006	5.78	3
Charleston Plaza	Private	Hydrodynamic Separator (3)	2400 Charleston Road	2006	12.94	6
Palo Alto Medical Foundation	Private	Hydrodynamic Separator (2)	701 E. El Camino Real	2007	10.49	19
Whisman Station	Private	Hydrodynamic Separator	424 Kent Drive	2007	11.01	55
BMW of Mountain View	Private	Hydrodynamic Separator	120 E El Camino Real	2006	2.02	12
Classics at Evandale	Private	Hydrodynamic Separator	180 Evandale Avenue	2008	3.49	30
Clyde Business Park	Private	Hydrodynamic Separator	555 Clyde Avenue	2006	3.34	4
Granada Park Townhomes	Private	Hydrodynamic Separator	205 Granada Drive	2006	2.04	1
MV Senior Center	Public	Hydrodynamic Separator	266 Escuela Avenue	2008	4.61	2
Classics at Miramonte	Private/Public	Hydrodynamic Separator (2)	1136 Miramonte Avenue	2008	7.18	13
Mondrian	Public	Hydrodynamic Separator	505 E. Evelyn Avenue	2008	6.10	32
Total						190

QF-6: Creek/Channel/Shoreline Cleanups

Creek/channel/shoreline cleanups have been successful in removing large amounts of trash from San Francisco Bay area creeks and waterways; and increasing citizen's awareness of trash issues within their communities. Creek/channel/shoreline cleanups are conducted as single-day events or throughout the year by volunteers and municipal agencies. Since volunteers and municipal agencies have the common goal of clean creeks and waterways, their efforts sometimes overlap. This is apparent with some municipal agencies using volunteers to help assess and clean designated trash hot spots during single-day volunteer events.

Baseline Level of Implementation

Trash reduced via creek/channel/shoreline cleanups was not accounted for in the City of Mountain View's baseline trash load described in Section 2.0. Therefore, implementation of any of the control measures described in this section is considered to be an enhancement and can be used to demonstrate progress towards load reduction goals.

Enhanced Level of Implementation

Prior to July 1, 2014, the City of Mountain View will conduct MRP-required⁴ and the following non MRP-required creek/channel/shoreline cleanups⁵ listed below. Both types of cleanups will be conducted each year and the volume of trash removed will be tracked to demonstrate trash loads reduced.

Permittee & Volunteer Collaborative Activities

Single-day Efforts

- *National River Cleanup Day (third Saturday in May)*
- *Coastal Cleanup Day (third Saturday in September)*
- *Keep America Beautiful (annually in the month of April)*

Permittee-led Cleanup Activities

On-going Efforts

- *Removal of Homeless Encampments*
- *Routine or Regularly Scheduled Creek Maintenance*
- *Illegal Dump Site Correction*

Percent Reduction from Enhancements

The total estimated annual volume of trash that will be reduced by July 1, 2014 as a result of implementing creek/channel/shoreline cleanups is 700 gallons. This volume is equal to approximately a 2.7 percent reduction in the baseline trash load to urban creeks from the municipal separate storm sewer system (MS4) owned and operated by the City of Mountain View. Both values provided within this section are included in Trash Load Reduction Summary Table included in Section 5.0.

⁴ Creek/channel/shoreline cleanups conducted in accordance with Permit Provision C.10.b.

⁵ All "other" creek/channel/shoreline cleanups conducted by a municipality that are not required by Provision C.10.b.

5.0 SUMMARY OF TRASH CONTROL MEASURE ENHANCEMENTS

The City of Mountain View is committed to reducing the potential for trash impacts in local water bodies in the San Francisco Bay Area. The planned enhanced trash control measures described in Section 3.0 are also listed in Table 5-1. The enhancements are intended to comply with the 40% trash load reduction goal in MRP provision C.10.

Single-use Carryout Plastic Bag Ordinances
Polystyrene Foam Food Service Ware Ordinances
Public Education and Outreach Programs
Activities to Reduce Trash from Uncovered Loads
Anti-Littering and Illegal Dumping Enforcement Activities
Improved Trash Bin/Container Management Activities
On-land Trash Pickup (Volunteer and/or Municipal)
Full-Capture Treatment Devices
Creek/Channel/Shoreline Cleanups (Volunteer and/or Municipal)

Table 5-1. Planned enhanced trash control measure implementation within the jurisdictional boundaries of the City of Mountain View and associated trash loads reduced.

Trash Control Measure	Summary Description of Control Measure	% Reduction (Credits)	Trash Load Reduced	Cumulative % Reduction (Compared to Baseline)
Single-use Carryout Plastic Bag Ordinance (CR-1)	Tier 2: Prohibit distribution at retail establishments that sell packaged food	8	2,068	8
Polystyrene Foam Food Service Ware Ban (CR-2)	Tier 1 – Prohibit Distribution at City-sponsored events or City-owned Property	8	2,068	16
Public Education and Outreach Programs (CR-3)	Advertising campaigns, Outreach to schools & youth, Media Relations – use of free media Community outreach events	8	2,068	24
Activities to Reduce Trash from Uncovered Loads (CR-4)	Prescriptive language in municipal contracts for trash/debris haulers Enhanced enforcement program for vehicles with uncovered loads	5	1,293	29
Anti-Littering and Illegal Dumping Enforcement Activities (CR-5)	Anti-littering and Illegal Dumping Investigation and Enforcement program, utilizing ‘Ask Mountain View’, Continue enforcement (as warranted), Collect evidence to attempt to identify offenders	2	517	31
Improved Trash Bin/Container Management (Municipally or Privately-Controlled) (CR-6)	Ensuring Adequate private trash service, and identification and enforcement of inadequate trash service for private trash/recycling containers	4.4	1,131	35.4
Enhanced On-land Trash Cleanups (Volunteer and/or Municipal) (QF-1)	Additional volunteer clean ups ~ 12 cu yard/year	NA	25	36.3
Full-capture Treatment Devices (QF-5)	26 units installed plus one City-installed device at a location TBD	NA	187	37.1
Creek/Channel/Shoreline Cleanups (Volunteer and/or Municipal) (QF-6)	National River Clean Up Day Coastal Clean Up Day Trash hot spot clean up	NA	700	39.8

5.1 Annual Reporting and Progress Towards Trash Load Reduction Goal(s)

Consistent with MRP Provision C.10.d (i), the City of Mountain View intends to report on progress towards MRP trash load reduction goals on an annual basis beginning with the Fiscal Year 2011-2012 Annual Report. Annual reports will include:

1. A brief summary of all enhanced trash load reduction control measures implemented to-date;
2. The dominant types of trash likely removed via these control measures;
3. Total trash loads removed (credits and quantifications) via each control measure implementation; and
4. A summary and quantification of progress towards trash load reduction goals.

Similar to other MRP provision, annual reporting formats will be consistent region-wide. Annual reports are intended to provide a summary of control measure implementation and demonstrate progress toward MRP trash reduction goals. For more detailed information on specific control measures, the City of Mountain View will retain supporting documentation on trash load reduction control measure implementation. These records should have a level of specificity consistent with the trash load reduction tracking methods described in the *BASMAA Trash Load Reduction Tracking Method Technical Report* (BASMAA 2012a).

5.2 Considerations of Uncertainties

Baseline trash loading and load reduction estimates are based on the best available information at the time this Short-Term Plan was developed. As with any stormwater loading and reduction estimate, a number of assumptions were used during calculations and therefore uncertainty is inherent in the baseline trash load estimate presented in Section 2.0 and the load reduction estimate presented in this section. For these reasons, the baseline loading estimates presented in this plan should be considered first-order estimates. During the implementation of this Short-Term Plan and subsequent plans, additional information may become available to allow the calculation of a more robust baseline load.

6.0 IMPLEMENTATION SCHEDULE

Implementation of enhanced trash control measures by the City of Mountain View is currently planned to occur in a timeframe consistent with MRP requirements. A preliminary implementation schedule for all planned enhancements is described in Table 5-1. This schedule provides a timeframe for reducing trash discharged from the City of Mountain View's MS4 by 40%.

Based on new information that becomes available during the implementation of this Short-Term Plan (e.g., revisions to baseline loading estimates or load reduction credits of quantification formulas), the City of Mountain View may choose to amend or revise this Plan and/or the associated implementation schedule. If revisions or amendments occur, a revised Short-Term Plan and implementation schedule will be submitted to the Water Board via the City of Mountain View's annual reporting process.

Table 6-1. Preliminary implementation schedule for enhanced trash control measures in the City of Mountain View.

Trash Control Measure	Beginning Date of Implementation
Single-use Carryout Plastic Bag Ordinance (CR-1)	2014
Polystyrene Foam Food Service Ware Ban (CR-2)	2014
Public Education and Outreach Programs (CR-3)	2013
Activities to Reduce Trash from Uncovered Loads (CR-4)	2013
Anti-Littering and Illegal Dumping Enforcement Activities (CR-5)	2013
Improved Trash Bin/Container Management (Municipally or Privately-Controlled) (CR-6)	2013
On-land Trash Cleanups (Volunteer and/or Municipal) (QF-1)	2013
Full-capture Treatment Devices (QF-5)	2014
Creek/Channel/Shoreline Cleanups (Volunteer and/or Municipal) (QF-6)	2012

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AGREEMENT BETWEEN
THE CITY OF MOUNTAIN VIEW
AND
FOOTHILL DISPOSAL COMPANY, INC.

FOR COLLECTION OF SOLID WASTE
AND CERTAIN RECYCLABLE
MATERIALS

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LIST OF EXHIBITS

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**AGREEMENT BETWEEN
THE CITY OF MOUNTAIN VIEW
AND FOOTHILL DISPOSAL COMPANY, INC.
FOR COLLECTION OF SOLID WASTE**

THIS AGREEMENT is dated for identification this 1st day of July, 1993 and is made by and between the CITY OF MOUNTAIN VIEW, a municipal corporation of the State of California (hereinafter "City") and FOOTHILL DISPOSAL COMPANY, INC., a California corporation (hereinafter "Contractor").

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

1. The provision of adequate and reliable Solid Waste Collection and disposal is essential to the health, safety and well-being of residents of the City.
2. The State of California has found and declared that the rapidly increasing volume of Solid Waste resulting from population growth, industrial expansion and other factors requires an organized and comprehensive approach to Solid Waste management.
3. As an essential part of the State of California's comprehensive program for Solid Waste management, the State has declared that it is in the public interest for local governmental agencies to make adequate provision for Solid Waste handling, and the promotion of Recycling and reuse of materials which would otherwise be disposed of in landfills.
4. The State of California has recognized in Public Resources Code, Section 40059 that the City may determine aspects of Solid Waste handling which are of local concern, including frequency of Collection, methods of Collection and transportation, level of services, charges and fees.
5. The Charter of the City authorizes the City Council to grant by ordinance a franchise for furnishing the City and its inhabitants Solid Waste removal, and Chapter 16 of the Mountain View Municipal Code requires the City Council to provide for the Collection of Solid Waste within the City by the issuance of one or more exclusive franchises or nonexclusive contract or licenses to disposal service operators upon terms and conditions to be established in the applicable franchise or license.
6. Contractor collects and transports Solid Waste in the City pursuant to that certain agreement entitled, "Garbage Disposal Agreement," dated October 10, 1985. Contractor collects and transports Residential Recyclable Materials in the City pursuant

to that certain "Agreement Between the City of Mountain View and Foothill Disposal Company to Provide Curbside Collection and Mobile Drop-Off Recycling Programs," dated June 15, 1987 and collects and transports Multi-Unit Residential Recyclable Materials pursuant to that certain agreement entitled, "An Agreement Between the City of Mountain View and Foothill Disposal Company to Provide Multi-Unit Residential Recycling Collection Service," dated May 23, 1991.

7. In order to institute a comprehensive approach to the Collection of Solid Waste and certain Recyclable Materials, City and Contractor desire to terminate the aforementioned existing agreements and enter into this Agreement.

8. On _____, the City Council approved and authorized the City Manager to execute this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

ARTICLE I. DEFINITIONS.

For purposes of this Agreement, unless a different meaning is clearly required, the following terms shall have the following meanings:

1.1 Agreement. "Agreement" shall mean this Agreement between City and Contractor for Collection of Solid Waste and Certain Recyclable Materials, including all recitals, exhibits and attachments, and any amendments thereto.

1.2 Allowable Expenses. "Allowable Expenses" is defined in Article VIII of this Agreement.

1.3 Application Rate Year. "Application Rate Year" shall mean the Rate Year new rates will be effective for which a Rate Application has been filed pursuant to Article VIII of this Agreement.

1.4 Biomedical Waste. "Biomedical Waste" shall mean Solid Waste which is likely to be infectious, pathological or biohazardous, originating from residences, hospitals, public or private medical clinics, departments of research laboratories, pharmaceutical industries, blood banks, forensic medical departments, mortuaries, veterinary facilities and other similar facilities and includes (without limitations) equipment, instruments, utensils, fomites, laboratory Solid Waste (including pathological specimens and fomites attendant thereto), surgical facilities, equipment, bedding and utensils (including pathological specimens and disposal fomites attendant thereto), sharps (hypodermic needles, syringes, etc.), dialysis unit Solid Waste, chemotherapeutic Solid Waste, animal carcasses, offal and body parts, biological materials (vaccines, medicines, etc.), and other similar materials, but excluding any such Solid Waste which

is reasonably determined by Contractor to be noninfectious, nonpathological and nonbiohazardous.

1.5 City. "City" shall mean the City of Mountain View, a municipal corporation, and all of the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the Term.

1.6 City Council. "City Council" shall mean the City Council of the City of Mountain View, California.

1.7 Collection. "Collection" shall mean (a) pickup of Solid Waste and its transportation to the Disposal Site; and/or (b) pickup and disposition (other than by disposal) of certain Recyclable Materials, as the context requires.

1.8 Commercial. "Commercial" shall mean any of the land uses categorized "Commercial" or "Professional" by Chapter 36 (Zoning) of the Mountain View City Code. In general, commercial land uses will have bin service rather than can service.

1.9 Contractor. "Contractor" shall mean Foothill Disposal Company, Inc.

1.10 Contractor's Payments. "Contractor's Payments" shall mean the payments made to Contractor pursuant to Article VIII of this Agreement.

1.11 Contractor's Revenue. "Contractor's Revenue" shall equal all revenues from all sources derived by Contractor in connection with the performance of services which Contractor is granted an exclusive right to perform by this Agreement.

1.12 Construction and Demolition Debris. "Construction and Demolition Debris" shall mean used or discarded construction materials removed from premises during the construction, demolition or renovation of a structure.

1.13 Cost of Living Adjustment. For purposes of this Agreement, a dollar figure shall be "adjusted by the CPI Adjustor" by increasing (or decreasing, as appropriate) the dollar figure by an amount equal to the dollar figure multiplied by the CPI Adjustor expressed as a fraction.

1.14 Cost of Living Adjustor. The "Cost of Living Adjustor" shall be the percent change in the December-to-December Consumer Price Index for all Urban Consumers, as reported for San Francisco-Oakland-San Jose area by the United States Bureau of Labor Statistics. In the event that the Consumer Price Index is not available or is no longer published, the Cost of Living Adjustor shall be based on another then-published index which is generally considered to be a reliable replacement for the Consumer Price Index for commercial agreements, or, if no such generally accepted

replacement index exists, such other index as is mutually agreed on by the City and the Contractor.

1.15 County. "County" shall mean the County of Santa Clara, a political subdivision of the State of California.

1.16 Curbside. "Curbside" shall mean the designated location for collection of Recyclable Materials, Yard Trimmings or Solid Waste as described in Chapter 16 of the City Code.

1.17 Customer. "Customer" shall mean any Person in City receiving Collection services by Contractor pursuant to Agreement.

1.18 Delivery. "Delivery" of Solid Waste by a Generator shall be deemed to occur when Solid Waste is deposited in a receptacle or at a location that is designated for Collection pursuant to the City's Municipal Code.

1.19 Designated Waste. "Designated Waste" shall mean non Hazardous Waste which may pose special disposal problems because of its potential to contaminate the environment and which may be disposed of only in Class II disposal sites, or Class III disposal sites, as those terms are now defined, pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as designated waste by the State of California, in 23 California Code of Regulations, Section 2522.

1.20 Disposal Site(s). "Disposal Site(s)" shall mean the Solid Waste handling facility or facilities designated by the City for the disposal (by Contractor) of Solid Waste collected by the Contractor.

1.21 Environmental Laws. "Environmental Laws" shall mean all Federal and State statutes, County and City ordinances concerning public health, safety and the environment, including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 *et seq.*; the Resource Conservation and Recovery Act, 42 USC §6901 *et seq.*; the Federal Clean Water Act, 33 USC §1251 *et seq.*; the Toxic Substances Control Act, 15 USC §2601 *et seq.*; the Emergency Planning and Community Right to Know Act, 42 USC §1101 *et seq.*; the Occupational Safety and Health Act, 29 USC §651 *et seq.*; the California Hazardous Waste Control Act, California Health and Safety Code §25100 *et seq.*; the California Toxic Substances Account Act, California Health and Safety Code §25300 *et seq.*; the Porter-Cologne Water Quality Control Act, Cal. Water Code §13000 *et seq.*; the Safe Drinking Water and Toxic Enforcement Act, Cal. Health & Safety Code §25249.5 *et seq.*; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

1.22 Fiscal Year. "Fiscal Year" shall mean the Contractor's fiscal year. Initially, the Contractor's Fiscal Year shall commence on October 1 and end on September 30. Contractor shall provide the City with reasonable notice if the fiscal year is modified.

