

**RESTATED AGREEMENT BETWEEN CHANNEL ISLANDS BEACH
COMMUNITY SERVICES DISTRICT AND E.J. HARRISON AND SONS, INC. FOR
COLLECTION, DIVERSION, TRANSPORT AND DISPOSAL OF SOLID WASTE
AND RECYCLABLE MATERIALS**

THIS AGREEMENT is entered into this ___ day of June, 2022, by and between CHANNEL ISLANDS BEACH COMMUNITY SERVICES DISTRICT, a governmental entity formed pursuant to California Government Code Section 61000, et seq., hereinafter referred to as the "District," and E. J. HARRISON AND SONS, INC, a California corporation, hereinafter referred to as the "Contractor." This Agreement is entered into in reference to the following facts and circumstances:

RECITALS

- A.** Pursuant to California Government Code Section 61600(c), the District may provide for the collection and disposal of garbage and refuse. The District's Ordinance entitled "Channel Islands Beach Community Services District Rates and Regulations for Water, Sewer and Refuse Collection Services" hereinafter referred to as the "Ordinance," governs the collection, removal, transportation and disposal of solid waste and refuse within the District.
- B.** The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, Division 30, of the California Public Resources Code, commencing with Section 40000, declares that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions.
- C.** The parties wish, to the extent possible, to plan and implement a system of source reduction, recycling, transformation and environmentally safe disposal practices and to meet landfill diversion mandates as set forth in the California Integrated Waste Management Act of 1989 (AB 939).
- D.** The parties further wish, to the extent possible, to plan and implement procedures to comply with regulations set forth in Titles 14 and 27 of the California Code of Regulations (CCR) and took effect on January 1, 2022. These regulations implement portions of Senate Bill 1383 which was signed into law in September 2016 establishing methane reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants.
- E.** As authorized by Public Resources Code Section 40059, the Board of Directors of the District determine that, the public health, safety and well-being require that aspects of solid waste handling which are of local concern to the District, including, but not limited to, the frequency and means of such collection and transportation, recycling or disposal, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services, be provided by an exclusive franchise agreement awarded without competitive bidding.
- F.** The Board of Directors of the District further declares its intention of maintaining reasonable rates for the collection, transportation, waste cycling and/or disposal of solid waste and recyclables.

- G.** On January 9, 2018, the parties entered into that certain Agreement Between Channel Islands Beach Community Services District and E.J. Harrison and Sons, Inc., for Collection, Diversion, Transport and Disposal of Solid Waste and Recyclable Materials (“Original Agreement”). Absent the parties’ agreement on a renewed term, the term of the Original Agreement expires January 31, 2023. The parties desire to enter into this Agreement in order to implement the requirements of SB 1383 and renew the term service on the terms provided herein.
- H.** The District, having determined that the Contractor, by demonstrated experience, representation and capacity, is qualified to provide for both the collection of solid waste within the District boundaries and the transportation of such solid waste to appropriate places of processing, recycling and disposal, desires that the Contractor continue to be engaged to perform such services on the basis set forth in this Agreement. This Agreement shall fully amend, restate, and supersede the Original Agreement in its entirety.

NOW, THEREFORE, pursuant to the mutual terms, conditions and covenants contained in this Agreement, the parties agree as follows:

- 1. DEFINITIONS.** For purposes of this Agreement, unless a different meaning is clearly required, the following terms shall have the following meanings:
- 1.1. "Agreement" means the agreement between the District and the Contractor for the collection, diversion, transportation and disposal of solid waste and the collection and transportation for processing of recyclable materials, including any exhibits and any future amendments thereto.
 - 1.2. “Contractor Route” referred to as hauler route in 14 CCR Section 18982(a)(31.5), means the designed weekly itinerary or sequence of stops scheduled to be performed by one collection vehicle providing regularly scheduled Solid Waste, Recyclable Material or Organic Waste collection services (not on-call or Bulky Item/Abandoned Waste) within the service area under the Agreement.
 - 1.3. "District" means the Channel Islands Beach Community Services District, a governmental entity, and all of the territory lying within the boundaries of the District as presently existing or as such boundaries may be modified during the term, acting through its Board of Directors.
 - 1.4. "Collection" means the collection of solid waste and its transportation to a disposal site or the collection of recycled material and its transportation to a disposal and/or processing facility.
 - 1.5. "Contractor" means E.J. Harrison and Sons, Inc., a California corporation.
 - 1.6. "Designated Disposal Sites (DDS)" means the solid waste facility or MRF/T or facility approved by the District for the ultimate disposal (by the Contractor) of solid waste collected by a contractor.
 - 1.7. "Designated Processing Facility (DPF)" means any properly licensed and permitted planned site used for the purpose of sorting, cleaning, treating, reconstituting and marketing recyclable materials and/or green waste approved by the District.

- 1.8. "Designated Waste" means 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, 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.
- 1.9. "Disposal" means the final disposition of solid waste collected by the Contractor at a DDS approved by the District.
- 1.10. "Generator" means the owner or occupant of premises, including businesses, which initially produces solid waste and/or recyclable materials.
- 1.11. "Green Waste" means tree trimmings, grass cuttings, dead plants, leaves, branches and dead trees, any type of non-chemically treated wood or lumber, and similar materials.
- 1.12. "Hazardous Waste" means all substances defined as acutely hazardous waste or extremely hazardous waste by the State of California and Health and Safety Code Sections 25110.02, 25115 and 25117, or in future amendments to or re-codification of such statutes, or identified and listed as hazardous waste by the Environmental Protection Agency, pursuant to the Federal Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq.).
- 1.13. "Organic Waste" as referenced in 14 CCR Section 18982(a)(46), means wastes comprising material originated from living organisms and their metabolic waste products, including food, Green Waste, clean unpainted/untreated wood (with no nails, wire, etc.), paper products, and printing and writing paper, but excluding textiles and carpets, manure, biosolids, digestate, sludges, non-compostable paper, construction and demolition debris, and Hazardous Waste. No material shall be considered Organic Waste unless it has been segregated by the customer for separate collection.
- 1.14. "Organics Container" referred to as green container in 14 CCR Section 18982(a)(29), means a container for the collection of Organic Waste and colored as follows: (a) the lid shall be green, or (b) the body shall be green and the lid shall be green, gray, or black. Hardware such as hinges and wheels may be any color. The Organics Container shall be 32 or 64 gallons in size. For commercial properties only, the Organics Container shall be a brown container and shall be for food waste only.
- 1.15. "Person" means any individual firm, association, organization, partnership, corporation, business, and trust joint venture of the United States, the State of California, the County of Ventura, and special purposes districts.
- 1.16. "Premises" means any land or building in the District where solid waste is generated or accumulated.
- 1.17. "Prohibited Container Contaminants" as referenced in 14 CCR Section 18982(a)(55), means any of the following:

