AMENDED AND RESTATED
REFUSE COLLECTION AGREEMENT
BETWEEN THE
CITY OF CORNING AND USA WASTE OF CALIFORNIA, INC.,
DBA CORNING DISPOSAL

THIS AMENDED AND RESTATED AGREEMENT is entered into as of the
latest date executed as set forth on the signature page hereto, by and between
THE CITY OF CORNING, a Municipal corporation ("CITY") and USA WASTE OF
CALIFORNIA, INC. dba Corning Disposal (successor to Corning Disposal, Inc.)
("CONTRACTOR"). CITY and CONTRACTOR may be referred to herein
collectively as the "Parties" or individually as a "Party."

WITNESSETH

WHEREAS the CITY and CONTRACTOR are parties to that certain Refuse
Collection Agreement executed March 30, 1998 (the "Original Agreement"), and the
parties desire to supersede, amend and restate the Original Agreement on the terms
and conditions provided herein,

WHEREAS the CITY desires to provide for mandatory garbage collection
services and to implement curbside recycling and green waste collection services in
accordance with the authority granted to the CITY by Public Resources Code
Section 49300 and Chapter 8.06 of the Corning Municipal Code, and

WHEREAS the CONTRACTOR possesses the equipment, skill and
expertise to provide the necessary services.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants contained
herein, the parties mutually agree to the following terms and conditions.

1. Definitions.

"AB 939" means the California Integrated Waste Management Act of 1989,
(Public Resources Code, Section 40,000 et seq. AB 939 mandates that, by the year
2000, California cities and counties must divert fifty percent (50%) of their solid
waste stream from landfill disposal through source reduction, recycling, and
composting activities. The State Integrated Waste Management Board may, with
justification, grant exemptions or extensions to this mandate.

"Bulky Goods" means discarded large and small household appliances and
discarded furniture, not to exceed in aggregate 4 cubic yards per load and limited to
three large appliances (such as refrigerators, washers, dryers, dishwashers, water
heaters) per year for each customer.

"Force Majeure" means acts of God including landslides, lightning, forest
fires, storms, floods, freezing and earthquakes, civil disturbances, strikes, lockouts
or other industrial disturbances, acts of the public enemy, wars, blockades, public
riots, breakage, explosions, accident to machinery, pipelines or materials, governmental restraint or other causes, whether of the kind enumerated or otherwise, which are not reasonably within the control of CONTRACTOR.

"Green Waste" means grass clippings, leaves, hedge trimmings, small branches and similar vegetative waste generated from residential property or landscaping activities, but does not include stumps or similar bulky wood materials.

"Hazardous Waste" means (i) all waste defined or characterized as hazardous by the federal Solid Waste Disposal Act (42 U.S.C. §§ 3251 et seq.), as amended, including the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.) and all future amendments thereto, or regulations promulgated thereunder and (ii) all waste defined or characterized as hazardous by the principal agencies of the State of California having jurisdiction (including without limitation the Department of Health Services, the Regional Water Quality Control Board and the Integrated Waste Management Board.

"Recyclable" or "Recyclable Material" means a material or group of materials that can be processed into a form suitable for reuse through reprocessing or remanufacture consistent with the requirements of AB 939.

"Refuse" means any and all putrescible and non-putrescible solid and semi-solid waste, including garbage, refuse or rubbish resulting from industrial, commercial, residential or community activities, any other waste that is "solid waste" as defined in 23 California Code of Regulations ("CCR"), Section 2523 and 14 CCR, Section 17225.69. The term "Refuse" as used herein does not include: Hazardous Waste; designated waste or contaminants which may be injurious to personnel engaged in solid waste handling, including but not limited to infectious waste, acids, explosives, radioactive material and septic tank pumping; dead animals; large mechanical devices; nor any materials that are, or in the future become, prohibited from receipt, handling or disposal by state, federal or local law, regulation, rule, code, ordinance, order, permit or permit condition. If the Parties agree, the term Refuse may include waste or other materials which may require special handling at a disposal facility, including but not be limited to, clean soil, non-hazardous contaminated soil, construction, demolition and land-clearing debris, and non-friable asbestos provided that CONTRACTOR, either itself or through a subcontractor, has the capability of handling such special waste or materials.

"Senior Citizen" shall mean an individual aged sixty-two (62) years or older; provided, however, that all individuals aged sixty (60) or older as of the date of this Agreement who received discounted senior citizen rates under the Original Agreement, shall continue to be Senior Citizens for purposes of this Agreement.

2. **Exclusive Right.** The CITY does hereby grant to CONTRACTOR and CONTRACTOR shall have the exclusive duty, right and privilege to collect and dispose or otherwise handle all Refuse, Recyclable Materials, Bulky Goods and Green Waste generated, deposited or otherwise coming to exist in the incorporated area of the CITY. All commercial and residential premises within the incorporated area of the CITY shall be required by CITY to utilize the collection services of
CONTRACTOR provided hereunder. In return for the exclusive rights set forth herein and other consideration provided for herein, CONTRACTOR shall provide services in accordance with the terms of this Agreement. Nothing in this Agreement shall prevent any owner, occupant or tenant of premises from handling, hauling, or transporting Solid Waste or Recyclables generated by or from his/her own residence or business operations for purposes of disposing of the same at an authorized disposal area or transfer station in accordance with Corning Municipal Code Section 8.06.130; provided, however, that such handling, hauling, or transporting shall be performed: (i) personally by the resident, (ii) as an incidental part of a gardening, landscaping, tree trimming, cleaning, maintenance, construction or similar service offered by a company performing such service rather than as a waste hauling service, or (iii) as otherwise expressly permitted by Code Section 8.06.130 as in effect on the date hereof or as such exception in the Code may be narrowed by amendment hereafter.

