
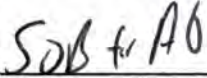





**CITY OF PALM BEACH GARDENS  
CITY COUNCIL  
Agenda Cover Memorandum**

**Meeting Date: January 4, 2018  
Resolution 6, 2018**

**Subject/Agenda Item:** Exclusive Franchise Agreement for Solid Waste Collection and Recycling Services.

- Recommendation to APPROVE**  
 **Recommendation to DENY**

<p><b>Reviewed by:</b></p> <p>City Attorney</p> <p>  <u>R. Max Lohman, Esq.</u></p> <p>Finance Administrator</p> <p>  <u>Allan Owens</u></p>	<p><b>Originating Dept.:</b> Community Services</p> <p>  <u>Joe Corrao</u>          Director of Public Services</p> <p><b>Advertised:</b></p> <p>Date:</p> <p>Paper:</p> <p><input checked="" type="checkbox"/> Not Required</p>	<p><b>Cost:</b> <u>\$27,000,000</u> (for 10 years)</p> <p><u>\$1,321,000</u> Current FY</p> <p><b>Funding Source:</b></p> <p><input checked="" type="checkbox"/> Operating</p> <p><input type="checkbox"/> Other</p> <p>-----</p> <p><b>Contract/Agreement:</b></p> <p>Effective Date: <u>April 1, 2018</u></p> <p>Expiration Date: <u>March 31, 2028</u></p> <p><b>Budget Acct.#:</b> 001.0900.519.3440</p>	<p><b>Council Action:</b></p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Approved w/ Conditions</p> <p><input type="checkbox"/> Denied</p> <p><input type="checkbox"/> Continued to:</p> <p><b>Attachments:</b></p> <p>- Resolution 6, 2018          - Exhibit A:          Exclusive Franchise Agreement</p>
<p><b>Submitted by:</b></p> <p>Department Director</p> <p>  <u>David Reyes</u>          Community Services Administrator</p>	<p><b>Affected parties</b></p> <p><input type="checkbox"/> Notified</p> <p><input checked="" type="checkbox"/> Not required</p>		
<p><b>Approved by:</b></p> <p>City Manager</p> <p>  <u>Ronald M. Ferris</u></p>			

**BACKGROUND:** The City has an Exclusive Franchise Agreement with Waste Management, Inc. of Florida for the collection of residential and commercial solid waste, including recycling services. The Agreement was executed in February 2006, expiring in March 2018, with no options to renew; therefore, a replacement Agreement is needed to maintain continuity of services. The City pays the costs for the collection of residential solid waste, while commercial businesses are charged by the contractor. The new Agreement is for 10 years with no options to renew and is the result of a competitive Request for Proposals.

The new Agreement takes into consideration the projected future growth of the City over the next 10 years. There are no automatic increases in the Agreement. The Agreement includes an automatic rate adjustment clause that is based on the movement (up or down) of the Producers Price Index. The residential rates in the Agreement are the same as what the City currently pays. However, commercial rates will increase as shown below:

Service	2017	2018
Container Rate (per CY)	\$7.48	\$8.22
Compactor Rate (per pull for 12 CY or less)	\$9.35	\$10.28
Compactor Rate (per pull for > 12 CY)	\$202.80	\$223.00

Waste Management Inc. of Florida was the highest-ranked firm by the Selection Committee. The vendor is the incumbent provider and is well-established in the solid waste industry. A recent Resident Opinion Survey showed an 80 percent satisfaction rating for City services, including solid waste collection.

**STAFF RECOMMENDATION:** Staff recommends approval of Resolution 6, 2018 as presented.

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**RESOLUTION 6, 2018**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA, APPROVING AN EXCLUSIVE FRANCHISE AGREEMENT WITH WASTE MANAGEMENT, INC. OF FLORIDA FOR SOLID WASTE, RECYCLING, AND VEGETATIVE WASTE COLLECTION SERVICES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City Council of the City of Palm Beach Gardens desires to enter into an exclusive franchise agreement for the collection and disposal of residential solid waste and recyclable materials and non-residential solid waste and recyclable materials; and

**WHEREAS**, through the competitive Request for Proposals process, the City and Waste Management, Inc. of Florida, now desire to enter into an Exclusive Franchise Agreement for ten years with no options to renew for the collection and disposal of residential solid waste and recyclable materials and non-residential solid waste and recyclable materials; and

**WHEREAS**, the City Council deems approval of this Resolution to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Palm Beach Gardens and the public at large.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BEACH GARDENS, FLORIDA, that:**

**SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

**SECTION 2.** The City Council hereby approves the Exclusive Franchise Agreement between the City of Palm Beach Gardens and Waste Management, Inc. of Florida, attached hereto as Exhibit "A", and hereby authorizes the Mayor to execute said Franchise Agreement.

**SECTION 3.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF PALM BEACH GARDENS, FLORIDA**

BY: \_\_\_\_\_  
Maria G. Marino, Mayor

**ATTEST:**

BY: \_\_\_\_\_  
Patricia Snider, CMC, City Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

BY: \_\_\_\_\_  
R. Max Lohman, City Attorney

**VOTE:**

**AYE   NAY   ABSENT**

MAYOR MARINO	_____	_____	_____
VICE MAYOR MARCIANO	_____	_____	_____
COUNCILMEMBER WOODS	_____	_____	_____
COUNCILMEMBER LANE	_____	_____	_____
COUNCILMEMBER LITT	_____	_____	_____



# EXHIBIT "A"



CITY OF PALM BEACH GARDENS  
10500 North Military Trail  
Palm Beach Gardens, FL 33410

**EXCLUSIVE FRANCHISE AGREEMENT  
FOR  
SOLID WASTE COLLECTION AND RECYCLING SERVICES**

**AGREEMENT NO. RFP2017-043PS**

THIS AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 (the "effective date") by and between the **City of Palm Beach Gardens**, a Florida municipal corporation (hereinafter referred to as the "City"), whose address is 10500 North Military Trail, Palm Beach Gardens, Florida 33410, and **Waste Management Inc. of Florida**, a Florida corporation (hereinafter referred to as the "Contractor"), whose principal address is 1001 Fannin Street, Attn: Tax Department, Houston, Texas 77002, and whose local address is 7700 SE Bridge Road, Hobe Sound, Florida 33455.

WHEREAS, the City desires to retain the services of the Contractor to provide solid waste collection services in accordance with the City's Request for Proposals, RFP2017-043PS, Solid Waste Collection and Recycling Services, and the Contractor's response thereto, which are attached hereto and incorporated herein as Exhibit "A".

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the City agree as follows:

**ARTICLE 1. INCORPORATION OF REQUEST FOR PROPOSALS**

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the City's Request for Proposals, RFP2017-43PS, and the Contractor's response to the Request for Proposals, including all addenda, replies, additional information, clarifications, and documentation required and provided thereunder.

**ARTICLE 2. TERM**

This Agreement shall be for an effective period of 10 years commencing on April 1, 2018 through March 31, 2028, unless terminated beforehand as provided for in this Agreement.

### ARTICLE 3. DEFINITIONS

To the extent the definitions contained herein conflict with similar definitions contained in any federal, state, or local law, the definitions herein shall prevail. However, nothing contained herein shall be interpreted to require the Contractor to undertake any conduct that is contrary to federal, state, or local law.

- a. *Authority* shall mean the Solid Waste Authority of Palm Beach County.
- b. *Biohazardous or Biomedical Wastes* shall mean those wastes that may cause disease or reasonably be suspected of harboring pathogenic organisms, including, but not limited to, waste resulting from the operation of medical clinics, hospitals, and other facilities producing wastes that may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.
- c. *Bulk Trash* shall mean any non-vegetative item that cannot be containerized, bagged, or bundled, including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances, household goods, and furniture and shall not be commingled with Vegetative Waste. There shall be no weight limit for any item of Bulk Trash.
- d. *City* shall mean the City of Palm Beach Gardens, Florida, a municipal corporation.
- e. *Collection* shall mean the process whereby solid waste, including, but not limited to, Garbage, Trash, Bulk Trash, Vegetative Waste, or Recyclable Material is removed and transported to a Designated Facility.
- f. *Collection Route* shall mean a fixed or customary course of travel assigned to a crew and scheduling the order of stops from one point to another covering a defined area of territory.
- g. *Collection Schedule* shall mean the day(s) of each week divided into service day halves (AM/PM) pickup that customers will receive specified collection service.
- h. *Commercial Recycling Collection Service* shall mean the Collection of Recyclable Materials by the Contractor from customers within the Service Area who are not serviced by Residential Recycling Collection Service.

- i. *Commercial Container Residential Collection Service* shall mean Solid Waste and Recycling Collection Services provided to multifamily dwelling units that are rented or leased to occupants by the property owner or owner's representatives and are therefore deemed commercial operations. All units within a building or development shall remain in this customer category if being converted until complete conversion of the development to individual private ownership and the City approves a change to the Container Residential Collection Service. Collection Service shall include Garbage, Trash, Bulk Trash, and Recycling. The Contractor shall invoice these units monthly as commercial accounts using the per-unit rates for Container Residential Collection Service. These units are exempt from disposal charges as are all residential dwelling units.
- j. *Commercial Solid Waste* shall include any Garbage, Bulk Trash, Trash, or Vegetative Waste that is not Residential Solid Waste. Substantial effort shall be made not to commingle Garbage, Trash, or Bulk Trash with Vegetative Waste.
- k. *Commercial Solid Waste Collection Service* shall mean the collection of Commercial Solid Waste within the Service Area. Such service includes both Containers and Compactors, but does not include Roll-off Collection Services.
- l. *Compactor* shall mean any container that has compaction mechanism(s), whether stationary or mobile, all inclusive.
- m. *Construction and Demolition Debris (C&D)* shall mean materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, roofing material, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project. Mixing of a de minimis amount of waste other than C&D from the construction site will not automatically cause it to be classified as other than C&D.
- n. *Container* shall mean and include any container typically of 1 cubic yard capacity or larger designed or intended to be mechanically dumped into a loader packer type or hoisted onto the bed or rails of a truck. All Containers must be of standard industry specifications including size(s) and in common use in Palm Beach County.
- o. *Container Residential Recycling Collection Service* shall mean the collection of Recyclable Materials by the Contractor from Dwelling Units in the Service Area that requires the use of Containers for the collection of Recyclable Materials and which also receive Residential Collection Service for solid waste, and the delivery of those Recyclable Materials to the Materials Recycling Facility or designated Solid Waste Authority transfer station. This service shall be considered a commercial service account for billing purposes which the Contractor shall invoice monthly.



- p. *Container Residential Solid Waste Collection Service* shall mean solid waste collection service of all Dwelling Units whose Garbage, Trash, or Bulk Trash is collected by means of a central or shared Container and not by means of a Garbage Can. Vegetative Waste collection service is not provided. This service shall be considered a commercial service account for billing purposes that the Contractor shall invoice monthly.
- q. *Contract* shall mean this Agreement executed between the City and the Contractor for the performance of the services as provided in this Agreement, the Request for Proposals, the Contractor's Proposal, all Addenda and exhibits, and all related documents.
- r. *Contractor* shall mean that person or entity set out initially above that has entered this Agreement to provide the services described herein for the Service Area.
- s. *Contract Administrator* shall mean the person(s) designated by the City who shall act as the City's representative in the administration and supervision of this Agreement during its term.
- t. *County* shall mean Palm Beach County, Florida.
- u. *Curbside Residential Recycling Collection Service* shall mean the collection of Recyclable Materials by the Contractor from all Dwelling Units in the Service Area that also receive Curbside Residential Solid Waste Collection Service for Solid Waste and other Dwelling Units as are designated by the City, and the delivery of those Recyclable Materials to the Solid Waste Authority's Materials Recycling Facility or designated Solid Waste Authority transfer station.
- v. *Curbside Residential Solid Waste Collection Service* shall mean Residential Solid Waste and Vegetative Waste Collection service for all Dwelling Units whose Garbage and Vegetation are collected in separate pick-ups by means of a Garbage Can at curbside or roadway.
- w. *Department* shall mean the Florida Department of Environmental Protection.
- x. *Disposal Costs* shall mean the "tipping fees" and the landfill or processing costs charged to the Contractor by others for disposal or processing of the waste collected by the Contractor.
- y. *Designated Facility* shall mean a Solid Waste Authority of Palm Beach County-owned or permitted facility.
- z. *Dwelling Unit* shall mean any type of structure or building unit intended for or capable of being utilized for residential living other than a licensed Hotel or Motel unit.

- aa. *Fiscal Year* shall mean the period between October 1 of a given year and September 30 of the following year during this Agreement.
- ab. *Garbage* shall mean all putrescible waste that generally includes, but is not limited to, kitchen and table food waste, animal, vegetable, food, or any organic waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials, whether attributed to residential or commercial activities. Vegetative Waste shall not be commingled with Garbage in the same collection. Garbage shall not include any material that falls within the definition of Special Waste.
- ac. *Garbage Receptacle or Can* shall mean a can of rigid plastic or galvanized metal or heavy-duty plastic bag that when full does not exceed 50 pounds in total weight or 45 gallons in size.
- ad. *Hazardous Waste* shall mean solid waste as defined by the State of Florida, Department of Environmental Protection as a hazardous waste in the State of Florida Administrative Code, or by any future legislative action or by federal, state, or local law.
- ae. *Hotel or Motel* shall mean a structure or building unit(s) capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven days or less. To meet this definition, the Hotel or Motel must be licensed to operate as such. "Transient" has the meaning as defined in Chapter 509, *Florida Statutes (1987)*, or its successor law.
- af. *Materials Recycling Facility (MRF)* shall mean any facilities operated or managed by, for, or on behalf of or designated by the City for receiving, sorting, processing, storing, and/or preparing Recyclable Materials for sale, as specifically designated in writing by the City.
- ag. *Mixed Paper* shall be defined as a mixture of paper products, including magazines, catalogues, phone books, cereal boxes, soda and beer cans, boxes, chipboard, file folders, envelopes, letter paper, junk mail, notebook paper, and any other clean paper products.
- ah. *Peak Times* shall mean the period between November 1 of a given year and April 30 of the following year, unless otherwise specified by the City.
- ai. *Public Awareness Program* shall mean that program developed by the City to inform and encourage residential and commercial solid waste collection customers to use all solid waste and recycling collection services offered by the City through the Agreement. It shall also mean information concerning level of service and changes in scope of service.

