

EXHIBIT W

GUARANTY

THIS GUARANTY (the "Guaranty") is given as of the ____ day of _____, 2014, by _____
(hereafter "Guarantor"), to the CITY OF SUNNYVALE, a public agency (hereafter "the City").

THIS GUARANTY is made with reference to the following facts and circumstances:

A. _____
is a _____ organized under the laws of the State of _____
_____ ("Contractor").

B. Guarantor is _____.

C. The City contemplates entering into an "Agreement for the Operation of the Sunnyvale Materials Recovery and Transfer Station," under which Contractor is to provide specified services to the City, its residents and businesses ("Agreement"). A copy of this Agreement is attached hereto and incorporated herein by this reference.

D. It is a requirement of the Agreement, and a condition to the City's entering into the Agreement, that Guarantor guaranty Contractor's performance of the Agreement.

E. Guarantor is providing this Guaranty to induce the City to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

1. Guaranty of the Agreement. Guarantor hereby irrevocably and unconditionally guarantees to the City the complete and timely performance, satisfaction and observation by Contractor of each and every term and condition of the Agreement which Contractor is required to perform, satisfy or observe. In the event that Contractor fails to perform, satisfy or observe any of the terms and conditions of the Agreement, Guarantor will promptly and fully perform, satisfy or observe them in the place of the Contractor. Guarantor hereby guarantees payment to the City of any damages, costs or expenses which might become recoverable by the City from Contractor due to its breach of the Agreement.

2. Guarantor's Obligations Are Absolute. The obligations of the Guarantor hereunder are direct, immediate, absolute, continuing, unconditional and unlimited, and with respect to any payment obligation of Contractor under the Agreement, shall constitute a guarantee of payment and not of collection, and are not conditional upon the genuineness, validity, regularity or enforceability of the Agreement.

3. Waivers. The Guarantor shall have no right to terminate this Guaranty or to be released, relieved, exonerated or discharged from its obligations under it for any reason whatsoever, including, without limitation: (1) the insolvency, bankruptcy, reorganization or cessation of existence of the Contractor; (2) any amendment, modification or waiver of any provision of the Agreement; (3) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (4) any waiver, extension, release or modification with respect to any of the obligations of the Agreement guaranteed hereunder or the impairment or suspension of any of the City's rights or remedies against Contractor; or (5) any merger or consolidation of the Contractor with any other corporation or entity, or any sale, lease or transfer of any or all the assets of the Contractor. Without limiting the generality of the foregoing, Guarantor hereby waives the rights and benefits under California Civil Code Section 2819.

The Guarantor hereby waives any and all benefits and defenses under California Civil Code Sections 2845, 2849 and 2850, including, without limitation, the right to require the City to (a) proceed against Contractor, (b) proceed against or exhaust any security or collateral the City may hold now or hereafter hold, or (c) pursue any other right or remedy for Guarantor's benefit, and agrees that the City may proceed against Guarantor for the obligations guaranteed herein without taking any action against Contractor or any other guarantor or pledgor and without proceeding against or exhausting any security or collateral the City may hold now or hereafter hold. Guarantor agrees that the City may unqualifiedly exercise in its sole discretion any or all rights and remedies available to it against Contractor or any other guarantor or pledgor without impairing the City's rights and remedies in enforcing this Guarantee.

The Guarantor hereby waives and agrees to waive at any future time at the request of the City, to the extent now or then permitted by applicable law, any and all rights which the Guarantor may have or which at any time hereafter may be conferred upon it, by statute, regulation or otherwise, to avoid any of its obligations under, or to terminate, cancel, quit or surrender this Guaranty. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of the Guarantor hereunder: (a) at any time or from time to time, without notice to the Guarantor, the time for Contractor's performance of or compliance with any of its obligations under the Agreement is extended, or such performance or compliance is waived; (b) the Agreement is modified or amended in any respect; (c) any other indemnification with respect to Contractor's obligations under the Agreement or any security therefor is released or exchanged in whole or in part or otherwise dealt with; or (d) any assignment of the Agreement is effected which does not require the City's approval.

The Guarantor hereby expressly waives diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guaranty. If all or any portion of the obligations guaranteed hereunder are paid or performed, Guarantor's obligations hereunder shall continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from the City as a preference, fraudulent transfer or otherwise, irrespective of (a) any notice of revocation given by Guarantor or Contractor prior to such avoidance or recovery, and (b) payment in full of any obligations then outstanding.

4. **Term.** This Guaranty is not limited to any period of time, but shall continue in full force and effect until all of the terms and conditions of the Agreement have been fully performed by Contractor, and Guarantor shall remain fully responsible under this Guaranty without regard to the acceptance by the City of any performance bond or other collateral to assure the performance of Contractor's obligations under the Agreement. Guarantor shall not be released of its obligations hereunder so long as there is any claim by the City against Contractor arising out of the Agreement based on Contractor's failure to perform which has not been settled or discharged.

5. **No Waivers by City.** No delay on the part of the City in exercising any rights under this Guaranty or failure to exercise such rights shall operate as a waiver of such rights. No notice to or demand on Guarantor shall be a waiver of any obligation of Guarantor or right of the City to take other or further action without notice or demand. No modification or waiver by City of any of the provisions of this Guaranty shall be effective unless it is in writing and signed by the City and by Guarantor, nor shall any waiver by City be effective except in the specific instance or matter for which it is given.

6. **Attorney's Fees.** In addition to the amounts guaranteed under this Guaranty, Guarantor agrees to pay actual attorney's fees and all other costs and expenses incurred by the City in enforcing this Guaranty, or in any action or proceeding arising out of or relating to this Guaranty, including any action instituted to determine the respective rights and obligations of the parties hereunder.

7. **Governing Law; Jurisdiction.** This Guaranty is and shall be deemed to be a contract entered into in and pursuant to the laws of the State of California and shall be governed and construed in accordance with the laws of California without regard to its conflicts of laws rules for all purposes, including, but not limited to, matters of construction, validity and performance. Guarantor agrees that any action brought by the City to enforce this Guaranty may be brought in any court of the State of California and Guarantor consents to personal jurisdiction over it by such courts and agrees not to seek to remove such action to a federal court. Guarantor appoints the following person as its agent for service of process in California:

8. **Severability.** If any portion of this Guaranty is held to be invalid or unenforceable, such invalidity shall have no effect upon the remaining portions of this Guaranty, which shall be severable and continue in full force and effect.

9. **Binding on Successors.** This Guaranty shall inure to the benefit of the City and its successors and shall be binding upon Guarantor and its successors, including transferee(s) of substantially all of its assets.

10. **Subordination.** Any claims Guarantor may have against Contractor are hereby subordinated to any and all claims of the City against Contractor until such time as the obligations of Contractor to the City are fully satisfied and discharged.

11. Notices. Notice shall be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

To the City: City of Sunnyvale

Sunnyvale, CA _____
Attention: _____

With a copy to the City Attorney at the same address.

To Guarantor: _____

The parties may change the address to which notice is to be sent by giving the other party notice of the change as provided in this Section.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty on the day and year first above written.