3. **Franchise Fee.** To reimburse the CITY for its cost of monitoring CONTRACTOR compliance and administering the solid waste collection system, CONTRACTOR shall pay to the CITY Three Thousand Dollars and No/100 ($3,000.00) per month during the initial ten-year term of this Agreement. Such fee shall be paid by CONTRACTOR to the CITY on or before the tenth (10th) day of each month during the term of this Agreement. The CITY shall have the right to renegotiate such fee prior to approving any extension option under this Agreement.

4. **Contractor Services.**

4.1. **Refuse Collection; Old Transfer Station.**

4.1.1 CONTRACTOR shall furnish all labor, materials and equipment required to collect and dispose of all Refuse and shall collect all Refuse within the present or future incorporated limits of the CITY and dispose of the same. CONTRACTOR shall dispose of all Refuse only at a place or sites where such disposal is lawful and the CITY shall not be liable for the disposal of same or to provide sites or places for the disposal of same. CONTRACTOR shall dispose of all Refuse and Green Waste collected from within the City of Corning only at the Tehama County Landfill, unless another location is approved by the CITY Council. If the tipping fees or the fees charged CONTRACTOR at such landfill increase, CONTRACTOR may request a rate adjustment in accordance with the procedures set forth in paragraph 8.5 of this Agreement.

4.1.2 CONTRACTOR may use the CITY's old transfer station site for disposal of Green Waste, including for Green Waste collected within the City by large commercial generators of Green Waste. CONTRACTOR may take appropriate measures to restrict or eliminate public access to the site, and CITY will cooperate with CONTRACTOR in implementing and enforcing such measures. CONTRACTOR may discontinue use of the site if it determines that it is impractical to control public access or the site is otherwise undesirable for CONTRACTOR's purposes; provided, however, that the site will remain available for the CITY's Public Works Department. CONTRACTOR shall pay for grinding of Green Waste.
4.2 **Containers.** CONTRACTOR shall make best efforts to provide each residential customer in the CITY with one (1) 96-gallon roller cart or, for each Senior Citizen customer only and in lieu of a 96-gallon roller cart, one (1) 32-gallon roller cart, in which to discard Refuse and, commencing April 1, 2008, one (1) 64-gallon container (containing a sticker or molded-in instructions for acceptable Recyclable Materials) for each customer for placement of Recyclable Materials. CONTRACTOR shall provide up to one (1) additional 64-gallon Recyclable Materials container at no additional charge upon the request of any residential customer that produces a high volume of Recyclables.

4.3 **Discontinuing Service Upon Vacancy.** The owner, tenant or occupant of any premises required to subscribe to CONTRACTOR’s refuse collection service under Corning Municipal Code Section 8.06.030 may discontinue service for one or more months when such premises are vacant or the occupant is traveling out of town. The owner, tenant or occupant shall submit written notice of such vacancy to CONTRACTOR. The rates charged under Section 8.1 shall continue to accrue until such time as notice is received by CONTRACTOR. In the event of a dispute arising under this Section, such dispute shall be reviewed as set forth in Section 8.3 of this Agreement.

4.4 **Other Collection and Drop-Off Services.**

4.4.1 CONTRACTOR shall furnish all labor, materials and equipment to collect and shall collect Recyclables from the curbside of residences in the CITY in accordance with the schedule set forth herein.

4.4.2 CONTRACTOR shall maintain a drop-off site for Bulky Goods at CONTRACTOR’s business located at 3281 Highway 99W, Corning CA 96021. Each residential customer may drop-off Bulky Goods at CONTRACTOR’s drop-off site, provided a residential customer’s Bulky Goods load may not exceed 4 cubic yards and no residential household may, in combination with Bulky Goods curbside pickups, dispose of more than 3 large appliances (such as refrigerators, washers, dryers, dishwashers, water heaters) per year. Each residential household will be allowed to make one drop-off trip to the site each month on a day to be designated by CONTRACTOR (provided that no day will be scheduled for drop-offs in months in which CONTRACTOR provides curbside pickup) and will be requested to provide proof of residency such as a water bill, power bill or phone bill or otherwise be confirmed to be a resident by the City of Corning. CONTRACTOR shall conduct four (4) curbside pickup events per year, on days scheduled by Contractor, of Bulky Goods for residential customers living in single family homes or multi-family residences consisting of four units or less, provided such customer notifies
CONTRACTOR's call center at least one week in advance of the pickup. Such customer's Bulky Goods may not exceed 4 cubic yards per pick-up or, in combination with Bulky Goods drop-offs at CONTRACTOR's drop-off site, exceed more than 3 large appliances (such as refrigerators, washers, dryers, dishwashers, water heaters) per year. CONTRACTOR will provide additional on-call Bulky Goods pick-up at a residential customer's house for an additional charge as specified in Exhibit C, subject to adjustment as provided in Section 8.

4.4.3 Recyclable Material placed at the curbside for collection shall be deemed the property of CONTRACTOR.

4.4.4 CONTRACTOR shall furnish all labor, materials and equipment to collect and shall collect Green Waste from the curbside of residences in the CITY in accordance with the schedule set forth herein. Without limiting the generality of the foregoing, CONTRACTOR shall provide each residential customer in the CITY with one (1) 96-gallon roller cart in which to discard Green Waste.