- 1.17.1. Non-Organic Waste placed in the Organics Container, including but not limited to textiles and carpets, manure, biosolids, digestate, sludges, non-compostable paper, construction and demolition debris, and Hazardous Waste;
 - 1.17.2. Organic Waste placed in the Refuse Container that is specifically identified under the Agreement for collection in the Organics Container or Recycling Container; and
 - 1.17.3. Organic Waste placed in the Recycling Container that is specifically identified under the Agreement for collection in the Organics Container. Paper products and printing and writing paper may be considered acceptable and not considered Prohibited Container Contaminants if they are placed in the Recycling Container.
- 1.18. "Recyclable Material(s)" means those materials designated by the Contractor and the District which will be processed for marketing. The current schedule of materials that qualifies as recyclable is shown in the Implementation Plan, Exhibit A, and may be changed from time to time by mutual agreement of the parties, in writing. The District Manager or designee may exercise such authority on behalf of the District.
- 1.19. "Recycling" means the process of collecting, sorting, cleaning, treating, reconstituting and/or marketing recyclable materials which would otherwise be disposed of in a landfill.
- 1.20. "Recycling Container", referred to as blue container in 14 CCR Section 18982(a)(5), means a container for the collection of Recyclable Materials. The Recycling Container shall be colored as follows: (a) the lid shall be blue; or (b) the body shall be blue, and the lid shall be blue, gray, or black. The Recycling Container shall be 64 or 96 gallons in size.
- 1.21. "Refuse Container" referred to as gray container in 14 CCR Section 18982(a)(28), means a container for the collection of Refuse, which does not include Organic Waste or recyclable materials as defined in the Agreement. The Refuse Container shall be colored as follows: (a) the lid shall be gray or black, or (b) the body shall be gray or black and the lid shall be gray or black. Hardware such as hinges and wheels may be any color. The Refuse Container shall be, at the option of the customer, either 32 or 64 gallons in size.
- 1.22. "Residential" means a dwelling unit other than a multi-family unit, the resident of which places his or her solid waste in containers..
- 1.23. "Solid Waste" means all putrescible and non-putrescible solids, semi-solids and liquid waste accumulated or delivered for collection and disposal within the District and includes, but is not limited to, construction, demolition, debris and bulky waste. Solid Waste does not include:
- 1.23.1. Hazardous waste or low level radioactive waste as regulated under Section 114650 of the California Health and Safety Code, commonly referred to as the Radiation Protection Act of 1999.
 - 1.23.2. Medical waste which is regulated pursuant to the Medical Waste Management Act (Sections 117600, et seq. of the California Health and Safety Code), provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste facility. Medical waste which

has been treated and which is deemed to be solid waste shall be regulated pursuant to this division.

1.23.3. Recyclable materials.

2. **REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR.** The Contractor warrants and represents that it is a corporation duly organized, validly existing and in good standing under the laws of the State of California. The Contractor further warrants and represents that it is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as presently constituted. Contractor further warrants that it is licensed by the appropriate jurisdictions to perform the services set forth in this Agreement. The Contractor has the authority to enter into and perform its obligations under this Agreement. The Contractor has taken all actions required by law, its Articles of Incorporation, Bylaws, Rules and Regulations, Operating Agreement, or otherwise, to authorize the execution of this Agreement. The parties signing this Agreement on behalf of the Contractor have authority to do so.

3. **TERM OF AGREEMENT; RENEWAL.**

3.1. **Term.** The effective date of this Agreement shall be July 1, 2022 ("Effective Date"). The term of this Agreement shall be seven (7) years and shall end at midnight on June 30, 2029, or earlier, if the Contractor is deemed to be in breach of the provisions stated in this Agreement. The obligation of the District to permit this Agreement to become effective and to perform its undertakings provided for in this Agreement, shall be subject to the satisfaction of each and all of the conditions set forth below, each of which may be waived in whole or in part by the District:

3.1.1. That the representations and warranties made by the Contractor in Section 2 of this Agreement are true and correct on and as of the Effective Date.

3.1.2. There is no litigation pending on the Effective Date in any court challenging the award or execution of this Agreement or seeking to restrain or enjoin its performance.

3.1.3. Formal approval of this Agreement by the District Board of Directors.

3.2. **Renewal.** The Contractor may request that the District renew this Agreement for one (1) additional, five-year term (each a "Renewal Term") by providing the District with advance written notice of the request ("Renewal Request") no later than one (1) year prior to the expiration of term of this Agreement or, where applicable, the Renewal Term. The Renewal Request shall include information, data, records, and reports documenting to the satisfaction of the District that the Contractor has met all terms and conditions set forth in this Agreement. The District shall in its sole and absolute discretion determine whether it is in the interest of the public health, safety and well-being to grant a Renewal Request, which determination shall be final. Any renewal shall be subject to good faith negotiations between the District and the Contractor over any amendments or modifications desired by the negotiating parties.

4. **SCOPE OF AGREEMENT.**

4.1. Subject to the provisions contained herein, the District hereby grants to the Contractor, the exclusive franchise, right and privilege to collect, remove, transport and dispose of, in a lawful manner, all solid waste accumulated within the District which is required to be accumulated and

offered for collection to the Contractor in accordance with the District's ordinances, for the term and in the scope set forth in this Agreement. To the extent allowable by law, as amended and consistent with any District or municipal ordinance, the Contractor shall have the exclusive right to collect and remove from residential, multi-family, commercial and industrial properties within the District, the recyclable materials which have been segregated from solid waste and placed at the curbside or in a designated container for disposal.

- 4.2. The franchise for the collection, removal, transportation and disposal of solid waste and recyclable materials granted to the Contractor shall be exclusive to the extent allowable by law. Commencing on the Effective Date of this Agreement and continuing until the expiration of the original term of this Agreement, the District shall pay to the Contractor the monthly fees shown on Exhibit A (attached hereto and incorporated herein) for each of the particular services provided by the Contractor, subject to such future adjustments as may be agreed by the parties described in Section 9 of the Agreement less a District franchise fee of fifteen percent (15%) which shall be deducted by the District prior to the transmittal of the monthly payment.
- 4.3. The District shall cause each solid waste service customer to be billed on a monthly basis. The District, within thirty (30) days of said monthly billing, shall remit to the Contractor an appropriate amount based on the services provided by the Contractor, the fee schedule shown in Exhibit A or as subsequently amended by the Parties less the fifteen percent (15%) franchise fee noted above.
- 4.4. The Contractor shall periodically bill for services it directly provides within the District's service area. The Contractor, within thirty (30) days of said billings, shall provide to the District the amount of said billings. The District shall deduct a franchise fee of ten percent (10%) of said billings from the current monthly billing summary transaction report, as provided for herein.
- 4.5. During the term of this Agreement, the Contractor shall pay, in addition to all other operating expenses incurred by the Contractor in performing the work, services and functions called for in this Agreement, the following fees and charges:
 - 4.5.1. All tipping fees and other charges which are made, charged and imposed by the operator of a DDS for the delivery, receipt, processing and/or disposal of solid waste to or at such DDS.
 - 4.5.2. All tipping fees and other charges which are made, charged or imposed by the operator of any other facility, including any material recovery facility, for the delivery, receipt, processing and/or disposal of recyclable materials.
 - 4.5.3. All other fees imposed or charged by any governmental agency associated with the operation of the collection activity undertaken by the contractor.