- aj. *Recyclable Materials* shall mean newspapers (including inserts), aluminum, plastic containers, glass bottles and jars, milk and juice cartons, aseptic containers, corrugated cardboard, brown paper bags, mixed paper, tin and ferrous cans, household dry-cell batteries (no wet-cell batteries), and other solid waste materials added upon agreement between the City and the Contractor, when such materials have been either diverted from the remaining solid waste stream or removed prior to their entry into the remaining solid waste stream.
- ak. *Recycling Container* shall mean a rigid, nestable bin of approximately 18-gallon capacity made of plastic or other suitable substance that is used for the storage of Recyclable Materials.
- al. *Residential Recycling Collection Service* shall mean Curbside Residential Recycling Collection Services and Container Residential Recycling Collection Service.
- am. *Residential Solid Waste* shall mean Garbage, Trash, and Bulk Trash resulting from the normal housekeeping activities of a Dwelling Unit, but shall not include Vegetative Waste. *Residential Solid Waste* shall also mean Construction and Demolition Debris (C&D) resulting from minor home repair from the Dwelling Unit, not to exceed 5 cubic yards of Construction and Demolition Debris material per collection.
- an. *Residential Solid Waste Collection Service* shall mean Curbside Residential Solid Waste Collection Service and/or Container Residential Solid Waste Collection Service.
- ao. *Residential Vegetative Waste* shall mean vegetative waste generated from a residential property occupied by a dwelling unit within the Service Area.
- ap. *Residential Vegetative Waste Collection Service* shall mean Curbside Residential Vegetative Waste Collection Service.
- aq. *Roll-off Collection Service* shall mean the Collection of C&D only roll-off containers, or the Collection of C&D by other mechanical means, within temporary locations in the Service Area, limited to new construction sites and remodeling or refurbishment sites. *Roll-off Collection Service* shall also mean the collection of horticultural or agricultural wastes at horticultural or agricultural nurseries, but only when the customer chooses to use roll-off containers for horticultural or agricultural waste, and horticultural and agricultural waste shall not include any other type of waste, including, but not limited to, Special Waste, Garbage, or Recyclable Material.
- ar. *Service Area* shall mean the area within the incorporated boundaries of the City of Palm Beach Gardens for which the mandatory solid waste collection and recycling collection program is administered.

- as. *Sludge* shall mean a solid, semi-solid, or liquid generated from any waste water treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilets and related operations, or any other such waste having similar characteristics or effects.
- at. *Solid Waste Authority Disposal Facility* shall mean place or places specifically managed, operated, or permitted by the Solid Waste Authority of Palm Beach County.
- au. *Special Services* shall mean any services requested or required by the customer that are in addition to, or a change in, Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service, and Commercial Solid Waste Collection Service as set out or similar to those listed in Exhibit I, attached hereto and incorporated herein.
- av. *Special Waste* shall include, but not be limited to, automobiles, boats, internal combustion engines, non-automobile tires, Sludge, dead animals, septic tank waste, Biohazardous or Biomedical Waste, liquid waste, and Hazardous Waste. Special Waste may also include items determined by the City to be reasonably unmanageable.
- aw. *Trash* shall mean all refuse, accumulation of paper, rags, wooden or paper boxes and containers, sweepings, broken toys, tools, utensils, and all other accumulations of a similar nature other than Garbage that are usual to housekeeping and to the operation of stores, offices, and other business places but shall not include Vegetative Waste.
- ax. *Uncontrollable Forces* shall mean any event that results in the prevention or delay of performance by a party of its obligations under this Agreement and that is beyond the reasonable control of the non-performing party. It includes, but is not limited to, fire, flood, hurricanes, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.
- ay. *Universal Container* shall mean and include any waste or recycling storage receptacle made of heavy-duty plastic material and generally sized in 35, 65, 95, and 101 gallon capacities that is dumped by automated or semi-automated means into a packer or compartmented vehicle body.
- az. *Vegetative Waste* shall mean any vegetative matter resulting from yard and landscaping maintenance by any party and shall include materials such as normal and recurring tree and shrub trimming materials, grass clippings, leaves, pine needles, palm seeds, weeds, palm fronds, tree branches, and similar other matter usually produced as refuse in the care of lawns, landscaping, and yards. Tree limbs and trunks shall be limited to 10 inches or less in diameter. Vegetative Waste, except palm fronds, must be no more

than 6 feet in length, and no single item shall weigh more than 50 pounds and shall be placed in a City-provided Universal Container if possible. Larger quantities shall be placed neatly at the curb for collection by special equipment. Natural Christmas trees will be collected as Vegetative Waste, and any section must not be more than 8 feet in length and must be under 50 pounds. Vegetative Waste must originate from the residential property at which it is placed for collection. Vegetative Waste shall not include material generated as the result of a commercial activity located at a residential property.

#### ARTICLE 4. SERVICES PROVIDED BY THE CONTRACTOR

The Contractor shall provide mandatory Residential Solid Waste, Residential Vegetative Waste, and Residential Recycling Collection Services in the Service Area. The right to provide such Collection Services in the Service Area shall be exclusive to the Contractor. The City or its designee will be responsible for the billing and collection of payments for the mandatory Curbside Residential Solid Waste, Curbside Residential Vegetative Waste, and Curbside Residential Recycling Collection Service. The Contractor shall be responsible for the billing and collection of payments for mandatory Container Solid Waste and Recycling Collection Service.

The Contractor shall provide Commercial Solid Waste Collection Services in the Service Area that shall be an exclusive right to the Contractor; subject, however, to the exception for Roll-off Collection Service of Construction and Demolition Debris under separate annual permits as provided below. The Contractor shall be responsible for the billing and collection of Commercial Solid Waste Collection Service fees and disposal costs not being billed and collected by the City or its designee. The Contractor shall also be responsible for billing and collection of Container Residential Solid Waste and Recycling service fees.

Roll-off Collection Services of Construction and Demolition Debris (C&D) shall not be exclusive to the Contractor. Notwithstanding any other provision of this Agreement, collection of waste in roll-off containers that is other than C&D for businesses in the Service Area is exclusive to the Contractor.

No other person or entity except the Contractor may offer or provide Residential Solid Waste Collection Service, Residential Recycling Collection Service, and Commercial Solid Waste Collection Service in the Service Area. If the Contractor becomes aware of an entity violating the provisions of this Article, the Contractor shall provide information of the violations to the City in writing. Upon review of the information and that of any subsequent investigation, the City will report its findings and recommended course of action.

The Contractor shall provide Commercial Recycling Collection Services in the Service Area upon request by the customer or the City, or through the solicitation efforts of the Contractor. Charges for such services are to be determined between the customer and Contractor based upon the terms of this Agreement. However, Commercial Recycling Collection Services are not exclusive to the Contractor in the Service Area.

The Contractor shall provide Solid Waste and Recycling Collection services to all property owned, leased, rented, or controlled by the City, including, but not limited to, those designated by the City, if acquired during the term of the Agreement. These services shall be provided at no charge to the City, to include provision of Containers, collection service maintenance fees, and roll-off containers of 20 or more yards' capacity. The City will have a maximum limit of 10 roll-off pulls per month without limit to size of the roll-off container at no charge. Additional pulls will be charged at the regular commercial rate.

The Contractor shall use good faith and its best efforts to cooperate with any commercial recycling haulers providing recycling services to customers in the City.

In order to provide the services, the Contractor shall provide, at its own expense, all labor, insurance, supervision, machinery and equipment, buildings, trucks, vehicles, a radio compatible with City systems to the City with all Contractor contacts programmed in the radio at no charge to the City, and any other tools, equipment, accessories, and items necessary to maintain the highest quality and level of service standards of solid waste collection and recycling service set forth herein.

The Contractor shall provide, at no additional cost to the City, a location for receipt and storage of Recycling Containers. The Contractor shall be responsible for pickup, storage, and distribution of the Recycling Containers requested by curbside residential customers. Recycling Containers shall be ordered from the Solid Waste Authority on behalf of the City.

#### ARTICLE 5. SOLID WASTE, RECYCLING, AND VEGETATIVE WASTE COLLECTION SERVICES

Collection services for residential curbside, residential container, and commercial customers provided by this Agreement shall be set forth in this Article. Curbside Residential Solid Waste shall be by the manual method of collection as of the effective date of this Agreement or such other date mutually agreed to in writing by the parties hereto.

a. Curbside Residential Solid Waste Collection Services

This service shall be provided to dwellings wherein Garbage, Bulk Trash, and Trash are placed within six feet of the curb or roadway for collection by the Contractor. Exceptions to this location for collection apply only to those who have been qualified as handicapped by the City and those who have contracted with the Contractor for Special Services. The City or its designee shall be responsible for the billing and collection of payments from curbside residential customers for this service.

i. *Conditions and Frequency of Service*

All Curbside Residential Solid Waste shall be placed in a Garbage Receptacle or Can and placed curbside, as required by the City, for collection by the Contractor twice each week. The Contractor shall only be required to collect the contents of Garbage Receptacles or Cans except for Trash and Bulk Trash. Exceptions to the twice-per-

week collection occur only on permitted holidays or in the case of a City-declared emergency or disaster. There shall be no less than 48 hours or more than 72 hours between regularly scheduled collection days. Customers are not to commingle Vegetative Waste with Residential Solid Waste; however, the Contractor may collect moderately commingled wastes at Contractor's discretion and shall assume responsibility for disposal at a designated facility. There shall be no limit on the number of Garbage Receptacles or Cans to be collected by the Contractor.

During the Agreement, the entire City shall receive manual Residential Solid Waste Collection service. The City Manager or designee, whose decision shall be final, shall resolve any disputes regarding level of service to be provided by the Contractor.

ii. *Bulk Trash*

Bulk Trash shall be collected at the curb. There shall be no weight limit for any Bulk Trash item. In the event Bulk Trash contains Chlorofluorocarbons (CFCs), the Contractor shall collect the Bulk Trash items separately, in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFCs into the atmosphere, to the Authority landfill or to a scrap dealer located in Palm Beach or Martin County or as otherwise agreed to by the City in writing.

iii. *Trash Waste*

Trash Waste shall be placed in Garbage Receptacles or Cans to the extent practical with Residential Solid Waste for collection. The total weight should not exceed 50 pounds for a garbage can. There shall be no weight limit for any Trash Waste item.

Residents shall not commingle Trash or Bulk Trash Waste with Vegetative Waste. The Contractor may collect commingled material and shall assume responsibility for disposal at a designated facility and notify the City accordingly. Cardboard from move-ins shall be collected as Bulk Trash on the scheduled collection day, but treated as regular residential recycling material if the resident breaks down the cardboard into sizes no larger than 3' x 3' and place them for collection in accordance with Article 5. c. (Curbside Residential Recycling Collection Service).

b. Curbside Residential Vegetative Waste Collection Services

The City will be responsible for the billing and collection of payments from curbside residential customers for Vegetative Waste Collection service. This service is provided to dwellings wherein properly prepared Vegetative Waste is placed within six feet of the curb or roadway for collection by the Contractor. There are no exceptions to the curb or roadside location for collection of Vegetative Waste. Vegetative Waste collection service shall only

be provided in front of the dwelling unit. The Contractor shall collect Vegetative Waste from swales and rights-of-way in front of vacant lots in established neighborhoods; however, such waste shall not include any lot clearing waste.

i. *Conditions and Frequency of Service*

Curbside Residential Vegetative Waste shall be collected once each week from all curbside customers. The scheduled day of collection of Vegetative Waste shall be on a scheduled day of Curbside Residential Solid Waste Collection each week. Should the scheduled day of Curbside Vegetative Waste Collection fall on a holiday, collection shall occur on the next scheduled Curbside Residential Vegetative Waste Collection day. Grass clippings, hedge trimmings, pine needles, palm seeds, and any other small items, including items that can be cut or broken into smaller pieces, shall be placed into a garbage can or plastic bags for collection. Large items that cannot be cut or broken and placed in garbage cans or bags, such as multiple palm fronds and tree limbs are to be piled up by the curb for collection. The Contractor shall collect Vegetative Waste properly sized and piled within six feet of the curb or roadway on the scheduled collection day unless the pile is tagged for special collection next day. Except for palm fronds, no single item shall be longer than six feet in length nor weigh more than 50 pounds. Trunks and/or limbs having a diameter greater than 10 inches shall not be collected.

In the event a residential customer has large quantities of Vegetative Waste for collection on his/her Vegetative Waste service day, the Contractor may either collect all of the Vegetative Waste or tag the pile for collection on the following day, at which time the Contractor shall collect all of the Vegetative Waste. Residential Vegetative Waste shall be placed in one location in front of residential property for collection. Multiple locations constitute additional or special services, as further discussed in this Agreement. There shall be no limit on the number of containers to be collected per Residential Curbside customer, nor a limit on the quantity of Vegetative Waste to be collected weekly, provided size limitations are met.

c. Curbside Residential Recycling Collection Service

The Contractor shall provide Curbside Residential Recycling Collection Services in the Service Area as provided for within this Agreement. The City will be responsible for the billing and collection of payments from Curbside Residential customers for these services. Curbside Residential Recycling Collection Service shall be governed by the following terms and conditions:



i. *Conditions and Frequency of Service*

The Contractor shall provide Curbside Residential Recycling Services to all Dwelling Units receiving Curbside Residential Solid Waste Collection Service located in the Service Area and to other such Dwelling Units as determined appropriate by the Contract Administrator. This service shall be provided once every week, unless otherwise specified by the City, on a Scheduled Route basis that shall coincide with one of the two regularly scheduled solid waste collection pick-up days weekly.

