AGREEMENT FOR ORGANIC MATERIALS PROCESSING SERVICES

Between the

South Bayside Waste Management Authority

&

Browning-Ferris Industries of California, Inc.
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AGREEMENT FOR ORGANIC MATERIALS
PROCESSING SERVICES

This Agreement is made and entered into as of the 29th of September 2017 by and between the South Bayside Waste Management Authority a California Joint Powers Authority hereinafter “SBWMA”, and Browning Ferris Industries of California, Inc., hereinafter “Contractor”.

I. RECAPITULATIONS

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

1. That SBWMA desires to engage Contractor to render processing services for Organic Materials generated from the SBWMA Member Agencies;
2. That Contractor is qualified to provide such services to the SBWMA; and
3. That SBWMA has elected to engage the services of Contractor upon the terms and conditions as hereinafter set forth.

II. DEFINITIONS

In this Agreement, capitalized words and certain lower case words have the meanings defined in Exhibit A.

III. TERMS AND CONDITIONS OF AGREEMENT

1. Effective Date
   The Effective Date of the Agreement shall be January 1, 2018.

2. Term of Agreement
   The Term of the Agreement shall begin on the Effective Date and shall continue for a period of five (5) years, through December 31, 2022. The end of the term may be extended by mutual agreement for two (2) one year periods upon written notice by the SBWMA and acceptance of such request by Contractor.
3. Conditions to Effectiveness of Agreement
   The obligation of the Contractor to perform under this Agreement is subject to satisfaction, on or before the Effective Date, of the condition set out below:
   a) Authority’s approval through field certification or auditing of the Contractor’s operational plan to ensure compost covers are put to beneficial use.

IV. OBLIGATIONS OF CONTRACTOR

1. Scope of Processing Services
   The services to be performed by Contractor under this Agreement shall be to accept, process, and market Organic Materials generated from the SBWMA’s Member Agencies and the Shoreway Environmental Center (Shoreway facility) as described further in Exhibit B, Contractor Services on the same terms and conditions set forth in Exhibit B (such services, “Services”).
   
   On a daily basis, the SBWMA shall deliver and the Contractor shall receive a minimum average of 100 tons per day up to a maximum average of 200 tons per day (based on a 30-day rolling average but never more than 250 tons in any one operating day) to the Compost Facility. In aggregate, the SBWMA shall deliver a minimum of 47,500 tons per year, but not more than 50,000 tons per year. The Contractor and the SBWMA are only obligated to receive and deliver materials on
days that the Compost Facility is operating (as described in Section 5, Days and Hours of Operations).

"Processed" means subjected to a process to transform Organic Materials into a Compost Product, a mulch product for land application (other than at a landfill), or for use as biofuel, anaerobic digestion or other conversion technologies (in accordance with CIWMB regulations so that such materials are considered diverted and recycled), and includes removal of all (other than trace amounts) Solid Waste and other materials that are not Plant or Organic Materials (collectively, "Residue"). Residue may be landfilled or used as ADC.

If there are no markets for the "Compost Overs" and the Contractor must resort to using the Compost Overs at or on a landfill, the Contractor shall submit a written notification to the SBWMA describing the market condition and the need for using the Compost Overs at or on a landfill. The SBWMA will consider the request and acknowledge it's receipt within 5 days of receiving the request. Contractor shall not be required to perform further processing of Compost Overs in order for them to be used for a purpose other than at or on the landfill. Contractor will be required to record the scale weight and keep receipts for all Compost Overs used at or on the landfill and report Compost Overs use at the landfill using the same report format as the inbound organics from all sources to the compost facility are recorded and reported to the SBWMA such that the portion of the Compost Overs from the SBWMA that are used at or on the landfill can be identified in relation to all other Compost Overs from other sources that are used at the landfill on a monthly basis.

2. Permits and Compliance
Contractor will comply with all Permits, including any mitigation measures related to the operation and maintenance of the Compost Facility. Contractor is solely responsible for paying any fines or penalties imposed for noncompliance with or violation of Permits or failure to obtain Permits for the Compost Facility.

Contractor shall have a permitted Composting Facility that is permitted as a "Composting Facility" with the CalRecycle and maintain this designation throughout the term of this Agreement. The Composting Facility Permit must include the ability to accept food waste mixed with plant materials and source separated food waste. Contractor must notify SBWMA before accepting any shipments from the SBWMA if there is any change in the Compost Facility permit status. Loss of Permit shall be considered a Breach of this Agreement contract, unless otherwise excused by force majeure or this Agreement, and will entitle the SBWMA to immediately terminate this Agreement on written notice to the Contractor.

3. Compliance with all Applicable Laws and Regulations.
Contractor shall comply with all Federal, State, and/or Local Regulations.

Contractor shall provide copies of any notices of violation that it or any of its subcontractors receive from any Regulatory Agency during the term of this Agreement pertaining to operation of the Compost Facility. Contractor shall provide to the SBWMA copies of such Notices within three (3) business days of receiving them.

5. Days and Hours of Operation
Contractor will operate the Composting Facility for the receipt of SBWMA’s Organic Materials between the hours of 4:00 a.m. to 4:00 p.m., Monday through Saturday. The Composting Facility will be closed on Sundays and Holidays. Contractor may not reduce the hours or total number of hours for acceptance of SBWMA’s Organic
Materials without the concurrence of the SBWMA except for reductions required by a change in a Permit subsequent to the Commencement Date.

6. **Traffic Control and Direction**

Contractor will direct on-site traffic to appropriate unloading areas and provide a safe working environment. Contractor will provide necessary signs and personnel to assist drivers to proper unloading areas. Contractor will operate the Compost Facility so that the conditions of the Maximum Vehicle Turnaround are met and Transfer Company vehicles are processed, unloaded and exit without delay. Contractor will not exceed the Maximum Vehicle Turnaround time more than five (5) times per month. For each load exceeding the 30-minute average from arrival at the scale to exiting the scale over the five load per month limit, which are not due to rest breaks, other delays while on Contractor's site by Transfer Company personnel, Transfer Company equipment malfunction, or Force Majeure, the Contractor may be assessed liquidated damages equal to $2.00 per minute for each minute of delay. The calculation of the times will be based on time stamp tickets at the scale house.

7. **Scale Operation**

   a) **Maintenance and Operation**

   Contractor will maintain State-certified scales that link to a centralized computer recording and billing system and that account for tracking of the origin, destination and tonnage of all incoming and outgoing loads. Contractor will operate scales during Compost Facility receiving hours established in Section 5. Contractor will provide the SBWMA with access to scale weight reports promptly upon SBWMA's request.

   b) **Vehicle Tare Weights**

   When Transfer Company places new vehicles into service, Contractor will promptly weigh the new vehicle and determine its unloaded ("tare") weight(s). Contractor will record tare weight, hauler name, and vehicle identification number. Within 10 Working Days of weighing, Contractor will provide the SBWMA and Transfer Company with a report listing vehicle tare weight information. Contractor will have the right to request re-determination of tare weights of vehicles twice each Calendar Year. If there is reasonable suspicion or evidence that tare weights are not accurate, Transfer Company may request re-determination of tare weights, in which case Contractor will promptly re-determine tare weights for requested vehicles up to 4 times per Calendar Year. Contractor may update tare weights (at its own initiative) more frequently.

8. **Testing**

Contractor will test and calibrate all scales in accordance with Applicable Law, but at least every 12 months. Upon SBWMA request, Contractor will promptly provide the SBWMA with copies of test results. Contractor will further test and calibrate any or all scales within 3 working days of SBWMA direction. If test results indicate that the scale or scales complied with Applicable Law, the SBWMA will reimburse Contractor the Direct Costs of the tests. If the test results indicate that the scale or scales did not comply with Applicable Law, Contractor will bear the costs thereof and Contractor will at its own cost adjust and correct, consistent with the results of that test, all weight measurements recorded and Organic Materials Rates calculated, charged and paid, as the case may be, from the date of SBWMA's direction.

9. **Weighing Standards and Procedures**

Contractor will use the Composting Facility entry scale house(s) to weigh vehicles and charge Organic Materials Rates. Contractor will charge Transfer Company the Organic Materials Rates based on the Tonnage of SBWMA's Transfer Company deliveries to the Composting Facility. Contractor will weigh and record inbound weights of all Transfer Company's vehicles when the vehicles arrive at the Compost Facility and weigh and record outbound weights of vehicles for which Contractor does not maintain tare weight information. Contractor will provide each driver a
receipt showing the date, time, and quantity of SBWMA's Plants and Organic Materials that the vehicle delivered to the Compost Facility.