5. WASTE COLLECTION SERVICES.

- 5.1. The Contractor, at its expense, shall provide all labor, materials and equipment necessary to perform weekly, or more frequently as herein required, solid waste collection and recycling, transportation, and disposal services for all residential and commercial properties within the District. In its collection and disposal of solid waste, the Contractor expressly acknowledges and agrees to comply with all of the provisions contained in Section 20 of the Ordinance. All work to

be done by the Contractor pursuant to this Agreement, shall be accomplished in a thorough and professional manner so that the residents and businesses within the District are provided with reliable, courteous and high-quality collection at all times. The enumeration of, and specification of requirement for, particular aspects of service quality shall not relieve the Contractor of the duty of accomplishing all other aspects in the manner provided in this Section, whether such aspects are enumerated elsewhere in the Agreement or not.

- 5.2. Pursuant to this Agreement, the District Manager may determine, with the advice of the Contractor, as appropriate, that the then current frequency of trash collection at a property is insufficient to meet the demand generated, or in the alternative, may determine that additional trash containers are necessary for the property. In such incidences, the Contractor agrees to comply with the determination of the District Manager and either immediately increase the frequency of trash collection and/or cause additional containers to be left at the subject property, in accordance with the District Manager's directions.
- 5.3. For the removal of construction-related materials from construction sites, which services the Contractor shall provide upon District's request, the Contractor shall make contractual arrangements for such services directly with the requesting party and the Contractor shall bill the owner or occupant directly for such services. The franchise fee of ten percent (10%) as described in Section 4 of this Agreement shall apply to such services.
- 5.4. Contractor shall not be required during its routine collection process to remove or collect from any property, prohibited materials or hazardous waste as defined herein. In such incidences, the owner or occupant shall notify the District of its desire for the removal or disposal of the prohibited materials. The District shall notify the Contractor of the request. If the Contractor can provide such removal and disposal services the Contractor shall make contractual arrangements for such services directly with the requesting party and the Contractor shall bill the owner or occupant directly for such services. The franchise fee of ten (10%) as described in Section 4 of this agreement shall apply to such services.
- 5.5. Service days for the collection of the Organic, Refuse, and Recycling Containers shall continue to occur on Mondays and Thursdays of each week during the term of this Agreement, unless a change in pickup day is mutually agreed upon.

6. CONTRACTOR PERSONNEL.

- 6.1. The 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. All drivers shall be trained and qualified in the operation of waste collection vehicles and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles. The Contractor shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment for the collection of solid waste or who are otherwise directly involved in such collection. The Contractor shall train its employees involved in solid waste collection to identify and not to collect hazardous waste.
- 6.2. The Contractor shall not permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for the collection of solid waste

under this Agreement. The Contractor shall use its best efforts to ensure that all employees present a neat appearance and conduct themselves in a courteous manner. The 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 not found to be courteous or not to be performing services in the manner required by this Agreement, the Contractor shall take all appropriate corrective measures. The District shall notify the Contractor by telephone, e-mail or fax of any complaints received from customers.

7. **ADDITIONAL SERVICES PROVIDED BY CONTRACTOR.** The Contractor, at its expense, shall provide to the District and/or residents or property owners of the District, free of charge, including, but not limited to, the following services:

- 7.1. The Contractor shall provide one (1) roll-off for green waste recycling to be located at the District's yard at 353 Santa Monica Drive, Channel Islands Beach. The Contractor shall pick up said roll-off at such times as requested by the District.
- 7.2. The Contractor shall provide trash collection and disposal services and other assistance to the District as part of the District's community beautification clean-up campaign. The Contractor shall participate in and provide such services at specified times and dates designated by the District Manager, but not more often than once a year. In conjunction with the program, the Contractor shall collect and dispose of all trash normally handled by the Contractor, plus other materials not normally presented for disposal, including discarded large household appliances, furniture, carpets, mattresses and other similar large items which require special handling due to their size, but which can be collected without the assistance of special loading equipment and without violating the vehicle load limits. The Contractor shall be responsible for landfill tipping fees incurred in connection with such beautification and clean-up campaigns. The Contractor shall not be responsible for picking up any hazardous materials, as herein defined, during the community clean-up campaign.
- 7.3. The Contractor shall assist the District in implementing the District's recycling program as referenced herein in Section 12.
- 7.4. The Contractor shall provide an annual Christmas tree collection either curbside or at a drop-off service area designated by the District at no charge to the District and/or its constituents. The annual Christmas tree collection shall take place on the two (2) weeks following Christmas on the customer's regular pickup days.
- 7.5. The Contractor shall provide two (2) large item residential pick-ups one time per residential customer per year free of charge.
- 7.6. The Contractor shall provide information to customers about we do not collect. And provide recycling education in the schools at the 5th grade level, or at any other large gathering at the school.
- 7.7. The Contractor shall provide disabled walk in service free of charge for customers that meet the disabled status.

7.8. Contractor shall provide two (2) 3-yard bins for solid waste, twice a week, and one (1) 25-yard roll-off container for clean concrete and asphalt, or asphalt, to be serviced as needed, but not to exceed eight (8) times per calendar year. The Contractor shall collect and dispose of all solid waste, recyclable material and E-Waste generated at the District's facilities at no cost to the District.

8. COMPENSATION TO THE CONTRACTOR. The District shall provide the Contractor with a monthly summary transaction report specifying the types of services rendered by the Contractor during the last billing period, the number and type of services provided and the compensation to the Contractor for the billing period based on the rates and charges shown in Exhibit A less the fifteen percent (15%) franchise fee. The Contractor will only pay the (15%) franchise fee on accounts collected by the District. The District shall pay compensation to the Contractor for all customers except where a customer's barrel has been removed for non-payment of services or where the customer's service has been suspended in response to a District-approved Vacation Hold as specified in Section 8.1. A customer whose service is reinstated following removal of a barrel or a Vacation Hold shall be subject to the restart charge set forth in Exhibit A. The District and the Contractor will determine billing for the last billing period on the fifteenth (15th) of each month. If the Contractor does not notify the District within ten (10) days of mailing said monthly billing summary transaction report of errors within said report, it shall be conclusive evidence of acceptance of the report as final and accurate. In the event of a dispute over the compensation, the Contractor and District Manager shall endeavor to amicably resolve the dispute through review and negotiation. If any such dispute cannot be successfully resolved between the contractor and District Manager, the Contractor may bring the dispute to the District's Board of Directors, whose decision shall be final.