All Recyclable Materials to be collected shall be in a Recycling Container, except for cardboard and/or paper bags, and shall be placed within six feet of the curb, roadway, closest accessible public right-of-way, or such locations agreed to by the Contractor that will provide safe and efficient accessibility to the Contractor's collection crew and vehicle. No Recycle Containers shall be placed next to a mailbox, utility box, or fire hydrant for collection. The Contractor shall collect as many Recycling Containers, bags, bundles, or flattened cardboard as the customer sets out. Cardboard shall be collected if flattened into sizes no greater than 3' x 3', and placed next to, on, under, or inside of the Recycling Container. Non-Recyclable materials placed in Recycling Containers for collection are to be left in the Container by the Contractor collection crew and tagged with the Contractor's tag clearly explaining why the material was not collected.

ii. *Recycling Containers*

The City will order from the Solid Waste Authority and the Contractor shall ensure pickup, storage, and distribution of Recycling Containers to each Dwelling Unit that is to receive Curbside Recycling Collection Service within the Service Area. All Recycling Containers are the property of the City; however, customers may use their own additional Recycling Containers or paper bags as long as they are similar and suitable for the Service.

d. Container Residential Solid Waste Collection Services

The Contractor shall provide Container Residential Solid Waste Collection Service to all Dwelling Units in the Service Area that is suitable to receive such service and request such service. Normal Container Residential Solid Waste Collection Service, not including Bulk Trash collection, shall be twice per week. The Contractor and the residential complex, in accordance with this Agreement, shall determine the size and location of the Container and frequency of collection. In case of an unresolved dispute, the City will resolve the issue. Any service requested by the residential complex above twice per week for Container Residential Solid Waste Collection, once per week for Vegetative Waste, and once per week for Bulk Trash collection, shall be invoiced directly to the residential complex by the Contractor in accordance with the commercial collection rates in Exhibit I. The Contractor shall be

responsible for the billing and collection of payments from Container Residential customers for this collection service. The frequency of collection of Bulk Trash outside the Container shall be no less than once per week unless otherwise agreed to by the customer and approved by the Contract Administrator. In the event Bulk Trash contains Chlorofluorocarbons (CFCs), the Contractor shall collect the Bulk Trash items separately, in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFCs into the atmosphere, to the Authority landfill or to a scrap dealer located in Palm Beach or Martin County. There shall be no weight limit for any Bulk Trash item.

i. *Conditions and Frequency of Service*

A minimum of twice per week service is required for all container residential customers. Such service shall be provided by Container as defined herein. The size of the Container and the frequency (above the minimum) of collection shall be determined between the customer and the Contractor. However, size and frequency shall be sufficient to provide that no Residential Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer. The Contractor shall provide Containers as necessary; however, customers may own their Container provided that the customer is completely responsible for its proper maintenance and replacement. Such Containers shall be of a type that can be serviced by the Contractor's equipment. All Residential Solid Waste shall be placed in a Container. Vegetative Waste collection is not included in this service. Containers shall be placed in an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer. Any Container or Compactor damaged by the Contractor shall be repaired or replaced by the Contractor within five business days. All Containers and Compactors provided by the Contractor shall be in good condition, painted, and neatly labeled with the Contractor's name, phone number, and cubic yard size of the Container.

e. Container Residential Recycling Collection Service shall be governed by the following Terms and Conditions:

i. *Conditions and Frequency of Service*

The Contractor shall provide this service to Dwelling Units as are designated by the City and are located in the Service Area, and invoice each account monthly. This service shall be provided at least once every week on a scheduled-route basis as set out below. If the customer requires additional collections per week, the customer will be invoiced by the Contractor in accordance with the rates listed in Exhibit I of the Agreement. All Recyclable Materials, with the exception of

cardboard, are to be collected in a universal type Recycling Container or Container provided by the Contractor designated for Recyclable Materials that shall be in such location and collected on a schedule as mutually agreed to by the owner or governing association (of the multiple family residential complex or development being serviced) and by the Contractor that will provide safe and efficient accessibility to the Contractor's collection crew and vehicle. Cardboard shall be collected if placed next to, on, or inside of the Recycling Container or Containers. If there is a large amount of cardboard placed outside of the Container, often an alternate, larger Container shall be provided upon agreement by the customer and the Contractor. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for pickup.

f. Collection from Trash Receptacles at Bus Shelters

The Contractor shall provide collection service for all of the garbage, litter, and rubbish discarded in the trash receptacles located adjacent to the public bus shelters that are identified in Exhibit IX, attached hereto and incorporated herein. At all of these locations, the Contractor shall collect and remove all of the Garbage and Rubbish that has been placed in the trash receptacle. The Contractor shall provide these services at each location, at least two times per week, as part of its regular pickup routes.

The City shall be responsible for purchasing, installing, maintaining, and replacing the trash receptacles that will be used. The Contractor shall promptly notify the Contract Administrator or designee if one of the City's receptacles or containers need to be repaired or replaced.

i. Solar-Powered Compactors

At its discretion, the City may allow the Contractor to install solar-powered waste compactors at a bus shelter. If the City chooses to allow the Contractor to install the compactors, the Contractor shall be responsible for all costs and work involved with the installation and proper operation of the equipment.

If the Contractor installs its logo or other company identification on the compactor, then the Contractor shall also install the City's logo on the compactor, given equal prominence and size, at the Contractor's cost.

Upon installation of the compactor, the City will remove the City-installed trash receptacles.

g. Commercial Solid Waste Collection Service

The Contractor shall collect and dispose of all Commercial Solid Waste in the Service Area, except Special Waste. Such Commercial Collection Service shall be governed by the following terms:

i. *Conditions and Frequency of Service*

A minimum of once per week service, or as otherwise provided by law, is required of all customers. Such service shall be provided by Container as defined herein. However, where a customer generates less than 1 cubic yard of waste per week, alternate Universal Containers may be utilized. Commercial Customers utilizing a Universal Container provided by the Contractor shall be charged one-half the per-cubic-yard collection rate as established in Exhibit I and one-half the per-cubic-yard rate for disposal for each Container. The size of the Container and the frequency of collection shall be determined between the customer and the Contractor. However, size and frequency shall be sufficient to provide that no Commercial Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer. The Contractor shall provide Containers as necessary; however, customers may own their Container provided that the customer is completely responsible for the proper maintenance and replacement. Such Containers shall be of a type that can be serviced by the Contractor's equipment. All Commercial Solid Waste shall be placed in a Universal Container, Container, or Compactor. Vegetative Waste shall not be commingled with Garbage. When Vegetative Waste is placed in a Container (not loose or in a Roll-off or a Compactor), the Contractor may charge 1.5 times the commercial collection rate as set out in Exhibit I. Where Universal Containers are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer. Any Universal Container, Container, or Compactor damaged by the Contractor shall be repaired or replaced by the Contractor within five business days. Compactors may be obtained by customers from any source, provided that such Compactor must be of a type that can be serviced by the Contractor's equipment, and the customer shall be completely responsible for its proper maintenance and replacement. Compactor frequency of collection shall be sufficient to contain the waste without spillage. All Containers and Compactors provided by the Contractor shall be in good condition, painted, and neatly labeled with the Contractor's name, phone number, and size of Container in cubic yards, placed on the front of the Container and side of Compactors.

h. Level Type and Disclosure of Rates for Commercial Solid Waste Collection and Other Services:

i. *Commercial Solid Waste Collection Service*

The Contractor shall only charge rates as set out in Exhibit I or as otherwise allowed by this Agreement. A written agreement between the Contractor and the customer shall be required and entered into regarding the level and type of service to be provided and manner

of collection of fees. The Contractor may not bill the customer more than 30 days in advance unless otherwise requested by the customer. The terms and conditions of such agreement shall be in compliance with all provisions of this Agreement, and the term shall not extend beyond the initial term of this Agreement. The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement, the Contract Administrator or designee shall establish the level and type of service to be provided, including the location, size of the Container, number of pickups per week, and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit I. The Contractor shall be responsible for the billing and collection of Commercial Solid Waste Collection Services, disposal tipping fees, special fees, and Container maintenance charges, except as otherwise provided in this Agreement.

ii. *Disclosure*

The Contractor shall provide the customer an annual disclosure statement in October of each year of the term of this Agreement, including the following language:

*REGULATION BY THE CITY OF PALM BEACH GARDENS*

*The terms and conditions of this Commercial Solid Waste and Recycling Collection Service Agreement are regulated by an exclusive Agreement granted by the City of Palm Beach Gardens. Should the customer have any questions relating to the terms and conditions of this Agreement, the customer may call the Contract Administrator at XXX-XXX-XXXX.*

ARTICLE 6. COMMERCIAL COLLECTION CONTAINERS

The commercial collection Container shall be of a type that can be serviced by the Contractor's collection equipment. The customer may either purchase the commercial collection Container from any source or request such Container from the Contractor at the maintenance rate as approved by the City, provided that such Container can be serviced by the Contractor's collection equipment. If the customer chooses to use a Compactor, the customer may rent, lease, or own the Compactor from any source, provided that the Compactor can be serviced by the Contractor's collection equipment. Commercial collection Containers and Compactors shall be maintained in a serviceable, safe, and sanitary condition by the owner of the Container or Compactor. However, damage caused by the Contractor to a customer-owned Container or Compactor shall be repaired at the cost of the Contractor.

Overage service is required when a commercial container is overloaded with at least one yard of excess materials at the time of service. An overage charge of \$100 will apply to 2yd/4yd containers and a service charge of \$125 will apply to 6yd/8yd containers per incident.

The Contractor shall provide City staff with a weekly report of occurrences that will include photographs of the overloaded Containers for each property. City staff will contact clients to inform them of the overage and recommend an increase in service levels. Customers will be provided with one "warning" notification prior to implementation of the overage charges. The Contractor will bill all overage charges.

**ARTICLE 7. SPECIAL SERVICES**

If the customer requests, the Contractor shall provide special services for collection of solid waste, such as rolling Containers out of storage areas, opening doors or gates for access, or other such special services. However, such special services may be provided by the customer, through its own or other personnel. If the Contractor provides special services, such charge must be separately stated under the "RATES FOR SERVICES" disclosure statement. The City of Palm Beach Gardens fixes the maximum for these special service rates. A copy of these rates shall be available from the Contractor.

*RATES FOR SERVICE*

*October 1, (year) - September  
 30, (year)*

*Name of Contractor      Name and Address of Customer*

*The total RATES for this Commercial Solid Waste and Recycling Collection Service are as follows:*

<i>Number of Container</i>	<i>Size</i>	<i>Frequency</i>	<i>Type</i>	<i>Collection Cost</i>	<i>Disposal Cost</i>	<i>Special Service</i>	<i>Container Rental</i>	<i>Total</i>

*Total Monthly Cost:*

*\*There is no charge for the disposal of Recyclable Materials for processing.*

*THESE SERVICES ARE PROVIDED UNDER A FRANCHISE AGREEMENT REGULATED BY THE CITY OF PALM BEACH GARDENS. SHOULD YOU HAVE ANY QUESTIONS RELATING TO THESE RATES, PLEASE CALL THE CITY OF PALM BEACH GARDENS AT 561.775.8274.*

The "RATES FOR SERVICES" statement shall incorporate or have attached a rate schedule that specifies the Collection Rate based on the size of the Container and the frequency of service: TYPE indicating whether the Container is for Solid Waste or Recycling; DISPOSAL based on a cost per cubic yard; CONTAINER MAINTENANCE expressed in a monthly flat rate based on the size of the Container; and the cost per month for each SPECIAL SERVICE REQUIRED BY THE CUSTOMER. The notification shall specify the size of the Container and the frequency of collection of each Container for each business, distinguishing between solid waste and recycling collection service. The notification shall specify the address where the business is located. The notification shall itemize each cost individually. A sample notification shall be approved by the Contract Administrator or his designee before distribution to the customer. Each disclosure statement to be provided annually to the customer by the Contractor will also be prepared in duplicate, with a copy being provided to the City.

- a. **Commercial Recycling Collection Service**  
The Contractor shall provide Commercial Recycling Collection Services on behalf of the City for any business in the Service Area where the City has arranged, negotiated, or contracted for such service, and the Contractor shall have the right to solicit Commercial Recycling Collection Service agreements with any business in the Service Area upon terms and conditions consistent with this Agreement. However, this service is not exclusive to the Contractor.
  
- b. **Conditions and Frequency of Service**  
The Contractor shall provide Commercial Recycling Collection Services to all business or commercial entities located in the Service Area resulting from its own solicitation, by request of the customer, or where a contract meeting the terms and conditions of the Agreement is arranged by the Contract Administrator or designee. The size and frequency of service of the Container designated for Recyclable Materials shall be determined and agreed to by the customer and the Contractor. However, size and frequency shall be sufficient to provide that no Recyclable Materials need be placed outside the Container. Storage capacity shall be suitable for the amount of recyclable materials generated by the customer. The Contractor shall provide Bulk Containers as necessary; however, customers may own their Container provided that the customer is completely responsible for its proper maintenance and replacement. Such Containers shall be of a type that can be serviced by the Contractor's equipment. Compactors may be obtained by customers from any source, provided that such Compactor must be of a type that can be serviced by the Contractor's equipment,

and the customer shall be completely responsible for its proper maintenance and replacement. Compactor frequency of collection shall be sufficient to handle the waste generated. All Commercial Recyclable Materials shall be placed in a Container, Compactor, or other acceptable Recycling Container. All Bulk Containers and Compactors provided by the Contractor shall be in good condition, painted, and neatly labeled with the Contractor's name, phone number, and size of Container in cubic yards.

Recyclable Material shall not be commingled with other solid waste. Where Recycling Containers or Universal Containers are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All containers shall be kept in a safe, accessible location agreed upon between the Contractor and the customer. Any Container or Recycling Container damaged by the Contractor shall be repaired or replaced by the Contractor within five days.

c. Level, Type, and Disclosure of Rates for Commercial Recycling Collection and Other Services

A written agreement between the Contractor and the customer shall be entered into regarding the level and type of service to be provided and manner of collection of fees. The terms and conditions of such agreement shall be in compliance with all provisions of this Agreement, and the term shall not extend beyond the term of this Agreement. The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement, the Contract Administrator or designee, at the election of the customer, and Contractor may establish the level and type of service to be provided, including the location, size of the Container, and number of pickups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit I. The Contractor shall be responsible for the billing and collection of payment for Commercial Recycling Collection charges, except as otherwise provided in this Agreement. In the event the customer cancels a contract with the Contractor for Commercial Recycling Collection Services, the Contractor is not obligated to provide Commercial Recycling Collections at the rates set forth in Exhibit I.