4.5 Collection Schedule. Refuse shall be collected at least once each week from residences. Recyclable Materials and waste oil and oil filters shall be collected every other week from residences. Upon commencement of the service, Green Waste shall be collected every other week (on alternating weeks with Recyclables collection) from residences. All Refuse and Recyclables collections shall be on weekdays (i.e., Monday through Friday, inclusive) and shall be on the same day of the week. All residential collection shall be between the hours of 6:00 a.m. and 5:00 p.m. No residential collection shall be made on Saturday or Sunday, except as may be necessary for holiday collection as provided herein. The schedule for residential collection may be changed by CONTRACTOR upon providing at least ten (10) days' notice to the CITY and seven (7) days' notice to the affected residential customers. Notwithstanding the foregoing, collections may be made at any time in response to complaints or emergency situations. The frequency of commercial and industrial collection will be in accordance with the agreement between the commercial or industrial customer and the CONTRACTOR based on volume needs and in compliance with the Comin Municipal Code. When a normal collection day falls on January 1st, Memorial Day, 4th of July holiday, Labor Day, Thanksgiving Day or December 25, collection shall be provided as follows: (a) on the holiday, (b) one day prior to the holiday, or (c) one day after the holiday, in which case collection may be made one day later than the regularly scheduled day during the reminder of the week. CONTRACTOR shall notify the CITY two weeks in advance of any changes in collection schedules occasioned by holidays.

4.6 Publication of Schedule. CONTRACTOR shall print and distribute to all customers, at least once annually, a schedule of collection and street sweeping days for all service.
4.7 Contractor Services to City.

4.7.1 Street Sweeping. At no additional cost to CITY, CONTRACTOR shall provide to the CITY street sweeping services to the CITY's reasonable satisfaction twice per month in residential areas and once per week in commercial areas. CONTRACTOR reserves the right in its discretion to perform such street sweeping services itself or through a subcontractor. Exhibit A sets forth the required street sweeping schedule for residential and commercial areas. Exhibit B sets forth the required street sweeping service standards and equipment standards.

4.7.2 Bulky Items. At no cost to CITY, CONTRACTOR shall provide to the CITY:

(i) at CONTRACTOR's facility a drop box in which the CITY may discard Bulky Goods and other large items collected by CITY along CITY streets and

(ii) a location for the disposal of Green Waste, which currently is CITY's old transfer station.

4.7.3 CITY Refuse. At no cost to CITY, CONTRACTOR shall pick up and remove from each CITY site all Refuse generated at CITY premises, excluding schools within CITY limits.

4.8 AB 939 Requirements. CONTRACTOR shall guarantee CITY's compliance with the AB 939 diversion requirements. In order to encourage participation in the curbside recycling program provided to residents hereunder, CONTRACTOR shall transmit educational materials to residents summarizing the recycling program, as well as the residents' respective collection dates. CITY and CONTRACTOR recognize that attaining AB 939 goals requires the mutual cooperation of CONTRACTOR, CITY and its citizens. CITY agrees to consider the implementation of such changes to the recycling or solid waste program as may be reasonably requested by CONTRACTOR as necessary to achieve the waste diversion requirements of AB 939.

5. Failure-To-Serve Tag. It is understood that the CONTRACTOR is not required to and is not authorized to collect and transport Hazardous Waste, restricted or other waste that is not acceptable or permitted for disposal at a transfer station or disposal site. CONTRACTOR shall not take title to any Hazardous Waste collected in the course of its performance of its obligations under this Agreement. Regardless of the reason, when any Refuse or other material is not collected by CONTRACTOR, CONTRACTOR shall leave a tag on the Refuse or other material stating the reasons for CONTRACTOR's refusal to collect the same. Adequate records of the tags shall be maintained by CONTRACTOR and shall be available to the CITY for inspection upon reasonable notice during business hours. CONTRACTOR shall immediately notify the County Environmental Health Department and report suspected Hazardous Waste. CONTRACTOR shall notify the
Corning Police Department Animal Control and report dead animals and the location of the container, if any.

6. **Failure to Collect.** Except in the event of Force Majeure, should CONTRACTOR fail to collect and dispose of Refuse as provided herein, and fail to correct the situation within three (3) business days after receiving written notice thereof from the CITY, the CITY may collect and dispose of the same and CONTRACTOR shall be liable for the expenses incurred by the CITY therefor.

7. **Standards for Collection and Operation.**

7.1. **Compliance with Law.** CONTRACTOR shall comply with all laws and regulations applicable to CONTRACTOR’s operations, including laws, ordinance, rules and regulations of the United States, the State of California, the County of Tehama, the City of Corning and the City and County of the location at which Refuse may be transported or disposed of hereunder.

7.2. **Equipment.** CONTRACTOR shall possess or demonstrate to the CITY’s reasonable satisfaction that it has available to it adequate equipment and vehicles, including reserve or replacement vehicles and equipment, sufficient to perform the services required of CONTRACTOR herein. CONTRACTOR shall maintain all trucks and equipment used within the CITY in good mechanical condition and the same shall be clean, numbered and uniformly painted. Each vehicle used by CONTRACTOR shall carry at all times a broom and shovel or other item appropriate for use in the prompt removal of any spilled material. All vehicles used by CONTRACTOR shall have adequate coverage at all times to prevent the spillage of Refuse.

7.3. **Vehicle Storage.** If CONTRACTOR wishes to store and service its vehicles within the CITY, these vehicles shall be stored in accordance with laws and requirements of the CITY and the Fire Department.