1.23 Generator. "Generator" shall mean the Person who produces Solid Waste, Recyclable Materials or Yard Trimmings and shall ordinarily be the occupant of the Premises at which the materials are produced.

1.24 Hauling Service. "Hauling Service" shall mean any business entity (other than Contractor) which provides the service of collecting or disposing of Solid Waste or Recyclable Materials; provided that a business entity which collects or disposes of its own Solid Waste or Recyclable Materials as an incidental part of a business activity whose primary purpose is unrelated to the collection and disposal of Solid Waste or Recyclable Materials shall not be deemed a Hauling Service by virtue of that activity.

1.25 Hazardous Waste. "Hazardous Waste" shall mean all material defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act, as amended, including the Resource Conservation and Recovery Act of 1976 (42 USC §6901 *et seq.*) and all future amendments thereto, or regulations promulgated thereunder; all material defined or characterized as hazardous waste by the principal agencies of the State (including, without limitation, the Department of Health Services and the California Waste Management Board) having jurisdiction over hazardous waste generated by facilities within the State, and pursuant to any applicable State or local law or ordinance, and all future amendments thereto, or regulations promulgated thereunder, including without limitation the California Integrated Solid Waste Management Act of 1989; radioactive wastes; any sewage sludge or other residue from wastewater treatment facilities; those substances or items which require special or extraordinary handling or disposal due to their hazardous, harmful, toxic or dangerous character or quality; and those substances and items which are not normally disposed of by the generally accepted sanitary landfill disposal methods.

1.26 Household Hazardous Waste. "Household Hazardous Waste" shall mean Hazardous Waste generated at Residential Premises within the City.

1.27 Industrial. "Industrial" shall mean any of the land uses categorized "industrial" or "manufacturing" by Chapter 36 (Zoning) of the Mountain View City Code. In general, Industrial land uses will have bin service rather than can service.

1.28 Junk Dealer. "Junk Dealer" shall mean a person who lawfully, and in accordance with all City ordinances, collects (without any charge to the Generator) or purchases used articles for purposes of restoration and/or resale and includes antique dealers, used building supply dealers, and automobile salvagers.

1.29 Maximum Return. The "Maximum Return" shall equal the Projected Contractor's Revenues multiplied by twelve-hundredths (.12).

1.30 Minimum Return. The "Minimum Return" shall equal the Projected Contractor's Revenues multiplied by six hundredths (.06).

1.31 Multi-Unit Residential Premises. "Multi-Unit Residential Premises" shall mean all individual Premises which contain five or more residential units, which is not a mobile home park, including, but not limited to, condominiums, apartments and planned unit developments. In general, Multi-Unit Residential Premises will have bin service; however, smaller complexes may have can service.

1.32 Ordinary Services. "Ordinary Services" shall mean those services, other than Special Services, which Contractor is granted an exclusive right to perform by this Agreement.

1.33 Owner. "Owner" shall mean the person holding the legal title to the real property constituting the Premises to which Collection services are to be provided under this Agreement.

1.34 Person. "Person" shall mean any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Santa Clara, and special-purpose districts.

1.35 Premises. "Premises" shall mean any land or building in the City, as defined in the City Code Section 16.1, where Solid Waste or Recyclable Materials are generated or accumulated.

1.36 Pretax Income. "Pretax Income" shall equal Projected Contractor's Revenues (or Projected Contractor's Revenues as adjusted by the CPI Adjustor, as appropriate) less Projected Allowable Expenses.

1.37 Projected Allowable Expenses. "Projected Allowable Expenses" is defined in Article VIII of this Agreement.

1.38 Projected Contractor's Revenues. "Projected Contractor's Revenues" is defined in Article VIII of this Agreement.

1.39 Rate Year. "Rate Year" shall mean the twelve (12) month period commencing July 1 of any calendar year and ending June 30 of the following calendar year.

1.40 Recycling. "Recycling" shall mean the process of collecting, transporting, sorting, cleansing, treating and reconstituting Solid Waste materials and returning them

to use and/or sale in the form of raw materials for new, reused or reconstituted products.

1.41 Recyclable Materials. "Recyclable Materials" shall mean all Solid Waste that is capable of undergoing Recycling.

1.42 Residential. "Residential" shall mean any of the land uses categorized "residential" by Chapter 36 (Zoning) of the Mountain View City Code. In general, Residential land uses will have can rather than bin service.

1.43 Single-Unit Residential Premises. "Single-Unit Residential Premises" shall mean all individual Premises which contain four or less residential units that receive individual can service. This includes mobile home parks.

1.44 Solid Waste. "Solid Waste" shall mean all putrescible and nonputrescible solid, semisolid and liquid matter accumulated, discarded, or delivered within the City for Collection and disposal at the direction of City, as long as these materials are not Hazardous Waste.

1.45 Source-Separated Recyclables. "Source-Separated Recyclables" shall mean Recyclable Materials that have undergone Source Separation.

1.46 Source Separation. "Source Separation" shall mean the segregation, by the Generator, of Recyclable Materials from other Solid Waste materials prior to Collection of the materials.

1.47 Special Services. "Special Services" shall mean key services, toter rentals, bin rentals, roll-out services, steam cleaning services, bin painting services and any other services mutually agreed by the parties to be a Special Service.

1.48 Special Waste. "Special Waste" shall mean those materials which consist of or contain pollutants which, under ambient environmental conditions at a sanitary landfill or other waste management facility could be released at concentrations in excess of applicable water quality standards or objectives, or which could cause degradation of waters of the State, and which may only be discharged at waste management units that are designated either "Class I" or Class II" by the California Solid Waste Management Board, or successor agency.

1.49 Term. "Term" shall mean the term of this Agreement as set forth in Article 4.

1.50 Toters. "Toters" is a trade name for a specific brand of portable wheeled Solid Waste Collection carts. As used herein, the term includes the carts made by that manufacturer or any substantially similar type of wheeled device purchased by City or

offered for rent by Contractor to residents for use in the Solid Waste collection or Recycling program.

1.51 Transfer Station. "Transfer Station" shall mean the Sunnyvale Materials Recovery and Transfer (SMaRT) Station, a Solid Waste handling and Recyclable Materials processing facility located at 301 Carl Road, Sunnyvale, California, 94089.

1.52 Yard Trimmings. "Yard Trimmings" shall mean tree trimmings, grass cuttings, dead plants, leaves, branches and dead trees (not more than six inches (6") in diameter) and similar materials generated at Premises.

ARTICLE II. REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR

2.1 Corporate Status. Contractor is a corporation duly organized, validly existing and in good standing under the laws of the State of California. It is qualified to transact business in the State of California and has the corporate power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

2.2 Corporate Authorization. Contractor has the authority to enter into and perform its obligations under this Agreement. The Board of Directors of Contractor (or the shareholders if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement. The person signing this Agreement on behalf of Contractor has authority to do so.

ARTICLE III. RIGHTS AND PRIVILEGES AND EXCLUSIONS FROM SCOPE OF SERVICES

3.1 Rights and Privileges. Pursuant to California Public Resources Code Section 40059 and the City Code of the City of Mountain View Section 16.17, City hereby grants to Contractor the exclusive right and privilege, during the term of this Agreement, to collect and transport Solid Waste and Recyclable Materials generated in the City as detailed in Exhibit A to this Agreement, "Services to be Provided by Contractor," except as excluded below in Section 3.2. This Agreement grants contractual rights only and shall not be deemed to be a grant of a franchise. However, the City reserves the right, but not the obligation, to award Contractor a franchise at any time. In addition, on any anniversary date of this Agreement, Contractor may request that a franchise be awarded.

3.2 Scope of Services; Exclusions. To the extent permitted by law, the rights and privileges granted to Contractor shall be exclusive for the services detailed in Exhibit A, "Services to be Provided by Contractor," except as to the following categories of materials listed in subsections (a) through (k) in this Section. The granting of the rights and privileges shall not preclude the categories of materials listed in subsections

(a) through (k) from being delivered to and collected and transported by others, provided that nothing in this Agreement is intended to or shall be construed to excuse any person from obtaining any authorization from City which is otherwise required by law:

- a. Commercial/Industrial Recyclable Materials that Generator is selling or giving to another Hauling Service or directly to a Recycling processor, provided that no compensation of any kind is given to either the Hauling Service or processor for any purpose, including, but not limited to, the storage, collection or disposal of such materials.
- b. Yard Trimmings removed from Premises by a gardening, landscaping, or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a Hauling Service and tree trimmings, clippings, and all similar materials generated at parks, golf courses and other City-maintained premises, which are collected and transported by City to the Disposal Site;
- c. Construction Debris or Demolition Debris generated at a Premises by a licensed construction contractor and removed from the Premises by that licensed construction contractor as an incidental part of the construction or demolition services provided by the licensed construction contractor at the Premises;
- d. Nonputrescible Solid Waste of the type typically collected by a Junk Dealer separated by the Generator for Collection and transportation by a Junk Dealer, but not as a Hauling Service;
- e. Animal waste and remains from slaughterhouses or butcher shops for use as tallow;
- f. Hazardous Waste, including Household Hazardous Waste;
- g. Designated Waste;
- h. Solid Waste which is generated at any Residential Premises and which is transported personally by the Owner or occupant of such Premises to a licensed Solid Waste disposal or transfer facility in a manner consistent with the City Municipal Code and other applicable laws;
- i. Biomedical Waste;
- j. Special Waste;
- k. By-products of sewage treatment, including sludge, grit and screenings;

3.2.1 Contractor acknowledges and agrees that City may permit other persons besides Contractor to collect any or all materials excluded from the scope of Contractor's exclusive services by this Section without seeking or obtaining approval of Contractor.

3.2.2 Contractor shall retain the exclusive rights granted by this Section unless and until this Agreement is terminated as provided in Article XI.

3.3 Enforcement of Contractor's Exclusive Rights. The City shall use all reasonable efforts to enforce the exclusive rights and privileges granted to the Contractor pursuant to this Agreement to prevent Hauling Services from providing services in the City which the Contractor is entitled to provide on an exclusive basis pursuant to this Agreement. In the event that the Contractor reasonably believes that a Hauling Service is providing such services in the City, it shall notify the City thereof, together with the basis of such belief. In addition, the City shall cooperate with the Contractor's efforts to protect its exclusive rights and privileges under this Agreement. Reasonable costs expended by the Contractor in protecting its rights shall constitute an Allowable Expense.

ARTICLE IV. TERM OF AGREEMENT

4.1 Term. The term of this Agreement shall be ten (10) years, commencing at 12:01 a.m. on April 27, 1993 and expiring at midnight April 26, 2003. City shall have an option to extend this term for two (2) additional terms of five (5) years each.

ARTICLE V. COLLECTION AND TRANSPORTATION SERVICES

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

The work to be done by Contractor pursuant to this Agreement shall be accomplished in a thorough and workmanlike manner so that the customers within the City are provided reliable and courteous Solid Waste and Recyclable Materials collection at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this Section, whether such other aspects are enumerated elsewhere in the Agreement or not.

Contractor shall perform all work in accordance with Exhibit A, all sections of which are incorporated herein whether or not such sections are specifically referred to in any other section of this Agreement.

5.2 Contingency Plan. Contractor shall keep on file and provide to City upon request a written contingency plan demonstrating Contractor's arrangements to provide vehicles and personnel and to maintain uninterrupted service during mechanical breakdowns, strikes, work stoppages and other concerted job actions, and other similar events.

5.3 Residential Solid Waste Collection Services. Contractor shall collect all Solid Waste generated at Residential Premises within City and delivered for Collection at the designated collection center or location. Solid Waste shall be collected from such Premises at the frequencies and in the manner described in Exhibit A, Sections 1.4 (Curbside Services for Residential Premises) and 1.5 (Services for Multiple-Unit Residential Premises).

5.4 City Facilities Collection. Contractor shall collect all Solid Waste generated at designated Premises owned and/or operated by the City, at no charge to the City. Expenses associated with such collection shall be included as Allowable Expenses in the calculation of collection rates pursuant to Article VIII. Contractor shall make such collections Monday through Saturday, and in cases of emergency, if requested by City, on Sunday. The facilities to be provided service initially, together with the type and frequency of service, are listed on Attachment 1 to Exhibit A, which Attachment may be reasonably modified or expanded by City.

Contractor shall provide the following additional collection and consulting services:

- Collection of Solid Waste from all City-owned sidewalk litter containers;
- Collection of beverage containers and other Recyclable Materials from special events as listed in Exhibit A, Section 1.4.3 and Section 1.4.4;
- Collection of Recyclable Materials containers from City facilities.
- Collection of Solid Waste from litter containers in City parks and Recyclable Materials from Recycling containers, if requested by City;
- Review of plans for new development with regard to Solid Waste service issues; all in accordance with the standards and requirements set out in Exhibit A, Section 1.7 (City Facilities).

5.5 Commercial and Industrial Solid Waste Collection Services. Contractor shall collect all Solid Waste generated at Commercial and Industrial Premises within City and delivered for Collection at a designated location. These materials shall be Collected from such Premises at the frequencies and in the manner described in Exhibit A, Section 1.6.

5.6 Recycling Programs.

a. Residential and Recyclable Materials. Contractor shall collect Recyclable Materials from all Single-Unit and Multiple-Unit Residential Premises in the City. Recyclable Materials shall be collected from Residential Premises at the frequencies and in the manner described in Exhibit A, Section 1.4.9.

b. Commercial and Industrial Recycling. Contractor shall collect and transport, as directed by the City, Recyclable Materials as defined in this Agreement, from Commercial and Industrial Generators who choose not to sell or give away (free of charge to the Generator) the Recyclable Materials to another Hauling Service or processor. Collection of these Recyclable Materials shall be conducted as arranged by the City, with input from the Commercial or Industrial Generator and/or the Contractor from time to time. The City reserves the right to prescribe the types of materials to be collected by Contractor. Recyclable Materials shall be collected from Commercial and Industrial Generators in the manner described in Exhibit A, Section 1.6.5.

At the time of drafting of this Agreement, the parties acknowledge that Contractor will not be required to collect commercial or industrial recyclable materials. However, the City may require Contractor to begin such collection by specifying the type of the materials to be collected. In the event the City requires Contractor to collect commercial or industrial recyclables, the total costs of such collection during the Rate Year in which such collection is begun will be includable as an Allowable Expense pursuant to Section 8.4(a)(2) in the Rate Application filed for the Rate Year subsequent to the year in which such collection is begun. These costs will be recoverable in full during that subsequent Rate Year in addition to the projected costs of such collection during the subsequent Rate Year.

c. Notwithstanding any other provision of this Agreement, Generators shall not be required to deliver to Contractor any Recyclable Materials that a Generator is able to sell or donate to another individual or entity, so long as no compensation of any kind is given by the Generator to the individual or entity to which the Recyclable Materials are sold or donated including, but not limited to, the storage, collection or disposal of Solid Waste or Recyclable Materials.

5.7 Yard Trimmings Collection. Contractor shall collect separated Yard Trimmings from all Residential Premises on Curbside service biweekly (every other

week) on the same day of the week as Solid Waste and Recyclable Materials Collection. Contractor shall collect separated Yard Trimmings from Multiple-Unit Residential Premises as directed by City. The collection of Yard Trimmings material shall be performed in accordance with additional standards and requirements set forth in Exhibit A, Sections 1.4.10 and 1.5.4.

5.8 Other Solid Waste Collection Services. Contractor shall provide other Collection services as requested by Generators in the City or by the City on an on-call basis, including, but not limited to, drop box service and special pickups of bulky waste on the following terms:

a. Contractor shall provide bin rentals, at the request of Generators, at the rates approved in accordance with Article VIII.

b. Contractor shall, at the request of Generators, wash dumpsters at the rates approved in accordance with Article VIII.

c. Contractor shall, at the request of Generators, provide roll-out services at the rates approved in accordance with Article VIII.

d. Spring and Fall Special Collections. Contractor shall provide separate Solid Waste and Yard Trimmings collections for all residents two (2) times a year on specific Saturdays or other times as agreed upon by City and Contractor at no additional cost. Items which may be excluded are: large or extra-heavy items such as automobile bodies, transmissions, concrete, major appliances ("white goods"), water heaters and large pieces of lumber.

e. Contractor shall provide additional, as opposed to normal, Collection services as directed by and needed by City by reason of floods, earthquakes, other "acts of God," war, civil insurrection, riots, acts of any government (including judicial action) and other similar catastrophic events as outlined in Contractor's Emergency Response Plan incorporated herein and made a part hereof as Exhibit E, unless they are prevented from doing so in accordance with Section 11.5 of this Agreement. Any expenses incurred by Contractor in the provision of such services shall be reimbursed as indicated in Section 8.4.a.5, "Extraordinary Costs."