Upon cancellation, the Contractor shall provide a written explanation to the City for the cancellation. The Contractor shall allow the customer three days to rescind the cancellation after the written notification is provided. To the extent that a customer who canceled Commercial Recycling Collection Services subsequently requests such service, the Contractor may negotiate a separate rate with the customer for such service.



- d. **Ownership**  
Notwithstanding any other provision of this Agreement, a commercial generator of Recyclable Materials retains ownership of those materials until he/she/it donates or sells, or contracts for the donation or sale of those materials to another person or entity. Nothing in this Agreement shall prevent a person or entity engaged in the business of recycling, whether for profit or nonprofit, from accepting and transporting Recyclable Materials, under contract with a commercial generator, from such commercial generator when such Recyclable Materials have been purchased from or donated by the commercial generator and no charge is made to or paid by the commercial generator for the loading, collection, transporting, or removal of such Recyclable Materials; provided, however, that the transporter must report such information to the City as may be necessary for the documentation of state-mandated recycling or reduction goals.
- e. **Accessibility: Placement of garbage cans, bags, or Universal Containers and bulky (large quantities) Vegetative Waste for collection** will provide for safe and efficient access to the Contractor's crew and vehicle, avoiding utility lines and boxes, mailboxes, fences, and overhanging trees.
- f. **Curbside Residential Solid Waste, Vegetative Waste, and Recycling** to be collected curbside must be placed within six feet of the curb, paved surface of the public road, closest accessible public right-of-way, or such other location agreed to by the Contractor. In the event there is insufficient space between the curb and sidewalk for placement of Universal Containers or Vegetative Waste, alternatively they will be collected within two feet of the sidewalk. For purposes of this Agreement, public road or public right-of-way means a road owned and maintained by the county, state, or city, or a road on private property for which an easement or right-of-entry agreement has been granted to the public, and such road is constructed and maintained to a standard whereby access is available by the Contractor's collection vehicle. Curbside Residential Solid Waste, Vegetative Waste, and Recycling will be collected at only one location on a residential property. Additional stops for collection, as on two sides of a corner lot, are considered a special service requiring an additional rate to be negotiated with the Contractor. All disputes herein shall be resolved by the Contract Administrator that shall be binding upon the parties.
- g. **Container Residential Solid Waste and Recycling Containers** shall be kept in a location agreed upon by the customer and the Contractor, and such location shall provide safe and efficient access to the Contractor crew and vehicle. Cardboard shall be collected if placed next to, on, or inside the Recycling Container. Cardboard shall be broken down into sizes no larger than 3' x 3'. If there is frequently a large amount, an

alternate, larger container shall be provided upon agreement by the customer and Contractor. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for collection.

Commercial Solid Waste and Recycling Container shall be kept in a safe, accessible location agreed upon between the customer and the Contractor.

h. Method of Payment

The City shall be responsible for the billing and collection of payments for Curbside Residential Solid Waste, Curbside Residential Vegetative Waste, and Curbside Residential Recycling Collection Services as well as Container Residential Solid Waste and Recycling Collection Services. Payments from the City to the Contractor shall be done and paid no later than the 10th day of the month following service. The collection service rate per dwelling unit per month shall be as set out in Exhibit I. The Contractor shall be responsible for billing and collection of payments for Container Residential Solid Waste and Recycling Collection Services as well as Commercial Solid Waste and Recycling Collection Service, not to exceed the rates as set out in Exhibit I. The Contractor may be asked to bill the City or the customer for all or a part of the Containers used by the customer for Commercial Recycling Collection Service, at the rate set out in Exhibit I, as determined by the Contract Administrator.

i. Method of Collection

The Contractor shall provide enclosed packer loader-bodied vehicles equipped for manual collection of Curbside Residential Solid Waste and Vegetative Waste. The Contractor shall use collection equipment no older than seven years at any time during the term of this Agreement. Bulk Trash and large quantities of Vegetative Waste that cannot be containerized shall be collected by means of manual rear-load packer vehicles or open box vehicles equipped with grapples for loading the waste into the vehicle container. Compartmented-bodied vehicles equipped for manual and semi-automated loading and lifting shall collect curbside and Container Residential Recycling. Two compartments are required to collect and transport two streams of recyclables; containers such as glass bottles and jars, plastic bottles and aluminum cans; and fiber such as newsprint, magazines, catalogues, and properly-sized cardboard. Items to be collected as part of the Solid Waste Authority recycling program may be adjusted from time to time during the term of this Agreement.

Commercial and Container Residential Solid Waste shall be collected by enclosed loader-packer-bodied vehicles or by roll-off type vehicles servicing stationary compactors or open-top container.

All collection equipment shall be equipped and operated in such a manner as to avoid, at all times, spilling, dropping, or blowing contents out of the vehicle or hopper onto public or private property to include all roads, streets, highways, and rights-of-way.

Recycling Containers shall be ordered by the City from the Solid Waste Authority and distributed by the Contractor. The City will order Recycling Containers for distribution by the Contractor according to requests made through the City customer service office. Pickup, inventory, and distribution of Recycling Containers shall be the responsibility of the Contractor.

j. Hours of Collection

Collection Services shall not be provided in the Service Area except between the hours of 7:00 a.m. and 6:30 p.m., Monday through Saturday. The Contract Administrator shall resolve collection schedule disputes between the customer and Contractor. The Contract Administrator may restrict the hours of service to non-residential customers if in his/her judgment disturbance complaints warrant such action. Hours of collection may be extended or temporarily stopped due to extraordinary circumstances or conditions with the prior consent of the Contract Administrator.

k. Routes and Schedules

The Contractor shall provide and keep current with the Contract Administrator or designee, in a format acceptable to the City, an up-to-date route schedule map for all Residential and Commercial Collection Service routes and schedules. The Contractor shall immediately notify the Contract Administrator in writing of any proposed change in any route schedule three weeks prior to the proposed change for review and approval by the Contract Administrator. In the event of a permanent change in the routes or schedules that will alter the pickup day, the Contractor shall immediately notify the affected customer in writing, or other method approved by the Contract Administrator, not less than two weeks prior to the change, at no cost to the City and the customer. Notification to the customer includes any day changes prior to the beginning of this Agreement. Notification to Curbside customers shall be done twice: once two weeks prior to the change, and once one week prior to the change. The City reserves the right to deny the Contractor's vehicles access to certain streets, alleys, and public ways inside the City en route to the disposal site where it is in the interest of the general public to do so because of the condition of the streets or bridges. The Contractor shall not interrupt the regular schedule or quality of service because of street closures of less than eight hours in duration. The City shall notify the Contractor of street closures of longer duration, and arrangements for service shall be made in a manner satisfactory to the Contractor and the City. The Contractor

understands and agrees to the fact that at times during the year the quantity of solid waste to be disposed may be increased by the influx of visitors. This additional load will not be justification for the Contractor to fail to maintain the required collection schedules and routes.

I. Recycling Containers for Residential Dwelling Units

- i. The City shall order, and the Contractor shall pick up and distribute to each residence(s) within the City, a minimum of two containers for Recyclable Materials to be collected. All Recycling Containers are the property of the City. Any Containers distributed prior to the commencement of this Agreement provided by the Contractor shall also become the property of the City on the date of commencement of this Agreement. The Contractor shall maintain an adequate supply of Containers to provide for new residents and replacements for existing residents.
- ii. The Contractor shall repair or replace at its expense any Container or Recycling Container damaged through the fault or negligence of the Contractor or its employees. The Contractor shall deliver replacement Containers or Recycling Containers within 48 hours of a request.
- iii. The Contractor shall promptly deliver replacement Recycling Containers, or Containers damaged by its employees, or when notified by the Contract Administrator or designee, or the occupant of a Dwelling Unit where a Recycling Container or Container is damaged or missing, and shall report monthly all such replacements to the City. The Contractor shall also promptly deliver Recycling Containers, or Containers as requested by the City on behalf of the residential customers, for the purpose of excess Recyclable Materials or for new residential customers within five business days of the request by the customer or the City.

m. Material Recycling Facility

The Contractor shall deliver all Recyclable Materials collected from the Service Area to the Solid Waste Authority Materials Recycling Facility (MRF) or facility designated, in writing, by the Contract Administrator.

- n. **Change in Scope of Recycling Collection Service**  
From time to time, at the sole option of the City, it may be necessary to modify the scope of Recyclable Materials or the method of collecting recyclables that will be included in the Recycling Collection Service. Should this occur, the City and the Contractor agree to enter into good faith negotiations to amend this Agreement to reflect the impact of any such modification.

## ARTICLE 8. CHARGES, RATES, AND LEVEL OF SERVICES

- a. **Solid Waste and Recycling Collection Rates**  
Charges for all Collection services performed by the Contractor pursuant to this Agreement shall be based on the rates established in Exhibit I. No change in rates, as provided by this Agreement, shall be made without the approval of the City Manager.
- b. **City's Obligation, Payments**  
The City will be responsible for payments for those dwelling units included in the City's mandatory Curbside Residential Solid Waste and Vegetative Waste Collection Services and the Curbside Residential Recycling Collection Services programs. The City shall make monthly payments in arrears to the Contractor for curbside residential collection pursuant to this Agreement. The Contractor shall be entitled to payment for the collection services specified herein irrespective of whether or not the City collects from customers for such services. Payments from the City to the Contractor will be due and paid no later than the 10th day of the month following the month during which services were rendered.

On or before October 1, and before commencement of work by the Contractor under the terms of this Agreement, the City will provide to the Contractor the estimated total number of Dwelling Units to be serviced, including container residential Dwelling Units. By November 1 of each Fiscal Year, the City will provide to the Contractor a copy of the annual tax roll providing a listing of all the Dwelling Units to receive these services. Thereafter and for the duration of this Agreement, the City will notify the Contractor monthly of new residential Dwelling Units to be served and/or deleted, and payments will be adjusted accordingly. New Dwelling Units that are added for collection service during the City's Fiscal Year will be added to the customer service list, and payment for said services will be paid by the City to the Contractor in the Contractor's monthly payment. Payment will commence the first day of the month following the issuance of a certificate of occupancy ("CO"). The payments from the City to the Contractor for Dwelling Units added by CO are paid no later than the 10th day of the month. After the first year of the Agreement, the Dwelling Unit becomes part of the total number of the subsequent year's total number of Dwelling Units, provided annually to the Contractor on or before October 1. Reconciliation will occur every year in January based solely on Dwelling

Units listed in the tax roll plus Dwelling Units issued COs since January of the previous year. The Contractor is responsible for the billing and collection for collection services provided to container residential customers.

- i. In the event the Contractor provides service to Dwelling Units whose parcels were not included on the annual tax roll provided by the City, the Contractor must provide a written list of such Dwelling Units and the length of time for which service was provided to the Contract Administrator within 90 days of receipt of the tax roll or monthly notice of new occupancy is received. Upon receipt of such written list by the City, the Contract Administrator will verify the customer address and that service to the Dwelling Unit is proper within 30 days, and if proper, shall remit monthly payments to the Contractor for such service effective as of October 1 of that Fiscal Year or the date service began, whichever is earlier, but for no period more than 90 days in arrears. If the City has not received notification within 90 days by the Contractor, no adjustments to payment will be made until the next Fiscal Year annual roll is certified for the same Dwelling Units. However, the City reserves the right to correct any errors of omission or commission per the laws and rules that govern the City. In the event the City pays the Contractor for a residential Dwelling Unit in error for whatever reason, the Contractor shall notify the Contract Administrator. Upon determination of any overpayment, the Contract Administrator shall verify the error and make appropriate adjustment to the Contractor's payment to correct the error.
  
- ii. **Solid Waste Disposal Costs**  
Collection service costs and solid waste disposal costs shall be treated separately for the Residential Solid Waste Collection Services being provided pursuant to this Agreement. The Contractor's payments for collection are set out in Exhibit I. Residential and commercial solid waste disposal costs shall be separated from Residential and Commercial Collection Service costs as shown in Exhibit I. Residential disposal costs shall be part of the special assessment billed by the Solid Waste Authority of Palm Beach County (Authority) except as otherwise provided in this Agreement. The Contractor will be given a disposal credit for each residential Dwelling Unit as calculated by the Authority annually as shown in Exhibit I. The non-assessed portion of the commercial disposal costs shall be part of the service charge billed by the Contractor. The Contractor shall pay the Authority for all solid waste disposal costs incurred for disposing of all solid waste at the Authority's Disposal Facilities, except for the portion of disposal costs that have been separately credited by the City. The City accepts no responsibility or financial liability for quantities of Residential Solid or

Vegetative Waste required to be collected pursuant to the terms and conditions of this Agreement.

The City will pay the Contractor, on a quarterly basis pro-rated, fees for new residential Dwelling Units issued a CO. Pro-rated disposal fee calculations shall be paid by the City to the Contractor for non-assessed residential Dwelling Unit disposal fees in accordance with the provisions in Exhibit V.

- iii. **Contract Service/Franchise Fee**  
To compensate the City for the cost of administration, supervision, and inspection rendered for the effective performance of this Agreement, as well as other costs related to Collection, the Contractor shall pay to the City a Contract Service/Franchise Fee of 5 percent of all gross revenues billed arising out of any services or operations that are exclusive to the Contractor conducted in the Service Area. Solid waste disposal costs paid by the Contractor to the Authority under this Agreement shall be deducted from the gross revenue total prior to applying the 5 percent for calculation of the Contract Service/Franchise Fee due to the City. Further, Franchise Fees themselves shall not be part of the calculation to avoid a "fee on fee" situation. Contract Service/Franchise Fees for each calendar quarter shall be payable within 10 days following the last day of such calendar quarter. A late charge of 1.5 percent of the monies due for the Contract Service Fee shall be calculated monthly until payment is received.