10. Records and Reporting
Contractor will maintain scale records and reports that provide information including date of receipt; inbound time; origin, destination and weight of inbound and outbound loads; inbound and outbound weights of vehicles; and vehicle identification number.

Contractor will provide the SBWMA a detailed monthly report as described and exemplified in Exhibit D, Monthly Reporting to the SBWMA, that summarizes monthly the inbound/outbound materials, the materials mass-balance by supplier, and material market outlets. The monthly report will be provided to the SBWMA on or before the 10th day of the following month.

11. Safety
The Contractor will conduct operations of Compost Facility in a safe manner, in accordance with Applicable Law and insurance requirements provided in Article VI, Indemnity and Insurance.

12. Invoicing
On or before the 10th of each month, Contractor will invoice or otherwise charge the SBWMA in amounts equal to the applicable Organic Materials Rates listed in Exhibit C for the prior month's Organic Materials delivered to the Composting Facility. Invoices will be in a form satisfactory to the SBWMA. All undisputed amounts shall be payable by the SBWMA within 30 days of receipt of the invoice. (For example, for processing provided in July, Contractor will invoice SBWMA on or before August 10th and payment will be due and payable by the SBWMA on or before September 15th). SBWMA and or Transfer Company shall, within five-days of receipt of invoice, identify any disputed charges and communicate these to Contractor. Contractor may deliver to the SBWMA, with a copy to the Transfer Company, a notice of late payment for a given monthly invoice thirty-five calendar days after the date of generation of the invoice. Contractor's invoices shall be deemed delinquent if not paid within five (5) calendar days of the date of the notice of late payment. Thereafter, the delinquent invoice shall bear interest on the unpaid balance at the rate of one and one-third percent (1 1/3%) per month or the maximum interest rate allowed by law, whichever is less. In the event that an undisputed Contractor invoice to SBWMA becomes delinquent hereunder, Contractor shall notify the SBWMA and the Transfer Company to bring its account with Contractor current within thirty (30) days. Should a delinquent invoice not be paid within said additional thirty-day period, Contractor may suspend acceptance of receipt of materials under this Agreement until all past due amounts are paid in full, in addition to any other remedies Contractor may have under this Agreement or by operation of law.

As to disputed invoice amounts, the parties shall meet and confer upon the request of any party within ten (10) calendar days of such request. If the parties are unable to resolve the disputed matter informally, then after said ten (10) day period either party may request mediation of the dispute. Any such unresolved dispute shall be submitted to a mediator at Judicial Arbitration and Mediation Services, San Jose office. If the parties cannot agree, either may request binding arbitration and each party shall pay its own attorney's fees and shall share equally in the cost of the arbitration. Should the SBWMA be found to owe any portion of a disputed amount to Contractor, Contractor shall be awarded interest on the portion that is owed to Contractor, with such interest calculated commencing thirty days after the invoice date. The sum determined to be owed Contractor, with interest up to the date of payment, shall be paid within thirty days of the arbitration award.
13. Right to Enter Facility and Observe Operations
The SBWMA and its designated representative(s) may enter, observe and inspect
the Composting Facility at any time during operations; conduct studies or surveys of
the Compost Facility; meet with the manager(s) or his or her representatives at any
time; provided that the SBWMA and its representatives comply with Contractor's
reasonable safety and security rules and will not interfere with the work of the
Contractor or its subcontractors. However, if the Compost Facility manager or other
management personnel are not present at the Compost Facility when the SBWMA
or its designated representative(s) visit without prior announcement, Contractor may
limit the visit of the SBWMA or its designated representative to the public areas of
the facility. In that event, Contractor will arrange for SBWMA or its designated
representative(s) to return for a visit of the complete Compost Facility within 24
hours of the SBWMA's visit. Upon SBWMA direction, Contractor will make
personnel available to accompany SBWMA employees on inspections. Contractor
will ensure that its employees cooperate with the SBWMA and respond to the
SBWMA's reasonable inquiries.

14. Ownership of Materials and Right To Reject Loads
Title to all Organic Materials shall transfer to Contractor upon acceptance by
Contractor of such loads at the Compost Facility. Contractor shall have 24 hours
from their delivery to the Compost Facility to accept or reject loads. If loads are
rejected for containing Unacceptable Materials, Contractor may require the Transfer
Company to promptly remove such rejected loads from Contractor's premises.
Nothing in this Agreement shall be construed as transferring title or ownership of
Unacceptable Materials delivered to Contractor by the Transfer Company, its
subcontractors or agents, or the SBWMA or its contractors or agents, whether or not
such loads are rejected. Contractor reserves the right to reject all deliveries
containing Unacceptable Materials, and further reserves the right to pursue claims
for all costs incurred by Contractor for the transportation, processing, recycling
and/or disposal of all such Unacceptable Materials delivered to Contractor.

V. CONTRACTOR COMPENSATION

1. General
The Contractor will perform all of its obligations, responsibilities and duties under
this Agreement, including paying costs associated with obtaining and complying with
all Permits and operating the Compost Facility in full compliance with Applicable
Laws.

2. Processing Rate
   a) The Contractor will be compensated on a per ton basis for Materials delivered
      by the Transfer Company. Exhibit C - Rates, provide processing rates by
      Material Type.
   b) The Contractor may make an application to the SBWMA for an adjustment to
      the Processing Rate for an increase in costs that are the effect of an increase in
      Governmental Fees that increase the cost of Composting Facility operations
      that are outside of the Contractor's control.
   c) The Contractor may make an application to the SBWMA for an adjustment to
      the Processing Rate for an increase in costs that are the effect of a change or
      adoption in regulations, laws or permit conditions by any Regulatory Agency that
      affects the cost of operating the Compost Facility.
   d) Upon receiving adequate supporting documentation from Contractor, the
      SBWMA shall promptly grant the Contractor's requests for rate adjustments to
      compensate Contractor for any increases in Governmental Fees that increase
      the cost of Composting Facility operations that are outside of the Contractor's
      control and for any increase in costs that are the effect of a change or adoption
in regulations, laws or permit conditions by any Regulatory Agency that affects the cost of operating the Compost Facility.

VI. INDEMNITY AND INSURANCE

1. Agreement Indemnification
   a) Indemnification of the SBWMA
      Contractor shall defend the SBWMA with counsel reasonably acceptable to the SBWMA and hold harmless and indemnify the SBWMA from and against any and all liabilities, costs, claims, and damages which are caused by Contractor's negligence, intentional wrongful acts, or failure to comply with applicable laws, and regulations, and, including but not limited to, liabilities, costs, claims, and damages.

   b) Indemnification of Contractor
      The SBWMA shall defend Contractor with counsel reasonably acceptable to Contractor and hold harmless and indemnify Contractor from and against any and all liabilities, costs, claims and damages which are caused by the SBWMA's negligence, intentional wrongful acts, or failure to comply with applicable laws and regulations, including but not limited to, liabilities, costs, claims, and damages. The SBWMA shall not offer such indemnification to Contractor for Transfer Company's negligence or failure to comply with applicable laws and regulations.

2. Contractor Compliance
   Contractor will comply with all requirements of policies and the insurers. Carrying insurance will not relieve Contractor from any obligations under this Agreement. Nothing in this Agreement may be construed as limiting in any way the extent to which the Contractor may be held responsible for payments of damages to Persons or property resulting from Contractor's or any Subcontractors' performance of Services; provided, however, that if Contractor's insurers pay any claims for damages, Contractor's indemnity obligations hereunder shall be reduced to the extent of such payment.

3. Insurance
   Contractor shall not commence work under this Agreement unless all insurance required under this Paragraph are in effect. Contractor shall furnish SBWMA with certificates of insurance evidencing the required coverage. The SBWMA and its employees, directors, officers, agents, and member entities will be named as additional insured in the policy. These certificates shall specify or be endorsed to provide that thirty (30) days notice must be given, in writing, to the SBWMA office of any pending change in the limits of liability or of any cancellation or modification of the policy.

   a) Worker's Compensation and Employer's Liability Insurance
      Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the California Labor Code:

      *I am aware of the provisions of Section 37900 of the California Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.*
b) **Liability Insurance**
Contractor shall take out and maintain during the life of this Agreement such bodily injury and property damage liability insurance as shall protect Contractor and SBWMA, its employees, directors, officers, agents, and member entities while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims due to Contractor's negligence or willful misconduct for property damage which may arise from Contractor's work under this Agreement, whether such work be by Contractor or by any subcontractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be one million and no/100 dollars ($1,000,000.00) combined single limit bodily injury and property damage for each occurrence.