5.9 Hours of Collection. Collection of Solid Waste, including Recyclable Materials, may occur only within hours authorized by the City. Except as may be required in the event of an emergency, Contractor may not collect materials in Residential areas or within 300' of Residential areas earlier than 7:00 a.m. or later than 5:00 p.m., and may not collect materials in other areas earlier than 6:30 a.m. or later than 6:00 p.m.

If the City amends its Municipal Code to further limit hours of operation, then the more restrictive requirement (i.e., the later start time and the earlier time after which operations shall cease) shall control.

5.10 Collection Standards.

a. Care of Private Property. Contractor shall use due care when handling Solid Waste containers provided by Generators. Containers shall not be thrown from trucks or roughly handled in a manner likely to result in damage to the containers. Containers shall be returned to the Collection point upright, with lids properly secured.

Contractor shall ensure that its employees close all gates opened by them in making collections, unless otherwise directed by the Generator, and avoid crossing landscaped areas and climbing or jumping over hedges and fences.

City shall refer complaints about damage to private property to Contractor. Contractor shall make arrangements to immediately repair all damage to private property caused by its employees.

b. Noise. Contractor shall conduct all Solid Waste and Recyclable Materials Collection services as quietly as practicable, avoiding any unnecessary noise, and shall conform to any Federal, State, County and City statutes or ordinances regulating noise levels permissible during the collection of Solid Waste. All vehicles used by Contractor to perform services under this Agreement shall conform to State regulations regarding permissible noise levels for such vehicles. City may conduct random checks of noise emission levels to ensure compliance with this Section.

5.11 Litter Abatement.

a. Minimization of Spills. Contractor shall use due care to prevent Solid Waste or Recyclable Materials from being spilled or scattered during the Collection or transportation process. If any Solid Waste or Recyclable Materials are spilled, the Contractor shall promptly clean up all spilled materials before continuing to the next collection location. Contractor shall not transfer loads from one vehicle to another on any public street, unless it is necessary to do so because of mechanical failure or accidental damage to a vehicle.

b. Cleanup. The Contractor shall clean up litter in the immediate vicinity of any Solid Waste or Recyclable Materials storage area (including the areas where Collection bins and debris boxes are delivered for Collection), when Contractor has caused the litter. The Contractor shall discuss instances of repeated spillage not caused by it directly with the Generator responsible and will report such instances to

City. City will attempt to rectify such situations with the Generator if Contractor has already attempted to do so without success.

c. Illegal Dumping. Contractor shall have the responsibility to collect and dispose of Solid Waste that has been bagged or otherwise consolidated for disposal but deposited at locations other than those designated for collection of Solid Waste pursuant to this Agreement, so long as such improperly deposited Solid Waste does not contain Biomedical Waste, Designated Waste or Hazardous Waste. The expenses associated with the collection and disposal of improperly deposited Solid Waste shall be considered an Allowable Expense for rate-setting purposes pursuant to Article VIII.

d. Covering of Loads. Contractor shall place tarps on all open debris boxes during transport to the Disposal Site. Loads not properly covered are subject to assessment of a fee by the operator of the Disposal Site and Contractor shall be responsible for all such fees which shall be excluded from Allowable Expenses. Alternatively, the facility operator may require Contractor to purchase a tarp for the boxes on the vehicle.

5.12 Transportation and Delivery of Solid Waste and Recyclable Materials. Contractor shall transport and deliver all Solid Waste and Recyclable Materials collected under Sections 5.3, 5.4, 5.5, 5.6, 5.7 and 5.8 to the Disposal Site designated by the City. Unless otherwise specified, this site will be the Transfer Station.

City will pay all transfer and disposal fees and charges imposed by the operator of the Disposal Site on Solid Waste and Recyclable Materials collected by Contractor under this Agreement. Such fees and charges are a cost of the City's and shall not be included as Allowable Expenses of Contractor for purposes of calculating Contractor's payments under Section 8.3. Contractor shall maintain accurate records of the quantities of Solid Waste and Recyclable Materials delivered to the Transfer Station and will cooperate with City in any audits or investigations of such deliveries.

Contractor shall cooperate with the operator of the Transfer Station with regard to operations therein, including, for example, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating to maintenance operations and construction of new facilities, cooperating with its Hazardous Waste Exclusion Program (HWEP), and so forth. Cooperation with the HWEP may entail inspection of up to one (1) truckload per day, randomly selected. Costs incurred due to inspection of more than one (1) truck per day will be reimbursed based on actual costs by the City with the Contractor's Payment provided for in Section 8.3.

5.13 Vehicles.

a. General. Contractor shall provide a fleet of Collection vehicles sufficient in number and capacity to efficiently perform the work required by the Agreement in strict accordance with its terms. Contractor shall have available during Collection hours on Collection days at least one (1) backup vehicle to respond to complaints and emergencies. Contractor shall not commingle equipment with that of a subsidiary, or use equipment for collection other than specified in this Agreement, without prior written approval of City except on an emergency basis.

b. Specifications. All vehicles used by Contractor in providing Collection services shall be registered with the California Department of Motor Vehicles. All such vehicles shall comply with County standards for maintaining leakproof bodies to prevent leakage, spillage or overflow. All such vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations, currently codified at 40 CFR Part 205, to the extent applicable, and other applicable noise control regulations, and shall incorporate reasonably available noise control features throughout the entire vehicle. All vehicles shall be painted in a uniform manner that does not create a resemblance between Contractor's vehicles and City utility vehicles. Contractor shall confer with the City prior to purchasing any new vehicles for use in newly-instituted programs regarding the collection of Solid Waste or Recyclable Materials. The specifications for all vehicles shall be submitted to City for approval prior to their use.

c. Vehicle Identification. Contractor's name, local telephone number, and a unique vehicle identification number designated by Contractor for each vehicle shall be prominently displayed on all vehicles, including the rear of vehicle, in letters and numbers no less than three inches (3") high. All vehicles used for Collection in the City shall have placed thereon the words "Serving the Citizens of Mountain View" or similar terminology acceptable to the City. Contractor shall not place the City's logo on its vehicles.

d. Cleaning and Maintenance.

1. General. Contractor shall maintain all of its properties, facilities, and equipment used in providing service under this Agreement in a safe, neat, clean and operable condition at all times.

2. Cleaning. Vehicles used in the Collection of Solid Waste and Recyclable Materials shall be thoroughly washed and steam-cleaned both inside and outside as necessary to maintain trucks in a neat and clean condition. City may inspect vehicles at any time to determine compliance with sanitation requirements. Contractor shall make vehicles available to the Santa Clara County Health Department for inspection, at any frequency it requests.

3. Painting. All vehicles used in Collection of Solid Waste and Recyclable Materials shall be repainted in a uniform fashion as necessary. City may inspect vehicles at any time to determine compliance with painting requirements.

4. Maintenance. Contractor shall (a) inspect each vehicle daily to ensure that all equipment is operating properly; and (b) perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Vehicles which are not operating properly shall be taken out of service until they are repaired and do operate properly. Contractor shall keep accurate records of all vehicle maintenance, recorded according to date and mileage and shall make such records available to the City upon request.

5. Repairs. Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. If an item of repair is covered by a warranty, Contractor shall obtain warranty performance. Contractor shall maintain accurate records of repair, which shall include the date/mileage, nature of repair and the signature of a maintenance supervisor that the repair has been properly performed.

6. Inventory. Contractor shall furnish sufficient equipment to provide all service required under this Agreement, including backup Collection vehicles. Contractor shall maintain and furnish the City a written inventory of all vehicles, including Collection vehicles and collection containers, used in providing service. The inventory shall list all vehicles by manufacturer, identification number, date of acquisition, type, capacity and decibel rating. Collection containers shall be listed by size and type.

7. Storage. Contractor shall arrange to store all collection containers, vehicles and other equipment in safe and secure location(s).

e. Operation. Vehicles shall be operated in compliance with the California Vehicle Code and all applicable safety and local laws and ordinances.

5.14 Personnel.

a. General. Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical and other personnel as may be necessary to provide the services required by this Agreement in a safe and efficient manner.

b. Driver Qualifications. All drivers shall be trained and qualified in the operation of collection vehicles and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

c. Uniforms. Contractor shall require its drivers and helpers to wear clean, standardized uniforms bearing the Contractor's name, and an identification badge or other means of identifying the employee.

d. Safety Training. Contractor shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment for Collection of Solid Waste and Recyclable Materials or who are otherwise directly involved in such Collection and shall have a written Injury and Illness Prevention Program as required by Cal-OSHA under Title 8, General Safety Orders, Section 3203 and/or CSO 1509, and Contractor shall comply with all State and Federal safety standards. Contractor shall train its employees involved in Solid Waste Collection to identify, and not to collect, Hazardous Waste or Biomedical Waste.

e. Gratuities. Contractor shall not permit its employees to demand, solicit or accept, directly or indirectly, any additional compensation or gratuity from members of the public for the Collection of Solid Waste or Recyclable Materials under this Agreement.

f. Employee Conduct and Courtesy. Contractor shall use its best efforts to ensure that all employees present a neat appearance and conduct themselves in a courteous manner. Contractor shall regularly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by this Agreement, Contractor shall take appropriate corrective measures, including, but not limited to, transfer, discipline or termination in a manner consistent with the Contractor's collective bargaining agreement with its employees.

g. Provision of Field Supervision. Contractor shall designate one (1) qualified employee as supervisor of field operations. The field supervisor will devote at least fifty percent (50%) of his or her time in the field checking on Collection operations, including responding to complaints.

ARTICLE VI. OTHER COLLECTION-RELATED SERVICES, STANDARDS AND AGREEMENTS

6.1 Records and Reports: Collection Operations. Contractor shall compile, on a daily basis, records of its Solid Waste and Recyclable Materials Collection operations covering those aspects of its operations and in such detail as the City may prescribe. Such records shall include, but are not limited to:

- Quantities of Recyclable Materials collected per route, reported monthly, in tons, by material type;

- Number of pickups in various Recycling programs;
- Contractor shall maintain accurate cost information for various collection programs and shall provide reports at City's request;
- Customer complaints, including the name and address of the complainant, the date, time and nature of the complaint, and the nature and date of resolution;
- Other data City may require to satisfy reporting requirements pursuant to State and Federal mandates.

6.2 Inspection by City. The City shall have the right, but not the obligation, to observe and inspect all of the Contractor's operations involved in providing services under this Agreement. Any such inspection shall be conducted in a manner that does not unreasonably interfere with the business operations of the Contractor. During any such inspection, the City shall have the right to enter any of Contractor's facilities, speak to any of Contractor's employees and receive a response to any questions directed at such employees regarding Contractor's operations that do not seek privileged or personal information, and review and make copies of (at City's expense) all of Contractor's operational and business records related to the performance of services under this Agreement. To the extent appropriate, Contractor shall have the opportunity to mark as "Confidential" pursuant to Section 6.3 any documents copied by the City. The City has the right to conduct, and Contractor must cooperate in, a management audit to verify that services provided under this Agreement are being provided in accordance with its terms and in as effective and cost-efficient a manner as is reasonably possible.

6.3 Designation of Confidential Information.

Contractor may identify any documents or portions of documents submitted to or copied by the City as containing confidential trade secrets. Contractor shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" at the time of submittal to or copying by the City. The City shall not disclose such documents or portions of documents to the public until receipt of any request for disclosure of the information pursuant to the Public Records Act. Within five (5) days of receiving any request for disclosure of documents or portions of documents identified by Contractor as confidential, the City shall provide Contractor written notice of the request. Contractor shall have five (5) days within which to respond in writing to the request before the City may disclose any such requested documents or portions of documents. In the event the City determines in good faith that the requested documents or portions of documents contain confidential trade secrets, the City shall not disclose them without the prior consent of Contractor or

unless required to do so by a court of law. In the event the City elects not to disclose such documents or portions of documents, Contractor shall reimburse the City for any costs or legal fees incurred as a result of the City's election, and shall hold the City harmless against any liability arising therefrom. The Contractor understands and acknowledges that the City must comply with the State of California Public Records Act as set forth in Government Code §§6250, *et seq.*

6.4 Performance Audit.

6.4.1 Conduct of Audit. Once every three (3) years, the City may conduct, at City expense, and Contractor must cooperate in, a performance audit to determine whether the Contractor's services are being provided in accordance with the terms of this Agreement and in as efficient a manner as is consistent with the requirements of this Agreement. The performance audit shall be performed by a qualified independent consultant to be selected by City with input from Contractor.

6.4.2 Contractor's Right to Comment. Contractor shall be provided access prior to final draft or final written report prepared by the consultant regarding the performance audit and shall have a minimum of ten (10) working days or as otherwise agreed by both parties following receipt of the draft or final written report to submit written comments to the City and the consultant. Upon request of either party, the City and the Contractor shall promptly thereafter meet to discuss whether any changes should be made in Contractor's operations as a result of the performance audit. The City shall have no right to require the Contractor to make any particular changes in its operations as a result of the performance audit that would require Contractor to increase Contractor's costs that would not be considered an Allowable Expense. At a minimum, Contractor shall implement those changes, at City's request, that improve service at the same cost or retain the same service at a lower cost.

6.5 Public/Customer Service and Accessibility.

a. Office. Contractor shall establish and maintain a business office located in the City for purposes of carrying out its obligations under this Agreement.

b. Office Hours. Contractor's office shall be open to the public from 7:30 a.m. to 4:30 p.m.—Monday through Friday. The office may be closed on Saturdays and Sundays and those holidays listed on Exhibit A, Section 1.2.

c. Availability of Representatives. A representative of the Contractor shall be available during office hours to communicate with the public in person and by telephone.

d. Telephone. Contractor shall maintain a telephone in operation at its office during business hours. Contractor shall install telephone equipment sufficient

to handle the volume of calls typically experienced on the busiest days. Contractor shall arrange for this telephone number to be listed in all telephone directories generally distributed in the City. Contractor shall also maintain an emergency telephone number for use during other than normal business hours. The emergency telephone number shall not be publicly listed or otherwise made available to the general public, but it shall be disclosed to appropriate City personnel and emergency response teams. Contractor shall connect the emergency telephone number to an answering service during hours when its office is closed and shall designate a representative to be accessible for contact by the answering service during such times.

e. Maps, Schedules, Consumer Information. Contractor shall maintain maps and schedules of all Collection and disposal routes and shall update such maps and schedules whenever a significant change occurs. Contractor shall have such maps and schedules available for inspection by City at its business office.

6.6 Service Complaints. Contractor shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Generator complaints relating to service. Contractor shall respond to all complaints from Generators within eight (8) working hours. In particular, if a complaint involves a failure to collect Solid Waste or Recyclable Materials from Premises, required by this Agreement, Contractor shall collect the Solid Waste or Recyclable Materials in question within such eight (8) hour period, provided it has been delivered for Collection in accordance with the City's Municipal Code. Contractor shall provide to the City on a quarterly basis a spreadsheet listing the customer complaints received during the prior quarter. The spreadsheet shall list each complaint grouped according to the nature of the complaint and the resolution or other comments regarding the complaint.

6.7 Compliance with Service Standards. The parties acknowledge that consistent, reliable Solid Waste and Recyclable Materials Collection service is of utmost importance to City and that City has considered and relied on Contractor's representations as to its commitment to providing high quality service in awarding the Agreement to it. The parties further recognize that objective standards of performance are necessary and appropriate to ensure consistent and reliable service.

6.7.1 Performance Standards. In recognition of the foregoing, the parties have agreed that the following standards of performance shall be observed by the Contractor:

(1) Commencement of service to a new Customer account within seven (7) days after order;

(2) Collection of Solid Waste or Recyclable Materials which have been properly delivered for Collection from an established customer account on the scheduled Collection day;

- (3) Avoidance of damage to private property;
- (4) Return of emptied refuse cans to the curb, placed upright with lids secured, and retrieval of carts moved by others which have been reported to Contractor by the Customer or the City;
- (5) Avoidance of excessive noise, as described in this Agreement;
- (6) Avoidance of discourteous behavior;
- (7) Cleanup of materials spilled by Contractor from Solid Waste containers (cans, carts, bins or debris boxes);
- (8) Collection of materials within authorized hours;
- (9) Response to Customer complaints within eight (8) working hours;
- (10) Report of Customer complaints to City as required by Section 6.4;
- (11) Submittal of the report on the annual audit of billings on the day the report is required by Section 6.16;
- (12) Submittal of the Annual Rate Application or Financial Statements on the day required by Section 8.3.

6.7.2 Failure to Observe Performance Standards. In the event that the Contractor is found to have engaged in repeated uncorrected violations of the performance standards set forth in this Section, the Contractor can be subject to sanction as herein provided. For purposes of this Section, "repeated uncorrected violations" shall mean more than five violations of the performance standards during any two-month period that, as to any violations capable of correction, are not corrected within twenty-four (24) hours from the time at which the Contractor is notified of the violation.

6.7.3 Administrative Hearing. If the City has reason to believe that the Contractor has engaged in repeated uncorrected violations of the performance standards, the City shall notify the Contractor in writing of the date and nature of each such uncorrected violation. The City may then conduct an administrative hearing regarding the violations contained in the written notice to determine whether repeated uncorrected violations have occurred. The hearing shall be conducted by the City Manager or designee. Both the City and the Contractor shall be permitted to introduce

evidence at the hearing regarding the Contractor's compliance with the performance standards. The City acknowledges that reported violations of the performance standards by Contractor's Customers do not conclusively establish the existence of such violations; however, Customer's testimony may be used as part of the overall information gathered to establish the existence of a violation.