## ARTICLE 9. HOLIDAYS

The Contractor shall not be required to collect Commercial Solid Waste, Commercial Recycling, Residential Solid Waste, Vegetative Waste, and Residential Recyclable Material or maintain office hours on Thanksgiving Day and Christmas Day. Residential Solid Waste, Recyclable Material, and Vegetative Waste not collected on Thanksgiving Day and Christmas Day shall be collected on the next scheduled service day. The Contractor shall not be required to maintain office hours on Memorial Day, Labor Day, Independence Day, New Year's Day, Thanksgiving Day, and Christmas Day. However, on all holidays except Thanksgiving Day and Christmas Day, the Contractor shall provide for operations personnel to accept calls from the City and the Contractor's customers.

## ARTICLE 10. ADDITIONAL SPECIAL SERVICES

Where the resident of a Dwelling Unit is physically unable to deliver Residential Solid Waste, Vegetative Waste, or Residential Recycling to the curbside and is qualified as disabled by the Contract Administrator, an alternative location may be arranged between the customer and the Contractor at no extra cost to the resident. The Contract Administrator shall resolve any dispute by designating the alternate location. If a

residential Dwelling Unit is located in such a manner as to provide non-accessibility to the Contractor's crew or vehicle, an alternate may be arranged between the customer and the Contractor at no cost to the resident. The Contract Administrator will resolve any dispute.

Rates charged for Special Services may not exceed the Special Service Rate listed in Exhibit II. If the Resident requests Special Services, such as back-door service (off-curb service), these services shall be billed directly to the customer by the Contractor in accordance with Exhibit I; such charges shall then be established through negotiations between the Contractor and the customer. In the event the customer and the Contractor cannot reach an agreement on the cost, the Contract Administrator shall determine the cost. Any special service(s) negotiated between the Contractor and a customer shall be in the form of a written agreement and signed by both parties. The Contractor shall provide a copy of this Agreement to the Contract Administrator within five days of the execution of the Agreement.

#### ARTICLE 11. PUBLIC AWARENESS PROGRAM

The Contractor shall assist the City with any Public Awareness Program to inform residential and commercial customers of the requirements for the solid waste, vegetative waste and recycling collection program that shall include, but not be limited to, brochures and other materials approved by the City, as well as by distributing door hangers, stickers, flyers, or other medium for distribution to residential and commercial customers as requested by the City. The City and the Contractor shall share responsibility for the promotion of the recycling programs. The City and the Contractor shall cooperate in the design of promotional events and educational programs and the preparation of the above-referenced promotional materials. However, the City's contribution shall be subject to budget, review, and approval by the City. The Contractor will distribute written service information to the residential participants on a periodic basis. The Contractor further agrees to conduct presentations for schools, civic groups, homeowners' associations, and other appropriate citizen's groups. The Contractor's financial responsibility shall be limited to reimbursing the City for its commercial printing costs for printed informational materials regarding the Solid Waste and Recycling Collection Program.

The Commercial Recycling customer will also be notified, by the City through the Contractor, about special commercial recycling events, workshops, educational forums and symposiums, and other activities, as requested. City personnel may be available to assist the Contractor's marketing staff in expanding commercial marketing service.

#### ARTICLE 12. MANNER OF COLLECTION

The Contractor shall collect Residential Solid Waste, Vegetative Waste, and Recyclable Materials and Commercial Solid Waste and Recycling with a minimum of noise and as little disturbance as possible, and shall leave all containers at the same point it was collected, and leave no container in a location blocking vehicle access to a driveway or turnout. Any Garbage Can, Recycling Container, or Container damaged by the



Contractor will be repaired or replaced by the Contractor within 48 hours at no cost to the customer, unless otherwise provided within this Agreement. The replacement must be similar in style, material, quality, and capacity. Throwing of any Garbage Can or Recycling Container is prohibited. The Contractor shall neatly replace all Containers and Garbage Cans to the point of collection. Employees of the Contractor shall not be required to expose themselves to the danger of being bitten by vicious dogs or similar animals in order to accomplish Curbside Residential Solid Waste, Vegetative Waste, and Recycling Collection Service. In any case where the owner or tenants have such animals at large, the Contractor shall immediately notify the Contract Administrator of such condition and of its inability to provide service because of such conditions. Collection crews will immediately clean up any spillage created in the process of collecting Residential Solid Waste, Vegetative Waste, and Recyclable Material.

#### ARTICLE 13. PERSONNEL OF THE CONTRACTOR

- a. The Contractor shall assign a qualified person or persons to be in charge of daily operations within the Service Area and shall give the name(s) and office and cellular telephone numbers of the person(s) to the Contract Administrator. Such person(s) shall be present in the City during the majority of collection hours each collection day.
- b. The Contractor's solid waste collection employees and workers shall wear a uniform or shirt bearing the Contractor's name during operations in the City.
- c. Each driver of a collection vehicle shall at all times carry a valid Florida driver's license for the type of vehicle that is being driven.
- d. The Contractor shall provide operating and safety training for all personnel, including temporary workers, and documentation as proof of training.
- e. The Contractor's employees and workers shall treat all customers in a polite and courteous manner.
- f. The Contractor shall provide emergency contact numbers for all key personnel. In addition, the Contractor shall supply at no cost to the City one radio compatible with the City's system with the numbers of all contacts pre-programmed into the phone for City use.

#### ARTICLE 14. SPILLAGE

The Contractor shall not litter or cause any spillage to occur upon the premises, roadway, or the right-of-way wherein the collection shall occur. During hauling, all solid waste, vegetative waste, and recyclable material shall be contained, tied, or enclosed so that leaking, spilling, and blowing is prevented. In the event of any spillage or leakage by the Contractor, for any reason or source, the Contractor shall clean up all spillage and leakage at no cost to the City or the customer the same day of occurrence, unless otherwise specified within this Agreement or some other period as approved by the Contract Administrator.

The Contractor shall include spill containment kits in each vehicle operating in the City. Additionally, the Contractor shall install and maintain, at its own expense, a lockable storage unit in a designated area of the City Public Works yard containing sufficient quantities of spill containment absorbent material to effectively contain and clean up the loss of 50 gallons of fluid. Sufficient bags of gray Portland cement and heavy-duty brush brooms will also be stored to cover an area 25 feet wide and 40 feet long.

#### ARTICLE 15. SOLID WASTE AND MATERIAL RECYCLING FACILITIES

All Residential Solid Waste, Commercial Solid Waste, Vegetative Waste, and Recyclable Material shall be hauled to a designated Facility. Facilities managed and operated by the Solid Waste Authority are periodically closed for maintenance (an average of 30 business days every four years). In the event a Designated Facility is closed, the Contractor shall take the Solid Waste, Vegetative Waste, and Recyclable Materials to another Designated Facility at no charge to the City.

In the event that a load of Recyclable Materials delivered to a Designated Facility contains more than 3.5 percent by weight of the total load, material that is not Recyclable Material, or that there are more than 3.5 percent paper products within the other commingled Recyclable Material or vice versa, the Authority or its designee has the right to reject the load and to charge the Contractor the full disposal fee for each ton within the load. The Contractor may pass this cost through to a commercial customer in the event that the Contractor can prove, to the satisfaction of the customer, that the customer caused the contamination. In the event of a dispute, the Contract Administrator will determine whether the Contractor or the customer will absorb the disposal fee. It is the responsibility of the Contractor to notify the City of any customer who has on more than three occasions contaminated the Recyclable Materials. However, the City shall not be responsible for payment of any penalties charged by the Authority for contaminated loads.

#### ARTICLE 16. COLLECTION EQUIPMENT

The Contractor shall provide, operate, and maintain manual packer loader equipment for Residential Curbside Solid Waste Collection Service and have on hand at all times and in good working order such equipment as shall permit the Contractor to adequately and efficiently perform the contractual duties specified in  
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this Agreement, including one reserve type collection truck for each type in service. Upon execution of this Agreement and semi-annually thereafter, the Contractor shall provide, in a format specified by the Contract Administrator, a list of the equipment to be used by the Contractor to provide services relating to this Agreement. Residential Solid Waste collection equipment shall be of the enclosed loader packer type, or other equipment that meets industry standards and is approved by the Contract Administrator. All Equipment shall be kept in good repair, appearance, and in a sanitary, clean condition at all times. Recycling Materials collection equipment shall be dual-compartment equipment (one compartment for paper products and one compartment for other Recyclable Material), separate trucks or other equipment that meets industry standards and is approved by the Contract Administrator, and must be compatible for unloading at the designated recycling facility or transfer station.

Unless otherwise provided within this Agreement, in the event a compacting vehicle is used for the collection of Recyclable Materials, compaction pressure may not exceed 50 pounds per square inch for the commingled non-paper Recyclable Materials to avoid glass breakage. Equipment utilized for the collection of Recyclable Materials shall be clearly identified for that purpose. The Contractor shall have available reserve equipment that can be put into service within two hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the assigned equipment used by the Contractor to perform the contractual duties. However, back-up equipment can be a rear- or front-load packer with lifters. Equipment is to be painted uniformly with the name of the Contractor, business telephone number and the number of the vehicle in retro-reflective letters not less than five inches high on each side of the vehicle. The rear of the vehicle shall contain signs warning the public of frequent stops. All vehicles shall be numbered, and a record kept of the vehicle to which each number is assigned. No advertising shall be permitted on vehicles, except of events sponsored by the City. All containers shall have the container size listed in cubic yards displayed on the front of the container. No equipment used in this Agreement shall be older than seven years of age from date of manufacture. Equipment shall have rear-flashing strobe lights that must remain on while the vehicle is in collection mode.

#### ARTICLE 17. SPECIAL WASTE, HAZARDOUS WASTE, BIOHAZARDOUS OR BIOMEDICAL WASTE, AND SLUDGE

The Contractor shall not be required to collect and dispose of Special Waste, Hazardous Waste, Biohazardous or Biomedical Waste, or Sludge but may offer such service in the City. All such collection and disposal for those types of waste in this Article are not regulated or exclusive under this Agreement, but if provided by the Contractor, shall be in strict compliance with all federal, state, and local laws and regulations.

#### ARTICLE 18. OFFICE AND EQUIPMENT YARD

The Contractor shall maintain an office within Palm Beach or Martin County where complaints shall be received. It shall be equipped with sufficient telephones, with no less than two phone lines, and shall have responsible persons in charge during

collection hours and shall be open during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. The Contractor shall provide a fax machine and/or computer to receive complaints from the City that shall be operable 24 hours a day. The Contractor shall provide an answering machine during non-office hours for customer requests and questions to be responded to during the following business day. The Contractor shall provide a contact person, who shall live not more than 60 miles from the City, for the City to reach during all non-office hours. The contact person must have the ability to authorize Contractor operation in the case of City direction or situations requiring immediate attention.

The Contractor's Equipment Yard and office are located currently at 7700 SE Bridge Road, Hobe Sound, Florida. Equipment Yard means a real property location that shall be utilized by the Contractor for the storage and keeping of all equipment needed by the Contractor to provide all services under this Agreement in the Service Area.

#### ARTICLE 19. COMPLAINTS

Any complaints received by the City will be forwarded to the Contractor by telephone, computer, or electronic media daily where the Contractor shall record it on a complaint log, as well as any complaints received directly by the Contractor. The complaint shall be resolved within 24 hours after the Contractor receives it. When the complaint is received by 12:00 noon on a Saturday or the day preceding Thanksgiving Day and Christmas Day, it shall be resolved by the Contractor the same day it is received; however, if received after 12:00 noon, it shall be resolved no later than the next regular working day. When the Contract Administrator notifies the Contractor of a complaint or the Contractor receives a complaint, the Contractor shall take the appropriate steps that may be necessary to resolve the complaint within 24 hours after its receipt. If a complaint cannot be resolved within 24 hours, the Contract Administrator shall be notified immediately of the reasons for the delay. If the Contract Administrator approves the reasons, the 24-hour resolution period will be adjusted.

The Contractor shall provide the Contract Administrator or designee with a full written explanation of the disposition of any complaint involving a claim of damage to private or public property as a result of actions of the Contractor's employees, agents, or sub-contractors. Any damage shall be repaired within seven business days with written disposition submitted to the Contract Administrator within five days following resolution.

The Contractor shall prepare and maintain, in accordance with a format and method approved by the City, a register on all complaints, and shall indicate thereon the disposition of each complaint. Such record shall be submitted to the City after the 10<sup>th</sup> day of each month for the preceding month. The record shall indicate the day and hour on which the complaint was received and the day and hour on which it was resolved. The complaints received by the Contractor, both residential and commercial customers by service type and their disposition, shall be delivered electronically daily to the Contract Administrator. Legitimacy of challenged complaints shall be determined by the Contract Administrator, and his/her decision shall be final.

It is recognized that disputes may arise between the City and the Contractor with regard to the collection of certain items due to disputes over the specific language of the Agreement. The Contract Administrator may from time to time notify the Contractor by telephone to remove all such refuse. Should the Contractor fail to remove the refuse within 24 hours from the time of notification, the City will do so, and all costs incurred by the City shall be deducted from compensation due the Contractor. This action taken by the City shall not be deemed a breach of this Agreement; the parties understand that the City has the unilateral right to set off such amounts, and such action by the City shall not be deemed a breach of this Agreement. Notice of the amount deducted shall be given to the Contractor. If the City or designee determines that disputed refuse did not conform to contract specification, the Contractor shall be entitled to additional compensation for removal.

**ARTICLE 20. QUALITY OF PERFORMANCE OF CONTRACTOR**

It is the intent of this Agreement to ensure that the Contractor provides a quality level of Solid Waste and Recycling Collection Services. To this end, all complaints received by the Contract Administrator or designee and reported to the Contractor shall be promptly resolved pursuant to the provisions of Article 16 and all other terms and conditions of this Agreement. Complaints shall not include customer informational requests or Recycling Container requests. A complaint not resolved within 24 hours, unless otherwise provided in this Agreement, shall count as two complaints. In the event complaints received from curbside customers within the Service Area, as determined by the Contract Administrator or designee, exceed the limits shown in the tabulation below, the Contract Administrator shall levy \$100.00 per incident administrative charges for those actions related to service as listed within this Agreement. These administrative charges shall be in addition to other administrative charges levied by the Contract Administrator. There will be a \$1,000 administrative penalty in addition to other penalties if the percentage of complaints, based on residential Dwelling Units served, is exceeded monthly or annually.