7.4. **Collection Operations.** CONTRACTOR shall make all collections of Refuse, Recyclables and Green Waste from the curb along the street in front of each resident’s premises. CONTRACTOR shall return emptied refuse containers to the sidewalk or, where no sidewalk exists, CONTRACTOR shall ensure that the container is so placed at the edge of the roadway as to not interfere with vehicular traffic. CONTRACTOR shall conduct its operation so as to minimize as practicable any obstruction and inconvenience to public traffic or disruption of the peace and quiet of the area within which collection occurs. CONTRACTOR shall replace at its cost CONTRACTOR-owned containers damaged by the negligent acts or willful misconduct of its employees and through ordinary wear and tear of use, but shall not be responsible for free replacement of containers which become damaged or unusable as a result of the negligent acts or willful misconduct of other parties. CONTRACTOR shall have the right to bill the parties whose negligence or misconduct causes damage for the replacement costs of the damaged containers.

7.5. **Business Office.** CONTRACTOR shall maintain a business phone that can be called by customers without paying a toll charge. The phone shall be answered during normal working hours. CONTRACTOR shall also maintain a log of service complaints, including the time of complaint and manner of disposition. A copy of the log shall be available to the CITY upon reasonable advance notice.
8. **Rates and Rate Adjustments.**

8.1. **Rates.** Effective April 1, 2008, CONTRACTOR shall charge and collect from residential and commercial customers the rates set forth on Exhibit C attached hereto.

8.2. **Billing for Services.** In 2004, the CITY assumed responsibility for the billing of residential customers in all single family dwellings and apartment units up to four (4) units on a property. The CITY initiates and terminates residential service as part of the CITY water and sewer utility billing process in accordance with City Code and adopted "Administrative Policy For Utility Billing". The CITY prepares a list of all billed residential properties and shares such list with CONTRACTOR as changes occur. The City pays the CONTRACTOR at the end of each calendar quarter for all residential customers listed on such list, even if such customers are delinquent. The foregoing procedures will continue to be followed. CONTRACTOR shall be responsible for billing all other Refuse collection subscribers. In the event Code Section 25831. Subject to dispute resolution in accordance with Section 8.3, CONTRACTOR shall not cease to provide service for properties that have delinquent accounts.

8.3. **Rate and Service Dispute Resolution.** Because the rates are based upon volume collected and the level of service must be determined through agreement between the CONTRACTOR and the customer, disagreements may from time to time occur between these parties. Therefore, the customer or CONTRACTOR may present a dispute about level of service or payment of rates, including delinquent accounts, to the CITY Director of Public Works for resolution. The circumstances of the dispute shall be presented in letter form, clearly stating the issues disagreed upon and the solution sought. The Director of Public Works shall review the disputed issue and make a determination which shall be final. The authority of the Director of Public Works to administratively resolve disputes in the foregoing manner does not include authority to approve adjustments in the rates themselves which are charged for differing service levels and types of service.

8.4. **Annual CPI Rate Adjustment.** Commencing on April 1, 2009, and on April 1 annually thereafter, the residential and commercial rates set forth on Exhibit C may, subject to CITY Council review and approval, which approval shall not be unreasonably withheld, be adjusted by a percentage equal to one hundred percent (100%) of the increase in the Consumer Price Index ("CPI"), All Urban Consumers, West-C, for the 12-month period ending on the prior September 30. Not later than November 30 of each year, CONTRACTOR shall notify the CITY of its intent to increase the rate and provide the rate computations and a proposed new schedule. The CITY Manager shall promptly schedule the request for a rate adjustment on the next CITY Council agenda at which action could be taken in accordance with all applicable laws and regulations.

8.5. **Fuel Cost Adjustment.** In addition to the CPI and other rate adjustments provided by this Section 8, the rates in Schedule C may be further adjusted for changes in fuel costs associated with performance of the services hereunder in the manner provided below.
8.5.1 Not later than November 30 of each year, CONTRACTOR shall notify the CITY of any intent to seek a fuel cost adjustment. CITY may also by such date each year notify CONTRACTOR of its intent to seek a fuel cost adjustment. CONTRACTOR, on its own initiative or at the request of the CITY, shall then submit to CITY a written proposal for a fuel cost rate adjustment, including a report detailing the calculations in accordance with the formula agreed to below. Within thirty (30) days after CONTRACTOR provides the CITY with such proposal and report, the CITY shall notify the CONTRACTOR in writing as to whether the CITY accepts such information as complete or specifying any respect in which the CITY deems such information incomplete or deficient. CITY shall attempt in good faith to review such information and complete all its deliberations in connection therewith within ninety (90) days from the date of submittal of the proposal and report to the CITY. The effective date for any such increase, if approved, shall be April 1.

8.5.2 The fuel cost adjustment shall be calculated by the following formula:

\[(1 + [(\text{Fuel Cost Change} - \text{CPI Change}) \times \text{Fuel Percentage}]) \times \text{Old Rate} = \text{New Rate}\]

The terms used in the preceding formula shall have the following meanings:

“Fuel Cost Change” means, for No. 2 diesel fuel, the average price for California No. 2 diesel fuel for the twelve (12) month period immediately preceding the submission of a proposal and report by the Contractor divided by such average price for the immediately preceding 12 month period average price for the calendar year preceding the most recent calendar year. The price used to compute the Fuel Cost Change shall be the price reported by the United States Department of Energy, Energy Information Administration. In the event that price is no longer reported, the parties will designate a new methodology for determining the price based on comparable data. For fuels other than No. 2 diesel, the Contractor shall calculate the change in fuel cost using the same time periods and a reasonably comparable fuel price index.

“CPI Change” means the average Consumer Price Index, All Urban Consumers, West-C for the most recently completed calendar year divided by such average price for the calendar year preceding the most recent calendar year.

“Fuel Percentage” means the CONTRACTOR’s total cost for diesel fuel (or such other fuel as is employed by CONTRACTOR) incurred during the most recent calendar year divided by CONTRACTOR’s total operating revenue for such calendar year, in both cases calculated for CONTRACTOR’s operations district that includes the CITY.