6.7.4 Sanction. In the event that the City Manager or designee concludes, on the basis of evidence introduced at the administrative hearing, that the City has proven to a preponderance of the evidence that the Contractor has engaged in repeated uncorrected violations of the performance standards as indicated in Section 6.7.1, the City Manager or designee may require the payment by the Contractor of a fine. The amount of the fine shall be set at the discretion of the City Manager or designee, but in no event shall the City Manager or designee assess a total of more than \$25,000 of fines pursuant to this Section during any calendar year, with a maximum of \$1,000 per violation.

6.8 City's Right to Direct Termination of Service to Premises. The City may direct the Contractor to suspend or terminate waste Collection services from any Premises if the Owner or occupant thereof (or other party responsible for payment of City's utility bills) is delinquent in payment of such bills. City shall indemnify and hold Contractor harmless from any liability or operational costs associated with Contractor's suspending or terminating service pursuant to directions of the City under this Section. Contractor will promptly implement City directions to suspend or terminate service.

6.9 Change in Scope of Work; Pilot Programs. The City may, without amending this Agreement, direct Contractor to cease performing one or more of the types of Collection services described in Article V, may direct Contractor to modify the scope of one (1) or more of such services, or may direct Contractor to perform additional Solid Waste or Recyclable Materials Collection services. Such direction shall not alter or limit in any way the exclusive rights granted in Article III, which may not be altered other than through amendment of this Agreement pursuant to Section 14.6. City and Contractor shall work cooperatively to determine the nature and scope of the changes and to accomplish them in a prompt and efficient manner utilizing existing staff and equipment when possible.

Pilot programs and innovative services which may entail new Collection methods, different types of services and/or new requirements for Generators are included among the type of changes which City may direct pursuant to this Section.

The rights accorded City pursuant to this Section are not intended to change the scope of rights or financial return accorded Contractor under this Agreement. City acknowledges that changes directed pursuant to this Section may result in an increase in operating costs or a decrease in operating revenues for Contractor or may result in the obsolescence of capital equipment acquired by

Contractor to perform the services required by this Agreement. To the extent any such directions result in a change in the financial return accorded Contractor for the performance of services under this Agreement, the Payments established pursuant to Article VIII shall be adjusted pursuant to Section 8.6 to compensate Contractor fully for such changes. In the event any direction results in the obsolescence of capital equipment, Contractor shall attempt to mitigate any resulting losses, but Contractor shall be fully compensated for any such losses during the establishment of Payments under Article VIII. Contractor will perform the new or changed service while the appropriate adjustment in Payments is being determined; provided, that any such adjustment shall compensate Contractor for any change in financial return as a result of performing such services prior to the adjustment.

6.10 Title to Solid Waste and Recyclable Materials.

a. General. Solid Waste collected by the Contractor shall be the property of City from the time it is placed into Contractor's collection vehicle until it has been properly delivered to the Transfer Station, at which time it shall become the property of the owner or operator of the Transfer Station.

b. Commercial and Industrial Recycling. Material collected from Commercial and Industrial Generators shall be and remain the property of City from the time it is placed in Contractor's Collection vehicle until it is sold or properly delivered to a Recycling operation, including the Transfer Station.

c. Residential and Yard Trimmings Recycling. Recyclable Material collected as a part of these programs shall be and remain the property of City from the time it is placed in Contractor's Collection vehicle until it is sold or properly delivered to a Recycling operation, including the Transfer Station.

6.11 Nondiscrimination. Contractor shall not discriminate in the provision of service or the employment of persons engaged in performance of this Agreement on any arbitrary basis, including but not limited to, race, color, religion, sex, age, physical handicap, sexual orientation or medical condition in violation of any applicable Federal or State law.

6.12 Affirmative Action Program. Contractor shall comply with the City's Affirmative Action Program, the requirements of which are described in the Affirmative Action Certificate signed by the Contractor, a copy of which is attached hereto as Exhibit B.

6.13 Change in Collection Schedule. Contractor shall notify City and the public two weeks prior to any change in Collection operations which results in a change in the day on which Solid Waste or Recyclable Materials Collection occurs at Residential

Premises. Contractor will comply with the requirements in Exhibit A regarding notice to Customers of changes in operations.

6.14 Transition to Next Contractor. In the event that Contractor is not awarded an agreement to continue to provide Solid Waste or Recyclable Materials Collection services, or services under this Agreement are terminated for other reasons, Contractor shall cooperate fully with City and the subsequent contractor(s) to ensure an orderly and effective transition. Contractor may, but shall not be required to, sell or provide to the next contractor its assets and trade secret information. Contractor waives any right to which it otherwise might be entitled under Public Resources Code Sections 49520 and 49523 to serve as the exclusive provider of Solid Waste handling services to the City for a period longer than the term of this Agreement as determined pursuant to Article IV.

6.15 Report of Accumulation of Solid Waste; Unauthorized Dumping. Contractor shall direct its drivers to note (a) the addresses of any Premises at which they observe that Solid Waste is accumulating and is not being delivered for Collection and (b) the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. Contractor shall deliver the address or description to City within eight (8) working days of such observation.

6.16 Audit of City Billings. Contractor, at City's request, shall audit City's billings to Generators. The purpose of the audit is to determine that the amount which the City is billing each Generator is correct in terms of the level of service (i.e., frequency of collection, size of container, location of container) being provided to such Generator by Contractor. The Contractor shall submit a written report on that audit and will not be obligated to audit the entire list of customers more frequently than once a year. Contractor may also conduct once annually an audit of City's billings to Generators in order to determine that the City is billing customers properly and is compensating Contractor properly pursuant to the provisions of this Agreement. Expense incurred by Contractor for conducting said audit shall not be considered an Allowable Expense.

6.17 Name. Contractor shall not use a firm name containing the words "City," "Mountain View," or other words implying municipal ownership.

ARTICLE VII. SERVICE FEE

7.1 Amount. The parties acknowledge that a Service Fee of approximately eight percent (8%) of current Solid Waste Fund costs is appropriate payment for the services provided by the City in connection with this Agreement. However, in order to provide the City with maximum flexibility in setting solid waste collection rates, without prejudice to the interests of Contractor, the Service Fee shall be based on the Contractor's Revenue rather than on total Fund costs. Accordingly, Contractor shall

pay to the City a Service Fee equal to twenty percent (20%) of Contractor's Payments, calculated prior to the deduction from Contractor's Payments of Items (i), (ii) and (iii) of Section 8.3.

7.2 Time and Method of Payment. City shall deduct the monthly Service Fee from the revenues otherwise due to Contractor from the City under Section 8.3 or 8.4.

ARTICLE VIII. COMPENSATION

8.1 General. The "Contractor's Payment" determined in accordance with Section 8.3 shall be the full, entire and complete payment due to Contractor for performing the services required by this Agreement.

8.2 Billing by City. In accordance with the rate schedule established pursuant to this Agreement, the City shall prepare, mail and collect bills for Solid Waste and Recyclable Materials Collection services provided by Contractor under this Agreement, as a part of the municipal utility billing system.

8.3 Contractor's Payments and Contractor's Percentage.

a. Contractor's Payments. The "Contractor's Payments" shall equal the gross amount of billings by the City for Ordinary Services multiplied by the Contractor's Percentage, plus the gross amount of billings by the City for Special Services, less the following items: (i) amounts previously billed that have been determined to be uncollectable by the City's Finance and Administrative Services Director or his/her designee, in the exercise of his or her discretion, (ii) any fines assessed pursuant to Section 6.7, and (iii) the cost of any insurance purchased by the City pursuant to Section 9.2.e [i.e., Contractor's Payments = (billings for Ordinary Services x Contractor's Percentage) + billings for Special Services - (uncollectable amounts + fines + City-paid insurance costs)].

The City shall remit to Contractor on or before the tenth (10th) day of each month or other times as necessary a sum equal to the Contractor's Payments less the Service Fee, for billings of the previous month. The City shall have the right, if necessary, to pay Contractor an estimated payment of Contractor's Payments on the tenth day of any month and to reconcile such estimate to actual Contractor's Payments when making the subsequent month's payment.

Upon termination of this Agreement, Contractor shall be entitled to be paid for all services performed during the term of this Agreement, even though those services may be billed and collected by City following the termination of this Agreement. Contractor shall be permitted reasonable access to the records of City regarding waste Generators and collections pursuant to this Section.

b. Contractor's Percentage. Contractor and City recognize that a portion of the total revenues collected by the City through its billings for Solid Waste and Recyclable Materials collection services is attributable to Contractor for the services which Contractor is granted an exclusive right to perform by this Agreement and a portion attributable to other Solid Waste program services provided by the City for disposal of Solid Waste and other purposes. The "Contractor's Percentage" is the percentage of the total amount of revenue collected by the City that is attributable to Contractor's performance of Ordinary Services and shall be established annually by the City no later than thirty (30) days after rates become effective. For any Application Rate Year, the "Contractor's Percentage" shall be set by the City at a level reasonably estimated to cause Contractor to receive the Allowed Contractor's Revenues for the Application Rate Year as determined pursuant to Section 8.4.a.3.

8.4 Calculation of Allowed Contractor's Revenues. The Allowed Contractor's Revenues for Rate Years beginning July 1, 1996, shall be determined as described in this Section.

a. Rate Application by Contractor.

1. General. On or before January 31 of each year during the term of this Agreement, beginning on January 31, 1996, Contractor shall submit to City a rate adjustment application and rate review report (collectively, the "Rate Application"), showing the actual Allowable Expenses incurred by Contractor for the Fiscal Year preceding the Application Rate Year, together with unaudited financial statements and other financial information within reason to allow City to perform a rate review. See Exhibit F for example format of such information. The Rate Application shall include the Contractor's (a) actual prior fiscal year and first-quarter results, (b) projections of Revenues and Allowable Expenses for the remainder of the Fiscal Year in which an application is submitted, and (c) projections of Contractor's anticipated Revenues and Allowable Expenses for the fiscal year succeeding the Application Rate Year. In addition to specifying the projected Allowable Expenses and Revenues for the Application Rate Year, the Rate Application shall also include the following information:

(a) The rate of increase, if any, in Allowable Expenses from the then current Rate Year to the Application Rate Year;

(b) A calculation of the projected Pretax Income of the Contractor for the Application Rate Year; and

(c) Any changes in Contractor's Revenues which may be required for such Application Rate Year, as determined in accordance with Section 8.4.a.3.

In the event that the City disputes any portion of the Rate Application, or requires additional information or clarification from the Contractor with respect to the Rate Application, it shall notify the Contractor in writing. The Contractor shall respond to such notice within 10 days after receipt thereof. If appropriate, the Contractor shall modify the Rate Application to reflect any such dispute of the City.

The rates adopted must be reasonably expected to result in the generation of Contractor Revenues in an amount at least equal to the Contractor's Revenues identified in the Rate Application (as such Application may be adjusted to comply with the provisions of this Section 8.4).

2. Allowable Expenses. "Allowable Expenses" shall mean all reasonable costs incurred by Contractor in connection with or arising from Contractor's provision of Solid Waste and Recyclable Materials handling services under this Agreement, except those costs specifically excluded. "Allowable Expenses" shall only include those costs which would be reasonably incurred by a contractor in light of generally prevailing industry practices and standards, or as otherwise required pursuant to this Agreement, and shall not include those costs incurred as the result of the misconduct of the Contractor. Specifically, "Allowable Expenses" shall not include any fines or penalties payable by the Contractor for failing to comply with applicable law. All costs incurred by Contractor for collection of Recyclable Materials which are outside the scope of this Agreement are excluded from Allowable Expenses. Separate records shall be kept for all revenues received and all expenses incurred for services provided outside of the scope of this Agreement. Allowable costs may include, by way of illustration and not limitation, the following:

(a) The costs of complying with all applicable laws, regulations or orders now existing or hereafter enacted or amended, including but not limited to California Public Resources Code §§40000, *et seq.*;

(b) Labor costs, including but not limited to supervisory labor, directly or indirectly associated with Solid Waste and Recyclable Materials handling services, including but not limited to salary and wages, health, pension and retirement benefits, payroll taxes, Workers' Compensation benefits and Employee Stock Option Plan expenses; provided, however, that Employee Stock Option Plan expenses for an Application Rate Year shall not exceed the Employee Stock Option Plan expenses projected for the Fiscal Year 1993 of Two Hundred Fifty Thousand Dollars (\$250,000);

(c) Equipment costs, including but not limited to depreciation, vehicle registration fees, motor fuel, oil, tires, repairs and maintenance of equipment, uniforms, tools and parts (provided, however, that "Allowable Expenses" shall not include costs incurred for the purchase of equipment which the Contractor depreciates);

- (d) Premiums for performance bonds and insurance policies in the amounts and coverages required by City;
- (e) Administrative costs, including but not limited to officer salaries, administrative staff, data processing, billing, postage and supplies;
- (f) Utilities costs;
- (g) Employee training, safety and education costs;
- (h) Marketing, promotion and public education costs, including but not limited to those which from time to time may be required for compliance with California Public Resources Code §§40000, *et seq.*, and any and all additions and amendments thereto;
- (i) Equipment rental or leasing or facility rental and leasing costs, container costs and other capital expenditures, including but not limited to depreciation, repairs, maintenance and replacement of the same;
- (j) Professional fees;
- (k) Costs for financial and other reporting, accounting and regulatory processes associated with or required by this Agreement or under law, including but not limited to those which from time to time may be required for compliance with California Public Resources Code §§40000 *et seq.*, and any and all additions and amendments thereto;
- (l) Parent company overhead expenses incurred in connection with services provided pursuant to this Agreement, calculated as provided in Section 8.4.a.4. of this Agreement;
- (m) Costs associated with designing, developing and compiling rate applications and participating in the rate setting process;
- (n) Business taxes and real and personal property taxes;
- (o) Depreciation and interest expense, provided that the following items of interest and depreciation shall not be considered an Allowable Expense:
 - (1) Any past, present or future interest expense related to the acquisition of Contractor or an affiliate of Contractor, or the acquisition by Contractor of another corporate entity; and

(2) Any past, present or future depreciation costs associated with a step up in the cost basis of any assets acquired by Contractor from an affiliate of Contractor;

(p) Service fees or business license fees associated with the provision of services under this Agreement;

(q) Any other surcharges, taxes or fees imposed upon Contractor or levied by Federal, State or local governments in connection with Contractor's provision of Solid Waste and Recyclable Materials services under this Agreement but excluding taxes based on income.

For purposes of calculating Contractor's Revenues under this Section, Projected Allowable Expenses for an Application Rate Year shall not exceed Projected Allowable Expenses for the Rate Year prior to the Application Rate Year (as identified in the Rate Year's Rate Application), as adjusted by the CPI Adjustor, except as permitted by Section 8.4.a.5.

3. Allowed Contractor's Revenue. For any Application Rate Year, Contractor shall be entitled to receive Allowed Contractor's Revenues as determined pursuant to this Section.

(i) For purposes of this Section, the "Projected Contractor's Revenues" equal the total of Contractor's Revenues reasonably projected to be received by Contractor during an Application Rate Year.

(ii) For purposes of this Section, "Projected Allowable Expenses" equal the total projected Allowable Expenses for an Application Rate Year as calculated pursuant to Section 8.4.a.2.

(iii) If, for any Application Rate Year, Projected Contractor's Revenues result in a Pretax Income equal to or greater than the Maximum Return, Allowed Contractor's Revenues shall equal the Projected Contractor's Revenues.

(iv) If, for any Application Rate Year, Projected Contractor's Revenues result in a Pretax Income less than the Maximum Return, Allowed Contractor's Revenues shall be determined as follows:

(a) If, for any Application Rate Year, Projected Contractor's Revenues, after being adjusted by the CPI Adjustor, result in a Pretax Income less than or equal to the Minimum Return, Allowed Contractor Revenues shall equal Projected Allowable Expenses plus the Minimum Return.

(b) If, for any Application Rate Year, Projected Contractor's Revenues, after being adjusted by the CPI Adjustor, result in a Pretax Income greater than the Minimum Return and less than or equal to the Maximum Return, Allowed Contractor Revenues shall equal the Projected Contractor Revenues, as adjusted by the CPI Adjustor.

(c) If, for any Application Rate Year, Projected Contractor's Revenues, after being adjusted by the CPI Adjustor, result in a Pretax Income greater than the Maximum Return, Allowed Contractor Revenues shall equal the Projected Allowable Expenses plus the Maximum Return.

4. Parent Company Overhead Expenses. Without the prior written consent of the City, for any Fiscal Year, the amount of parent company overhead expenses permitted as an Allowable Expense under Section 8.4.a.2(1) of this Agreement shall not exceed the amount of parent company overhead expenses of One Hundred Eighty-Three Thousand One Hundred Twenty Dollars (\$183,120) incurred for Fiscal Year 1992, increased each year by the CPI Adjustor.