**VII. DEFAULT AND TERMINATION**

1. **Default and Remedies**
All provisions of this Agreement to be performed by Contractor are considered material. Each of the following shall constitute an event of default, and a breach of this Agreement:

   a) Fraud or deceit.
   b) Failure to maintain insurance coverage described herein.
   c) Contractor violation of orders or filings of a regulatory body having a material impact on Contractor's ability to perform its obligations as required by this Agreement.
   d) Failure to perform services as required by this Agreement for two (2) consecutive days or more or for any seven (7) days in a period of 30 days.
   e) Failure to divert Organic Materials. Contractor fails to divert Organic Materials from use at a landfill. Organic Materials shall not be used as Alternative Daily cover (ADC) or for other uses at a landfill. Organic Materials shall be made into compost product, into a mulch product for land application (other than at a landfill), or for conversion technologies.
   f) Failure of Contractor to provide reports and/or records as provided for in this Agreement.
   g) Any act or omission by Contractor which violates the terms of this Agreement.
   h) Any false or misleading representation of Contractor.
   i) Filing of a voluntary petition for debt relief.
   j) Bankruptcy of Contractor.
   k) Contractor's failure to provide assurance of performance.

Contractor shall be given 30 days from notification by the SBWMA to cure any default arising under this Agreement.

This right of termination is in addition to any other rights of the SBWMA and the SBWMA's termination of this Agreement shall not constitute an election of remedies. Instead, it shall be in addition to any and all other legal and equitable rights and remedies the SBWMA may have.

2. **Termination for Cause**
If the Contractor is found in material breach of this Agreement, the SBWMA may terminate the Agreement for cause. In such case, the SBWMA shall notify Contractor in writing of its intent to do so sixty (60) days prior to the intended date of termination. Contractor shall be given thirty (30) days to correct the breach and, if it does, then the termination shall be suspended. A second breach within a twelve-month period may reactivate the termination of the Agreement and such termination shall occur within sixty (60) days of the second breach, without any right by Contractor to correct the breach.
3. Segregated Commercial Food Waste Termination
The SBWMA reserves the right to terminate processing services of Food Waste only with written notice to the Contractor of not less than six-months. The SBWMA may annually divert up to fifty percent (50%) of the food waste material for its application within other processing or conversion technologies. The contents of this subsection shall not relieve the SBWMA of their obligations to deliver material in the amounts described in Section IV 1 of this Agreement.

VIII. CONTRACTOR’S REPRESENTATIONS AND WARRANTIES

1. Legal Status
Contractor is a corporation or LLC organized and operating under the laws of the State of California.

2. Authorization
Contractor represents and warrants that it has the authority to enter into and perform its obligations under this Agreement. The Contractor has taken all actions required by law to authorize the execution of this Agreement. The person signing this Agreement on behalf of Contractor has authority to do so.

3. Agreement Will Not Cause Breach
To the best of Contractor's knowledge, after reasonable investigation, neither the execution or delivery of this Agreement, nor the performance of this Agreement: (i) conflicts with, violates, or results in a breach of any applicable law; or (ii) conflicts with, violates, or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency, or other governmental authority, or any agreement or instrument to which Contractor or SBWMA is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default thereunder.

4. No Litigation
To the best of Contractor's knowledge, after reasonable investigation, there is no action, suit, proceeding, or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency, or instrumentality decided, pending, or threatened against Contractor wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by Contractor of its obligations hereunder or which, in any way, would adversely affect the validity or enforceability of this Agreement or which would have a material adverse effect on the financial condition of Contractor or any surety guaranteeing Contractor's performance under this Agreement, which has not been waived by the SBWMA in writing.

5. Ability to Perform
Contractor possesses the business, professional and technical expertise to manage, handle, treat, store, process, and recycle Construction and Demolition Debris, and possesses the equipment, plant, and employee resources required to perform this Agreement.

IX. SBWMA'S REPRESENTATIONS AND WARRANTIES

1. Legal Status
SBWMA is a Joint Powers Authority organized under California law.

2. Authorization
SBWMA and the undersigned signatory on behalf of the SBWMA represent and warrant that: It has the authority to enter into and perform its obligations under this Agreement. The SBWMA has taken all actions required by law to authorize the
execution of this Agreement. The person signing this Agreement on behalf of the SBWMA has authority to do so.

3. Agreement Will Not Cause Breach
To the best of the SBWMA's knowledge, after reasonable investigation, neither the execution or delivery of this Agreement, nor the performance of this Agreement: (i) conflicts with, violates, or results in a breach of any applicable law; or (ii) conflicts with, violates, or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency, or other governmental authority, or any agreement or instrument to which SBWMA is a party or by which SBWMA or any of its properties or assets are bound, or constitutes a default thereunder.

4. No Litigation
To the best of the SBWMA's knowledge, after reasonable investigation, there is no action, suit, proceeding, or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency, or instrumentality decided, pending, or threatened against the SBWMA wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by the SBWMA of its obligations hereunder or which, in any way, would adversely affect the validity or enforceability of this Agreement or which would have a material adverse effect on the financial condition of the SBWMA or any surety guaranteeing the SBWMA's performance under this Agreement, which has not been waived by the Contractor in writing.

X. GENERAL PROVISIONS

1. Entire Agreement
This Agreement represents the full and entire Agreement between the SBWMA and Contractor with respect to the matters covered herein.

2. Force Majeure
Neither party shall be in default under this Agreement in the event, and for so long as, it is impossible or extremely impracticable for it to perform its obligations due to any of the following reasons: riots, wars, sabotage, civil disturbances, insurrection, explosion, natural disasters such as floods, earthquakes, landslides, fires, and volcanic eruptions, strikes, lockouts and other labor disturbances or other catastrophic events which are beyond the reasonable control of Contractor. Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Contractor's employees or directed at Contractor is not an excuse from performance; provided, however, that labor unrest or job action directed at a third party over whom Contractor has no control, shall excuse performance.

A party claiming excuse under this Section must (i) have taken reasonable precautions to avoid being affected by the cause, and (ii) notify the other party in writing within 5 days after the occurrence of the event specifying the nature of the event, the expected length of time that the party expects to be prevented from performing, and the steps which the party intends to take to restore its ability to perform.
3. Notice Procedures
All notices, demands, requests, proposals, approvals, consents, and other communications which this Agreement requires, authorizes, or contemplates shall be in writing and shall either be personally delivered to a representative of the Parties at the address below, e-mailed to the e-mail address below, or faxed to the fax number below, or sent via certified mail or Federal Express, or deposited in the United States mail, first class postage prepaid, addressed as follows:

SBWMA: South Bayside Waste Management Authority
Joe LaMariana, Executive Director
610 Elm Street, Suite 202
San Carlos, CA 94070
Phone: (650) 802-3500
jlamariana@rethinkwaste.org

Contractor: Newby Island Compost Facility
Evan Boyd, General Manager
1601 Dixon Landing Road
Milpitas, CA 95035
Phone: (408) 586-2281

eboyd@republicservices.com
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, e-mailed, or faxed, or, if mailed, three calendar days from the date it is deposited in the mail.

4. Independent Contractor
Contractor is an independent contractor and not an officer, agent, servant or employee of the SBWMA. Contractor is solely responsible for the acts and omissions of its officers, agents, employees, Contractor’s and sub-contractor, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the SBWMA and Contractor. Neither Contractor nor its officers, employees, agents or subcontractor shall obtain any rights to retirement or other benefits which accrue to SBWMA employees.

5. Severability
If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Agreement or any part thereof is, for any reason, held to be illegal, such decision shall not affect the validity of the remaining portions of this Agreement or any part thereof.