8.1. The District may request that the Contractor suspend a customer's service during periods when the customer is on vacation or otherwise not occupying the premises served ("Vacation Hold"). A Vacation Hold must be for a minimum of sixty (60) consecutive days, and the total number of Vacation Hold days per customer shall not exceed ninety (90) days in any calendar year.

9. RATE ADJUSTMENTS.

9.1. The rates at which the District shall compensate the Contractor are shown in Exhibit A less the fifteen percent (15%) franchise fee. Except as provided for herein, the base residential rate charged for the services provided by the Contractor at the commencement of this contract shall be the sum of Twenty- Eight Dollars and Seven Cents (\$28.07) per month.

9.2. . For years commencing July 1, 2023 through June 30, 2026, the Contractor may request, up to a three percent (3%) CPI-based rate increase. For years commencing July 1, 2026 through the remainder of the term of this Agreement, the Contractor may request the up to a four percent (4%) CPI-based rent increase. Such escalations shall be calculated by computing the percentage change in the CPI index for the twelve month annual average period ending June 30 of each year, and multiplying the applicable amount to be escalated by 100% (one hundred percent) of that percentage change in the CPI

The Consumer Price Index (CPI) used shall be the Consumer Price Index-All Urban Consumers (CPI-U) for the Los Angeles-Long Beach-Anaheim, CA, not seasonally adjusted, all items index, annual average, as published by the United States Department of Labor, Bureau of Labor Statistics.

The Calculation to determine the CPI multiplier is as follows (Example):

1.	Current year CPI, Annual Average	224.6
2.	Previous Year CPI, Annual Average	221.4
3.	Change in Index (Line 1 minus Line 2)	3.2
4.	Percentage Increase	$(3.2/221.4) \times 100 = 1.44\%$

As defined, an annual average is comparing one (1) 12-month period against another 12-month period.

The Contractor shall deliver to the District notification of the rate escalation, with supporting data and calculations, by April 1 prior to the rate increase becoming effective. Failure of the Contractor to escalate its rates pursuant this subsection in any one year shall result in the Contractor waiving its right to escalate the rates for that year.

- 9.3. In the event that the Contractor's combined cost increase in excess of four percent (4%) in a year, the Contractor shall open discussion with the District about an emergency rate increase. Said adjustment shall require approval by the Board of Directors of the District.

10. COLLECTION STANDARDS.

- 10.1. The Contractor shall transport all collections under this Section to the DDS or DPF approved by the District Manager. The Contractor shall maintain accurate records of the quantities of solid waste materials and recyclable materials transported to the DDS or DPF, and will cooperate with the District in any audits or investigations of such quantities. The Contractor shall follow the rules and regulations of the operator of the DDS or DPF 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.
- 10.2. The Contractor shall use due care when handling containers. Containers shall not be thrown from trucks, roughly handled, damaged or broken. Containers shall be returned to the collection point upright with lids in the proper place. The Contractor shall ensure that its employees avoid crossing landscaped areas and climbing or jumping over hedges and fences. The District shall refer complaints concerning damage to private property to the Contractor. The Contractor shall repair all damage to private property caused by its employees. The Contractor shall notify the District, within twenty-four (24) hours from the date of said damage, of the extent of the damage and the repair.
- 10.3. The Contractor shall use due care to prevent solid waste or other materials from being spilled or scattered during the collection or transportation process. If any solid waste or other material is spilled during collection, the Contractor shall promptly clean up all spilled materials that will fit in their container. Each collection vehicle shall carry a broom and shovel at all times for this purpose. If the material spill requires more assistance the driver will follow procedure to get the spill cleaned up. The 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.

- 10.4. During the collection or transportation process, the Contractor shall clean up litter in the immediate vicinity of any solid waste storage area or area where bins are placed for pick-up, whether or not the Contractor has caused the litter. The Contractor shall discuss incidents of repeated spillage not caused by it directly with the generator responsible and report such incidents to the District Manager. It is not the intent of this Section that the Contractor be responsible for collecting extra solid waste from the waste generator without charge.
- 10.5. The Contractor shall schedule residential collection operations and commercial collection operations between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Collection operations may occur twice a week or be subject to approval of the General Manager. All collection operations shall be conducted as quietly as possible and shall conform to applicable federal, state, county and city noise level regulations that now exist or may be amended in the future, including, but not limited to, the requirement that the noise level during the solid waste compaction process not exceed seventy-five (75) decibels at a distance of twenty-five feet (25') from the vehicle and a height of five feet (5') from the ground. The District may conduct random checks of noise emission levels to ensure such compliance.

11. VEHICLES AND EQUIPMENT.

- 11.1. The Contractor shall provide collection vehicles sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms. The Contractor shall have available on collection days, sufficient back-up vehicles for each type of collection vehicle used to respond to complaints and emergencies. The fleet of vehicles used by the Contractor in providing collection services shall comply and stay in compliance with all federal, state and local requirements for such vehicles as they now exist or may be amended to read in the future, and be registered with the California Department of Motor Vehicles, the California Highway Patrol, the Federal Department of Transportation, and the California Air Resources Board.
- 11.2. The Contractor's name, local telephone number and a unique vehicle identification number designed by the Contractor for each vehicle shall be prominently displayed on all service vehicles. The Contractor shall maintain all of its vehicles and equipment used in providing services under this Agreement in a safe, neat, clean and operable condition at all times. Vehicles used in the collection of solid waste shall be thoroughly washed and thoroughly cleaned externally on a regular basis so as to present a clean appearance. The District may inspect vehicles at any time to determine compliance with sanitation requirements. The Contractor shall make vehicles available to the appropriate regulatory public agency for inspection, at any frequency such agency requests.
- 11.3. Vehicles shall be operated in compliance with the California Vehicle Code and all applicable safety and local ordinances. The Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles. The District shall have reasonable access to the Contractor's records relating to the operation and maintenance of the Contractor's vehicles.

12. RECYCLING PROGRAM.

- 12.1. The Contractor agrees to use its best efforts in cooperation with the District in assisting the District a recycling program for recyclable materials.