5. Extraordinary Costs Or Cost Savings. In the event that it is anticipated that extraordinary costs will be incurred by Contractor during an Application Rate Year or extraordinary cost savings will be experienced by Contractor during an Application Rate Year, the Projected Allowable Expenses for the Application Rate Year will be increased or decreased, as appropriate, by the projected amount of the extraordinary costs or cost savings. "Extraordinary Costs" or "Extraordinary Cost Savings" shall include, without limitation, costs or cost savings incurred or experienced as a result of:

(a) A modification or renegotiation by City and Contractor of any agreement regarding the handling of Solid Waste and/or Recyclable Materials;

(b) A change in requirements for collection, treatment or processing requirements for Solid Waste or Recyclable Materials prior to its disposal either by action of City or of any Federal, State, County or other governmental agency;

(c) The occurrence of an event which would excuse performance pursuant to Section 11.5;

(d) An increase or decrease in the number of Generators, whether caused by Customer growth and/or annexation, to the extent such increase causes Contractor to incur increased or additional capital and noncapital expenditures or caused by Customer loss to the extent such decrease causes Contractor decreased capital and noncapital expenditures.

(e) An extraordinary increase or decrease in the cost of essential goods or services used by Contractor in the performance of services under this Agreement that is beyond the reasonable control of Contractor, or as otherwise approved by the City. For purposes of this Section, "essential goods or services" shall include the capital or lease cost of equipment, as well as other goods and services regularly employed by Contractor.

6. Variances from Projections. The Contractor shall retain any income from actual costs during any year being less than those projected for that year. Similarly, the Contractor shall not be compensated for actual costs during any year that are greater than those projected for that year. In addition, calculations of Contractor's Payment for future years shall not attempt to adjust for past variances of actual costs from those which had been projected. Nothing in this section shall prevent the City from bringing an action or proceeding under Article XII to recoup prior overpayments due to subsequently discovered fraud or misrepresentation in financial data submitted by it to the City.

8.5 Rate Calculation. The City shall establish the rates to be charged Customers for Solid Waste and Recyclable Materials Collection services by ordinance or resolution for the types of services provided. No later than June 1 of any year in which Contractor has submitted a Rate Application, City shall review the Rate Application to determine the compliance of such Application with the provisions of Section 8.4 and take such action as is necessary to adopt a new rate schedule for the Application Rate Year reflecting the Rate Application, as such Rate Application may be modified by Contractor or by City no later than June 30. However, no rate review application request will be granted to Contractor prior to receipt and review of the annual audited financial statements under Section 8.8. The City shall not make any retroactive adjustment to compensate for any delay in calculating the Contractor's Payment which results from the failure of the Contractor to respond promptly and completely to requests of the City for information related to any of the calculations required by this section or receipt of audited Financial Statements.

8.6 Adjustments for Changes. If the City has directed a change in scope of work under Section 6.9 and either party believes that such change will increase or decrease the costs of providing service, the party which believes the Contractor's Payments should be adjusted shall, within thirty (30) calendar days, submit to the other party a proposed adjustment and the parties shall thereafter meet and discuss the matter. Contractor shall promptly provide all relevant schedules, supporting documentation and other financial information requested by the City to evaluate the necessity for an adjustment and the amount thereof. The City Manager or his/her designee shall participate in key meetings regarding those adjustments.

Within ninety (90) days of the submission of the proposed adjustment, the City (pursuant to a recommendation from the City Manager) will determine the amount

of the adjustment, if any, and shall thereafter adjust the Contractor's Payments accordingly. Any adjustments will be made effective as of the date the change in service is implemented. For purposes of providing new services, the adjustment shall be the agreed-upon costs with an annual profit margin of 8 percent.

If Contractor is dissatisfied with the recommendation of the City Manager or his/her designee, it may appeal that decision to the City Council. If an appeal is to be taken, Contractor shall promptly (in any case, within 15 days of its receipt of the City Manager's decision) submit a full written statement of (a) each item with which it disagrees; (b) the reasons for its disagreement; (c) the amount which it believes the Contractor's Payments should be adjusted for each such item and shall submit copies of all financial and operational data on which it relies. The City Council will consider the appeal at a public meeting held within 60 days after the filing of the Contractor's appeal.

8.7 Additional Review for Material Changes.

a. Allowed Contractor's Revenue established pursuant to this Article VIII is calculated to cover certain expenses and costs that are of a contingent and uncertain nature and that must be estimated several months before they are incurred. Therefore, in addition to the review described in Section 8.4 above, Allowable Contractor's Revenue and the Contractor's Percentage and/or the rates established pursuant to Section 8.5 may be further adjusted during a Rate Year upon written request of Contractor if Contractor can demonstrate materially increased costs to be incurred by Contractor in connection with or arising from Contractor's provision of services under this Agreement, due to any of the following causes:

(1) A modification or renegotiation by the City and the Contractor of any agreement regarding the collection or disposal of Solid Waste and/or Recyclable Materials that causes a material change in the obligations of Contractor under this Agreement;

(2) A change in the requirements for collection, treatment or processing of Solid Waste and/or Recyclable Materials prior to their disposal, either by action of the City or of any Federal, State, County, local or other governmental agency, or a change in the level of fees or other charges levied by such agencies in connection with the provision of solid waste handling services; or

(3) The occurrence of extraordinary and unanticipated costs not within the control of Contractor incurred by Contractor in connection with the provision of services under this Agreement.

b. For purposes of this Section, Contractor shall not incur "materially increased costs" as a result of any particular event or cause unless that event or cause

can be reasonably expected to increase Contractor's Allowable Expenses for the Rate Year by greater than 1 percent of the Allowable Contractor's Revenue for that Rate Year.

c. Upon receiving Contractor's written request for additional review and such information deemed necessary to support such request, the City shall have sixty (60) days to act upon the request.

8.8 Maintenance of Financial Records.

a. General. In order to effectuate the annual Rate Application Process pursuant to Section 8.4 and the occasional reviews of adjustments under Section 8.6 due to changes directed by the City, which reviews may or may not coincide with the Rate Application Process, it is necessary for Contractor to maintain accurate, detailed financial information in a consistent format and to make such information available to City in a timely fashion. It is also necessary, in order to assure the public of the accuracy of the review processes, for the Contractor's financial records to be confirmed by an audit conducted by an independent certified public accountant whose report thereon is forwarded to the City on a regular basis. This section is intended to effectuate these requirements.

b. Contractor's Accounting Records. Contractor shall maintain in its office accurate and complete accounting records containing the underlying financial and operational data relating to, and the bases for computation of, all costs associated with providing service under this Agreement. Separate costs shall be maintained for the various collection programs outlined in this Agreement. The accounting records shall be prepared on an accrual basis, in accordance with Generally Accepted Accounting Principles consistently applied. The Contractor will adhere throughout the Term to "Generally Accepted Accounting Principles" then in effect, published by the American Institute of Certified Public Accountants. The operating year for both accounting and all other record keeping purposes shall be the Fiscal Year.

c. Annual Audit. The City, at its own expense, may conduct an annual audit to ascertain compliance with this Agreement, such audit may be performed by an independent certified public accountant selected by the City. Contractor shall make all of its financial statements, internal audits and any other reasonable information requested available to the auditor. This audit shall be conducted in an efficient and timely manner, in order not to delay unnecessarily the rate review process. The results of this audit may be used by the City in its consideration of subsequent Rate Applications submitted by Contractor under this Section.

d. Retention of Records. Contractor shall retain all records and data required to be maintained under this Agreement for a period of at least three (3) years following the close of each of Contractor's Fiscal Years, and for such further time as may

be designated by City to enable it to complete any review or audit commenced during such three (3) year period.

e. Delivery of Financial Reports to City. Contractor shall deliver to City the financial reports, in the format and at the time required by Section 8.4. In addition, Contractor shall provide City with financial information in such format, and at such times, as City may reasonably require to monitor Contractor's financial activities and conduct the rate review processes described in this article.

f. Delivery of Financial Statements, Other Documents, and Auditor's Report. No later than March 31 of each year, Contractor shall deliver to City five (5) copies of its audited financial statements for its preceding Fiscal Year together with such other documents as may be required by City which shall show in detail the financial condition of the Contractor and the results of its operations under this Agreement. These statements shall have been examined by and shall be accompanied by the report of an independent certified public accountant containing such accountant's representation that it has examined the Contractor's financial statements in accordance with Generally Accepted Auditing Standards. The City may prescribe the contents of supplemental schedules to be included with the financial statements required.

g. Affiliated Companies. Contractor's accounting records shall be maintained on a basis showing the results of Contractor's operations under this Agreement separately from any other operations of the Contractor or its Affiliates. The assets, liabilities, revenues, expenses and net worth associated with providing service to City shall not be combined, consolidated or in any other way incorporated with those of any other operations conducted by Contractor not pertaining to this Agreement or with those of "Affiliated" companies," as defined below.

If Contractor claims as Allowable Expenses, any costs incurred pursuant to any contracts or financial arrangements with Affiliated companies, the City's rights to inspect records, and obtain financial data shall extend to such Affiliate or Affiliates to the extent necessary to justify such Allowable Expense.

h. Definition of "Affiliate." For purposes of this Agreement, all businesses, (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect ownership interests or common management shall be deemed to be "Affiliated" with Contractor and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which Contractor owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor.

i. Review of Audited Financial Statement. City may, with its own employees or by means of a consultant, review the audit plan of any of the independent certified public accountants whose opinions on the audited financial statements are to be furnished pursuant to Section 8.8(f). The City has the right, but not the obligation, to review the Parent Company's overhead allocation to the Contractor and affiliates. If such review gives rise to any questions, or differences of opinion regarding Contractor's compliance with the Agreement, Contractor and its accountant(s) shall meet with City, and its consultant if any, to discuss the issues involved.

Because the audit plan and work papers for the annual audit of the Parent Company contain confidential information that is not relevant to this Agreement, the City shall not be given access to such documents. However, Contractor shall be required to provide sufficient financial information to the City to permit the City to confirm the accuracy and propriety of the overhead allocation from the Parent Company and any other services provided by the Parent Company that are not included in the overhead allocation.

ARTICLE IX. INDEMNITY, INSURANCE, BOND

9.1 Indemnification. Contractor shall defend, indemnify and hold harmless the City, 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 including, but not limited to, injury to and death of any person and damage to property or for contribution or indemnity claimed by third parties arising or resulting from and in any way connected with (1) the negligence or willful misconduct of Contractor, its officers, employees, agents and/or subcontractors in performing services under this Agreement; (2) the failure of the Contractor, its officers, employees, agents and/or subcontractors to comply in all respects with the provisions of this Agreement, applicable laws (including, without limitation, the Environmental Laws) and regulations, and/or applicable permits and licenses; and/or (3) the acts or omissions of Contractor, its officers, employees, agents and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws). The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by the negligence of others, including that of any of the indemnitees.

Contractor further agrees to and shall, upon demand of City, at Contractor's sole cost and expense, defend (with attorneys reasonably acceptable to the City) City, its officers, employees, and agents against any claims, actions, suits or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any events described in the immediately preceding paragraph.

The Contractor's duty to indemnify and defend shall survive the expiration or earlier termination of this Agreement.

9.2 Insurance.

a. Types and Amounts of Coverage. Contractor, at Contractor's sole cost and expense, shall procure and furnish to City, concurrently with signing of this Agreement, and maintain in force at all times during the Term the following types and amounts of insurance:

1. Workers Compensation and Employer's Liability.

Contractor shall maintain Workers Compensation insurance covering its employees in statutory amounts and otherwise in compliance with the laws of the State of California. Contractor shall maintain Employer's Liability insurance in an amount not less than One Million Dollars (\$1,000,000) per accident or disease.

2. Commercial General and Auto Liability. Contractor shall

maintain comprehensive general liability insurance with a combined single limit of not less than Ten Million Dollars (\$10,000,000) per occurrence covering all claims and all legal liability for personal injury, bodily injury, death, and property damage, including the loss of use thereof, arising out of, or occasioned in any way by Contractor's performance of, or its failure to perform, services under this Agreement. The insurance required by this subsection shall include:

- (a) Premises Operations;
- (b) Independent Contractor's Protective;
- (c) Products and Completed Operations;
- (d) Personal Injury Liability with Employment Exclusion
deleted;
- (e) Broad Form Blanket Contractual, including
Contractor's Obligation, under Section 9.1;
- (f) Owned, Non-Owned, and Hired Motor Vehicles to
include hazardous waste transportation exposure when transporting hazardous waste
for the City;
- (g) Broad Form Property Damage, including Completed
Operations.

3. Physical Damage. Contractor shall maintain comprehensive (fire, theft and collision) physical damage insurance covering the vehicles and equipment used in providing service to the City under this Agreement, with a deductible not greater than Twenty-Five Thousand Dollars (\$25,000.00). The Contractor may satisfy the requirements of this Section 3 through the use of self-insurance provided by Norcal Waste Systems, Inc.

4. Company Ratings. The insurance policies required by this Section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of *Best's Insurance Reports* of Size Category IX or larger and a rating classification of B+ or better.

b. Required Endorsements.

1. The Workers' Compensation policy shall contain an endorsement in substantially the following form: "Thirty (30) days prior written notice shall be given to the City of Mountain View in the event of cancellation, reduction in coverage, or nonrenewal of this policy. Such notice shall be sent to:

City Manager
City of Mountain View
P.O. Box 7540
500 Castro Street
Mountain View, CA 94039-7540

2. The Commercial General and Auto Liability policy shall contain endorsements in substantially the following form: "Thirty (30) days prior written notice shall be given to the City of Mountain View in the event of cancellation, reduction of coverage, or nonrenewal of this policy. Such notice shall be sent to:

City Manager
City of Mountain View
P.O. Box 7540
500 Castro Street
Mountain View, CA 94039-7540

(a) "The City of Mountain View, its officers, employees, and agents are additional insureds on this policy."

(b) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by the City of Mountain View, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."

(c) "Inclusion of the City of Mountain View as an insured shall not affect the City's rights as respects any claim, demand, suit or judgment brought or recovered against the Contractor. This policy shall protect Contractor and the City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase the company's liability as set forth in the policy beyond the amount shown or to which the company would have been liable if only one party had been named as an insured."

c. Delivery of Proof of Coverage. Contractor shall furnish the City, concurrent with the execution of this Agreement, certificates of each policy of insurance required hereunder, in form and substance satisfactory to City. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements. If the City requests, copies of each policy, together with all endorsements, shall also be promptly delivered to City. Renewal certificates will be furnished periodically to City to demonstrate maintenance of the required coverages throughout the Term.

d. Other Insurance Requirements.

1. In the event any services are delegated to a subcontractor, the Contractor shall require such subcontractor to provide statutory Workers Compensation insurance and employer's liability insurance for all of the subcontractor's employees engaged in the work. The liability insurance required by Subsection 9.2.a.2 shall cover all subcontractors or the subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section 9.2.

2. The Contractor shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Contractor from any obligation under this Agreement. If any claim is made by any third person against the Contractor or any subcontractor on account of any occurrence related to this Agreement, the Contractor shall promptly report the facts in writing to the insurance carrier and to the City.

The Commercial General and Auto Liability insurance required by Section 9.2.a.2 shall be written on an "occurrence," rather than a "claims-made" basis; claims-made policies are not acceptable.

e. Absence of Insurance. If Contractor fails to procure and maintain any insurance required by this Agreement, the City may take out and maintain, at the Contractor's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due the Contractor.

9.3 Faithful Performance Bond. Contractor shall furnish the City, concurrent with the execution of this Agreement and maintain throughout the life of this

Agreement, a bond securing the Contractor's faithful performance of its obligations under this Agreement. The principal sum of the bond shall be Three Hundred Thousand Dollars (\$300,000). The form of the bond shall be as set out in Exhibit D. The bond shall be executed as surety by a corporation authorized to issue surety bonds in the State of California, with a financial condition and record of service satisfactory to the City. On July 1, 1998 (and thereafter on each fifth anniversary of July 1, 1998 if this Agreement is renewed), the amount of the Bond shall be increased by the compounded cumulative CPI amount, calculated from date hereof, and thereafter from the last date of increase, each time it is renewed.

ARTICLE X. CITY'S RIGHT TO PERFORM SERVICE

10.1 General. In the event that the Contractor, for any reason whatsoever, fails, refuses or is unable to collect and transport Solid Waste and/or Recyclable Materials which it is required by this Agreement to collect and transport, at the time and in the manner provided in this Agreement, for a period of more than seventy-two (72) hours, then the City shall have the right, but not the obligation, upon notice to Contractor, (a) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Contractor and/or (b) to take possession of any or all of Contractor's land, equipment and other property used or useful in the Collection and transportation of Solid Waste and/or Recyclable Materials, and to use such property to collect and transport any Solid Waste and/or Recyclable Materials generated within the City. Notice of the Contractor's failure, refusal or neglect to collect and transport Solid Waste or Recyclable Materials may be faxed to the Contractor at its principal office and shall be effective immediately. Written confirmation of such faxed notification shall be sent to Contractor within twenty-four (24) hours of the faxed notification.

10.2 Consent to Temporary Possession for Service Interruptions Caused by Events Beyond the Contractor's Control. If the interruption or discontinuance in service described in Section 10.1 is caused by any of the reasons listed in Section 11.5, the City shall pay to Contractor the actual reasonable rental value of the equipment, and facilities, possession of which is taken by the City, for the period of the City's possession, but the City is excused from any other obligation to pay Contractor moneys under this Agreement for such period.