Type of Complaint	Monthly Limit (%)	Fiscal Year (Annual) Limit%
Garbage and Damage	0.50%	3.00%
Recycling	0.15%	1.00%
Vegetation	0.50%	2.00%
All Others	0.10%	0.50%
	1.25%	6.50%

The Contract Administrator may also levy administrative charges for all other infractions of this Agreement at \$100.00 per day per incident, as determined by the Contract Administrator or designee, without regard to the percentage of customer complaints including:

- a. Commingling Solid Waste with Vegetative Waste and/or Recyclable Materials.
- b. Throwing of garbage cans or Recycling Containers.

- c. Failure to collect Recyclable Materials, Solid Waste, or Vegetative Waste on collection schedule.
- d. Failure to replace Garbage Cans, Containers, or Recycling Containers to the point of collection.
- e. Failure to provide clean, safe, sanitary equipment.
- f. Failure to maintain office hours, as required.
- g. Operator not licensed or improperly licensed.
- h. Failure to provide documents and reports in a timely and accurate manner.
- i. Damaged Container or Recycling Container not replaced within 48 hours.
- j. Failure to clean spillage.
- k. Failure to repair damage to customer property within seven business days or as otherwise provided in this Agreement.
- l. Failure to cover materials on collection vehicle(s).
- m. Collection employees or temporary workers not in company uniforms.
- n. Name and phone number, and if applicable, size not displayed on equipment, Containers, or subcontractor's equipment.
- o. Not providing current schedule and route maps as required.
- p. Traffic violation within the City issued by law enforcement.
- q. Using improper truck to service commercial or residential customer.
- r. Failure to submit disclosure notices as required in the Agreement to either customer or Contract Administrator.
- s. Failure to report Residential Solid and Vegetative Waste and Recycling and tonnage activity monthly (on or before the 10<sup>th</sup> day of the following month) in a format determined by the City, for the purpose of tracking and verifying generation rates.
- t. Failure to collect Recyclable Materials, Solid Waste or Vegetative Waste on schedule for any customer who has been missed more than three times per Fiscal Year.

- u. Failure to respond to customer calls, including commercial recycling and solid waste collection service customers, in a timely and appropriate manner.
- v. Failure to place a contamination sticker in Recycling Containers.
- w. Failure to replace or provide containers or Recycling Containers within five business days.
- x. Failure to place a sticker on any waste not collected explaining the reason for the pass.

The Contract Administrator shall assess administrative charges for the following, as set forth herein:

- a. Changing collection routes or schedules without proper notification will result in a \$1,000.00 fine per incident.
- b. Failure to clean up spillage of any substance, such as, but not limited to, hydraulic fluid or diesel fuel, will result in a \$2,500 fine per day, per incident.
- c. Failure to deliver any Commercial or Residential Solid Waste, Vegetative Waste, or Recyclable Materials to a designated facility will result in the following penalties:
  - i. First offense, \$1,000.00 fine.
  - ii. Second offense, \$2,500.00 fine.
  - iii. Third offense, immediate Termination of Agreement.
- d. Failure to complete, either partially or totally, a collection route on the regularly scheduled pick-up day shall be \$500.00 for each route per day not completed. This is specific to the completion of a route, and does not pertain to an individual missed pick-up/collection. In order for the Contractor to be in violation of this provision, missed collections must total more than 5 percent of the units comprising the route.
- e. Filing of requested information and documents:
  - i. In addition to any other requirements of this Agreement, the Contractor shall be required to file pertinent statistical and aggregate cost information pertaining to Solid Waste Collection and Recycling Collection Services that is requested by the City. The results of all recycling activity conducted by the Contractor in the City during each month, whether residential or commercial, shall be reported accurately to the City, in a format and with such dates as specified by the City, on or before the 15<sup>th</sup> day of the following month.

The Contractor shall submit the following by the 15<sup>th</sup> of the month, if requested by the City:

- Customer complaint log;
  - Commercial customer service list; and
  - Tonnage reports.
- ii. The Contractor shall file and keep current with the City all documents and reports required by this Agreement. By September 1 of each year, this Agreement is in effect, the Contractor shall ensure and certify to the City that all required documents such as, but not limited to, certificates of insurance, audits, performance bond or letter of credit, collection routes and schedules and maps, driver's license certifications, and list of assigned collection equipment vehicles are current and on file with the City. Collection route maps shall be provided in a format as required by the City. Failure to file any document or report within five business days of the required filing date, except where granted an extension by the Contract Administrator, may result in the levy of an administrative fine.

For the purpose of this Article, the Contract Administrator may deduct any charges from payments due or to become due to the Contractor, and the City shall not be deemed in default hereunder. The Contract Administrator may assess charges pursuant to this Article on a monthly basis in connection with this Agreement and shall at the end of each month during the term of this Agreement notify the Contractor and the City in writing of the administrative charges assessed and the basis for each assessment. In the event the Contractor wishes to contest such assessment, it shall, within five days after receiving such monthly notice, request in writing to the Contract Administrator an opportunity to be heard by the City and present its defense to such assessment.

The City shall notify the Contractor in writing of any action taken with respect to the Contractor's claims, and the decision of the City will be final.

## ARTICLE 21. NATURAL DISASTERS

In the event of a hurricane, tornado, major storm, or other natural disaster, the Contract Administrator may grant the Contractor a variance from regular Collection Routes and Schedules. As soon as practicable after such natural disaster, though not more than 48 hours, or as soon as Solid Waste Authority facilities are open for receipt of waste, normal collection routes and schedules shall resume. The Contract Administrator or designee shall make an effort through the local news media to inform the public when regular services may be resumed, and any special conditions required for collection. If authorized to provide storm debris removal services by the Contract Administrator, the Contractor's clean-up activities from some natural disasters may require that the Contractor hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the natural disaster. The Contractor shall receive



compensation above the normal compensation contained in this Agreement to cover the costs to at least include rental equipment, additional personnel, overtime hours, and other documented expenses, provided the Contractor has first secured written authorization and approval from the Contract Administrator prior to the work being performed. In addition, the City may require the Contractor to provide Citywide emergency Vegetative Waste Collection service prior to a pending natural disaster, such as a storm, when it is safe to do so, sustained winds do not exceed 35MPH, and the Solid Waste Authority is open and accepting disposals. The City shall audit all such costs prior to payment.

The Contract Administrator will review the City's current disaster preparedness plan to initially coordinate the regular collection activities of the Contractor in the event of a natural disaster. The Contractor shall provide a disaster preparedness plan prior to June 1, annually, to the Contract Administrator for review and approval. This plan shall include provisions for additional manpower and equipment and will establish a reasonable, verifiable rate for collection in the event of a natural disaster to be compensated through the City's Contract Service fees if the Contractor is authorized to provide removal services by the City, if needed. In the event that excess work resulting from a natural disaster is compensated by the Federal Emergency Management Agency, or any other local, state, or federal agency, the extra compensation shall be subject to such agency's approval. The Contractor shall update their natural disaster plan each year for the Contract Administrator's review and approval. The parties hereto understand that there shall be no double billing for services hereunder.

## ARTICLE 22. UNCONTROLLABLE FORCES

Neither the City nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which by the exercise of reasonable diligence the non-performing party could not avoid. However, the City is not required to compensate the Contractor for services not provided.

Neither party shall, however, be excused from performance if nonperformance is due to forces that are preventable, removable, or remediable and that the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

## ARTICLE 23. PERMITS AND LICENSES

The Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect. Any change of the licenses or permits shall be reported to the City within 10 business days of the change. By award of this Agreement, the City grants a Roll-off Collection Permit that must be signed by the Contractor. Annual permit fees are waived.



## ARTICLE 27. DEFAULT OF CONTRACT

- a. The City may cancel this Agreement, except as otherwise provided below in Article 48, by giving the Contractor 30 days' advance written notice, to be served as hereafter provided, upon the happening of any one of the following events, which will be deemed to be a material breach of contract:
  - i. The Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the re-adjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or any state thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property; or
  - ii. By order or decree of a Court, the Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within 60 days after the entry thereof, any notice of cancellation shall be and become null, void, and of no effect; unless such stayed judgment or order is reinstated, in which case said default shall be deemed immediate; or
  - iii. By or pursuant to or under authority of any legislative act, resolution or rule, or any order or decree of any Court or governmental board, agency, or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Contractor, and such possession or control shall continue in effect for a period of 60 days; or
  - iv. The Contractor has defaulted by failing or refusing to perform or observe the terms, conditions, or covenants in this Agreement or any of the rules and regulations promulgated by the City pursuant thereto, or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto, whether such default is considered minor or major, and said default is not cured within 30 days of receipt of written notice by the City to do so, or if by reason of the nature of such default, the same cannot be remedied within 30 days following receipt by the Contractor of written demand from the City to do so, the Contractor fails to commence the remedy of such default within said 30 days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with the Contractor having the burden of proof to demonstrate [a] that the default cannot be cured within

30 days, and [b] that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time).

- b. However, notwithstanding anything contained herein to the contrary, for the failure of the Contractor to provide collection service for a period of five consecutive scheduled business days, the City may secure the Contractor's billing records (at the request of the City, the Contractor shall provide such records) on the 6<sup>th</sup> working day in order to provide interim contract collection services until such time as the matter is resolved, and the Contractor is again able to perform pursuant to this Agreement; provided, however, if the Contractor is unable for any reason or cause to resume performance at the end of 30 business days, all liability of the City under this Agreement to the Contractor shall cease, and this Agreement may be deemed immediately terminated by the City.
- c. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that the Contractor's record of performance shows that the Contractor has frequently, regularly, or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by the Contractor, in the opinion of the City and regardless of whether the Contractor has corrected each individual condition of default, the Contractor shall be deemed a "habitual violator", shall forfeit the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The City shall thereupon issue the Contractor final warning citing the circumstances therefore, and any single default by the Contractor of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, the City may terminate this Agreement upon the giving of written Final Notice to the Contractor, such cancellation to be effective upon the 15<sup>th</sup> consecutive calendar day following the date of Final Notice, and all contractual fees due hereunder, plus any and all charges and interest shall be payable to said date, and the Contractor shall have no further rights hereunder. Immediately upon receipt of said Final Notice, the Contractor shall proceed to cease any further performance under this Agreement.
- d. In the event of any of the aforesaid events specified in paragraphs a., b., and c. above and except as otherwise provided in said paragraphs, termination shall be effective upon the date specified in the City's written notice to the Contractor, and upon said date this Agreement shall be deemed immediately terminated, and upon such termination all liability of the City under this Agreement to the Contractor shall cease, and the City shall have the right to call and claim against the performance bond, and shall be free to negotiate with other contractors for the operation of the herein specified services. The Contractor, for failure to perform, shall reimburse the City all direct and indirect

costs of providing interim collection service in addition to all other remedies the City may have against the Contractor.

#### ARTICLE 28. PUBLIC WELFARE

The City shall have the power to make changes in or to impose new and reasonable rules and regulations and terms and conditions on the Contractor under this Agreement relative to the method of collection and disposal of Garbage, Trash, Bulk Trash, Vegetative Waste, or Recyclable Materials as shall from time to time be necessary and desirable for the public welfare; provided, however, that any such rules or regulations, and terms and conditions shall be delivered to and receipted for by the Contractor, or if the Contractor is a corporation, by an officer thereof. The City shall give the Contractor reasonable notice of any proposed change and an opportunity to be heard concerning those matters. The method of collection and disposal of solid waste and recyclables set out herein shall also be liberally construed to include, but not limited to, the manner, procedures, operations, and obligations, financial or otherwise, of the Contractor. The Contractor shall be reasonably and appropriately compensated as determined by negotiation and agreement between the City and the Contractor for any additional services or other obligations required of the Contractor due to any modification in the Agreement.

#### ARTICLE 29. RIGHT TO REQUIRE PERFORMANCE

The failure of the City at any time to require performance by the Contractor of any provisions hereof shall in no way affect the right of the City thereafter to enforce the same. Nor shall waiver by the City of any breach of any provisions hereof be taken or held to be waived of any succeeding breach of such provisions or as a waiver of any provisions itself.

#### ARTICLE 30. TITLE TO WASTE

The City shall, at all times, hold title and ownership to all Residential Solid Waste, Vegetative Waste, Trash, Recyclable Material, and all other waste collected by the Contractor pursuant to this Agreement, and the Contractor shall have no right to take, keep, process, alter, remove, or otherwise dispose of any such materials without specific written authorization from the Contract Administrator. The City shall, at all times, hold title and ownership to all Commercial Solid Waste, Vegetative Waste, Trash, Recyclable Material, and all other waste collected by the Contractor pursuant to this Agreement, except for the ownership rights provided for elsewhere in this Agreement, and the Contractor shall have no right to take, keep, process, alter, remove, or otherwise dispose of any such materials without specific written authorization from the Contract Administrator.

#### ARTICLE 31. ASSIGNMENT AND SUBLETTING

The Contractors may be permitted to assign or sublet this Agreement, with prior City approval, which may be withheld, only for the provision of portable sanitation services for Community Services or Special Events, and for the collection of large piles or quantities of vegetation and trash requiring specialized equipment fitted with grappling devices. The subcontractor's equipment shall be equipped with signs on both sides identifying them as  
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subcontractors to the Contractor. All liability for subcontractors shall be the responsibility of the Contractor. Otherwise, subcontractors will not be permitted under the terms of this Agreement. No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or part by the Contractor without the express written consent of the City. The City shall have full discretion to approve or deny, with or without cause, any proposed assignment or assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the City shall be null and void and shall be grounds for the City to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to the Contractor, and upon the date of such notice, this Agreement shall be deemed immediately terminated, and upon such termination all liability of the City under this Agreement to the Contractor shall cease, and the City shall have the right to call the performance bond and shall be free to negotiate with other contractors or any other person or company for the service of the Contract Service area that is the subject of this Agreement. In the event of any assignment, assignee shall fully assume all the liabilities of the Contractor.