- 12.2. The Contractor and the District shall use their best efforts to help the District meet its diversion tonnage requirements of AB 939. The Contractor agrees to, at least quarterly, provide the District with AB 939 tonnage and recycling reports. To the extent possible, the Contractor shall segregate AB 939 tonnage generated by the District. In other words, to the extent possible, the Contractor shall provide to the District, at least quarterly, a report that segregates the District's AB 939 tonnage from other AB 939 tonnage collected by the Contractor in other municipal and unincorporated areas.
- 12.3. To encourage and provide for the diversion of commercial materials and construction and demolition material from landfill disposal in order to reduce waste and comply with AB939, customers will be charged an additional \$12.50 per ton for construction and demolition projects.
- 12.4. Contractor shall take all necessary actions to ensure that, during the term of this Agreement, District residents may dispose of antifreeze, auto batteries, household batteries, motor oil (limit twenty (20) gallons in five (5) gallon containers and latex- based paint (items commonly referred to as "household hazardous waste" or "HHW") at the Gold Coast Recycling facilities of Ventura County ("Gold Coast")
- 12.4.1. Customer access to Gold Coast shall be limited to normal business hours and disposal shall be at no cost to the customer, provided the customer provides credible proof that he/she resides within the jurisdictional boundaries of the District.
- 12.5. By July 1, 2018, Contractor shall recommend to District temporary storage options for HHW materials, certifications required of District personnel for temporary handling of such options, and recommendations to District for hours of reception of such items. At District election, District shall procure and install temporary HHW storage facilities.
- 12.5.1. Contractor, or designated sub-contractor, shall retrieve HHW materials from District's temporary storage facility on a monthly basis and dispose of in compliance with all State & Federal laws.

13. SB 1383 REGULATIONS ORGANIC WASTE COLLECTION SERVICES

- 13.1. **Phased Implementation.** District and Contractor acknowledge that all customers will be provided base level of collection service including Recycling Container, Organics Container and Refuse Container collection service, unless (i) the customer is categorically exempted under District Ordinance from the requirement to subscribe for Organic Waste collection service, or (ii) the customer qualifies for and is granted a State- or District-issued waiver. Contractor shall be responsible for ensuring a customer has Refuse, Recycling, and Organics Container collection services unless a customer meets the waiver requirements described in this section.
- 13.2. **Container Colors.**
- 13.2.1. General Requirement. Contractor shall ensure that each container or lid of container that it newly purchases after the Effective Date and provides to a customer serviced under the Agreement conforms to the color schemes set forth in the respective definitions for Refuse

Container, for collection of Solid Waste, Organics Container, for collection of Organic Waste, and Recycling Container for collection of Recyclable Materials.

13.2.2. Specific Material Types. Paper products and printing and writing paper, each as referenced in 14 CCR Section 18982(a)(55)(D), may be placed in the Recycling Container. Green Waste, food scraps, food soiled paper, each as referenced in 14 CCR Section 18982(a)(46), may be placed in the Organics Container. Carpet and textiles may not be placed in either the Recycling Container or the Organics Container.

13.3. **Container Labels.** Contractor shall ensure that each container that it newly purchases after the Effective Date and provides to a customer serviced under the Agreement shall be labeled or imprinted with language and/or graphics that clearly indicates the primary items accepted and the primary items that are Prohibited Container Contaminants for that container type. Labels must be in English and Spanish. Contractor may comply with this section by using model labeling provided by CalRecycle

13.4. **Route Reviews.**

13.4.1. General Requirement. At least once annually, Contractor shall conduct a Route Review for each Contractor Route. The Route Review shall consist of viewing containers for prohibited container contaminants on the Contractor Route. The number of containers to view shall be based on the number of refuse accounts provided service by a specific Contractor Route for one week as set forth in the table below. For example, "Route A" collects refuse from 250 accounts per day, 4 days per week, for a total of 1,000 accounts per week; Contractor shall include a minimum of 25 accounts for Route Review of "Route A." For each Route Review of a Contractor Route, Contractor shall inspect at least the following minimum number of containers but may inspect more if Contractor deems necessary; and shall inspect all containers placed for collection (including Recycling Containers, Organics Containers, and Refuse Containers). Each inspection shall involve lifting the container lid and observing the contents but shall not require Contractor to disturb the contents or open any bags. Contractor may select the containers to be inspected at random, or, if mutually agreed in writing with the District, by any other method not prohibited under 14 CCR Section 18984.5. This Section does not require Contractor to annually inspect every container on a Contractor Route. Contractor shall include the results of each Route Review in its next regularly scheduled report to the District, as required by Section 14.6.

<u>Route Size (# refuse accounts/ week)</u>	<u>Minimum Number of Containers</u>
Less than 1,500	25
1,500-3,999	30
4,000-6,999	35
7,000 or more	40

13.4.2. Notice of Contamination. If Contractor observes Prohibited Container Contaminants in a container during a Route Review comprising 10 percent or more of observable container volume, Contractor shall notify the customer of the

13.4.3. violation in writing. The written notice shall include information regarding the requirement to properly separate materials into the appropriate containers. The notice may be left on the customer's container, gate, or door at the time the violation is discovered, and/or be mailed, e-mailed, electronically messaged or delivered personally to the customer within 30 days. The notice shall be provided in English and Spanish and must be approved, prior to transmittal to customer, in writing by the District.

13.5. **Education & Outreach**

13.5.1. Contractor shall provide the following to all its customers under the Agreement: (a) information on the customer's requirements to properly separate materials into appropriate containers; (b) information on methods for the prevention of Organic Waste generation, recycling Organic Waste on-site, sending Organic Waste to community composting, and any other local requirements regarding Organic Waste; (c) information regarding the methane reduction benefits of reducing the landfill disposal of Organic Waste, and the methods of Organic Waste recovery contemplated by the Agreement; (d) information regarding how to recover Organic Waste; and (e) information related to the public health and safety and environmental impacts associated with the landfill disposal of Organic Waste.

13.5.2. The above information will be provided, at a minimum, through print and/or electronic media, and may also be provided through workshops, meetings and/or on-site visits.

13.5.3. Educational materials provided pursuant to the above shall be translated into Spanish.

13.5.4. Contractor shall provide educational materials to customers discovered to be out of compliance with 14 CCR Section 18985.1 requirements and report a list of such customers as well as actions taken to the District on a periodic basis as required by the District.

13.6. **SB 1383 Regulations Reporting.** Contractor shall provide the following materials and information to the District by March 1 of each calendar year to cover the entire previous calendar year:

13.6.1. For materials and information provided by Contractor to customers pursuant to Section 13.5 above:

13.6.1.1. Copies of all such materials and information including, but not necessarily limited to flyers, brochures, newsletters, invoice messaging, website and social media postings, emails, and other electronic messages.

13.6.1.2. The date the materials or information was disseminated or the direct contact made. For website and social media postings, this shall be the date publicly posted.

13.6.1.3. To whom the materials or information was disseminated or the direct contact made. For mass distributions such as mailings or bill inserts, Contractor may provide the type and number of accounts receiving the information, rather than listing each recipient individually.