10.3 Temporary Possession for Service Interruptions Caused by Other Events. If the interruption or discontinuance of service described in Section 10.1 is caused by any event other than those listed in Section 11.5, the City may take possession of and use all of the Contractor's property described above, paying Contractor the actual costs incurred by Contractor as a result of the taking of possession as compensation.

Contractor further agrees that in such event:

(a) It will fully cooperate with City to effect the transfer of possession of property to the City for City's use.

(b) It will, if City so requests, keep in good repair and condition all of such property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition.

(c) City may immediately engage all or any personnel necessary or useful for the collection and transportation of Solid Waste and/or Recyclable Materials, including, if City so desires, employees previously or then employed by Contractor. Contractor further agrees, if City so requests, to furnish City the services of any or all management or office personnel employed by Contractor whose services are necessary or useful for Solid Waste and/or Recyclable Materials collection and transportation operations.

The City's exercise of its rights under this Article X: (a) does not constitute a taking of private property for which compensation must be paid, (b) will not create any liability on the part of City to Contractor, and (c) does not exempt Contractor from the indemnity provisions of Section 9.1, which are meant to extend to circumstances arising under this Section, provided that Contractor is not required to indemnify City against claims and damages arising from the negligence of City officers, employees and agents in the operation of collection vehicles during the time the City has taken possession of such vehicles.

10.4 Duration of City's Possession. City has no obligation to maintain possession of Contractor's property and/or continue its use in collecting and transporting Solid Waste and/or Recyclable Materials for any period of time and may at any time, in its sole discretion, relinquish possession to the Contractor. The City's right to retain temporary possession of Contractor's property, and to provide Solid Waste and Recyclable Materials collection services, shall continue until Contractor can demonstrate to the City's satisfaction that it is ready and able to resume such services.

10.5 Contractor Obligation to Reimburse City for Costs in Certain Circumstances. If the interruption or discontinuance of service described in Section 10.1 is caused by any event other than those listed in Section 11.5 and the City elects to utilize a third-party Hauling Service to provide services during such interruption or discontinuance, the Contractor shall be obligated to reimburse the City for any reasonable costs which the City incurs (including fees payable to such third-party Hauling Service) which are in excess of the amount which the Contractor would have been entitled to for the period of such interruption or discontinuance.

ARTICLE XI. DEFAULT AND REMEDIES

11.1 Events of Default. Each of the following shall constitute an event of default ("Event of Default") hereunder:

a. Contractor materially fails to perform its obligations under this Agreement, or any present or future supplement to this Agreement, and fails to cure such breach within seven (7) days of receiving notice from the City specifying the breach;

b. Any representation or disclosure made to City by Contractor in connection with or as an inducement to entering into this Agreement or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement;

c. There is a seizure or attachment of, or levy on, the operating equipment of Contractor, including without limit its vehicles, maintenance or office facilities, or any part thereof;

d. Contractor files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or shall consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Contractor for any part of Contractor's operating assets or any substantial part of Contractor's property, or shall make any general assignment for the benefit of Contractor's creditors, or shall fail generally to pay Contractor's debts as they become due or shall take any action in furtherance of any of the foregoing;

e. A court having jurisdiction shall enter a decree or order for relief in respect of the Contractor, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Contractor shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Contractor or for any part of the Contractor's operating equipment or assets, or orders the winding up or liquidation of the affairs of Contractor;

f. Contractor fails to provide reasonable assurances of performance as required under Section 11.6.

11.2 Right to Terminate Upon Default. Upon a default by Contractor, as indicated in Section 11.1, the City shall have the right to terminate this Agreement upon

a further fifteen (15) days written notice, but without the need for any hearing, suit or legal action.

11.3 Possession of Property Upon Termination. In the event of termination for default, the City shall have the right to take possession of any and all of Contractor's land, equipment, and other property used or useful in the collection and transportation of Solid Waste and/or Recyclable Materials and to use such property to collect and transport any Solid Waste and/or Recyclable Materials generated within the City. The City shall have the right to retain the possession of such property until other suitable arrangements can be made for the provision of Solid Waste and/or Recyclable Materials collection services, which may include entering into an agreement with another waste hauling company. The Contractor shall be entitled to the reasonable actual rental value of such property, which shall be offset against any damages due the City for the Contractor's default. Contractor shall furnish the City with route information and other data as necessary for City to provide collection and transportation of Solid Waste and Recyclable Materials.

11.4 City's Remedies Cumulative; Specific Performance. The City's right to terminate the Contract under Section 11.2 and to take possession of the Contractor's properties under Section 11.3 are not exclusive, and the City's termination of the Contract shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies which the City may have. By virtue of the nature of this Agreement, the urgency of timely, continuous and high-quality service, the lead time required to effect alternative service, and the rights granted by City to the Contractor, the remedy of damages for a breach hereof by Contractor is inadequate and City shall be entitled to injunctive relief.

11.5 Excuse From Performance. The parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of floods, earthquakes, other "acts of God," war, civil insurrection, riots, acts of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder. Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action is not an excuse from performance and Contractor shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

The party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this Section.

In the event that either party validly exercises its rights under this Section, the parties hereby waive any claim against each other for any damages sustained thereby.

The partial or complete interruption or discontinuance of Contractor's services caused by one or more of the events described in this Section shall not constitute a default by Contractor under this Agreement. Notwithstanding the foregoing, however, (a) the existence of an excuse from performance will not affect the City's rights under Sections 10.1 and 10.2, and (b) if Contractor is excused from performing its obligations hereunder for any of the causes listed in this Section for a period of fourteen (14) days or more, the City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days notice, in which case the provisions of Section 11.3 will apply.

11.6 Right to Demand Assurances of Performance. If Contractor (a) repeatedly fails to comply with the performance standards described in Section 6.7; (b) is the subject of any labor unrest including work stoppage or slowdown, sick-out, picketing or other concerted job action; (c) appears in the reasonable judgment of City to be unable to regularly pay its bills as they become due; or (d) is the subject of a civil or criminal proceeding brought by a Federal, State, regional or local agency for violation of an Environmental Law, the City may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the City may require. If Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by City, such failure or refusal shall be an event of default for purposes of Section 11.1.

ARTICLE XII. DISPUTE RESOLUTION

12.1 Dispute Resolution.

a. Continued Performance. In the event of a dispute arising under this Agreement, other than a dispute arising over rate adjustments as provided in Article VIII above, the parties shall continue performance of their respective obligations under this Agreement and shall attempt to resolve such dispute in a cooperative manner.

b. Call for Mediation. If the parties are unable to resolve a dispute arising under this Agreement in a cooperative manner, either party may call for nonbinding mediation. In such event, the City and Contractor shall use their best efforts to agree on and appoint a mutually acceptable mediator. Upon such appointment, the parties shall conduct such mediation as soon as practicable. Any costs and expenses of the mediator shall be shared equally by the City and the Contractor.

ARTICLE XIII. OTHER AGREEMENTS OF THE PARTIES

13.1 Relationship of Parties. The parties intend that Contractor shall not perform the services as an officer or employee of the City nor as a partner or joint venturer with the City. No employee or agent of Contractor shall be or shall be deemed to be an employee or agent of the City. Except as expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the Solid Waste and/or Recyclable Materials collection services performed under this Agreement, and all persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither Contractor nor its officers, employees, subcontractors and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City employees by virtue of their employment with the City.

13.2 Compliance with Law. In providing the services required under this Agreement, Contractor shall at all times, at its sole cost, comply with all applicable laws of the United States, the State of California and the City and with all applicable regulations promulgated by Federal, State, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended during the Term.

13.3 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

13.4 Jurisdiction. Any lawsuits between the parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits. With respect to venue, the parties agree that this Agreement is made in and will be performed in Santa Clara County.

13.5 Assignment. Except as provided in Section 11.6, 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 the consent of the other party shall be void and the attempted assignment shall constitute a material breach of this Agreement.

For purposes of this Section, "assignment" shall include, but not be limited to, (a) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (b) a sale, exchange or other transfer of 30 percent or more of the outstanding common stock of Contractor to a person other than the current shareholder(s) (sales, exchanges and/or other transfers between such shareholders not being assignments); (c) any reorganization, consolidation, merger, recapitalization, stock issuance or reissuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which

Contractor or any of its shareholders is a party which results in a change of ownership or control of 30 percent or more of the value or voting rights in the stock of Contractor; and (d) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership. For purposes of this Section, the term "proposed assignee" shall refer to the proposed transferee(s) or other successor(s) in interest pursuant to the assignment.

Contractor acknowledges that this Agreement involves rendering a vital service to City's residents and businesses, and that City has selected Contractor to perform the services specified herein based on (a) Contractor's experience, skill and reputation for conducting its Solid Waste and Recyclable Materials management operations in a safe, effective and responsible fashion, at all times in keeping with applicable waste management laws, regulations and good waste management practices, and (b) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to City under this Agreement. City has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.

If Contractor requests City's consideration of and consent to an assignment, City may deny or approve such request in its complete discretion. No request by Contractor for consent to an assignment need be considered by City unless and until Contractor has met the following requirements:

(a) Contractor shall undertake to pay City its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;

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

(c) Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has Solid Waste and Recyclable Materials management experience that is specific to collection, transporting, processing and disposal on a scale equal to or exceeding the scale of operations conducted by Contractor; (ii) that in the last five (5) years, the proposed assignee has not suffered any citations or other censure 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 waste management laws and that the assignee has provided the City with a complete list of such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste and Recyclable Materials management practices in accordance with sound management practices in full compliance with all

Federal, State and local laws regulating the collection and disposal of waste, including hazardous waste as identified in Title 22 of the California Code of Regulations; (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

Under no circumstances shall any proposed assignment be considered by City if Contractor is in default at any time during the period of consideration.

13.6 Subcontracting. Contractor shall not engage any subcontractors without the prior written consent of the City.

13.7 Performance of Work by Affiliates. Collection and/or transportation services under this Agreement may be provided by affiliates of Contractor on a temporary or emergency basis with consent of the City, not to exceed thirty (30) days, provided that the costs by affiliates do not exceed the cost of services as provided by Contractor and such costs of services can be separately identified in accordance with this Agreement. If collection and/or transportation services are provided by affiliates, Contractor shall be entitled to revenues as provided for in this Agreement.

13.8 Binding on Successors. The provisions of this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties.

13.9 Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights on any persons other than the parties to it and their representatives, successors and permitted assigns.

13.10 Waiver. The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either party of any moneys which become due hereunder shall not be deemed to be a waiver of any preexisting or concurrent breach or violation by the other party of any provision of this Agreement.

13.11 Condemnation. The City fully reserves the rights to acquire the Contractor's property utilized in the performance of this Agreement, by purchase or through the exercise of the right of eminent domain, in accordance with the procedure described in Section 1205 of the City Charter.

13.12 Notice. All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall, except as provided in Section 10.1, be in writing and shall either be personally delivered to a representative of the parties at the address below or be deposited in the United States mail, first-class postage prepaid, addressed as follows:

If to City:

City Manager
City of Mountain View
P.O. Box 7540
500 Castro Street
Mountain View, CA 94039-7540

with a copy to the Finance and Administrative Services Director and
Public Works Director.

If to Contractor:

Foothill Disposal Company
935 Terra Bella Avenue
Mountain View, CA 94043
Attention: Steve Fraguglia

The address to which communications may be delivered may be changed
from time to time by a notice given in accordance with this Section.

Notice shall be deemed given on the day it is personally delivered or, if
mailed, three days from the date it is postmarked.

13.13 Representatives of the Parties. References in this Agreement to the "City" shall mean the City Council, and all actions to be taken by the City shall be taken by the City Council except as provided below. The City Council may delegate authority to the City Manager, and the City Manager may delegate to other City officials and may permit such officials, in turn, to delegate some or all of such authority to subordinate officers. The Contractor may rely upon actions taken by such delegates if they are within the scope of the authority properly delegated to them. The Contractor shall, within 30 days after this Agreement is signed by both parties, designate in writing a responsible officer who shall serve as the representative of the Contractor in all matters related to the Agreement and shall inform the City in writing of such designation and of any limitations upon his or her authority to bind the Contractor. Unless otherwise specified, Steve Fraguglia will act as Contractor's designee. The City may rely upon action taken by such designated representative as actions of the Contractor unless they are outside the scope of the authority delegated to him/her by the Contractor as communicated to City.

13.14 Location of Contractor's Facilities. The Contractor may not relocate its existing vehicle yard from its present location at 935 Terra Bella Avenue, Mountain View, California, without the prior written consent of the City, subject to the provisions of this Section. The City may not withhold its consent to a proposed relocation of the

Contractor's Facility unless the City can identify within ten (10) days an alternative to the location proposed by the Contractor. Such alternative (i) must be of a sufficient size so as to accommodate operations required under this Agreement, (ii) must be available for lease or purchase, (iii) must be usable as a vehicle yard without extraordinary capital expenditures by the Contractor, and (iv) must comply with the lease cost limits stated in subsection (1) below unless the City agrees that any increase in cost above the limit constitutes Allowable Expenses. In the event that the City identifies an alternative meeting the requirements of the preceding sentence, the Contractor must either (i) utilize the alternative site identified by the City or another site approved by the City, or (ii) continue operations at its present location; provided, however, that if Contractor elects to continue operations at its present location, it may continue to propose new locations for the City's approval. Notwithstanding the foregoing, at all times during the term of this Agreement, the Contractor must operate the buy-back/dropoff center described in Exhibit A and a business office at a site within the geographical boundaries of the City.

In addition to the foregoing, in the event that the Contractor relocates its facilities as described above:

(1) The total lease or other occupancy costs which the Contractor claims as an Allowable Expense (including costs related to the buy-back center and office maintained within the City) may not exceed Fifteen Thousand Dollars (\$15,000) per month in constant 1996 dollars;

(2) Costs associated with the relocation by the Contractor shall not constitute an Allowable Expense for purposes of this Agreement, and the Contractor may not claim that such costs constitute extraordinary costs pursuant to Section 8.4.a.5 hereof; provided, however, that the Contractor may claim as an Allowable Expense moving costs associated with the relocation of office, shop and yard equipment;

(3) The Contractor may not claim as Allowable Expenses any net increases in operating costs which result from the relocation (including, but not limited to, increases in fuel consumption or driver compensation which may result from such new location) which are in excess of the operating costs which would have been applicable had the Contractor not relocated; provided, however, that Contractor may claim as an Allowable Expense under Section 8.4.a.5 any increase in lease costs as a result of the relocation up to the limit stated in subsection (1) above; and

(4) If the Contractor or any Affiliate utilizes the new facility to provide services in municipalities other than the City, the Contractor shall be required to allocate any costs incurred at or in connection with the new facility in a manner reasonably satisfactory to the City.

ARTICLE XIV. MISCELLANEOUS AGREEMENTS

14.1 Exhibits. Each of the Exhibits, identified as Exhibits "A" through "F," is attached hereto and incorporated herein and made a part hereof by this reference.

14.2 Entire Agreement. This Agreement, including the Recitals, Exhibits and Attachments, represents the full and entire Agreement between the parties with respect to the matters covered herein.

14.3 Section Headings. The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

14.4 References to Laws. All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

14.5 Interpretation. This Agreement shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting.

14.6 Amendment. This Agreement may not be modified or amended in any respect except by a writing signed by the parties.

14.7 Severability. If any nonmaterial provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

14.8 Counterparts. This Agreement may be executed in counterparts; each of which shall be considered an original.

14.9 Actions of the City in its Governmental Capacity. Nothing in this Agreement shall be interpreted as precluding the City from enforcing the provisions

of applicable law or otherwise limiting the rights and obligations of the City in its governmental or regulatory capacity.

IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first above written.

APPROVED AS TO CONTENT:

"CITY":
CITY OF MOUNTAIN VIEW,
a municipal corporation

Public Works Director

By: _____
City Manager

FINANCIAL APPROVAL:

"CONTRACTOR":
FOOTHILL DISPOSAL COMPANY

Finance and Administrative
Services Director

By: _____
President

APPROVED AS TO FORM:

By: _____
Secretary

City Attorney

PJK/FIN-3*S
546-3-18-94R*S3

CITY OF MOUNTAIN VIEW
ENFORCEMENT RESPONSE PLAN

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CITY OF MOUNTAIN VIEW ENFORCEMENT RESPONSE PLAN

I. BACKGROUND

A. SUMMARY OF ENFORCEMENT RESPONSE PLAN

The City of Mountain View's Fire and Environmental Protection Division (FEPD) is responsible for ensuring compliance with permit requirements, regulations, local ordinances and California State statutes to protect the public health and the environment. To achieve this goal, the FEPD has established this Enforcement Response Plan (Plan) to regulate businesses, commercial operations, industrial activities, construction activities and investigate environmental crimes.

The objective of this Plan is to ensure consistent enforcement of California's building, fire and environmental laws and regulations. The contents of this Plan are regularly communicated to all staff personnel. The Plan serves as a guidance document for enforcement options the FEPD may pursue for inspection violations, complaints and emergency hazardous materials and environmental incidents.