“Old Rate” means each of the rates on Exhibit B, as they may have been previously adjusted or amended.
“New Rate” means the new rate calculated pursuant to the preceding formula that will replace the Old Rate.

8.5.3 This rate adjustment for fuel costs shall be in addition to, and not in lieu of, any other rate increase to which CONTRACTOR may be entitled under this Agreement. Under no circumstances may an adjustment for fuel costs reduce a rate below the base rates as specified in Exhibit C, as increased for changes pursuant to this Section 8. Adjustments for fuel costs shall only be made to increase or reduce (but not below zero) prior adjustments for fuel costs. In addition to the preceding limitations on fuel cost adjustments, the percentage increase or decrease in the New Rate from the Old Rate in any single adjustment for fuel costs shall not exceed 2%.

8.6. **Uncontrollable Circumstances Adjustment.** In addition to the above, at any time during the term of this Agreement, CONTRACTOR may request in writing to the CITY Manager a rate increase in an amount sufficient to compensate CONTRACTOR for increases in costs that are beyond the control of CONTRACTOR. Such changes would include, but not be limited to, changes in federal, state or local laws regulating the work performed by CONTRACTOR (including without limitation changes in law regarding air quality, waste handling and hazardous waste issues with respect to street sweeping), changes in the tipping fees, processing fees or handling fees charged to CONTRACTOR for the disposal of Refuse, or recycling or handling of Green Waste and Recyclable Materials and percentage increases in subcontractor charges for street sweeping that exceed the percentage increase from the annual rate adjustment. The CITY Manager shall promptly schedule any request for a rate increase on the next CITY Council agenda at which action can be taken in accordance with all applicable laws and regulations. Any proposed rate increase shall be conditioned upon CITY Council approval, which shall not be unreasonably withheld. Any such rate increase, if approved, would take effect within three (3) months after CONTRACTOR’s written request for such increase.

8.7. **Records.** CONTRACTOR shall make available to CITY for review monthly and annual reports regarding the number of customers. The CITY shall have the right, during normal business hours and upon reasonable advance notice given to CONTRACTOR by the CITY, to inspect the books of CONTRACTOR for purposes of determining the number of customers served by CONTRACTOR or for purposes of verifying increased costs warranting a rate increase as provided in Section 8.5.

9. **Term of Agreement.** The Original Agreement commenced on April 1, 1998. This Amended and Restated Agreement shall commence on April 1, 2008. The initial term shall expire at midnight on March 31, 2018. Prior to the expiration of the initial term, CONTRACTOR shall have the right to request a renewal of this Agreement for an additional five (5) year term commencing on the expiration of the initial term. Thereafter, the CITY may grant additional extensions at five (5) year intervals. The decision whether to grant any extension in the term of this Agreement shall be in the sole discretion of the CITY Council then in office.
10. **Hold Harmless.** The CITY shall not, nor shall any officer, employee or agent of the CITY, be liable or responsible for any accident, loss, or damage caused as a result of CONTRACTOR's negligent performance of services under this Agreement and CONTRACTOR shall defend, indemnify and hold CITY, its officers, employees and agents, free and harmless from any and all liability from any accident, loss or damage arising out of the negligent performance of services by CONTRACTOR pursuant to this Agreement. Notwithstanding the foregoing, CONTRACTOR shall not be responsible for and shall have no obligation to indemnify hereunder for claims or liability resulting from acts or omissions of the CITY or its officers, employees or agents.

11. **Insurance.**

11.1. **Coverage.** CONTRACTOR shall secure and maintain continuously in full force and effect during the term of this Agreement, and any extensions hereof, insurance policies from companies and in forms acceptable to CITY which will protect CONTRACTOR, CITY and CITY's officers and employees from claims from bodily injury, death or property damage which may arise from CONTRACTOR's activities or operations under this Agreement. Said policies shall be for not less than the amounts listed below:

- **Workers' Compensation:** Statutory
- **General Liability:** $2,000,000 per occurrence for bodily injury, personal injury and property damage.
- **Vehicle Liability:** $1,000,000 per accident for bodily injury and property damage.

**Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to and approved by CITY.

**Other Insurance Provisions:** The CITY, its officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of vehicles owned, leased, hired or borrowed by or on behalf of CONTRACTOR, and with respect to work or operations performed by or on behalf of the CONTRACTOR including materials, parts or equipment furnished in connection with any such work or operations.

**Primary Coverage:** For any claims arising out of CONTRACTOR's activities hereunder, the CONTRACTOR's insurance shall be primary and not secondary to any coverage available through CITY.

**Non-Cancellation:** Each insurance policy provided to CITY by CONTRACTOR shall be endorsed to state that coverage shall not be canceled by either party, except after a thirty (30) day prior written notice provided to the CITY.

**Waiver of Subrogation:** CONTRACTOR agrees to waive subrogation which any insurer may require of CONTRACTOR by virtue of payment of any loss. CONTRACTOR agrees to obtain any endorsement which may be needed by CITY to effect this waiver. The Worker's Compensation policy shall also be endorsed with a waiver of subrogation in favor of CITY for all work performed by the CONTRACTOR, its employees, agents and subcontractors.
Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII unless otherwise acceptable to CITY. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

Verification of Coverage: CONTRACTOR shall provide verification of coverage as described herein prior to commencement of the extended term of this agreement.

Subcontractors: CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all requirements set forth above. Proof thereof shall be provided to CITY prior to commencement of any work by subcontractors.