6. Waiver or Modification
No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of both parties to this Agreement.

7. Forum Selection
Contractor and the SBWMA stipulate and agree that any litigation relating to the enforcement or interpretation of this Agreement, arising out of Contractor’s performance, or relating in any way to the work, shall be brought in California State Courts in San Mateo County.
8. **Court Costs and Attorney Fees**
   In the event of legal action is instituted by either party to enforce this Agreement, the prevailing party shall be entitled to reasonable attorney fees and actual costs in connection with such action.

9. **Counterparts and Facsimile Signatures**
   This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall be deemed a single document. For purposes of this Agreement, each of the signatories hereto agrees that a facsimile copy of the signature page of the person executing this Agreement shall be effective as an original signature and legally binding and effective as an execution counterpart thereof.

**IN WITNESS WHEREOF,** the Parties hereto have caused this Agreement to be executed on the date first written by their respective officers duly authorized in that behalf.

**SBWMA:**

DATED: **9/28/17**, 2017

BY: Joe LaMarina,
   SBWMA EXECUTIVE DIRECTOR

APPROVED AS TO FORM:

DATED **10/3/17**, 2017

Jean Savaree
SBWMA ATTORNEY

**CONTRACTOR:**

DATED: _________________, 2017

BY: Mike Caprio
   Area President
   Browning-Ferris Industries of California, Inc
EXHIBIT A
DEFINITIONS

Actions means all actions including claims, demands, causes of action, suits, mediation, arbitration, hearings, investigations, inquiries and proceedings, whether legal, judicial, quasi-judicial, governmental or administrative in nature and whether threatened, brought, instituted or settled.

Agency/Agencies means any one of the public entities which are signatories to the Joint Exercise of Powers Agreement of the South Bayside Waste Management Authority (SBWMA).

Agreement means this Agreement between the SBWMA and Contractor, including all exhibits, schedules and attachments, which are incorporated in this Agreement by reference, as this Agreement may be amended and supplemented.

Applicable Law means all law, statutes, rules, regulations, guidelines, Permits, actions, determinations, orders, approvals or requirements of the United States, State, regional or local government authorities, agencies, boards, commissions, courts or other bodies having applicable jurisdiction, that from time to time apply to or govern Services or the performance of the Parties' respective obligations under this Agreement.

Assign means:
(i) selling, exchanging or otherwise transferring effective control of management of the Contractor (through sale, exchange or other transfer of outstanding stock or otherwise);
(ii) issuing new stock or selling, exchanging or otherwise transferring 20% or more of the then outstanding common stock of the Contractor;
(iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of Ownership or control of Contractor;
(iv) any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment of an execution, being levied against Contractor, appointment of a receiver taking possession of any of Contractor's tangible or intangible property;
(v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any that transfer or change of Ownership or control of Contractor.

Calendar Year means a successive period of 12 months commencing on January 1 and ending on December 31.

Commencement Date means the later date of execution by the SBWMA or Contractor on the execution page of this Agreement.

Composting Facility means the facility that will process, compost, and market the Organic Materials from SEC.

Compost or Compost Products means the resultant product of the Compost Process (composting, curing and screening process conducted by the Composting Facility). The compost shall be dark in texture, have an earthy aroma, be neutral pH, and have the chemical profile of sufficient quality to pass the U.S. Composting Council Seal of testing Assurance - Landscape Architectural Specification for Compost Use, Specification found in Exhibit F.

Compost Overs means the larger woody fraction with a material sizing of plus 3/8 inch that is screened from the Compost Product after the Compost Process has been fully completed.
Compost Process means the compost process operated as described in the facility’s Report of Compost Site Information that is submitted to the CiWMB. The process shall be managed to provide aeration, moisture and sufficient time and temperature the composted materials so that the compost product has the profile of a "mature compost" product as defined by the US Composting Council.

Contamination or Contaminant means any man made non-organic fraction that is delivered to the compost facility with organic materials and must be removed to make the product acceptable to the market.

Contractor means Browning-Ferris Industries of California, Inc., a corporation organized and operating under the laws of the State of California. For purposes of Indemnities, Contractor will include Contractor’s employees, officers, agents, subcontractors and consultants performing or responsible for performing Services; provided that only signatory Contractor, a corporation, is obligated to provide Indemnities and its employees, officers, agents, subcontractors and consultants will not be liable therefore as individuals.

Contractor Default has the meaning provided in Article VII.

Direct Cost means cost that may be billed by the Contractor to the SBWMA for materials testing, sorting, or cleaning with prior approval by the SBWMA. Direct Cost of labor and equipment use does not include profit, overhead or administrative expense.

Diversion (Divert) means to divert from Disposal or use anywhere at or on a landfill through source reduction, reuse, recycling, composting.

Food Waste includes fruits, vegetables, grain products, dairy products, meat, seafood, napkins, soiled paper or waxed cardboard, and wood crates.

Goods or Services means all goods or services used in providing Services, including labor, leases, subleases, equipment, supplies and capital related to furnishing Services; insurance, bonds or other credit support if the insurer is an affiliate or a captive of Contractor or any affiliate; and legal, risk management, general and administrative services.

Government Fees are fees or taxes imposed uniformly upon Composting Facility without regard to the specific site characteristics or operational history of those facilities. "Government Fees" are not amounts imposed upon the Composting Facility in connection with the repair, remediation, improvement, addition, or expansion of the Composting Facility.

Holidays are defined as New Year’s Day, Labor Day, 4th of July, Thanksgiving Day, and Christmas Day.

Household Hazardous Waste means any Hazardous Waste generated incidental to owning or maintaining a place of residence, excluding any Hazardous Waste generated in the course of operation of a business concern at a residence, in accordance with Section 25218.1 of the California Health and Safety Code.

Liabilities mean all liabilities, including:

(i) Actions;
(ii) Awards, judgments and damages, both: (a) actual damages, whether special and consequential, in contract or in tort, such as natural resource damages, damage for injury to or death of any Person; and damage to property; and (b) punitive damages;
(iii) Contribution or indemnity claimed by Persons other than the Parties;
(iv) Injuries, losses, debts, liens, liabilities;
(v) Costs, such as response remediation and removal costs;
(vi) Interest,
(vii) Fines, charges, penalties, forfeitures and
(viii) Expenses such as attorney’s and expert witness fees, expenditures for investigation
and remediation, and costs incurred in connection with defending against any of the
foregoing or in enforcing indemnities.

**Maximum Vehicle Turnaround Time** means a monthly average of 30 minutes, measured from
the time a vehicle enters either the Composting Facility property and until it exits the Composting
Facility property, including but not limited to gross and net weights, tipping and transportation
throughout the facility.

**Member (Member Agency) means** any one of the public entities of the Joint Exercise of
Powers Agreement South Bayside Waste Management Authority.

**Monthly Report** is described in Article IV, Section 10 and **Exhibit D**, Monthly Reporting.

**Notice** means a notice given in accordance with Article IX, Section 3.

**Organic Materials** means residential and commercial Plant Materials, Food Waste or a mix
these two items.

**Ownership** has the meaning provided under the constructive ownership provisions of Section
318(a) of the Internal Revenue Code of 1986 except that (1) 10 percent is substituted for 50
percent in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; (2) Section 318(a)(5)(C) is
disregarded; (3) ownership interest of less than 10 percent is disregarded; and (4) percentage
interests is determined on the basis of the percentage of voting interest or value which the
ownership interest represents, whichever is greater.

**Party** or **Parties** refers to the SBWMA and Contractor, individually or together.

**Permits** means all federal, State, SBWMA, other local and any other governmental unit permits,
orders, licenses, approvals, authorizations, consents and entitlements that are required under
Applicable Law to be obtained or maintained by any Person with respect to Services, as
renewed or amended from time to time.

**Person(s)** includes an individual, firm, association, organization, partnership, corporation, trust,
joint venture, the United States, the State, local governments and municipalities and special
purpose districts and other entities.

**Plant Materials** means a subset of organic Recyclable Materials consisting of grass cuttings,
weeds, leaves, pruning, branches, dead plants, brush tree trimmings, dead trees (on average
not more than twelve (12) inches in diameter) and four (4) feet in length, and similar materials
generated at Premises within Agency, separated and set out for Collection, processing, and
Recycling. Plant Materials does not include materials not normally produced from farms,
gardens or landscapes, such as, but not limited to, brick, rock, gravel, large quantities of dirt,
cement, sod, non-organic wastes, oil, and painted or treated wood or wood products.