B. PURPOSE OF THIS DOCUMENT

Many of the State and Federal oversight agencies for the various environmental and consolidated programs require the local administering agency to maintain a written "Enforcement Response Plan (ERP)" establishing procedures to enforce the laws and regulations for their particular programs. In an effort to avoid separate ERPs for each program administered by the City, this single comprehensive ERP, which covers all programs, was developed.

The purpose of the City's ERP is to prescribe consistent inspection and enforcement options within the FEPD when dealing with environmental and consolidated programs. The ERP also outlines the enforcement actions that can be used by the City in administering these programs to achieve compliance in a consistent, efficient and timely manner.

The environmental and consolidated programs administered by the FEPA include:

- Hazardous Materials Program.
- Toxic Gas Program.
- Underground Storage Tank Program.
- Aboveground Storage Tank Program (Spill Prevention Control and Countermeasure Plan).
- Industrial Pretreatment Program (Sanitary Sewer Discharges).
- Hazardous Waste Generator On-site Treatment Program (Tiered Permitting).
- Commercial/Industrial Stormwater Inspection Program (Storm Sewer Discharges).
- Construction Site Stormwater Inspection Program (Storm Sewer Discharges).
- Illicit Discharge Detection and Elimination Program (Storm Sewer Discharges).
- Fire Code Program.

II. LEGAL AUTHORITY

The environmental and consolidated programs, and the legal authority for each program administered by the FEPA within the Mountain View city limits, are listed below:

<u>Environmental Program</u>	<u>Authority</u>
• Hazardous Materials/Toxic Gas Program	Chapter 24, MVCC; and H&S Code, Division 20, Chapter 6.95 and Title 19 CCR Section 2620-2732
• Fire Code Program	Chapter 14, MVCC, CFC/IFC
• Underground Storage Tank Program	H&S Code, Division 20, Chapter 6.7 and Title 23, Division 3, Chapter 16 CCR
• Industrial Pretreatment Program (Sanitary Sewer Discharges)	Chapter 35, MVCC and 40 CFR
• Santa Clara Valley Urban Runoff Program (Storm Sewer Discharges)	Chapter 35, MVCC
• Hazardous Waste Generator On-site Treatment (Tiered Permitting)	H&S Code, Division 20, Chapter 6.5 and Division 4.5, Title 22 CCR
• Aboveground Storage Tank Program Spill Prevention Control and Countermeasure Plan	H&S Code, Division 20, Chapter 6.67, Section 25270.5(c)

III. INSPECTION PROCESS (see attached flow diagram)

The following narrative describes a typical step-by-step inspection process.

A. INITIAL INSPECTION

An initial inspection may be conducted for a variety of reasons. These include:

- Routine or regularly scheduled inspection (example: an annual inspection of a toxic gas facility or a wastewater discharger regulated under a Federal category).

- Nonroutine inspection (example: an unannounced inspection of a painting contractor to assure that quantities of flammable liquids have not been increased to exceed his permit amounts).
- Referral from an engine company or other fire inspector (example: an engine company calls to say they inspected a new woodworking facility which did not have hazardous materials permit).
- Referral from a City employee/division (example: personnel from the City's "Streets" Division call to report they witnessed a restaurant employee washing floor mats into the alley which discharges into the storm drain).
- Referral from neighboring facility or resident (example: a neighborhood resident calls to complain they saw a carpet cleaning company dumping wastewater into the street).

The general inspection process includes the following:

- An inspector may enter and inspect a factory, plant, construction site, disposal site, transfer facility, or any establishment or any other place or environment, where hazardous materials or hazardous wastes are stored, handled, processed, disposed of or being treated to recover resources.
- An inspector may carry out sampling activities, including obtaining samples from any individual or taking samples from the property of any person or from any vehicle in which any inspector reasonably believes has transported or is transporting hazardous waste. However, upon request, split samples shall be given to the person from whom, or from whose property or vehicle, the samples were obtained.
- An inspector may stop and inspect any vehicle reasonably suspected of transporting hazardous wastes when accompanied by a uniformed peace officer in a clearly marked vehicle.
- An inspector may inspect and copy any records, reports, test results or other information required to carry out enforcement of the environmental programs listed in this Plan.
- An inspector may photograph any waste, waste or hazardous materials container, waste or hazardous materials container label, vehicle, waste

treatment process, waste disposal site or condition constituting a violation of law found during an inspection.

During the inspection, the inspector shall comply with all reasonable security, safety and sanitation measures. In addition, the inspector shall comply with reasonable precautionary measures specified by the operator.

At the conclusion of the inspection, the inspector shall deliver to the operator of the facility or site a written Notice of Inspection ("NOI") which identifies all violations alleged by the inspector, lists required corrective actions and lists compliance deadlines. All violations must be corrected within the prescribed time to avoid further enforcement action(s). Immediate action shall be taken to stop active releases of polluted waste (see Major "Significant" Violations in Section IV.B) to an exposed surface, gutter, storm drain or other drainage facility that could run off or drain to a storm drain system. Immediate mitigation measures for polluted waste releases are also required. For violations that are not active releases, but threaten a release to a storm drain system (see Minor "Nonsignificant" Violations in Section IV.A), the City's goal is to ensure corrective action before the next rain event, but no more than 10 business days after the violations are discovered. If more than 10 business days are required for corrective action, rationale for the extension shall be provided in writing to the City within 24 hours of notification of the violation, and the explanation shall be recorded in the City's database.

When the number, type or complexity of the violations warrant such actions, the inspector may prepare a separate supplemental inspection report which fully details all observations made at the facility or site, all alleged violations, the factual basis for alleging those violations, and any corrective actions that should be taken by the operator of the facility or site which were not included in the original NOI. The inspector shall provide a copy of the supplemental inspection report to the operator within one week of the inspection. The inspection report includes all pertinent information, including, but not limited to, documents, photographs and sampling results concerning the alleged violations. If sampling or laboratory results are not available at the time that the inspection report is prepared, that fact is contained in the report. Those results are provided to the operator within five working days of their receipt by the inspector.

The time period required by the above paragraph may be extended as a result of a natural disaster, inspector illness or other circumstances beyond the control of the inspector if the Fire Department so notifies the operator and provides the inspection report to the operator in a timely manner after the reason for the delay is ended.

Information from the supplemental inspection report or NOI may be withheld by the Fire Department, if necessary, to a criminal investigation or other ongoing investigation in which the Fire Department determines, in writing, that disclosure of the information will result in a substantial probability of destruction of evidence, intimidation of witnesses or other obstruction of justice.

The Fire Department shall, at the operator's request, discuss the supplemental inspection report with the operator and determine whether the operator's responses and documented or proposed corrective actions would be sufficient to comply with the requirements, or if any allegation of a violation is unwarranted.

The operator of the site or facility, which receives a supplemental inspection report or NOI pursuant to the above, shall submit a written response to the Fire Department within 30 days or less, as specified by the inspector, of receipt which shall include a statement documenting corrective actions taken by the operator or proposing corrective actions, which will be taken by the operator, for purposes of compliance or disputing the existence of the violation.

Upon receiving the written response from the operator, the Fire Department, upon the request of the operator, will meet and confer with the operator regarding any questions, concerns or comments that the operator may have concerning the inspection report. The Fire Department will, within five working days of receipt of a response, which documents or proposes corrective action, or which disputes the existence of a violation, determine whether the corrective actions documented or proposed to be taken by the operator, if implemented as stated or proposed, will achieve compliance, or whether a violation is still alleged, as applicable, and submits a written copy of that determination to the operator, in the form of a Notice of Violation (NOV) or other appropriate document. If the Fire Department fails to make the determination and submit a copy of the determination within five working days from the date of receipt of the operator's response, the Fire Department may not seek penalties for continuing violations or any alleged new violations caused by the corrective actions taken by the operator, until the Fire Department submits the determination to the operator and provides the operator with a reasonable time in which to make necessary operational modifications which differ from those proposed to the Fire Department.

In lieu of requiring the operator of the site or facility to submit a written response to the Fire Department as described above, the Fire Department

may waive this requirement and choose to conduct follow-up inspections to verify compliance, as described in the sections of this Plan, entitled "First Reinspection," "Second Reinspection" and "Third Reinspection."

Whenever information, including, but not limited to, documents, photographs and sampling results, has been gathered, the Fire Department notifies the person whose facility was inspected prior to public disclosure of the information, and upon request of that person, submits a copy of any information to that person for the purpose of determining whether trade secret information, as defined in Health and Safety (H&S) Code Section 25713, or facility security would be revealed by the information. "Public disclosure" shall not include review of the information by a court of competent jurisdiction or an administrative law judge. That review may be conducted in camera at the discretion of the court or judge.

B. FIRST REINSPECTION

The first reinspection is conducted to visually evaluate the progress made toward complying with the initial NOI. If all violations noted in the initial NOI have been corrected, the enforcement process ends. If not, any remaining minor violations are recorded in the first reinspection record. This record again includes an NOI which specifies the time by which compliance shall be achieved.

C. SECOND REINSPECTION

The second reinspection is conducted to visually evaluate the progress made toward complying with the NOI issued in the first reinspection. If all violations noted in the first reinspection NOI have been corrected, the enforcement process ends. If not, any remaining minor violations are recorded in the second reinspection NOI. This record includes a Notice of Violation or Compliance Order (CO) which specifies the time by which compliance shall be achieved.

The second reinspection, and all subsequent inspections, are billed to the responsible party on a per-hour basis as approved in the City of Mountain View Master Fee Schedule.

Note: The "second reinspection" in the inspection process does not apply to stormwater violations that pose a threatened release to a storm drain system. These violations shall be corrected before the next rain event, or within 10 business days after they are discovered, whichever arrives first. If these violations are not corrected within this time, the City will escalate the

enforcement process and immediately issue a "Notice of Violation," described in Section III.D below.

D. NOTICE OF VIOLATION/COMPLIANCE ORDER

A "Notice of Violation/Compliance Order" may be issued to the responsible party when:

- Major violations are discovered.
- Minor violations have not been corrected or substantially corrected after the second reinspection.
- Minor violations that have been corrected are repeatedly observed during subsequent inspections.

The NOV/CO is sent to the facility owner, facility manager, site supervisor or environmental contact of the responsible party, via certified or registered mail, as well as a copy to his/her manager or the business owner. It restates information already provided to the responsible party during the previous inspection, but emphasizes the severity of the situation, and provides written notice to owners or senior managers. The NOV/CO includes:

- An enumeration of the violations found.
- The inspection date(s).
- A directive to cease the violation immediately (if applicable).
- A directive to investigate the cause of the problem (if applicable).
- A directive to report the findings of the investigation and provide evidence of return to compliance (if applicable).
- A directive to proceed with corrective actions.
- A directive to complete prescribed corrective actions by a certain date.
- An administrative penalty (if applicable).

The NOV/CO may also stipulate a follow-up inspection date during which the inspector will visually evaluate the progress made toward complying with the violations recorded in the Notice.

E. THIRD REINSPECTION

If all violations noted in the second reinspection NOI or the NOV/CO have been corrected, the enforcement process ends. If not, any remaining violations are recorded in the third reinspection NOI, and enforcement action is escalated to the next step. A description of the "Enforcement Options" available to the City is provided in Section V.B of this Plan.

This inspection is billed to the responsible party on a per-hour basis as approved in the City of Mountain View Master Fee Schedule.

IV. CATEGORIZATION OF VIOLATIONS

The information below describes the two basic types of violations ("major" and "minor") for all programs except: (1) the hazardous waste generator; and (2) tiered permitting programs. Violation classifications for these two programs are discussed separately at the end of this section.

A. MINOR ("NONSIGNIFICANT") VIOLATIONS

The majority of violations observed during the course of the initial inspection are minor violations and do not require immediate corrective action. The following examples describe minor violations:

- Failure to completely update an Environmental Compliance Plan (ECP).
- Failure to keep secondary containment dry.
- Failure to calibrate a pH probe.
- Threaten release to the storm drain system.

The procedures for documenting these violations and corrective actions are described below.

Facility owners, managers or operators will be notified of minor violations observed during an inspection either verbally or in writing. Verbal warnings of violations or potential violations are documented by the inspector in the facility file or database. Written notification of minor violations will be included in a Notice of Inspection. An NOI, which establishes the time compliance required, is given to the facility operator before leaving the site. A facility which receives an NOI is given not more than 30 days from the date

of receipt of the NOI in which to achieve compliance with the permit conditions, rule, regulation, standard or other requirement cited on the NOI. At the discretion of the inspector, the responsible party, who is an owner or operator of or an employee of the facility, shall, within five working days of achieving compliance, sign the NOI and return it to the Fire Department, stating that the facility has complied with the NOI. In lieu of submitting this statement, the inspector may verify that compliance has been achieved during a follow-up inspection.

Stormwater violations where a threatened release to a storm drain system (see Minor "Nonsignificant" Violations in Section IV.A) is observed shall be corrected before the next rain event, or within 10 business days after the violations are discovered, whichever arrives first. If these violations are not corrected within this time, the City will issue an NOV that may include an administrative penalty. If more than 10 business days are required for corrections, rationale for the extension shall be provided in writing to the City, and the explanation shall be recorded in the City's database.

A single NOI is issued for all minor violations cited during the same inspection and the NOI separately lists each of the cited minor violations and the manner in which each of the minor violations may be brought into compliance.

A corrective action will not be issued for any minor violation which is corrected immediately in the presence of the inspector. Immediate compliance of a minor violation will be noted as such in the NOI, and the facility will not be subject to any further enforcement action by the Fire Department for these violations.

Except as otherwise provided below, an NOI is the only means by which the Fire Department shall cite a minor violation. The Fire Department does not take any other enforcement action against a facility which has received an NOI if the facility complies with this section.

If a facility that receives an NOI disagrees with one or more of the alleged violations listed on the NOI, the owner shall give the inspector, who issued the NOI, written notice of disagreement. If the issuing agency takes administrative enforcement action on the basis of the disputed violation, that action may be appealed.

Notwithstanding any other provision of this Plan, if a facility fails to comply with an NOI within the prescribed period, or if the Fire Department determines that the circumstances surrounding a particular minor violation

or combination of minor violations are such that immediate enforcement is warranted to prevent harm to the public health or safety or the environment, the Fire Department may take any needed enforcement action authorized under applicable Federal, State and local codes and ordinances.

Notwithstanding any other provision of this section, if the Fire Department determines that the circumstances surrounding a particular minor violation or combination of minor violations are such that the assessment of a civil penalty pursuant to this chapter is warranted or is required, in addition to issuance of an NOI, the Fire Department shall assess that civil penalty in accordance with applicable Federal, State and local laws, regulations and ordinances if the Fire Department makes written findings that set forth the basis for that determination.

An NOI issued to a facility pursuant to this section shall contain an explicit statement that the facility may be subject to reinspection by the Fire Department. Nothing in this section shall be construed as preventing the reinspection of a facility to ensure compliance with the applicable environmental programs or to ensure that minor violations cited in an NOI have been corrected and that the facility is in compliance.

Nothing in this section shall be construed as preventing the Fire Department from requiring a facility to submit reasonable and necessary documentation to support the facility's claim of compliance.

B. MAJOR ("SIGNIFICANT") VIOLATIONS

Typically, if a major violation is observed, immediate action is taken by the inspector to mitigate the problem. A major violation is defined as one which represents a "significant threat to human health and safety or the environment." Major violations would also include chronic violations or violations committed by recalcitrant violators.

The following examples describe major violations:

- Hazardous or unsafe conditions: for example, an employee is seen welding near a gasoline tank.
- Illegal discharge to sanitary sewer: for example, a laboratory is discharging acidic solutions directly into the sanitary sewer without treatment.

- Illegal discharge to storm sewer: for example, a commercial facility is discharging vehicle wash water directly to the ground, which flows to a nearby storm drain.
- Illegal disposal of hazardous materials/waste: for example, an automotive repair facility dumps waste oil onto the fence line of the property.
- Active releases of polluted waste to an exposed surface, gutter, storm drain or other drainage facility that could run off or drain to a storm drain system.

When immediate action is taken, the NOI will usually require the responsible party to immediately cease the noncompliant action and may provide for appropriate follow-up by a certain time, typically within several hours.

C. HAZARDOUS WASTE GENERATOR AND TIERED PERMITTING VIOLATION CATEGORIZATION

Pursuant to H&S Code Section 25187.8, and the State Enforcement Response Policy, hazardous waste generator and tiered permitting violations fall under three categories:

- Class I violations.
- Class II violations.
- Minor violations.

Class I violation means any of the following:

- (1) A deviation from the requirements of Chapter 6.5, or any regulation, standard, requirement, or permit or interim status document condition adopted pursuant to Chapter 6.5, where:
 - (a) The deviation represents a significant threat to human health or safety or the environment because of one or more of the following:
 - (i) The volume of the waste.
 - (ii) The relative hazardousness of the waste.
 - (iii) The proximity of the population-at-risk.

- (b) The deviation is significant enough that it could result in a failure to accomplish any of the following:
 - (i) Ensure that hazardous waste is destined for, and delivered to, an authorized hazardous waste facility.
 - (ii) Prevent releases of hazardous waste or constituents to the environment during the active or postclosure period of facility operation.
 - (iii) Ensure early detection of releases of hazardous waste or constituents.
 - (iv) Ensure adequate financial resources in the case of releases of hazardous waste or constituents.
 - (v) Ensure adequate financial resources to pay for facility closure.
 - (vi) Perform emergency clean-up operations of, or other corrective actions for, releases.
- (2) The deviation is a Class II violation which is a chronic violation or committed by recalcitrant violator.