11.2. Additional Insured: Certificate. The liability insurance policies shall name the CITY and its officers and employees, and the authorized agents of any of them, as additional insureds. CONTRACTOR shall provide the CITY with a Certificate of Insurance duly executed by CONTRACTOR's insurance carrier which shall serve as evidence of the continued existence of CONTRACTOR's insurance policies required hereunder and which shall contain a provision that the coverage thereunder will not be canceled or materially changed without thirty (30) days prior written notice given CITY.

11.3. Subcontractor Insurance. Before permitting any subcontractors to perform work under this Agreement, CONTRACTOR shall require subcontractors to furnish satisfactory proof that insurance has been taken out and is maintained meeting all of the foregoing insurance requirements in respect to subcontractor's work.

11.4. Workers' Compensation. In all operations connected with the services herein specified, CONTRACTOR shall observe the provisions of the Workers' Compensation Laws of the State of California and shall use all of the accepted and best safety practices for the public and CONTRACTOR's employees.

12. Performance Bond. CONTRACTOR shall secure a surety bond in the penalty sum of $50,000.00 conditioned upon the faithful performance of this Agreement, which bond in a form and with an company acceptable to CITY shall be delivered to the CITY and kept in full force at all times during the term of this Agreement.


13.1. Default. In the event of any material failure or refusal of CONTRACTOR to comply with any obligation or duty imposed on CONTRACTOR under this Agreement, the CITY and CONTRACTOR shall meet and confer in good faith in an effort to agree on a resolution and cure of the breach. If the Parties are unable to agree on the informal resolution or cure of the breach, the CITY shall have the right to terminate this Agreement if:

13.1.1 the CITY shall have given prior written notice to CONTRACTOR specifying that a particular default or defaults exist which will, unless corrected, constitute a material breach of this Agreement on the part of CONTRACTOR, and that CONTRACTOR has delinquent accounts for its services hereunder, it may submit those accounts to the CITY for the purposes of collection. The CITY shall then, pursuant to the authority contained in Government Code Section 38790.1, use its best efforts to collect such delinquent fees in the manner described in Government
13.1.2 CONTRACTOR has not corrected such default or has not taken reasonable steps to commence to correct the same within thirty (30) days from the date of the notice given by CITY or thereafter does not diligently continue to take reasonable steps to correct such default.

13.1.3 CONTRACTOR (without any 30 day correction period) has not immediately corrected any such default that adversely affects the public's health and safety.

13.2. **Termination.** Upon the occurrence of a material breach, failure to cure and the declaration of termination of this Agreement by the CITY as provided above, CONTRACTOR shall have no further right to perform the services described in the Agreement, unless the CITY elects to terminate only a portion of the services set forth herein and maintain the remainder of the Agreement.

13.3. **Force Majeure.** The performance of this Agreement may be discontinued or temporarily suspended and CONTRACTOR shall not be deemed to be in default hereunder if performance under this Agreement is prevented or delayed by Force Majeure.

13.4. **Proposition 218.** If, at any time, a majority protest under Proposition 218 procedures precludes any rate adjustment determined to be necessary by both CITY (which determination shall not be unreasonably withheld) and CONTRACTOR to compensate CONTRACTOR for increases in costs as described in paragraph 8 of this Agreement, CONTRACTOR shall be entitled to terminate this Agreement upon three (3) months' advance written notice provided to CITY. Termination by CONTRACTOR as provided in the preceding sentence shall not be deemed a default by CONTRACTOR and the full value of the bond required under Section 12 of this Agreement shall be returned to CONTRACTOR.

14. **Attorneys’ Fees.** In the event of any litigation to interpret or enforce the terms of this Agreement, the prevailing Party shall be entitled to an award of reasonable attorney fees and costs, both at trial and on appeal.

15. **Independent Contractor.** CONTRACTOR is an independent contractor and shall not be deemed an employee of the CITY.

16. **Assignment.** Neither this Agreement nor any portion thereof may be assigned or subcontracted without the written consent of the City Manager upon the express authority of the City Council. Notwithstanding the foregoing, CONTRACTOR shall have the right, without seeking or obtaining approval or authority from the CITY, to subcontract for street sweeping services under this Agreement.

17. **Taxes.** CONTRACTOR shall pay all real and personal property taxes and possessory interest taxes as may be applicable to its performance of services under this Agreement.

18. **Waiver.** Failure of the CITY or CONTRACTOR to insist upon strict performance of any or all of the terms of this Agreement in any given instance, shall not be considered to be a waiver of the right to assert such term or condition of this Agreement at a later time in respect to future events.

19. **Sale of Recyclable Material.** This Agreement is not intended to and shall not affect or limit the right of any person to sell any Recyclable Material to any person lawfully
engaged in business in the CITY or to donate Recyclable Material to any bona fide charity, provided that all such Recyclable Material is separated at the source by the generator.

20. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of California.

21. **Complete Agreement.** This writing constitutes the full and complete Agreement and understanding between the CONTRACTOR and the CITY. All previous agreements, including without limitation the Original Agreement, are hereby superseded.

IN WITNESS WHEREOF, this Agreement is effective as of the latest date set forth below.

Date: ______________________

THE CITY OF CORNING, CALIFORNIA

By: ______________________

Stephen J. Kimbrough
City Manager

Attest:

Lisa M. Linnet
City Clerk

APPROVED AS TO FORM:

By: ______________________

Michael C. Fitzpatrick
City Attorney

USA WASTE OF CALIFORNIA, INC.
dba Corning Disposal

By ______________________

Alex Oseguera
Market Area Vice President
EXHIBIT A
STREET SWEEPING SCHEDULE

1. CONTRACTOR, or its subcontractor, shall provide Residential street sweeping twice per month, Monday through Friday, 6:00 a.m. to 5:00 p.m.