**Processing Rate** means the amount established under Article V, Contractor Compensation and
Exhibit C, Organic Materials Rates, of this Agreement to be charged to the Transfer Company by
Contractor for Processing of Organic Materials.

**Regulatory Agency** means any federal, State or local governmental agency, including
California Department of Transportation, Cal Recycle, California Department of Motor Vehicles,
EDD, U.S. Immigration and Naturalization Services, California Air Resources Board, regional
water quality management districts, California Department of Toxic Substances, CIWMB, the
Local Enforcement Agency, federal and State Environmental Protection Agencies and other federal or State health and safety department, applicable to Services.

Residual means non-compostable or in organic contamination that in not part of the materials that are acceptable in the residential or commercial Organic collection program.

Records means all ledgers, book of account, invoices, vouchers, canceled checks, logs, correspondence and other records or documents evidencing or relating to Processing Rates, tonnage of Organic Materials, satisfaction of Contractor's obligations under this Agreement and performance of the terms of this Agreement, damages payable under this Agreement and Contractor Defaults.

Services mean all obligations of Contractor under and in accordance with this Agreement to SBWMA and Transfer Company.

Solid Waste means and includes all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as defined in California Public Resources Code §40191 as that section may be amended from time to time. For the purposes of this Agreement, “Solid Waste” does not include abandoned vehicles and parts thereof, Hazardous Waste, or low-level radioactive waste, medical waste, Recyclable Materials, Construction and Demolition Materials or Plant Materials.

South Bayside Waste Management Authority (SBWMA) means the joint powers authority created under Government Code Section 6500 et seq. by an agreement dated October 13, 1999 among the Town of Atherton, the cities of Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, the County of San Mateo and the West Bay Sanitary District.

Shoreway facility means the Shoreway Environmental Center (SEC) located at 225 Shoreway Road and 333 Shoreway Road and any other building and improvement located at these addresses in San Carlos, California (including the administration and vehicle repair and maintenance building) as its Facilities to be utilized under this Agreement.

Subcontractors includes any Person that provides Goods or Services to Contractor, whether pursuant to formal, written agreement or merely in fact; “subcontract” means any arrangement, formal or informal, written or otherwise, between Contractor and a subcontractor for providing Goods or Services.

Term is defined in Article III, Section 1.

Ton (or Tonnage) means a short ton of 2,000 standard pounds where each pound contains 16 ounces.

Transfer (or Transferring or other variations thereof) means transferring of Organic Materials at the SEC, if any, from residential collection vehicles, commercial collection vehicles and self-haulers into Transport vehicles.

Transfer Company means the Person that SBWMA directs pursuant to the Operating Agreement to transport Organic Materials from the Shoreway facility to the Composting Facility.

Transfer Vehicle means a tractor and trailer designed to haul Organic Materials from the Shoreway facility to the Composting Facility.
Transport (or Transportation) means the transportation of Organic Materials from the Shoreway facility to the Composting Facility.

Unacceptable Materials means all materials and wastes that are radioactive, flammable, highly volatile, explosive, toxic, or liquid materials; all wastes and substances defined as hazardous under Title 42 of the United States Code, Section 6903(5), Sections 25117 or 25316 of the California Health and Safety Code, or the regulations promulgated under such statutes, as amended from time to time; all materials defined as medical waste in California Health and Safety Code Section 117690, or the regulations promulgated thereunder, as amended from time to time; industrial wastes; special wastes including but not limited to, cannery sludges, ash, and contaminated soil and any other materials and wastes that the Compost Facility is not authorized to accept for processing under its land use entitlements, approvals and permits (as they now exist or may hereafter be amended) or cannot process through their existing equipment without risk of damage or risk to their employees. These include but are not limited to tree stumps, palm fronds, branches and lumber exceeding four inches in diameter or width, concrete, excess quantities of dirt and soil, metallic objects and any other organic or non-organic materials that may be collected as part of the SBWMA’s organics program and service offerings. The types and amounts of Unacceptable Materials are to be determined in the sole discretion of Contractor.

Violation means any notice, assessment or determination of non-compliance with Applicable law from any Regulatory Agency to Contractor, whether or not a fine or penalty is included, assess, levied or attached, where
EXHIBIT B
CONTRACTOR SERVICES

The Contractor will provide the following services to the SBWMA:

a) Type of Organic Materials Processed
   - Segregated Plant Materials
   - Segregated Wood Waste, Brush, Logs and Branches
   - Segregated Food Waste
   - Organic Materials (commingled Plant Materials and Food Waste)

b) General Services
   1. Contractor will receive Organic Materials delivered by the SBWMA's Transfer Company from the Shoreway facility or directly by collection truck by the SBWMA's contractor for collection services.
   2. Inbound Organic Materials will be weighed in using certified scales located at the Processor’s Composting Facility and tracked by material type accepted;
   3. Organic Materials received shall be processed to generate finished compost.

c) Finished Compost to Member Agencies
   Contractor will provide finished Compost free of charge to Member Agencies of bulk compost (tons) up to a maximum of 5% for every ton of materials delivered under this Agreement. Contractor will be responsible for the costs of loading trucks, provided by the Shoreway facility, with finished compost product. Contractor shall not be responsible for costs associated with transporting the compost to locations identified by Member Agencies or the SBWMA. Compost quality will meet the U.S. Compost Council Seal of Testing Assurance in Exhibit F.
EXHIBIT C
RATES

a) Rates
Contractor will be compensated per ton for Organic Materials delivered based on the material type outline in Table 1.

<table>
<thead>
<tr>
<th>Material Type</th>
<th>2018 Price/Ton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Segregated Plant Materials</td>
<td>$65.00</td>
</tr>
<tr>
<td>Segregated Wood Waste, Brush and Branches</td>
<td>$65.00</td>
</tr>
<tr>
<td>Organics Materials (commingled Plant Materials and Food Scraps)</td>
<td>$65.00</td>
</tr>
</tbody>
</table>

b) Contamination Level Rate Adjustments
To protect the Processor from heavily contaminated Organic Materials the following Exhibit E describes the Contamination Measurement Methodology used to determine if loads exceed the maximum contamination level.

Excessive Contamination being reported by Contractor in all or a portion of a load shall be documented with details of specific Contamination and several photos showing the Contamination. Contamination shall be separated and reported to the SBWMA and Transfer Company. Contamination in excess of 5% by weight of Residual or Unacceptable Materials (herein defined as “Contamination Level” as that term shall be used in this Agreement) shall be classified as disposal and loaded by Contractor for backhaul by the Transfer Company to the Shoreway facility at no cost to the Contractor.

c) Annual Rate Adjustments
The Rates outlined in Table 1 will be adjusted annual, effective January 1 of each year of the term, following the first year. The rates will be increased by a flat annual fee as shown below in Table 2.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Segregated Plant Materials</td>
<td>$67.28</td>
<td>$69.63</td>
<td>$72.07</td>
<td>$74.59</td>
<td>$77.20</td>
<td>$79.90</td>
</tr>
<tr>
<td>Segregated Wood Waste, Brush and Branches</td>
<td>$67.28</td>
<td>$69.63</td>
<td>$72.07</td>
<td>$74.59</td>
<td>$77.20</td>
<td>$79.90</td>
</tr>
<tr>
<td>Organics Materials</td>
<td>$67.28</td>
<td>$69.63</td>
<td>$72.07</td>
<td>$74.59</td>
<td>$77.20</td>
<td>$79.90</td>
</tr>
</tbody>
</table>
EXHIBIT D
MONTHLY REPORTING

Contractor will provide the SBWMA a monthly report to the SBWMA that summarizes monthly the inbound/outbound materials, the materials mass-balance by supplier, and material market outlets as well as the detail scale reports and other documentation that supports the data in the summary report information. A sample report is provided below titled Report A. The SBWMA shall approve the report structure.