Class I violations are addressed through a formal enforcement action.

Examples of Class I violations include, but are not limited to, the following:

- (1) A violation that results in a release or serious threat of release of hazardous waste to the environment, for example:
 - (a) Incompatible wastes stored adjacent to each other with no physical barrier for separation.
 - (b) Waste stored or transported in incompatible, damaged or deteriorated container.
 - (c) Failure to transfer wastes from deteriorated containers into sound containers.

- (2) A violation that involves the failure to assure that groundwater will be protected, for example:
 - (a) Failure to implement a groundwater monitoring program with regularly scheduled sampling activities.
 - (b) Failure to implement a groundwater monitoring program where all required parameters are not being analyzed.
 - (c) Failure to perform the required statistical analysis on monitoring data.
- (3) A violation that involves the failure to assure that proper closure and postclosure activities will be undertaken, for example:
 - (a) Failure of an owner/operator to develop closure or postclosure plans.
- (4) A violation that involves the failure to assure that hazardous wastes will be destined for and delivered to permitted or interim status facilities, for example:
 - (a) Failure to manifest hazardous waste.
 - (b) Use of an unregistered hazardous waste transporter.
 - (c) Treatment, storage or disposal at an unauthorized point.
- (5) Class I or II violations by a recalcitrant or chronic violator, including one who is violating outstanding enforcement orders, for example:
 - (a) Failure to correct violations in accordance with a schedule of compliance.
- (6) A violation that involves failure to establish or maintain appropriate financial mechanisms to assure closure, postclosure and liability coverage, for example:
 - (a) Failure by an owner/operator to establish or maintain a financial assurance instrument.

Class II violation means the following:

A deviation from the requirements specified in Chapter 6.5 of the H&S Code, or regulations, permit or interim status document conditions, standard or requirements adopted pursuant to that chapter, that is not a Class I violation.

Examples of Class II violations include, but are not limited to, the following:

- (1) Failure of a generator to keep a copy of each manifest for at least three years.
- (2) Failure to maintain a copy of the closure plan at the facility.
- (3) Failure to submit the annual report in a timely manner.
- (4) Failure to maintain an adequate contingency plan.
- (5) Failure to adequately document hazardous waste training.
- (6) Failure to note the date and nature of any repairs in the inspection log.
- (7) Minor deficiencies in other recordkeeping requirements.
- (8) Failure to update closure costs for inflation (although this may be Class I if such costs exceed \$100,000).
- (9) Failure to properly notify regulatory agency at least 60 days prior to performing hazardous waste treatment.

Class II violations are addressed through informal enforcement actions.

Minor violations, as defined in H&S Code Section 25117, include, but are not limited to, the following:

A deviation from the requirements of this chapter, or any regulation, standard, requirement, or permit or interim status document condition adopted pursuant to Chapter 6.5 that is not a Class I or Class II violation.

A minor violation does not include any of the following:

- (1) Any knowing, willful or intentional violation of this chapter.

- (2) Any violation of this chapter that enables the violator to benefit economically from noncompliance, either by reduced costs or competitive advantage.
- (3) Any Class II violation that is a chronic or a violator is recalcitrant.

Minor violations are addressed by a Notice to Comply as specified in H&S Code Section 25187.8.

V. ENFORCEMENT ACTIONS

A. ENFORCEMENT PHILOSOPHY

The City of Mountain View's enforcement philosophy is to allow the responsible party every opportunity to succeed in complying with the directives issued. To promote this approach, inspection staff is trained to consider their primary function as that of educator, facilitator and compliance assistance resource, and secondarily as enforcing agent. City staff shall explain and document all violations and offer options available for compliance. City staff may provide the responsible party lists of contractors, vendors and other environmental professionals if requested, or if the inspector feels that such outside help is needed by the responsible party to achieve compliance. The City does not make recommendations on selecting third-party contractors. City staff shall work cooperatively with the responsible party during large or extended compliance projects to ensure that progress is continually being made toward full compliance.

If compliance is not achieved in a timely manner, enforcement actions may be undertaken. The FEPPD's enforcement goals are to:

- Deprive violators of any significant benefit gained from the violations.
- Initiate and conclude enforcement actions in a timely manner.
- Provide clear and concise direction and reporting.
- Return violators to compliance.
- Recover costs associated with damages to public infrastructure or the environment that occur as a result of the violation(s).

B. ENFORCEMENT OPTIONS

The inspector has a number of enforcement actions from which to choose. Enforcement actions are graduated in their severity based upon the frequency and severity of the violations being considered.

1. Verbal Warning

A "verbal warning" is only used for minor violations and is intended to educate facility personnel about problems or areas of concern that may be formally identified and documented during future inspections if immediate measures are not taken to correct the violation.

2. Written Notice

Written notices are issued in the form of a "Notice of Inspection (NOI)," "Notice of Violation (NOV)," "Compliance Order (CO)" and "Administrative Citation (AC)."

An NOI is issued at the time of the inspection and lists the violations that were observed, and lists due dates for corrections that are required to achieve compliance. An NOV is issued after an inspection or reinspection. Issuance of an NOV is described in Section III.D of this Plan.

A Compliance Order may be issued when the violation(s) identified in the NOI/NOV is not corrected after the second or subsequent reinspections, or within the time specified in the NOI/NOV.

An Administrative Citation may be issued when the violation(s) identified in the CO is not corrected within the time specified in the CO.

3. "Stop Use" Notice

A "Stop Use" notice can address a specific piece of equipment that is unapproved; equipment that has not been permitted; equipment illegally discharging wastewater to the sanitary or storm sewer system; or when unpermitted hazardous materials are moved into a structure. The inspector places the red "Stop Use" notice on the applicable piece of equipment. Should the inspector find that this equipment is being used after the notice is in place, a citation, infraction fine or administrative penalty can be immediately assessed. The notice remains in place until

the equipment is approved, permitted or removed from service and shall only be removed by the inspector.

A "Stop Use" notice can also be applied to the entire facility. In this case, the Fire Marshal submits a letter to the City's Building Official requesting that he authorize PG&E to shut down the power to the facility. The power remains shut off until compliance is achieved.

4. "Stop Work" Order

A "Stop Work" order can be used at construction sites or where improvements to an existing facility are under way. Issuance of the "Stop Work" order is coordinated with the City's Building Official who will post the Stop Work order to prohibit further work until compliance is demonstrated. Examples of situations when a "Stop Work" order could be used are when the installation of unpermitted wastewater processing equipment occurs; building alterations or improvements occur without benefit of the necessary building permits; or a construction site where the owner or contractor have failed to install adequate sediment and erosion controls.

5. Citation (Criminal)

Hazardous Materials Specialists and the Fire Marshal are all authorized to issue field citations. Such a citation requires the inspector and responsible party to appear before a judge within 45 days. The judge makes the final determination on any compliance extensions and fines.

6. Amend Existing Permit

The inspector may choose to amend the responsible party's existing permit with additional or modified requirements. For example, a facility which has continually failed to update its ECP as required by ordinance may be additionally required in their permit to provide ECP updates every quarter.

7. Issue Provisional Permit

The inspector may choose to issue a provisional permit in place of the responsible party's full-term permit. Provisional permits describe the limited conditions under which the responsible party may continue its hazardous materials storage/use or wastewater discharge. Provisional permits are issued for a limited length of time (usually no more than six

months). At the time of expiration of the provisional permit, the responsible party is required to have displayed full compliance with the directives issued so that a full-term permit can be reissued.

8. Suspend/Revoke Permit

The inspector may choose to suspend or revoke the responsible party's hazardous materials or industrial pretreatment permit. In such case, the applicable hazardous materials or wastewater producing equipment must be removed from the site within 15 days of written notice. Failure to remove the materials or equipment can result in issuance of a citation. Once the responsible party is able to demonstrate compliance with the directives issued, it must reapply for a full-term permit.

9. Civil/Criminal Litigation

Depending on the extent and severity of violations, as well as the degree to which the responsible party shows a genuine interest in correcting the violations, the inspector may refer the case to the District Attorney or City Attorney to pursue either civil or criminal litigation.

10. Administrative Enforcement Orders

The City of Mountain View has adopted a policy on administrative enforcement orders for use in all local programs, including the unified programs. The procedure allows for monetary penalties and the use of a local hearing officer instead of an administrative law judge. See the separate "Administrative Enforcement Orders" binder for all forms and instructions on this procedure.

C. CONFIDENTIALITY

To maintain confidentiality, all enforcement action files are accessible only to the Fire Marshal, City Attorney and inspector in charge of the enforcement case. When an enforcement action is initiated, the file is physically separated from the facility's Business Plan, as well as all other associated public files, and is placed in a separate file cabinet in the Fire Marshal's office. This office is locked when not occupied. The file is not released to the public until the case is settled and/or closed.

D. RECOVERY OF CITY CLEAN-UP COSTS

If the responsible party does not remove abandoned hazardous materials or clean up discharged materials from City or public property (such as gutters, storm drains and creeks), the City may conduct the work and bill the responsible party for the City's time and materials. This billing procedure is conducted separately from any penalty action taken (described below).

E. PENALTIES/FINES

The main purpose of a penalty/fine is to create an incentive for future compliance and to insure that the responsible party does not financially benefit from a failure to comply with the environmental programs administered by the City. The City has a number of penalties/fines it can assess the responsible party. They include:

Penalty Type	Limits	Authority	Assessed By	Comments
Infraction	\$100 for first offense; \$200 for second offense within the same year; \$500 per each additional offense within the same year.	MVCC 24.10.0	City of Mountain View Fire and Environmental Protection Division	Usually included in the "Notice of Violation."
Civil	Not to exceed \$500 per day per violation (Hazardous Materials Ordinance). Not to exceed \$25,000 per day per violation (Wastewater Discharge Ordinance).	MVCC 24.10.0 MVCC 35.32.15.2	City of Mountain View City Attorney or Santa Clara County District Attorney	May be initiated at any point in the enforcement process.

Penalty Type	Limits	Authority	Assessed By	Comments
Administrative Complaint*	<p>\$2,000/day for failing or refusing to furnish technical/monitoring reports;</p> <p>\$3,000/day for failing or refusing to timely comply with industrial pretreatment or urban runoff compliance schedules;</p> <p>\$3,000 per day per violation for discharges in violation of any wastewater discharge limitation, permit condition or requirement;</p> <p>\$10 per gallon for wastewater discharges in violation of any prohibition issued by City;</p> <p>\$500 for each violation of the California Fire Code (Chapter 14, MVCC); and</p> <p>\$750 for each violation of the Hazardous Materials Ordinance (Chapter 24, MVCC).</p>	MVCC 35.32.15.4	City of Mountain View Fire and Environmental Protection Division	Usually included in a "Notice of Violation"; responsible party may request hearing prior to payment.
Criminal	As established by H&S Code	NA	City of Mountain View City Attorney or Santa Clara County District Attorney	May be initiated at any point in the enforcement process.

* It should be noted that issuance of an administrative penalty (as part of an administrative complaint) requires a hearing on the complaint within 60 days, unless the responsible party waives his/her right to the hearing. The responsible party has further recourse to appeal the hearing officer's decision to the City Council.

In determining the type and amount of the penalty/fine, the inspector considers all relevant circumstances, including the following:

- Extent of harm or potential harm caused by the violation.
- The nature and persistence of the violation.
- The length of time over which the violation has occurred.

- The frequency of past violations.
- The responsible party's record of maintenance.
- Corrective action, if any, taken by the responsible party.
- The extent of negligence or willful misconduct of the responsible party.
- The ability of the responsible party to pay the penalty/fine.

The following matrix is used as a general guideline in establishing penalty/fine assessments:

Violation Examples	Infraction Penalty	Civil Penalty	Administrative Penalty	Criminal Penalty
Failure to update an Environmental Compliance Plan	X			
Failure to obtain applicable permits (example: storage/use of permissible quantities of hazardous materials, discharging process wastewater to the sanitary sewer without a permit)		X	X	X
Major violations (example: illegal disposal of hazardous materials/waste, illegal discharge to storm drain, etc.)		X	X	X
Minor violations, including administrative violations (example: failure to provide alarm on a pH probe, failure to provide emergency response training documentation, etc.)	X		X	

F. PROCEDURE FOR REFERRALS TO CITY ATTORNEY OR DISTRICT ATTORNEY

During initial evaluation of a case for referral to the City Attorney or District Attorney for criminal investigation, the following three factors are considered:

- Intent.
- Hazardous or harmful nature of the pollutant and/or threat to human health and the environment.

- Extent of violation. If the conduct appears to be intentional, reckless or constitutes a serious threat to human health and the environment, the case should be pursued criminally.

Prosecution, civil or criminal, by the City Attorney or Santa Clara County District Attorneys' Office is the means by which compliance is obtained and by which violators are assessed financial penalties and, if appropriate, by incarceration.

Enforcement by prosecution in the court system presents two tasks:
(1) Collection of evidence, for example, by observation and taking notes, photographs, sampling, sample analysis, interviews and records research;
and (2) Preparation of written reports for submission to the City Attorney or District Attorney.

Criteria for use: Major violations.

Routine inspections, filed complaints and emergency Hazardous Materials incident procedures:

1. Notify Fire Marshal and submit referral package to City Attorney or District Attorneys' Office Deputy District Attorney (DA) within 15 days. For law enforcement assistance, the DA will notify the District Attorneys' Office Investigator.
2. If necessary, obtain a search warrant. The Deputy District Attorney will prepare an affidavit for the court, and the inspector's signature is required.
3. Coordinate facility inspection, assemble inspection team and collect evidence.
4. Prepare and submit a report to the City Attorney or District Attorney within 30 days of receiving the sample analysis results. The standardized enforcement report is the key document that brings together all correspondence, sample analysis results, relevant documents and photographs which are required for a successful criminal or civil prosecution.
5. When the report is submitted, the City Attorney or District Attorney will file either civil or criminal complaint and recommend fines (not more

than \$25,000 per day per violation) and proposed sentence (State prison) for the court.

6. The district inspector will be notified of the pretrial date and the trial date.

The case is concluded when the defendant either: (1) agrees to settle; or (2) the judicial forum proceedings determine responsibility.

G. INTERAGENCY ENFORCEMENT COORDINATION

If the inspector identifies violations for which other agencies may have responsibility, it is the policy of the Mountain View Fire and Environmental Protection Division to coordinate with these other agencies. Depending on the nature of the violations, the inspector may immediately contact the appropriate agencies. A phone call and explanation of the situation can often provide enough information to determine whether a joint inspection is necessary or a simple referral is appropriate. Violations that do not need immediate attention may be referred via written notification.

The CUPA technical committee acts as a vehicle for developing joint PA and CUPA-coordinated enforcement procedures and policies; e.g., case development, referral procedures, civil and criminal procedures as well as administrative actions.

The Mountain View Fire and Environmental Protection Division reviews the minutes of the Northern California CUPA Forum's monthly meetings to ascertain regional CUPA implementation, integration and enforcement region-wide. If necessary, additional meetings with other local agencies affected by the Unified Program are held. The meetings focus on standardization and consistency of permitting, inspection and enforcement, and fee assessment activities.

1. Monterey Regional Environmental Task Force:

This task force attendees includes representative of Monterey County, San Benito County, Santa Cruz County, U.S. Attorney's Office, Santa Clara County District Attorney Investigator, Deputy District Attorney, Federal EPA, California EPA, Department of Toxic Substances Control, Federal Bureau of Investigations, County Agricultural Commission Office, Naval Intelligence Services, Bureau of California Regional Water Quality Board, California Fish and Game, Bay Area Air Quality Management District, fire departments, police departments, city code

enforcement officers, wastewater treatment agencies (POTW), stormwater pollution prevention inspectors and local city attorneys.

2. California Regional Water Quality Control Board—San Francisco Bay Region

For stormwater-related violations or persistent enforcement cases where the City's enforcement tools are not adequate to achieve compliance, the City will refer the case to the California Regional Water Quality Control Board—San Francisco Bay Region (Water Board). Referral to the Water Board may be coordinated with a DA referral.

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APPENDIX A
SAMPLE: OFFICIAL NOTICE OF INSPECTION

APPENDIX B

SAMPLE: NOTICE OF VIOLATION

APPENDIX C
SAMPLE: COMPLIANCE ORDER

APPENDIX D
SAMPLE: ADMINISTRATIVE CITATION

APPENDIX E

SAMPLE: "STOP USE" NOTICE

APPENDIX F

SAMPLE: CITATION

APPENDIX G

SAMPLE: PROVISIONAL PERMIT

APPENDIX H

SAMPLE: REFERRAL TO CITY ATTORNEY/DISTRICT ATTORNEY

APPENDIX I

SAMPLE: ADMINISTRATIVE ENFORCEMENT ORDER

APPENDIX J

SAMPLE: ENFORCEMENT ESCALATION PROCESS

APPENDIX K

SAMPLE: ENVIRONMENTAL ENFORCERS IN SANTA CLARA COUNTY