2. CONTRACTOR shall provide Commercial street sweeping once per week, Monday through Friday, 3:00 a.m. to 7:00 a.m.

3. Commercial areas defined are:
   a. Solano Street from Eastern City limits, to west side of Barham Road, Edith Avenue intersection, and each block North and South of Solano Street from Third Street to Houghton Avenue, and Yolo and Marin Streets from Third Street to Houghton Avenue.
   b. Third Street from North City limits, to Solano Street.
   c. Edith Avenue from Solano Street to Colusa Street, and Short Drive cul-de-sac, West of Edith Avenue.
   d. Highway 99-W from Solano Street to Southern City limits, and Sunrise Way Cul-de-sac west of Highway 99-W.
   e. South Avenue from Eastern City limits, to west side of South Avenue and the Barham Ave. intersection.

4. Sweeping Contractor shall have free use of City water for sweeping operations, and all sweepers shall be equipped with the proper spanner wrench for the opening and closing of all Hydrants.

5. Sweeping debris shall be dumped in areas designated by the Public Works Department, and all debris will be picked up and disposed of by the City Public Works Department. Leaves picked up during the Fall leaf season, by the City shall be disposed of at the Corning Disposal Yard.

6. Fall leaf Season times and dates, shall be coordinated between the City of Corning, and CONTRACTOR. It is estimated that sweeping for leaves will require 2 1/2 times more sweeping hours, over and above the normal sweeping schedule. During the Fall leaf season the entire paved section of the street shall be swept, if needed, by direction of the Public Works Director, to insure complete removal of all fallen leaves, and debris.

7. When a normal collection day falls on January 1st, Memorial Day, 4th of July holiday, Labor Day, Thanksgiving Day or December 25, sweeping shall be provided as follows: (a) on the holiday, (b) one day prior to the holiday, or (c) one day after the holiday, in which case sweeping may be made one day later than the regularly scheduled day during the reminder of the week. Contractor shall
notify the City two weeks in advance of any changes in sweeping schedules occasioned by holidays.

8. All City residents, and Commercial businesses shall receive a street sweeping schedule from CONTRACTOR that shows the dates and times their area will be swept, and also to request that vehicles be removed from the curb and gutter area, so that the frontage of their home or business may be properly cleaned.
EXHIBIT B
STREET SWEEPING SERVICE
AND
EQUIPMENT REQUIREMENTS

1. CONTRACTOR shall provide street sweeping services, including all necessary labor, materials and equipment, for all City streets with or without curb and gutter. All employees assigned to street sweeping operations shall be fully capable, experienced and trained in the work they are to perform. All street sweeping services shall be conducted in a workmanlike manner and in accordance with recognized industry standards, and to the reasonable satisfaction of the Public Works Director.

2. Street sweeping of private streets is not included in this franchise. However, nothing in this franchise shall prevent CONTRACTOR from entering into contracts with the owners of private drives, and parking lots.

3. CONTRACTOR, or its subcontractor, shall perform all street sweeping services in accordance with the schedule set forth in Exhibit A.

4. All street sweeping equipment shall meet each of the following standards:
   a. Equipment shall be heavy duty, vacuum, or broom type sweeping equipment, equipped with dual gutter brooms and designed to clean the streets of paper, dirt, rocks, leaves and other debris.
   b. It shall be equipped with an efficient water spray system for dust control.
   c. It shall be capable of sweeping a minimum one-pass width of eight feet.
   d. It shall conform to all applicable safety standards.
   e. It shall be properly registered in the State of California, and insured in accordance with the laws of the State of California.
   f. It shall have the name and local telephone number of CONTRACTOR displayed thereon in letters no smaller than two and one half inches in height. The name of the City or City logo shall not be displayed on the sweeping equipment.
   g. The sweeping equipment shall be kept clean and well-maintained, and in proper adjustment to ensure proper sweeping operations and that the equipment is without oil leaks. CONTRACTOR shall make sure that the sweeping contractor maintains a sufficient supply of spare tires, brooms and other parts, to ensure the timely and continuous provision of services. The equipment shall be subject to inspection and approval of the CITY's Public Works Director, or his Assistant.
Before the effective date of the Franchise agreement, CONTRACTOR shall furnish the City with Liability, and Worker Compensation Insurance Certificates from the Sub-Contractor, under the Insurance requirements Item Eleven, Page Seven of the Franchise Agreement.

5. Sweeping Contractor shall immediately clean-up and/or report to the City any and all conditions related to street sweeping which may tend to create unsafe or hazardous conditions.

6. Sweeping Contractor shall submit such reports as may be requested by the City concerning street sweeping schedules, frequency of service and the collection and disposal of debris. And to notify the Public, and the City at least once a year or prior to any changes in the sweeping schedule.
EXHIBIT C
CITY OF CORNING RATE SCHEDULE FOR CORNING DISPOSAL
Effective April 1, 2008

RESIDENTIAL RATES

<table>
<thead>
<tr>
<th>Container Size</th>
<th>Current Rate</th>
<th>CPI Adjustment</th>
<th>New Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roller Carts (96-Gallon)</td>
<td>$ 17.43</td>
<td>$ 0.44</td>
<td>$ 18.30</td>
</tr>
<tr>
<td>Senior Citizen Roller Cart (32-Gallon)</td>
<td>$ 7.70</td>
<td></td>
<td>$ 9.15</td>
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</table>