REPORT A

<table>
<thead>
<tr>
<th>Food/Plant Material for Compost</th>
<th>Jan-17</th>
<th>Feb-17</th>
<th>Mar-17</th>
</tr>
</thead>
<tbody>
<tr>
<td>SBWMA</td>
<td>3,896</td>
<td>3,819</td>
<td>4,280</td>
</tr>
<tr>
<td>Fremont</td>
<td>2,677</td>
<td>2,397</td>
<td>3,467</td>
</tr>
<tr>
<td>ACI</td>
<td>1,616</td>
<td>1,384</td>
<td>2,080</td>
</tr>
<tr>
<td>Los Altos</td>
<td>1,264</td>
<td>972</td>
<td>1,136</td>
</tr>
<tr>
<td>Union City</td>
<td>769</td>
<td>761</td>
<td>1,150</td>
</tr>
<tr>
<td>Milpitas</td>
<td>385</td>
<td>406</td>
<td>609</td>
</tr>
<tr>
<td>Newark</td>
<td>416</td>
<td>449</td>
<td>680</td>
</tr>
<tr>
<td>Santa Clara Hauling</td>
<td>83</td>
<td>90</td>
<td>131</td>
</tr>
<tr>
<td>PSS</td>
<td>209</td>
<td>239</td>
<td>274</td>
</tr>
<tr>
<td>Conta Costa Transfer Station</td>
<td>1,317</td>
<td>1,801</td>
<td>2,078</td>
</tr>
<tr>
<td>City of Santa Clara</td>
<td>792</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Tons to Compost</strong></td>
<td>13,423</td>
<td>10,517</td>
<td>13,806</td>
</tr>
<tr>
<td><strong>Less: Residual</strong></td>
<td>(127)</td>
<td>(111)</td>
<td>(354)</td>
</tr>
<tr>
<td><strong>Adjusted Total Tons (to Compost)</strong></td>
<td>13,296</td>
<td>10,406</td>
<td>13,452</td>
</tr>
</tbody>
</table>

**Approved Applications**

| Biomass Fuel                              | 13,769 | 12,185 | 14,124 |
| On-Site Composting                        |        |        |        |
| Off-Site Composting/Soil Amendment         |        |        |        |
| Off-Site Erosion Control Mulch             |        |        |        |
| Anaerobic Digestion/Cogeneration           |        |        |        |
| **Total Tons**                             | 13,769 | 12,185 | 14,124 |
EXHIBIT E
CONTAMINATION MEASUREMENT METHODOLOGY

a) Excess Contamination in Organic Materials

The Contractor is expected to successfully process Organic Materials delivered from the SEC. If upon visual inspection of an inbound load, the Contractor believes it exceeds the Contamination Level percentage, described in Table 4, Contamination Levels, the Contractor has the right isolate the load and immediately contact a designated representative from both the Transfer Company and the SBWMA prior to conducting any contamination sampling. Representatives of the Transfer Company and the SBWMA will be provided the opportunity to inspect the isolated load within four (4) hours of being notified by the Contractor. If the Collection Contractor or the SBWMA is interested in observing the sampling and testing of the load, the Contractor will schedule time for sampling that is within eight (8) hours of having provided notification.

<table>
<thead>
<tr>
<th>Table 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contamination Level</td>
</tr>
<tr>
<td>5+%</td>
</tr>
</tbody>
</table>

If the measured contamination level for the load, as determined by the methodology does not exceed the Contamination Level in Table 4, then Contractor (1) shall process the load as required by the Agreement, and (2) shall be responsible for the cost of the contamination measurement procedure.

If a load delivered to the Composting Facility exceeds the 5+% Contamination Level it is to be delivered to the Designated Disposal Site by the Contractor. Under this agreement, the Contractor will transfer the material to the Newby Island Landfill at the posted gate disposal rate or load it onto Transfer Company trucks for back haul to the Shoreway facility at their sole discretion.

b) Contamination Level Measurement Methodology

If the Contractor identifies excessive contamination in a load, the following methodology for quantifying the Contamination Level will be followed:

1. **Objective**—describes the purpose of the methodology.
2. **Sampling rationale**—defines which loads will be sampled.
3. **Sampling allocation**—describes the number of samples required to provide a sufficient level of accuracy in findings.
4. **Test procedures**—describes sampling and sorting activities for each load.
5. **Sorting categories**—describes the sorting categories.
6. **Calculations**

Appendices 1 through 3 consist of:
1. **methodology checklist**
2. sample data collection forms
3. equipment list

**Objectives**
This methodology is designed to estimate the Contamination Level (as a percentage by weight of the entire load) in an individual load from one of the four (4) inbound Material Types.

- Plant Materials
- Wood Waste, Brush, and Branches
- Food Waste
- Organic Materials

SBWMA Organic Materials Processing Agreement
Exhibit E
Browning-Ferris Industries of California, Inc.
The methodology described is intended to produce consistent and statistically reliable estimates of the Contamination Level of individual loads from above material streams. In addition, the methodology is designed to require the minimum necessary organizational time and financial investment.

**Sampling rationale**

Loads may be selected for sampling when observation of the load by SBWMA or Contractor indicates that it may exceed the allowed Contamination Level. A statistical sampling process will be used to determine the Measured Contamination Level in individual loads.

**Sampling allocation**

Approximately five (5) samples, each weighing approximately one hundred and fifty (150) pounds, are required from an individual load in order to calculate the Measured Contamination Level with a sufficient level of accuracy for Plant Material, Segregated Wood Waste, Brush and Branches. Because of the variability typically found in loads of Commercial Organic Materials and Food Waste, approximately fifteen (15) samples of two hundred (200) pounds are required for sampling to achieve the specified level of accuracy.

The recommended numbers of samples are based on the following factors:

1. An analysis of the composition variability among samples that were sorted during waste characterization studies of similar waste streams and programs in other West Coast communities.
2. A agreement on the acceptable level of accuracy.

**Table 7**, Samples per Load and Results, indicates the statistical confidence intervals (error ranges) at the ninety percent (90%) confidence level that are expected to result from characterizing five (5) samples per load in the case of Plant Material and Wood Waste, Brush, Logs and Branches; or fifteen (15) samples per load in the case of Organic Materials and Food Waste.

<table>
<thead>
<tr>
<th>Material stream</th>
<th>Estimated sample weight</th>
<th>Number of samples</th>
<th>Expected statistical error range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organic Materials</td>
<td>200 lbs.</td>
<td>15</td>
<td>7%</td>
</tr>
<tr>
<td>Plant Material and Wood Waste, Brush and Branches</td>
<td>150 lbs.</td>
<td>5</td>
<td>1%</td>
</tr>
</tbody>
</table>

The error ranges shown above shall be interpreted as follows. When the calculation method described below provides the Measured Contamination Level of a load, the estimate will be expressed in terms of percent by weight of the entire load. The error range around the estimate reflects a percent by weight of the entire load. Thus, if the Measured Contamination Level for a given material stream is five percent (5%), plus or minus one percent (1%), then ninety percent (90%) confidence that the Contamination is between four percent (4%) and six percent (6%) of the entire load is achieved.

It is expected that a two (2) person crew can obtain, sort, and weigh five (5) samples in a five (5) to seven (7) hours period.

**Test procedures**

Test procedures are broken down into the following steps, which shall be used by SBWMA, or a third party designated by the SBWMA.

- Safety training and staff coordination
- Sampling and sorting area designation
- Sample selection
- Sample sorting
- Sample disposal
- Data management

*SBWMA Organic Materials Processing Agreement*

Exhibit E
Browning-Ferris Industries of California, Inc.
These steps are described in more detail following the definitions of roles. Each step is the responsibility of a specific person or group of people as follows:

- **sampling crew manager**—responsible for selecting samples, working with Operator and the sampling crew, quality control, and compliance with Facility regulations.
- **sampling crew**—responsible for sorting samples.
- **facility manager**—responsible for coordinating with the sampling crew manager.
- **tipping floor staff**—responsible for identifying loads potentially contaminated beyond the acceptable threshold, creating a designated sampling and sorting area, and ensuring segregation of selected loads in that area.
- **loader operator(s)**—responsible for segregating the selected load from other loads in the designated sampling and sorting area.

**Safety training and staff coordination**

When the sampling crew manager and the sampling crew arrive at the Composting Facility they will participate in any required safety training and put on all required personal protective equipment (see the equipment list shown in Appendix 3). The sampling crew manager will also walk through the process of extracting samples from the designated load with both the loader operator(s) and the tipping floor staff.

**Sampling and sorting area designation**

With the input of the tipping floor staff and the loader operator(s), the sampling crew manager and sampling crew will set up in the designated sampling and sorting area near the tipping floor. The sorting area should be in a location near the load to be sampled and from which the loader can safely remove samples after sorting.

**Sample selection**

Five (5) cells will be randomly selected for sampling using a random number generator for all material streams except commercial Organic. Fifteen (15) cells will be selected for the commercial Organic material stream. The sampling crew manager will assist the loader operator in locating the appropriate cell for each sample using the sample cell map in Figure 1 below.