13.6.2. For Route Reviews:

- 13.6.2.1. The date the review was conducted.
- 13.6.2.2. The name and title of each person conducting the review.
- 13.6.2.3. A list of the account names and addresses covered by the review.
- 13.6.2.4. A description of each Contractor Route reviewed, including Contractor's route number and a description of the Contractor Route area.
- 13.6.2.5. The results of Route Review (i.e. the addresses where any Prohibited Container Contaminants were found), and any photographs taken.
- 13.6.2.6. Copies of any educational materials issued pursuant to such reviews.

13.6.3. Documentation relating to observed Prohibited Container Contaminants, whether observed during Route Reviews or otherwise:

- 13.6.3.1. Copies of the form of each notice issued to customers for Prohibited Container Contaminants, as well as, for each such form, a list of the customers to which such notice was issued, the date of issuance, the customer's name and service address, and the reason for issuance (if the form is used for multiple reasons).
- 13.6.3.2. The number of times notices were issued to customers for Prohibited Container Contaminants.
- 13.6.3.3. The number of Containers where the contents were disposed due to observation of Prohibited Container Contaminants.

13.6.4. A description of Contractor's process for determining the level of Container contamination under the Agreement.

13.6.5. Reports to the District on customers discovered to be out of compliance with 14 CCR Section 18984.5(b), including a list of the customers, the type of violation, actions taken to educate those customers, and contact information for those customers.

13.7. **Enforcement of SB 1383 Regulations.** Pursuant to 14 CCR Sections 18988.1 and 18988.2, Contractor is responsible for delivery of all Solid Waste to properly permitted disposal facilities, transfer stations, recyclable materials processing facilities, and organics processing facilities. Failure to comply with this provision may result in the levy of an Administrative Charge or Penalty, and may result in Contractor being in default under this Agreement. Contractor shall comply with its obligations under this Agreement and the obligations that by operation of law are imposed upon it directly pursuant to 14 CCR, Division 7, Chapter 12.

14. COMPLIANCE WITH LAW. The Contractor shall bear sole responsibility for and shall comply with all local, state and federal laws, ordinances, regulations, standards and orders relating to the collection,

transportation and disposal of trash, and the nature and conduct of the Contractor's work, whether currently in effect or hereafter enacted, including, but not limited to:

- 14.1. Fair employment practices and non-discrimination;
- 14.2. Occupational safety and health (OSHA);
- 14.3. Licensing and operation of the motor vehicles used in the Contractor's business; and
- 14.4. Operation of the Contractor's solid waste collection and disposal business.

15. CONTRACTOR'S NAME. The Contractor shall not use the words "Channel Islands Beach" or "Community Services District" or like words in its name or on its equipment.

16. PERFORMANCE BOND.

- 16.1. Upon execution of this Agreement, the Contractor shall file with the District and shall thereafter, during the term of this Agreement, maintain in full force and effect, a surety bond or other adequate surety in a form satisfactory to the District in the amount of Twenty-Five Thousand Dollars (\$25,000) for the Contractor's faithful performance of this Agreement.
- 16.2. The Contractor's performance bond shall be so conditioned that if the Contractor fails to comply with any one (I) or more of the provisions of this Agreement, then there shall be recoverable, jointly and severally from the Contractor in surety, any damage or loss or costs suffered or incurred by the District as a result thereof, including attorney fees and costs of any action or proceeding, and including the full amount of any compensation, indemnification, cost of removal or abandonment of any property or other costs which may be in default up to the full principal amount of such bond.
- 16.3. Such bond shall not be canceled, altered or allowed to lapse without at least thirty (30) days' prior written notice to the District Manager by the surety.
- 16.4. Failure to file or maintain such performance bond shall be deemed a breach of this Agreement and shall be grounds for termination of this Agreement by the District.

17. PERFORMANCE STANDARDS. In order to be eligible for a rate adjustment the Contractor must demonstrate in a format acceptable to the District the following:

- 17.1. Contractor is meeting diversion standards as established by this Agreement.
- 17.2. Contractor is in compliance with customer service standards as established by this Agreement.
- 17.3. All reports required by this Agreement are maintained and/or provided in a timely manner to the District.
- 17.4. Contractor is not in breach of this Agreement.
- 17.5. All payments due to the District pursuant to this Agreement are current.

18. INSURANCE.

- 18.1. **Minimum Limits.** Concurrently with the execution of this Agreement, and at all times during its existence, the Contractor shall maintain in full force and effect, at the Contractor's sole cost and expense, a general comprehensive public liability insurance policy or policies, including coverage for premises operations, explosion and collapse hazard, underground hazard, contractual

insurance, broad-form property damage, independent contractor's and personal injury and automobile liability comprehensive form, in protection of the District, its officers, directors, agents and employees, with an insurance company licensed to do business within the State of California approved by the District Manager and in a form satisfactory to the District Manager, protecting the District and all persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of the Contractor under this Agreement, with the following minimum limits:

Bodily Injury:

\$3,000,000 each person

\$3,000,000 aggregate operations

\$3,000,000 aggregate products

Property Damage:

\$3,000,000 each accident

\$3,000,000 aggregate operations

\$3,000,000 aggregate products

\$3,000,000 aggregate contractual

- 18.2. **Certificate of Insurance.** The District shall be named as an additional insured in all of said insurance policies. The Contractor shall file (a) valid and unexpired certificate(s) of insurance with the District Manager concurrently with the execution of this Agreement. Such policies shall contain a provision that the insurance thereby evidenced shall not be canceled, allowed to lapse or expire or be reduced in amount during the term of this Agreement, unless the District Manager is given at least thirty (30) days' notice in writing by the insurer prior to any such cancellation, lapse, expiration or reduction in coverage. A lapse of the minimum insurance required by this provision for any reason shall be deemed a breach of this Agreement and shall be grounds for automatic termination of this Agreement by the District.
- 18.3. **Endorsements.** Said insurance policy or policies shall contain the following endorsements:
- 18.3.1. The naming of the District as an additional insured as herein provided shall not affect any recovery to which the District would be entitled under this policy if not named as such additional insured;
 - 18.3.2. The District as an additional insured named herein shall not be held liable for any premium or expense of any nature on this policy or any extension thereof;
 - 18.3.3. The District as an additional insured named herein shall not, by reason of being so named, be considered a member of any mutual insurance company for any purpose whatsoever; and
 - 18.3.4. Any other insurance held by the District shall not be required to contribute anything toward any loss or expense covered by the insurance which is referred to by this certificate.
- 18.4. **Increase in Coverage.** At any time during the term of this Agreement, the District may, based upon requirements of the District's liability insurance carrier(s) or upon increases in minimum

contractor liability insurance limits in neighboring public entities with jurisdiction over trash collection, request the Contractor to increase the amount of insurance coverage over the minimum limits specified in subsection 17.1. In the event of such a request, the parties agree to negotiate, in good faith, the amount of such an increase, recognizing the Contractor's cost in procuring such expanded coverage.