COMMERCIAL RATES

<table>
<thead>
<tr>
<th>Container Size</th>
<th>Frequency</th>
<th>Current Rate</th>
<th>CPI Adjustment</th>
<th>CPI Adjustment</th>
<th>New Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 96-Gallon Roller Cart</td>
<td>1X Week</td>
<td>$ 17.43</td>
<td>$ 0.44</td>
<td></td>
<td>$ 18.30</td>
</tr>
<tr>
<td>1 Yard</td>
<td>1X Week</td>
<td>$ 56.11</td>
<td>$ 1.41</td>
<td>$ 1.39</td>
<td>$ 58.91</td>
</tr>
<tr>
<td>1 Yard</td>
<td>Extra Pickup</td>
<td>$ 12.27</td>
<td>$ 0.31</td>
<td>$ 0.30</td>
<td>$ 12.88</td>
</tr>
<tr>
<td>1.5 Yard</td>
<td>1X Week</td>
<td>$ 78.38</td>
<td>$ 1.97</td>
<td>$ 1.94</td>
<td>$ 82.29</td>
</tr>
<tr>
<td>1.5 Yard</td>
<td>2X Week</td>
<td>$ 143.25</td>
<td>$ 3.60</td>
<td>$ 3.54</td>
<td>$ 150.39</td>
</tr>
<tr>
<td>1.5 Yard</td>
<td>Extra Pickup</td>
<td>$ 17.15</td>
<td>$ 0.43</td>
<td>$ 0.42</td>
<td>$ 18.00</td>
</tr>
<tr>
<td>2 Yard</td>
<td>1X Week</td>
<td>$ 100.75</td>
<td>$ 2.53</td>
<td>$ 2.49</td>
<td>$ 105.77</td>
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<tr>
<td>2 Yard</td>
<td>2X Week</td>
<td>$ 198.23</td>
<td>$ 4.98</td>
<td>$ 4.90</td>
<td>$ 208.11</td>
</tr>
<tr>
<td>2 Yard</td>
<td>3X Week</td>
<td>$ 252.35</td>
<td>$ 6.34</td>
<td>$ 6.23</td>
<td>$ 264.22</td>
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<tr>
<td>2 Yard</td>
<td>Extra Pickup</td>
<td>$ 22.04</td>
<td>$ 0.55</td>
<td>$ 0.54</td>
<td>$ 23.13</td>
</tr>
<tr>
<td>3 Yard</td>
<td>1X Week</td>
<td>$ 143.25</td>
<td>$ 3.60</td>
<td>$ 3.54</td>
<td>$ 150.39</td>
</tr>
<tr>
<td>3 Yard</td>
<td>2X Week</td>
<td>$ 255.91</td>
<td>$ 6.43</td>
<td>$ 6.32</td>
<td>$ 268.66</td>
</tr>
<tr>
<td>3 Yard</td>
<td>3X Week</td>
<td>$ 330.59</td>
<td>$ 8.31</td>
<td>$ 8.17</td>
<td>$ 347.07</td>
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<tr>
<td>3 Yard</td>
<td>Extra Pickup</td>
<td>$ 31.34</td>
<td>$ 0.79</td>
<td>$ 0.77</td>
<td>$ 32.90</td>
</tr>
<tr>
<td>4 Yard</td>
<td>1X Week</td>
<td>$ 187.91</td>
<td>$ 4.72</td>
<td>$ 4.64</td>
<td>$ 197.27</td>
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<tr>
<td>4 Yard</td>
<td>2X Week</td>
<td>$ 320.09</td>
<td>$ 8.04</td>
<td>$ 7.91</td>
<td>$ 336.04</td>
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<tr>
<td>4 Yard</td>
<td>3X Week</td>
<td>$ 432.08</td>
<td>$ 10.86</td>
<td>$ 10.67</td>
<td>$ 453.61</td>
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<td>4 Yard</td>
<td>4X Week</td>
<td>$ 585.60</td>
<td>$ 14.72</td>
<td>$ 14.46</td>
<td>$ 614.78</td>
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<td>4 Yard</td>
<td>Extra Pickup</td>
<td>$ 41.11</td>
<td>$ 1.03</td>
<td>$ 1.02</td>
<td>$ 43.16</td>
</tr>
<tr>
<td>6 Yard</td>
<td>1X Week</td>
<td>$ 255.91</td>
<td>$ 6.43</td>
<td>$ 6.32</td>
<td>$ 268.66</td>
</tr>
<tr>
<td>6 Yard</td>
<td>2X Week</td>
<td>$ 432.10</td>
<td>$ 10.86</td>
<td>$ 10.67</td>
<td>$ 453.63</td>
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<td>6 Yard</td>
<td>3X Week</td>
<td>$ 608.19</td>
<td>$ 15.28</td>
<td>$ 15.02</td>
<td>$ 638.49</td>
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<td>4X Week</td>
<td>$ 765.42</td>
<td>$ 19.24</td>
<td>$ 18.91</td>
<td>$ 803.57</td>
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<tr>
<td>6 Yard</td>
<td>Extra Pickup</td>
<td>$ 55.99</td>
<td>$ 1.41</td>
<td>$ 1.38</td>
<td>$ 58.78</td>
</tr>
</tbody>
</table>

BIN RATES

| 4 Yard “BIN-A-DAY” 3 DAY RENTAL | 608.19 | CPI Adjustment | 1.99 | CPI Adjustment | 1.95 | New Rate | 82.95 |

Basic rate for Temporary Drop Box Service

| 20 Yard | $ 374.59 | $ 9.41 | $ 9.25 | $ 393.25 |
| 30 Yard | $ 417.08 | $ 10.48 | $ 10.30 | $ 437.86 |

*** Seniors get a $9 discount from the base rate.

On-call curbside Bulky Waste Pick up $65.00