After the loader has extracted the material in the selected cell, the sampling crew manager will guide the loader to a designated tarp. Using visual cues the sampling crew manager will ensure the loader operator(s) deposits the proper quantity of material on the tarp. A shovel may be used to add material from the bottom of the cell to ensure the sample includes some heavy and small material that the loader bucket cannot collect.

Pulling the tarp is a basic test used to estimate sample weight. If it is determined that a sample is too heavy it may be lightened by removing vertical slices from the sample. If it is determined that a sample is too light it may be increased by removing or adding more material. It is important to add or remove all material in the slice from the top to bottom, to ensure that both small, heavy, and loose materials and large, light, and bagged materials are added or removed.

Samples can be queued and stored on tarps until sorted but samples must be prevented from mixing with each other and with other material on the tipping floor. The sampling crew manager will place a unique sample placard on each sample for a photograph and, if the sample is not immediately sorted, for later identification. The placard is marked with a unique sample identification number and additional information (such as the date) used to identify loads in photographs and correlate load net weights with sample details. Each placard will be coded according to its corresponding sampling population (e.g., ‘SPM-1’ indicates the first load of Segregated Plant Material). Each load will be photographed individually with the sample placard visible and legible.

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*Samples of Segregated Plant Material and Segregated Wood Waste, Brush, Logs and Branches shall weigh between one hundred and twenty-five (125) pounds and one hundred and seventy five (175) pounds. Samples of Commercial Organic Materials and Segregated Food Waste shall weigh between one hundred and seventy five (175) pounds and two hundred and twenty five (225) pounds.*

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SBWMA Organic Materials Processing Agreement

Exhibit E
Browning-Ferris Industries of California, Inc.
Sample sorting
The sample indemnification number, as designated by the placard, will be recorded on the tally form (see Appendix 2 for an example of this form.) The sample will be moved into the designated sorting area. Next, the sampling crew will sort the Contamination materials, as defined in Appendix 1, out of the load and into sort containers. The sampling crew will then weigh the Contamination materials while the sampling crew manager records the weights on the tally form. The remainder of the load—all acceptable items—will be put into containers, weighed, and recorded on the tally form. The sampling crew manager is responsible for monitoring the homogeneity of material in each container and ensuring the accuracy of the sorting process. At the end of each sampling day the sampling crew will comply with any tipping floor staff directions regarding cleaning the designated sampling and sorting area and storing sampling and sorting supplies.

Sample disposal
After the weight of all material in each sample is recorded on the tally sheet, the sampling crew will move the sorted material to a location where it is safe and convenient for the loader to remove.

Data management
At the end of each sampling day, the sampling crew manager will review all forms for accuracy and completeness. Any issues shall be resolved immediately while the day’s work is still fresh in the mind. To ensure the tally forms are not lost before inputting the data into an electronic form, copies shall be made of all completed forms and copies will be kept in a place separate from the originals. One copy of the forms will be mailed or hand delivered to the person inputting the data into an electronic form.

The appendices cover calculations, data collection forms, and an equipment list for this study.

Sorting categories
All loads identified for sorting shall be sorted and weighed into the following two (2) categories:

1) Contamination
2) Targeted Materials
   o Segregated Plant Material and Segregated Wood Waste, Brush, Logs and Branches
   o Commercial Organic Materials and Segregated Food Waste

Calculations
Estimates of Contamination and Targeted Materials (Plant Material and Wood Waste, Brush, Logs and Branches or Organic Materials and Food Waste) will be calculated using a method that gives equal weighting or “importance” to each sample within a given stream. Confidence intervals (error ranges) will be calculated based on assumptions of normality in the composition estimates.

In the descriptions of calculation methods, the following variables will be used:

SBWMA Organic Materials Processing Agreement
• $i$ denotes an individual sample.
• $j$ denotes the material type.
• $c_j$ is the weight of the material type $j$ in a sample.
• $w$ is the weight of an entire sample.
• $r_j$ is the composition estimate for material $j$ ($r$ stands for ratio).
• $a$ denotes a region of the state ($a$ stands for area).
• $s$ denotes a particular sector or subsector of the waste stream.
• $n$ denotes the number of samples in the particular group that is being analyzed at that step.

**Estimating the Composition**
The following method will be used to estimate the composition of waste belonging to the Plant Material and Wood Waste, Brush, Logs and Branches or Organic Materials and Food Waste.

For a given stream, the composition estimate denoted by $r_j$ represents the ratio of the component’s weight to the total weight of all the samples in the stream. This estimate will be derived by summing each component’s weight across all of the selected samples belonging to a given stream and dividing by the sum of the total weight of waste for all of the samples in that stream, as shown in the following equation:

$$r_j = \frac{\sum_i c_{ij}}{\sum_i w_i} \quad (1)$$

where:
• $c$ = weight of particular component
• $w$ = sum of all component weights
• for $i = 1$ to $n$, where $n$ = number of selected samples
• for $j = 1$ to $m$, where $m$ = number of components

For example, the following simplified scenario involves three samples. For the purposes of this example, only the weights of the component carpet are shown.

<table>
<thead>
<tr>
<th></th>
<th>Sample 1</th>
<th>Sample 2</th>
<th>Sample 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weight (c) of carpet</td>
<td>5</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Total Sample Weight (w)</td>
<td>80</td>
<td>70</td>
<td>90</td>
</tr>
</tbody>
</table>

$$r_{carpet} = \frac{5 + 3 + 4}{80 + 70 + 90} = 0.05$$

To find the composition estimate for the component carpet, the weights for that material are added for all selected samples and divided by the total sample weights of those samples. The resulting composition is 0.05, or 5 percent (5%). In other words, 5 percent (5%) of the sampled material, by weight, is carpet. This finding is then projected onto the stratum being examined in this step of the analysis.

The confidence interval for this estimate will be derived in two (2) steps. First, the variance around the estimate will be calculated, accounting for the fact that the ratio included two (2) random variables (the component and total sample weights). The variance of the ratio estimator equation follows:

**SBWMA Organic Materials Processing Agreement**

Exhibit E
Browning-Ferris Industries of California, Inc.
\[
\text{Var}(r_j) \approx \left(\frac{1}{n}\right) \left(\frac{1}{\bar{w}^2}\right) \left(\frac{\sum (c_y - r_j w_i)^2}{n-1}\right)
\]

(2)

where:

\[
\bar{w} = \frac{\sum w_i}{n}
\]

(3)

(For more information regarding Equation 2, please refer to *Sampling Techniques, 3rd Edition* by William G. Cochran [John Wiley & Sons, Inc., 1977].)

Second, precision levels at the 90 percent (90\%) confidence level will be calculated for a component's mean as follows:

\[
r_j \pm \left(z \sqrt{\text{Var}(r_j)}\right)
\]

(4)

where \(z\) = the value of the z-statistic (1.645) corresponding to a 90 percent (90\%) confidence level.
Sampling Methodology
Appendix 1

Methodology Checklist

a) Roles and responsibilities

- **Sampling crew manager**—responsible for selecting samples, working with Facility staff and the sampling crew, quality control, and compliance with Facility regulations.
- **Sampling crew**—responsible for sorting samples.
- **Facility manager**—responsible for coordinating with the sampling crew manager, SBWMA, and drivers.
- **Tipping floor staff**—responsible for identifying loads potentially contaminated beyond the acceptable threshold, creating a designated sampling and sorting area, and ensuring segregation of selected loads in that area.
- **Loader operator(s)**—responsible for segregating the selected load from other loads in the designated sampling and sorting area.

b) Advanced preparation

- **Project manager:**
  - Contact facility manager
  - Ask facility manager to update the following employees with the sampling plan:
    - Loader operator(s)
    - Tipping floor staff
  - Request safety expectations
  - Schedule safety training
  - Ask if there are any circumstances that may affect the study (i.e., weather, animals, site construction, etc.)
  - Obtain safety gear (Appendix 3)
    - Check safety gear
  - Obtain sorting equipment (Appendix 3)
    - Check sorting equipment
  - Print tally sheets (Appendix 2)
    - Print on "Rite in the Rain" all-weather paper