19. **WORKER'S COMPENSATION INSURANCE.** The Contractor shall, at all times, keep fully insured, at the Contractor's own expense, all persons employed by the Contractor in connection with the performance of this Agreement as required by the provisions of the California Labor Code relating to Worker's Compensation and Insurance. The Contractor shall indemnify, defend and hold the District free and harmless from all liability arising by reason of injuries of any employees of the Contractor incurred in the course of employment hereunder. The Contractor shall file and maintain certificates with the District showing said insurance to be in full force and effect at all times during the term of this Agreement. No work shall be done by the Contractor during any period when the Contractor is not covered by insurance as required herein.
20. **INDEMNITY AND HOLD HARMLESS.** The Contractor shall indemnify, defend and hold harmless the District and its officers, directors, agents and employees from all liability of whatever kind or character, including, but not limited to, damages for injury or death or damage to persons or property, and regardless of the merit of the same and against all liability to others and against any loss, cost and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs or per diem expenses, travel and transportation expenses, or other costs or expenses, arising out of or pertaining to the exercise of or the enjoyment of this Agreement, whether such performance be by the Contractor or anyone directly or indirectly employed by the Contractor, and whether such damages accrue or are discovered before or after termination of this Agreement.
21. **NON-WAIVER.** The District's consent to or omission to object to any act in violation of this Agreement, or any omission by the Contractor to perform when and as provided by this Agreement, shall not constitute a waiver of any provision of this Agreement nor a waiver of the right, exercised reasonably, of the District to require proper performance in full of any provision of this Agreement.
22. **AUDIT.** The District shall have the right of review and audit of the Contractor's financial books and records, disposal tipping fees, and tonnage slips. The District shall have the right, upon not less than seven (7) days written notice, to review the Contractor's financial books and records. The cost of any reproduction or production of said records shall be borne by the Contractor. The District shall also be provided with disposal tipping fees and tonnage slip information. The District shall keep said audit information confidential to the extent allowed by law.
23. **ASSIGNABILITY.**
 - 23.1. **No Assignment Without Consent.** None of the Contractor's rights, privileges or obligations herein granted or authorized shall be leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person through the sale of stock or otherwise, either by act of the Contractor or by operation of law, without the prior written consent of the District. Consent may be withheld for any reason by the District in its sole discretion. The granting of such consent shall not render unnecessary any subsequent consent.

- 23.2. **Change in Control.** The Contractor shall promptly notify the District of any proposed change in control and/or ownership of the Contractor with respect to which the consent of the District is required. Such change in control shall make this Agreement null and void unless and until the District shall have consented in writing thereto. For purposes of determining whether it will consent to such change, transfer or acquisition of control, the District may inquire into the qualifications of the prospective controlling party and the Contractor shall assist the District Manager in any such inquiry. The District may condition such transfer upon terms and conditions it deems appropriate. For purposes of this Section, a presumptive change in control and/or ownership will exist upon sale or transfer of fifty percent (50%) or more of the Contractor's ownership stock, interest or other control.
- 23.3. **Document Evidencing Change in Control.** At least sixty (60) days prior to any transfer as heretofore described, the Contractor shall file with the District, a copy of the deed agreement, mortgage, lease or other written instrument evidencing such sale, transfer or lease, certified and sworn to as correct by the Contractor.
- 23.4. **Transfer Void Unless Approved.** Every such transfer, as heretofore described, whether voluntary or involuntary, shall be deemed void and of no effect unless the Contractor shall have filed such certified copy as is required and the District has given its approval.
- 23.5. **Termination.** Failure to obtain the approval of the District as provided herein, shall entitle the District to terminate this Agreement effective thirty (30) days from the date the District provides the Contractor with written notice of disapproval and termination.

24. REPORTS REQUIRED.

- 24.1. **Periodic Reports.** The Contractor shall provide the District Manager, at the times and in the form prescribed by the District Manager, such reports with respect to the Contractor's operations as may be reasonably necessary or appropriate to the performance of any of the rights, functions or duties of the Contractor or the District in connection with this Agreement.
- 24.2. **Contents.** Such reports shall include, but not be limited to, the following matters, which shall be submitted to the District Manager not later than sixty (60) days following the District Manager's request for same:
- 24.2.1. An up-to-date list of all trucks used for collection and disposal of trash within the District, including the make, type, year, license number, identification number and ownership;
 - 24.2.2. The names, titles and addresses of the owners, partners, officers, directors and shareholders of the Contractor;
 - 24.2.3. The names and titles of all of the Contractor's employees providing trash collection and disposal services to the District;
 - 24.2.4. A description of all cases of property damage and personal injury that have occurred while providing trash services for the District within the last year;
 - 24.2.5. A description of all traffic citations received by the Contractor or its employees in the past year;
 - 24.2.6. Workers' Compensation Experience Modification Factor for the current year; and
 - 24.2.7. Any reports required in conjunction with Section 12 of this Agreement.

24.3. **Pre-Printed Forms.** The Contractor shall develop, utilize and deliver to the District, on a regular basis, a pre-printed form recording those instances where property or properties within the District are in violation of the trash volume limitations set forth in the Ordinance.

24.4. **Quarterly Reports.** Within thirty (30) days after the end of each calendar quarter, beginning October 1, 2022 (the first report being due November 30, 2022), the Contractor shall provide the District with a written report which shall include:

24.4.1. Total tonnage of trash collected; and

24.4.2. Other information as specified by the District Manager.

25. RIGHTS AND POWERS RESERVED TO THE DISTRICT.

25.1. At all reasonable times, the Contractor shall permit the District Manager to examine all property of the Contractor, and to examine and transcribe any and all records kept or maintained by the Contractor under the Contractor's control which pertain to this Agreement, including, but not limited to, all of the Contractor's financial records and accounts.

25.2. Neither this Agreement nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental rights or powers of the District. The Contractor expressly acknowledges and agrees to the provisions of Sections 18 and 24 of the Ordinance.

25.3. The District's Board of Directors may do all things which are necessary and appropriate in the exercise of the District's jurisdiction under this Agreement and may determine any question of fact which may arise during the existence of this Agreement.

25.4. The District Manager is hereby authorized and empowered to adjust, settle or compromise any controversy or charge arising from the operations of the Contractor under this Agreement, either on behalf of the District, the Contractor, or any property owner or occupant, in the best interests of the public. Either the Contractor, or any owner or occupant of property within the District, who may be dissatisfied with any decision of the District Manager, may appeal the matter to the Board of Directors for hearing and determination. The Board of Directors may accept, reject or modify the decision of the District Manager, and the Board of Directors may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the Contractor.