It is also acknowledged that in the event of any assignment, the City would incur additional costs as a result of the transition to another contractor. The parties acknowledge that in that instance the Contractor agrees the City would be entitled to additional costs and/or other damages incurred to mitigate potential tangible or intangible impacts incurred by the City during the transition period, as mutually agreed to between the parties. This Agreement is binding upon the parties hereto, their heirs, successors, and assigns.

#### ARTICLE 32. MODIFICATION

This Agreement constitutes the entire contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties hereto. Such modification shall be in the form of an amendment executed by both parties.

#### ARTICLE 33. INDEPENDENCE OF AGREEMENT

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners between the parties hereto, or as constituting the Contractor as the agent, representative, or employee of the City for any purpose whatsoever. The Contractor is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

#### ARTICLE 34. ANNEXATIONS

Adjustments to Service Area boundaries and the rights of the parties to the Agreement due to municipal annexation or contraction will be as provided by Section 171.062, *Florida Statutes*, as amended, or its successor.

## ARTICLE 35. CHANGE OF LAW

The parties understand and agree that the Florida Legislature from time to time has made comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future, whether federal, state, or local, that mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions, or obligations under this Agreement. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law.

To the extent that any law effective after the execution of this Agreement is in conflict with, or requires changes in, the provisions of Collection Service or exclusive rights set out in this Agreement, the parties agree to enter into good-faith negotiations for the resolution of any such changes in this Agreement as a result of change in law.

The Contractor may petition the City to adjust the Contractor's rates based upon unusual and unanticipated increases in the cost of doing business, due to a change in law or regulation that negatively impacts the Contractor's operations. Any such request shall be supported by complete documentation establishing the basis for the increase and the reasons therefor. The City shall be entitled to audit the Contractor's financial and operational records directly related to the Contractor's request in order to verify the increase in costs and the reasons therefor. The City will approve or deny the request, in whole or in part, within 60 days of receipt of the request and all other additional information required by the City. The City will make a reasonable determination based upon the documentation provided in reaching its decision.

## ARTICLE 36. RATE ADJUSTMENTS

The City shall strictly enforce all of the provisions of the Agreement, including penalty clauses, for any performance quality problems. The Contractor shall not be allowed rate increases on the basis that the Contractor bid too low or agreed to do the work for a lower bidder's price. Non-performance of Agreement or a request for a rate increase, either of which are attributed to the Contractor accepting the Agreement award at an insufficiently low rate, shall result in cancellation of the Solid Waste and Recycling Collection Service Agreement between the City and the Contractor.

a. *Rate Adjustments Based on Governmental Price Index*

The rates established in Exhibit I shall be fixed and firm, and not subject to any adjustments during the first year of the Contract. Upon completion of the first year of the Contract Term and the Contractor's request, an adjustment will take place to the rates in Exhibit I, based on the most recent annual percentage change in the following economic pricing index:

Bureau of Labor Statistics, Producer Price Index  
Solid Waste Collection, Commodity Code No. 5011-0101

It is the Contractor's responsibility to request a pricing adjustment under this provision. For an adjustment to be properly considered by the City, the Contractor's request for an adjustment shall be submitted no later than March 1. The adjustment requested shall not be in excess of the relevant pricing index change. If a timely adjustment request is not received from the Contractor, the City will not consider any adjustments, under this clause, for the next 12 months. Any economic adjustment request received after March 1 will not be considered.

The City reserves the right to negotiate lower pricing at any time during the Agreement, based on market research information or other factors that influence price. The City reserves the right to also request rate adjustments for a reduction in pricing, based on the downward movement of the applicable index. The City's request for an economic adjustment based on the applicable index will be submitted to the Contractor no later than March 1.

#### ARTICLE 37. SUBSTANTIAL COMPLIANCE

The Contractor shall promptly collect all materials disposed of by the customer, provided the materials are prepared and placed within substantial compliance with the guidelines as set forth herein. The Contract Administrator shall determine any dispute as to the standards of substantial compliance.

#### ARTICLE 38. COMMUNITY SERVICE

The Contractor shall provide and maintain Compactors, Containers, placement and collection pull service each Fiscal Year, at no cost to the City for City facilities (initially, municipal golf course and tennis center) and for all special City functions and sponsored events, including, but not limited to parades, art shows, carnivals, or other such special events, as deemed appropriate by the Contract Administrator. Such services shall include both large centralized containers and smaller decentralized containers for both solid waste and recyclable materials.

#### ARTICLE 39. CONTRACT PREPARATION

Prior to the commencement of the term of this Agreement, the Contractor shall prepare for the collection services in the Service Area in a responsible manner, and at a minimum, shall adhere to the requirements as set out in Exhibit VI. In the event the Contractor fails to meet the deadlines of any one of the tasks outlined in Exhibit VI, the City has the right to fine and collect \$10,000.00 for each task deadline missed. Appeal of any fines pursuant to this Article is provided elsewhere in this Agreement. The Contractor shall pay fines levied by the City within 30 days of receipt of an invoice for the fines. Failure to meet the deadline of more than two tasks may result in the City declaring the Contractor in default of the Agreement. Failure to meet the deadline of more than two tasks may lead to the loss of the right to provide solid waste collection and recycling services pursuant to the Agreement for the Service Area.



#### ARTICLE 40. FISCAL FUNDING

The terms of this Agreement as provided for herein shall remain unchanged provided that the City annually approves an appropriation for Solid Waste and Recycling Collection Services.

#### ARTICLE 41. COMPETITIVE EQUALITY

Should the Contractor herein enter into an agreement for solid waste collection and recycling services with any other government jurisdiction located within a four-mile radius of the City that provides for a lower curbside residential rate for the same service, the same rate shall be afforded to the City commencing on the first day of the month following execution of that agreement.

#### ARTICLE 42. ACCESS AND AUDIT OF RECORDS

The City reserves the right to require the Contractor to submit to an audit by an auditor of the City's choosing at the Contractor's expense. The Contractor shall provide, at its place of business during regular business hours, access to all of its records that relate directly or indirectly to this Agreement. The Contractor shall retain all records pertaining to this Agreement, and upon request make them available to the City for 10 years following expiration of this Agreement. The Contractor agrees to provide such assistance as may be necessary to facilitate the review or audit by the City to ensure compliance with applicable accounting and financial standards.

#### ARTICLE 43. OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General that is authorized and empowered to review past, present, and proposed City programs, contracts, transactions, accounts, and records. The Inspector General (IG) has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. The IG may, on a random basis, perform audits on all City agreements.

#### ARTICLE 44. PUBLIC RECORDS

Pursuant to Chapter 119, *Florida Statutes*, the Contractor shall comply with the public records law by keeping and maintaining public records required by the City of Palm Beach Gardens in order to perform the service. Upon request from the City of Palm Beach Gardens' custodian of public records, the Contractor shall provide the City of Palm Beach Gardens with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*, or as otherwise provided by law. The Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract. Upon completion of the contract, the Contractor shall transfer, at no cost, to the City of Palm Beach Gardens all public records in

possession of the Contractor or keep and maintain public records required by the City of Palm Beach Gardens in order to perform the service. If the Contractor transfers all public records to the City of Palm Beach Gardens upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City of Palm Beach Gardens, upon request from the City of Palm Beach Gardens' custodian of public records, in a format that is compatible with the information technology systems of the City of Palm Beach Gardens.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE OFFICE OF THE CITY CLERK LOCATED AT 10500 NORTH MILITARY TRAIL, PALM BEACH GARDENS, FLORIDA 33410, PHONE NUMBER (561) 799-4122, EMAIL ADDRESS: [PSNIDER@PBGFL.COM](mailto:PSNIDER@PBGFL.COM).**

#### ARTICLE 45. OTHER FORMS OR DOCUMENTS

If the City is required by the Contractor to complete and execute any other forms or documents in relation to this Agreement, the terms, conditions, and requirements in this Agreement shall take precedence to any and all conflicting or modifying terms, conditions, or requirements of the Contractor's forms or documents.

#### ARTICLE 46. PAYMENTS

All payments shall be made in accordance with Florida Prompt Payment Act, Section 218.74, *Florida Statutes*, on the presentation of a proper invoice by the Contractor.

#### ARTICLE 47. TERM OF AGREEMENT

The term of this Agreement shall be from the effective date through March 31, 2028, unless terminated beforehand as provided for in this Agreement.

The City's obligation pursuant to this Agreement is specifically contingent upon the lawful appropriation of funds. Failure to lawfully appropriate funds for this Agreement awarded shall result in automatic termination of the Agreement. A non-appropriation event shall not constitute a default or breach of said Agreement by the City.

#### ARTICLE 48. TERMINATION

This Agreement may be canceled or terminated by the City, with or without cause, upon providing written prior notice to the Contractor. This Agreement may be canceled or terminated by the Contractor upon 90 days' prior written notice to the City. Upon any such termination, the Contractor waives any claims for damages from such termination, including, but not limited to, loss of anticipated profits. Unless the Contractor is in breach of this Agreement, the City shall pay the Contractor for all aspects of the Work that have been completed or partially completed, and which have been reviewed and accepted by the City's representative, provided such completion or partial completion occurred before the date of termination.

#### ARTICLE 49. INDEMNIFICATION

The Contractor shall indemnify, defend, and hold harmless the City and its officers, employees, agents, and instrumentalities from any and all liabilities, losses, or damages, including attorney's fees and cost of defense that the City or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners, principals, or subcontractors. The Contractor shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees that may be incurred thereon.

Indemnity and hold harmless is limited to the extent any claim is caused by the Contractor's acts, actions, omissions, or negligence and shall not include the acts actions, omissions, or negligence of the City or of a party not indemnified hereunder

The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, defend, and hold harmless the City or its officers, employees, agents, and instrumentalities as herein provided. This Article shall survive the termination of this Agreement.

(The remainder of this page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date hereinabove first written.

**CITY OF PALM BEACH GARDENS, FLORIDA**

By: \_\_\_\_\_  
Maria G. Marino, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Patricia Snider, CMC, City Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By:  \_\_\_\_\_  
R. Max Lohman, City Attorney

**WASTE MANAGEMENT, INC. OF FLORIDA**

By: \_\_\_\_\_  
Timothy Hawkins, President

**WITNESSES:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

## **EXHIBITS**

## EXHIBIT I

### CONTRACTOR RATE SCHEDULE

Awarded Prices and Rates (effective March 31, 2018):

RESIDENTIAL CURBSIDE	FREQUENCY	PER MONTH
<i>Solid Waste</i>	<i>2 per week</i>	<i>\$4.97</i>
<i>Vegetative</i>	<i>1 per week</i>	<i>\$1.61</i>
<i>Recycling</i>	<i>1 per week</i>	<i>\$2.17</i>
RESIDENTIAL CONTAINER	FREQUENCY	PER MONTH
<i>Solid Waste</i>	<i>2 per week</i>	<i>\$4.65</i>
<i>Vegetative</i>	<i>1 per week</i>	<i>\$0.00 (included with solid waste collection)</i>
<i>Recycling</i>	<i>1 per week</i>	<i>\$2.16</i>
COMMERCIAL		PRICING/CUBIC YARD
<i>Collection Container</i>		<i>\$8.22</i>
<i>Compactor - &lt;12 cubic yards</i>		<i>\$10.28</i>
<i>Compactor - &gt;12 cubic yards</i>		<i>\$223.00 per pull</i>

#### NOTES:

1. Container Residential customers requiring more than 1.0 collection of Recycling Containers per week will be charged 75 percent of the container recycling service rate per month per Dwelling Unit. The Contractor shall provide a written agreement with the customer for this additional service and shall invoice the customer separately in accordance with the signed agreement.
2. Commercial Solid Waste Collection Rate for commercial customers receiving Universal Container Collection Service shall be the same as the Residential Solid Waste Collection Rate above.
3. The Contractor shall provide containers and collection services for all City-owned, -rented, or -leased properties at no cost to the City.
4. The City will determine the commercial disposal fee rates (\$/cubic yard) each Fiscal Year based on the same calculation utilized by the Solid Waste Authority of Palm Beach County (Authority) tipping fee for disposal as charged by the Authority.

The calculation for non-compacted Garbage and Trash is 134 lbs./cubic yard times the Authority's tipping fee (\$/ton) times 1 ton/2000 lbs. = \$/cy.

Commercial noncompacted Vegetation is calculated at 275 lbs./cubic yard times the Authority's tipping fee (\$/ton) times 1 ton/2000 = \$/cy.

The compacted disposal rate for commercial solid waste or vegetative waste may be billed at either actual expense or three times the rate for non-compacted solid waste or vegetative rate, respectively. The Contractor shall include disposal charges on monthly invoices for commercial customers as a separate line item. Small compactors are to be invoiced at the cubic yard rate in the above table for collection plus disposal, and large compactors are to be invoiced the "pull" rate in the above table plus actual disposal, except for residential customers who are charged a unit rate and no disposal.

In the unlikely event the Authority charges a tipping fee for Recyclable Material, the Contract Administrator will determine the conversion factor and calculate the factor times the tipping fee for Recyclable Materials. The Contractor will be responsible for billing Commercial Recycling customers for the Recyclable Materials disposal fee.