- **Sampling crew and sampling crew manager**
  - Review material list
  - Review data collection forms
  - Review unique site requirements

c) Arrival at Facility

- **Sampling crew:**
  - Arrive at Facility ahead of schedule
  - Participate in any required safety training
  - Don safety gear

- **Sampling crew manager**
  - Arrive at Facility ahead of schedule
  - Reviews logistics and expectations with MRF manager
  - Participate in any required safety training
  - Don safety gear

d) Tipping floor coordination
Sampling crew manager:
- Designate a designated sampling/sorting area on each tipping floor (2) with input from tipping floor staff and loader operator(s), meeting the following criteria:
  - Loader operator(s) can visually communicate with sampling crew
  - Loader operator(s) can safely remove sorted loads
  - Approximately twenty (20) feet by twenty (20) feet
- Explain and walkthrough the sampling process with both the tipping floor staff and the loader operator(s)
  - Explain that samples must be dumped in a clean area, separate from other loads (called a designated dumping area)
  - Explain that the sampling crew manager is responsible for identifying the portion of the load that the loader operator(s) will sample
  - Explain that the sampling crew manager will be responsible for guiding the loader operator(s) to the appropriate tarpaulin

Sampling crew:
- Set up designated sampling sorting area
  - Sorting table
  - Baskets
  - Digital scale(s)

e) Sample collection

Tipping floor staff:

Sampling crew manager:
- Direct loader operator(s) to pre-selected sampling cell
- Direct loader operator(s) to designated tarpaulin
- Signal loader operator(s) with tipping instructions
- Pull tarp to test for appropriate sample weight
- Place placard in the load
- Photograph load (Placard should be visible and legible)
- Wrap and segregate load until ready to sort

Loader operator(s):
- Pinch/scoop sample, as directed by the sampling crew manager
- Tip sample on designated tarpaulin, as directed by the sampling crew manager

Sampling crew:
- May assist sampling crew manager at any point

f) Sample sorting

Sampling crew:
- Move the sample into the designated sampling/sorting area
- Sort the sample
  - Sort Contamination materials into designated baskets
- Assist the sampling crew manager with weighing the baskets
- Assist the sampling crew manager with weighing the remainder material

Sampling crew manager:
- Record the sample ID onto the tally sheet
- Assist the sampling crew in moving the sample into the designated sampling/sorting area
- Sort the sample
- Sort all Contamination material into designated baskets
- Weigh baskets containing Contamination materials, and record weights on the tally sheet
- Ensure homogeneity of materials
- Weigh remainder material and record weights on the tally sheet
- Ensure all Contamination materials are removed
g) Sample disposal

*Sampling crew manager and sampling crew:*  
 o Dispose of all materials in a designated disposal area

*Loader operator(s):*  
 o Remove disposed materials when it is safe and convenient

h) Data management

*Sampling crew manager:*  
 o Review all forms for accuracy and completeness  
   Tally sheet(s)

*Project manager:*  
 o Check all forms for accuracy and completeness  
   Tally sheet(s)
 o Copy all data forms  
   Store copies separate from the originals
 o Download pictures from camera  
 o Provide copies of data for electronic input  
 o Ensure data entry is checked for accuracy
Sampling Methodology
Appendix 2

Data Collection Forms

Appendix consists of copies of each of the following two (2) data collection forms:
sampling placard tally sheet

Figure 2: Example sampling placard

Date: ____________

Jurisdiction: ____________

SPM – 1
Cell 13
**Figure 3: Example Tally sheet**

South Bayside Waste Management Authority: Contamination Sampling

<table>
<thead>
<tr>
<th>CONTAMINANTS</th>
<th>DATE</th>
<th>SAMPLE ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>Container 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ACCEPTABLE</th>
<th>SAMPLING POPULATION</th>
<th>SAMPLE WEIGHT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Container 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Container 10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LOAD NO.</th>
<th>CELL NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NOTES:

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SBWMA Organic Materials Processing Agreement

Exhibit E
Browning-Ferris Industries of California, Inc.
Sampling Methodology
Appendix 3

Sampling Equipment List

Appendix 3 provides a list of equipment necessary for all sampling and sorting activities. Extra safety equipment should be available to ensure the safety of observers or others at the sorting site.

**Sorting equipment:**
- Approximately twenty (20) identical sorting containers (e.g. laundry baskets or five (5) gallon buckets)
- square point shovels
- rakes
- push brooms
- digital scale, battery powered (weigh up to two hundred (200) pounds, accurate to one-tenth (1/10) of a pound)
- fifteen (15) to twenty (20) ten (10) foot by twelve (12) foot or similar size tarps
- clipboards
- data collection forms printed on Rite in the Rain paper
- permanent markers
- mechanical pencils
- tape measures
- utility knives, scissors
- duct tape
- ten (10) to fifteen (15) Carts
- ten (10) to fifteen (15) plastic receptacles
- four (4) metal eight (8) foot by twelve (12) foot tables
- one (1) metal work desk with drawer
- erasable placards and markers
- digital camera with extra flash card
- moisture probe
- six (6) special pallets with solid tops
- three (3) six cubic yard Bins
- three (3) three cubic yard Bins

**Safety equipment:**
- dust masks (N-95 or better)
- safety glasses
- hearing protection
- steel-toed work boots
- puncture resistant gloves
- glove liners (latex or nitrile)
- leather work gloves
- reflective safety vests (Brite Lime)
- hard hats
- safety/medical kit
- fire extinguisher
- disinfecting soap, paper towels, antiseptic towels
- water
- rubber aprons or Tyvek protective garments
EXHIBIT F
COMPOST QUALITY SPECIFICATION

U.S COMPOST COUNCIL COMPOST SPECIFICATION

Description:
This work shall consist of incorporating compost within the root zone to improve soil quality and plant growth. This specification applies to all types of turf establishment methods including seeding, sprigging, sodding, and hydro seeding.

Materials:
Compost shall be a well decomposed, stable, weed free organic matter source. It shall be derived from: agricultural, food, or industrial residuals; biosolids (treated sewage sludge); yard trimmings; source-separated or mixed solid waste. The product shall contain no substances toxic to plants and shall be reasonably free (< 1% by dry weight) of man-made foreign matter. The compost will possess no objectionable odors and shall not resemble the raw material from which it was derived. The product shall be certified through the U.S. Composting Council’s (USCC) Seal of Testing Assurance (STA) Program.

<table>
<thead>
<tr>
<th>Product Parameters*:</th>
<th>Reported as (units of measure)</th>
<th>General Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parameters</td>
<td></td>
<td></td>
</tr>
<tr>
<td>pH²</td>
<td>pH units</td>
<td>6.0 - 8.5</td>
</tr>
<tr>
<td>Soluble Salt Concentration² (electrical conductivity)</td>
<td>dS/m (mhos/cm)</td>
<td>Maximum 10</td>
</tr>
<tr>
<td>Moisture Content</td>
<td>%, wet weight basis</td>
<td>30 – 60</td>
</tr>
<tr>
<td>Organic Matter Content</td>
<td>%, dry weight basis</td>
<td>30 – 65</td>
</tr>
<tr>
<td>Particle Size</td>
<td>% passing a selected mesh size, dry weight basis</td>
<td>98% pass through 3/4” screen or smaller</td>
</tr>
<tr>
<td>Stability³</td>
<td>mg CO₂-C per g OM per day</td>
<td>&lt; 8</td>
</tr>
<tr>
<td>Carbon Dioxide</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evolution Rate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maturity⁴ (Bioassay)</td>
<td>%, relative to positive control</td>
<td>Minimum 80%</td>
</tr>
<tr>
<td>Seed Emergence and</td>
<td>%, relative to positive control</td>
<td>Minimum 80%</td>
</tr>
<tr>
<td>Seedling Vigor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical Contaminants (inerts)</td>
<td>%, dry weight basis</td>
<td>&lt; 1</td>
</tr>
<tr>
<td>Chemical Contaminants</td>
<td>mg/kg (ppm)</td>
<td>Meet or exceed US EPA Class A standard, 40 CFR § 503.13, Tables 1 and 3 levels</td>
</tr>
<tr>
<td>Biological Contaminants</td>
<td>MPN per gram per dry weight, MPN per 4 grams per dry weight</td>
<td>Meet or exceed US EPA Class A standard, 40 CFR § 503.32(a) levels</td>
</tr>
<tr>
<td>Select Pathogens</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fecal Coliform Bacteria, or Salmonella</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>