26. ADMINISTRATIVE REMEDIES; TERMINATION

26.1. **Notice of Deficiencies; Response.** If the District Manager determines that Contractor's performance pursuant to this Agreement may not be in conformity with the provisions of this Agreement or any applicable federal, state or local law or regulation, including but not limited to, the laws governing transfer, storage or Disposal of Solid Waste and Hazardous Waste, the District Manager may advise Contractor in writing of such suspected deficiencies, specifying the deficiency in reasonable detail. The District Manager, in any written Notification of Deficiencies, shall set a reasonable time within which Contractor is to respond. Unless the circumstances necessitate correction and response within a shorter period of time, Contractor shall respond to the written Notification of Deficiencies within thirty (30) Days from the receipt by Contractor of such written notice. Contractor may request additional time to correct deficiencies. The District shall approve reasonable requests for additional time.

26.2. **Review by District Manager.** The District Manager shall review any written response from Contractor and decide the matter. If the District Manager's decision is adverse to Contractor, the District Manager may order remedial actions to cure any deficiencies, assess the performance bond or invoke any other remedy in accordance with this Agreement and, in the event the District Manager determines that there has been a material breach and that termination is the appropriate remedy, terminate the Agreement. The District Manager shall promptly inform Contractor of the District Manager's decision. In the event the decision is adverse to Contractor, the District Manager shall inform Contractor, in writing, of the specific facts found and evidence relied on, and the legal basis in provisions of the Agreement or other laws for the District Manager's decision and any remedial action taken or ordered. An adverse decision by the District Manager shall be final and binding on Contractor unless Contractor delivers a "Notice of Appeal" to the District Board of Directors within thirty (30) days of receipt of the notification of the adverse decision by the District Manager. The Notice of Appeal shall state the factual basis and all legal contentions and shall include all relevant evidence, including affidavits, documents, photographs and videotapes, which Contractor may choose to submit

26.3. **Board of Director Hearing.** If a matter is referred by the District Manager to the Board of Directors, or an adverse decision of the District Manager is appealed to the Board of Directors by Contractor, the Board of Directors will set the matter for an administrative hearing and act on the matter. The District shall give Contractor at least fourteen (14) days written notice of the time and place of the administrative hearing. At the hearing, the Board of Directors shall consider the administrative record, consisting of the following:

- a. A Staff Report by the District Manager, summarizing the proceedings to date and outlining the Board of Director's options;
- b. The District Manager's Notification of Deficiencies;
- c. Contractor's response to the Notification of Deficiencies;
- d. The District Manager's written notification to Contractor of adverse decision; and
- e. Contractor's Notice of Appeal.

Contractor's representatives and other interested persons shall have a reasonable opportunity to be heard

26.4. **Board of Director Determination.** Based on the administrative record, the Board of Directors shall determine by resolution whether the decision or order of the District Manager should be upheld. If, based upon the administrative record, the Board of Directors determines that the performance of Contractor is in breach of any term of this Agreement or any provision of any applicable federal, state or local statute or regulation, the Board of Directors, in the exercise of its discretion, may order Contractor to take remedial actions to cure the breach or impose any other remedy in accordance with this Agreement. The Board of Directors may not terminate the Agreement unless it determines that Contractor is in material breach of a material term of this Agreement or any material provision of any applicable federal, state or local statute or regulation. Contractor's performance under the Agreement is not excused during the period of time prior to a final determination by the Board of Directors. The decision or order of the Board of Directors shall be final and conclusive. Contractor has the right to seek judicial review from an appropriate court solely as indicated in Article 28. With the exception of draws on the performance bond, the execution of any of the District's remedies under this Article shall be stayed until Contractor has exhausted its appeals under this Article and Article 27

26.5. **Cumulative Rights.** The District's rights of termination are in addition to any other rights of the District upon a failure of Contractor to perform its obligations under this Agreement

27. **APPEAL TO JUDICIAL COURT.** Either party to this Agreement at any time after exhaustion of administrative remedies, if applicable, and following the appeal procedures set forth in Article 27, if applicable, may appeal a disputed matter to the appropriate Judicial Court having jurisdiction pursuant to California Code of Civil Procedure section 1094.5.

28. **ADDITIONAL REMEDIES.** In addition to the remedies set forth above, District shall have the following rights in the event of Contractor's material breach and failure to cure following written notice from the District and as provided in Article 26:

28.1. The right to contract with others to perform the services otherwise to be performed by Contractor; and

28.2. The right to obtain damages and/or injunctive relief. Both parties recognize and agree that in the event of a breach under the terms of this Agreement by Contractor, District may suffer irreparable injury and incalculable damages sufficient to support injunctive relief to enforce the provisions of this Agreement and to enjoin the breach thereof. These listed additional remedies shall not be exclusive.

29. **NOTICES.**

29.1. All notices or correspondence required to be given under this Agreement or otherwise shall be given by placing such notices in the United States mail, by first-class mail, postage prepaid, addressed to the parties at their respective addresses:

District:

Channel Islands Beach Community Services District 353 Santa Monica Drive
Channel Islands, CA 93035-8598

Contractor:

E. J. Harrison and Sons, Inc. 5275 Colt Street
Ventura, CA 93003

29.2. All such notices shall be deemed given on the day deposited in the United States mail in the manner specified above.

30. **SEVERABILITY.** If any term, covenant, condition, section or provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

31. **SUCCESSORS.** This Agreement shall be binding upon and inure to the benefit of the heirs, executors, representatives, assigns and successors-in-interest of the parties hereto, subject, however, to the provisions of Section 22 herein.

32. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the District and the Contractor. This Agreement may be modified or altered only by an instrument in writing signed by

both the District and the Contractor. No prior or contemporaneous oral understandings or agreements between the parties not incorporated within this Agreement shall be binding upon the parties.

33. CALIFORNIA LAW. This Agreement shall be interpreted and construed pursuant to the laws of the State of California. Any lawsuit or action brought or commenced under this Agreement shall be litigated in the Superior Court for the County of Ventura, in accordance with the jurisdictional limits of the respective courts.

DATED: 7/12/22, 2022

CHANNEL ISLANDS BEACH COMMUNITY SERVICES DISTRICT, a governmental entity formed pursuant to California Government Code Section 61000, et seq.

BY:

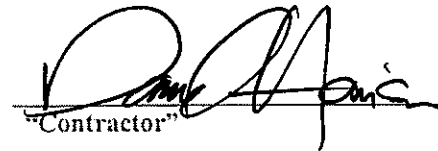


“District”

DATED: 7/14/22, 2022

E.J. HARRISON AND SONS, INC, a California Corporation

BY:



“Contractor”