## EXHIBIT II

### RATES DETERMINED BY THE CITY AND SUBJECT TO ADJUSTMENT PURSUANT TO ARTICLE 36

SERVICE	RATE OF SERVICE
Rolling Out Commercial Universal Container, with 20 or more feet per direction	\$ 1.00 / Container/ Service (no charge for residential or commercial less than 20 feet per direction)
Rolling Out Container (and returning it to original location)	\$ 2.70 Container / month/ service (more than 10 feet per direction)
Back Door Service (Residential Curbside Only) * Solid Waste and Recycling only	Negotiable between the parties Medical / Handicap
Opening (and closing) Doors or Gates	No Charge
Locks for Containers	\$ 9.00 (one time) Charge for Replacements based on cost + 10%
Unlocking Containers	\$ 1.35 / month / service
Supplying (and retrofitting) locking mechanism on Containers***	\$55.00
Adding wheels to or changing wheels on Containers	No charge for Contractor-owned Containers (see rate below for other)
Adding lids to or changing lid(s) on Containers	No charge for Contractor-owned Containers (see rate below for other)
Moving Container Location Per Customer Request	No Charge for Contractor-owned Containers
Changing Out Sizes (above once per year) **	\$25.00
Additional Scheduled Pickups for solid waste Residential Container Customers	Same as Applicable Commercial Collection Rates (No Disposal Charges)
Additional Unscheduled (not including "on-call") Pickups for Commercial and Residential Containerized Customers	3 times Applicable Commercial Rates (No Disposal Charges for Residential)
Special Services or Special equipment required because of impaired accessibility	Negotiable w/ City Manager
Additional unscheduled (not including "on-call") Pickups for Commercial and Residential Container Customers	3 times Applicable Commercial Rates (No disposal charges for Residential)
Cut tree and canopy removal exceeding limitations on normal service	\$12.00 per cubic yard

- \* There shall be no charge for those residents medically unable to bring solid waste, vegetative waste, or recyclable materials to curbside.
- \*\* The first change is free to the customer.
- \*\*\* Determination of necessity of locking mechanisms is based on customer requirements.

**NOTES:**

Customer-requested maintenance on non-contractor owned Containers shall be at cost plus 15 percent on pre-work authorization signed by the customer.



### EXHIBIT III

#### Residential Solid Waste Disposal Credit Calculation

Category	Type	Generation Factor (Tons/Year) *	Times (x) Garbage	Annual Credit per unit
I	Single Family	1.10	X	=
II	Multifamily, 4 or less units	0.67	X	=
III	Mobile Homes	1.10	X	=
IV	Multifamily, more than 4 units	0.74	X	=

#### Residential Vegetative Waste Disposal Credit Calculation

Category	Type	Generation Factor (Tons/Year)	Times (x) Vegetation Tipping	Annual Credit per unit
I	Single Family	0.85	X	=
II*	Multifamily, 4 or less units	0	X	=
III	Mobile Homes	0.58	X	=
IV	Multifamily, more than 4 units	0	X	=

\* Generation factors estimated based on waste generation studies prepared by the Authority; in the event the actual disposal exceeds these estimates, the Contractor shall pay the excess disposal fees at no cost or liability to the City or the customer. The City accepts no responsibility or financial liability for waste generation rates or quantities produced by City residents during the term of this Agreement or any extension of the Agreement.

## EXHIBIT IV

### Annual Financial Reporting Format

The Contractor shall submit to the City an audited comparative operating cost statement prepared in accordance with generally accepted accounting standards for each residential and commercial operation within the Service Area.

The Contractor shall disclose all methods of allocation used to distribute costs recognized in the operating cost statement for the Service Area and/or commercial and residential operations. The disclosure shall be in a narrative form and include the basis for the allocation method.

The Contractor shall provide a description of the expenses classified as Other Operating Expense and Other General and Administration.

The Contractor shall submit to the City any adjustments made during the annual audit that have an effect upon the previously submitted monthly revenue statements for the 12 months of the Fiscal Year being audited.

Any allocations made will need to be disclosed in a narrative format, along with the basis for those allocations. Additionally, it is understood that the Contractor shall utilize the accrual basis of accounting for income and expenses. Although the City reserves the right to audit or review the information supplied, the Contractor is not required to provide an audit of the accompanying information.

See Exhibit V for the required City format for financial statement reporting in accordance with this Agreement.

## EXHIBIT V

(Contractor)  
Statement of Income and Expenses (Residential or  
Commercial) Service Area For (month, year) ended (month,  
year)

**Revenues:**

(list by type)

Total Revenue

\$ \_\_\_\_\_  
\$ \_\_\_\_\_

**Operating Expenses:**

Depreciation - Vehicles \$ \_\_\_\_\_  
Disposal Fees paid to the Authority \$ \_\_\_\_\_  
Contract Service Fees paid to the City \$ \_\_\_\_\_  
Fuel and Oil \$ \_\_\_\_\_  
Labor and Fringe Benefits \$ \_\_\_\_\_  
Other Operating \$ \_\_\_\_\_  
Truck Maintenance - Labor \$ \_\_\_\_\_  
Truck Maintenance - Parts \$ \_\_\_\_\_  
Total Operating Expenses \$ \_\_\_\_\_

**General and Administrative:**

Salaries and Wages \$ \_\_\_\_\_  
Officers' Salaries \$ \_\_\_\_\_  
Other General and Administrative \$ \_\_\_\_\_  
Total General and Administrative \$ \_\_\_\_\_

**Income before Provision for Income Taxes** \$ \_\_\_\_\_

**Provision for Income Taxes** \$ \_\_\_\_\_

**Net Income** \$ \_\_\_\_\_

"The Accompanying Notes are an Integral Part of this Statement"

## EXHIBIT VI

### PERFORMANCE BOND REQUIREMENT

The Annual Performance Bond due to the City from the Contractor is calculated as:

Net Annual Revenues (Gross Annual Revenues Minus Disposal Fees paid to the Solid Waste Authority) multiplied by 50 percent = Performance Bond Requirement.

#### Sample Performance Bond Requirement

Gross Revenue	\$1,800,000
Less Disposal Fees	<u>500,000</u>
Net Annual	\$1,300,000

Annual Performance Bond Requirement shall be calculated annually in August by the Contractor and submitted to the City Contract Administrator by August 31 each year for the next fiscal year.

## EXHIBIT VII

### NON-ASSESSED RESIDENTIAL DISPOSAL COMPENSATION PROCEDURE

The purpose of this Exhibit is to establish the procedures and schedule whereby the City will compensate the Contractor disposal fees for non-assessed residential Dwelling Units.

The City will use generation rates for the four residential categories established by the Solid Waste Authority (SWA), as shown in Table II, times the new Dwelling Units listed each month by the City as having received a Certificate of Occupancy (CO) times the number of months remaining in that fiscal year before the Dwelling Unit becomes an assessed Dwelling Unit, times the then current disposal fee set by the SWA. The attached Table 1 sets the number of months from issuance of a CO until the Dwelling Unit(s) become assessed for which disposal fees will be paid to the Contractor.

Disposal fees are due on Dwelling Units that remain non-assessed Dwelling Units in the following fiscal year after issuance of a CO. Disposal fees will be paid to the Contractor in the same month of the year as the month of their CO issuance using the formula described above times the months remaining until the Dwelling Unit becomes an assessed Dwelling Unit. The City will not compensate the Contractor for disposal fees per Dwelling Unit in excess of the amount collected by the City. The formula to be used: no. of Dwelling Units x generation rate for garbage / trash or vegetation for category of unit divided by 12 months x months remaining in the fiscal year x the SWA per ton disposal fee for garbage / trash or vegetation. Examples of this formula calculation are shown in Tables III A & B.

The City will pay the Contractor disposal fees monthly for new non-assessed residential Dwelling Units based upon the method detailed above during the term of the Contract.

#### TABLE I

Non-Assessed Residential Dwelling Unit Payment  
 Schedule  
 (Months Until Assessed)

	OCT	NOV	DEC	JAN	FEB	MAR
1 <sup>st</sup> Year						
2 <sup>nd</sup> Year						

	APR	MAY	JUN	JUL	AUG	SEPT
1 <sup>st</sup> Year						
2 <sup>nd</sup> Year						

**TABLE II**

Solid Waste Authority Residential Dwelling Unit Waste Generation Rates

Unit Type	Garbage Trash Tons Per Year	Vegetation Tons Per Year	Total Tons Per Year
Single Family	1.10	.85	1.95
Multi-family (less than 5 units)	.67	.00	.67
Mobile Home	1.10	.58	1.68
Multi-family (More than 4 units)	.74	.00	.74

**TABLE III (A)**

Example #1 of Calculating Non-Assessed Residential Dwelling Unit Disposal Fees  
November CO Residential Dwelling Units: 74 SF and 8 MF (Cat. 4)

*1st Year November – September*

Solid Waste: 74 single family units x 1.10 tons divided by 12 months x 11 months x \$28.00 per ton = \$2,089.26 or \$28.23 per unit.

Vegetation: 74 single family units x .85 tons divided by 12 months x 11 months x \$25.00 per ton= \$1 441.45 or \$19.47 per unit.

Solid Waste: 8 multifamily units x .74 tons divided by 12 months x 11 months x \$28.00 per ton= \$151.94 or \$18.99 per unit.

*2nd Year November - No Payment Due*

**TABLE III (B)**

Example #2 of Calculating Non-Assessed Residential Dwelling Unit Disposal Fees March  
2004 CO Residential Dwelling Units: 121 SF and 25 MF (Cat. 2)

*1st Year March – September*

Solid Waste: 121 single family units x 1.10 tons divided by 12 months x 7 months x \$28.00 per ton= \$2,173.96 or \$17.96 per unit.

Vegetation: 121 single family units x .85 tons divided by 12 months x 7 months x \$25.00 per ton= \$1 499.89 or \$12.39 per unit.

Solid Waste: 25 multi-family units x .67 tons divided by 12 months x 7 months x \$28.00 per ton= \$273.58 or \$10.94 per unit.

*2nd Year – Due in March*

Solid Waste: 121 single-family units x 1.10 tons divided by 12 months x 12 months x  
\$28.00 per ton = \$3,726.79 or \$30.79 per unit.

Vegetation: 121 single-family units x .85 tons divided by 12 months x 12 months x  
\$25.00 per ton = \$2,571.24 or \$21.24 per unit.

Solid Waste: 25 multifamily units x .67 tons divided by 12 months x  
12 months x \$28.00 per ton = \$468.99 or \$18.75  
per unit.

## EXHIBIT VIII

### Collection Preparation and Implementation Plan Requirements

Task	Deadlines	
	Minimum Start Date	Maximum Completion Date
Start-up Plan & Schedule(s) <ul style="list-style-type: none"> <li>• Order equipment</li> <li>• Provide City confirmation of equipment delivery dates</li> <li>• Public Information Plan</li> </ul>		
Submit Container Residential and Commercial Container rehabilitation schedule (repair and paint)		
Begin curbside routing		
Submit curbside routing plans to the City for review & approval		
Train drivers on equipment		
Drivers and supervisors run routes (new employees)		
Prepare and mail Disclosure Notices to commercial customers w/ copies to the Contract Administrator		
Mailer to all curbside customers on new collection schedule and set out requirements		
Door hangers on all curbside customers' doors on new collection schedule and set out requirements		
Submittal of Special Service "Off Curb" signed Agreement to Contract Administrator (Customer/Hauler Agreement)		
Develop and approve procedures required by this Contract (City)		

1. Contractor and Contract Administrator to agree on schedule of distribution.
2. The Contractor shall be responsible for all of the public notification requirements specified in the start-up plan in this Exhibit.



## EXHIBIT IX

### Bus Shelter Locations

	<b>STOP #</b>	<b>LOCATION DESCRIPTION</b>	<b>CLOSEST RELATIVE ADDRESS PER GOOGLE MAPS</b>
1	1270	N.B. Military Trail S. of Johnson Dairy Road adj. to City Hall	10500 N. Military Tr
2	1267	N.B. Military Trail N. of Holly Dr. adjacent to PBG High School	10000-10138 N Military Tr
3	2330	N.B. Gardens East Dr S. of Burns Rd at PBG Medical Center	9457-9755 Gardens E Dr
4	38	E.B. PGA Blvd E. of Campus Drive at Palm Beach College main entrance	3160 PGA Blvd
5	559	S.B. Fairchild Ave S. of Gardens Pkwy - The Landmark Condominium	Fairchild Gardens Ave
6	2627	N.B. Prosperity Farms Rd. S. of PGA Blvd. across from Prosperity Oaks ALF/Heartland Health Care Center	11380 Prosperity Farms Rd
7	2500	S.B. Prosperity Farms Road Entrance to ALF	11375 Prosperity Farms Rd
8	1733	E.B. Donald Ross Rd. W. of Military Trail at Donald Ross Village	4550 Donald Ross Rd
9	1703	N.B. Military Trail S. of S. of Dwyer H.S. southern entrance	13304-13364 N Military Trail
10	41	EB PGA Blvd. west of Prosperity Farms Road	2500-2510 PGA Blvd.
11	29	EB PGA Blvd. at DMV	3185 PGA Blvd.
12	1000	S.B. Military Trail S. of PGA Blvd at SouthBank Plaza	10887 N Military Tr
13	1271	N.B. Military Trail S. of PGA Blvd. adj. to Shoppes at the Gardens	10800 N Military Tr
14	1269	NB Military Trail S of Burns Rd	10340 N Military Tr
15	44	EB PGA Blvd W of US1	2000 PGA Blvd
16	468	NB US1 in front of Comfort Inn	11360 US1

## EXHIBIT X

### City Park Locations

	Garbage	Recycling	Notes
<b>City Park</b> 5070 117th Court North, Palm Beach Gardens, FL 33418	Thursday	Monday	
<b>Gardens Park</b> 4301 Burns Road, Palm Beach Gardens, FL 33410		Monday	Garbage at Community Center - Tuesday
<b>Karen T. Marcus Sandhill Crane Access Park</b> 8175 PGA Boulevard, Palm Beach Gardens, FL 33418 (Recycle only)			
<b>Lake Catherine Park</b> 9481 MacArthur Boulevard, Palm Beach Gardens, FL 33403	Tues/Fri	Wednesday	
<b>Lilac Park</b> 4175 Lilac Street, Palm Beach Gardens, FL 33410	Mon/Thurs		No recycle
<b>Mirasol Park</b> 12385 Jog Road, Palm Beach Gardens, FL 33418	Tues/Fri	Wednesday	
<b>Oaks Park</b> 10666 Gardens East Drive, Palm Beach Gardens, FL 33410			
<b>PGA National Park</b> 1 Ryder Cup Boulevard, Palm Beach Gardens, FL 33418	Tues/Fri	Wednesday	
<b>Plant Drive Park</b> 10113 Plant Drive, Palm Beach Gardens, FL 33410		Monday	10235 Plant Drive is the address in system