

Exclusive Franchise Agreement
between
City of Delray Beach, Florida
and
Waste Management Inc. of Florida
for the Collection of
Solid Waste and Recyclable Materials

Exclusive Franchise Agreement

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EXCLUSIVE FRANCHISE AGREEMENT

This Exclusive Franchise Agreement ("Agreement") is made and entered into this 21st day of February 2023 ("Effective Date") by and between the City of Delray Beach, Florida ("City"), a municipal corporation organized and existing under the laws of the State of Florida, and Waste Management Inc. of Florida ("Contractor"), a Florida corporation.

RECITALS

WHEREAS, the City issued a request for proposals ("RFP") (City RFP No. 2022-046) for the Collection of certain types of Solid Waste and Recyclable Materials that are generated in the City; and

WHEREAS, the Contractor submitted a proposal in response to the City's RFP; and

WHEREAS, the City has relied upon the proposal and other information provided by the Contractor concerning the Contractor's experience and ability to provide Collection Services to the City; and

WHEREAS, after evaluating all of the proposals that were submitted in response to the City's RFP, the City Commission ("Commission") finds that the Contractor has submitted the best proposal; and

WHEREAS, the City wishes to use and the Contractor wishes to provide the Contractor's services for the Collection of Solid Waste and Recyclable Materials, subject to the terms and conditions contained in this Agreement; and

WHEREAS, the Commission finds that granting an exclusive franchise to the Contractor, subject to the terms and conditions contained in this Agreement, is in the public interest and will protect the public health, safety, and welfare; and

WHEREAS, the Commission finds that the franchise granted herein properly balances the Commission's desire to provide excellent, environmentally-sound Collection Services to the City's residents and the Commission's desire to minimize the cost of such services; and

WHEREAS, the Solid Waste Authority of Palm Beach County ("Authority") has adopted an integrated waste management plan, and the City supports the Authority's plan; and

WHEREAS, this Agreement will help the City implement the Authority's integrated waste management plan, which will enhance the public health, safety, and welfare.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and the mutual benefits provided hereunder, the receipt and sufficiency of which are hereby acknowledged, the City and the Contractor agree that they shall be bound by and shall strictly comply with the following provisions of this Agreement:

1. DEFINITIONS

The capitalized words and phrases in this Agreement are defined in this Section 1. The definitions contained in this Section 1 shall be used when interpreting this Agreement. If a word or phrase is not defined in this Agreement, the definition of such word or phrase in the City's Ordinances shall apply. In the event that a definition contained herein conflicts with a similar definition in a federal, state, or local law, including but not limited to the Ordinances, the definition herein shall prevail when construing this Agreement. If the definition of a word or phrase in this Agreement is inconsistent with the definition of the same word or phrase in Section 403.703, Florida Statutes, the definition in Section 403.703 shall prevail, but only to the extent necessary to resolve the conflict between the two (2) definitions.

1.1 Administrator shall mean the City's contract administrator under this Agreement. The Administrator shall be a City employee designated by the Manager to be the City's official representative in routine discussions with the Contractor regarding this Agreement.

1.2 Advertising shall mean any written communication for the purpose of promoting a product or service. The Contractor's name and telephone number, and other information provided in the manner specified in this Agreement, is not Advertising.

1.3 Agreement shall mean this Exclusive Franchise Agreement between the City and the Contractor.

1.4 Applicable Law shall mean any local, state or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive, policy, standard or similar binding authority, or a judicial or administrative interpretation of any of the same, which is in effect or is enacted, adopted, promulgated, issued or enforced by a governmental body during the term of this Agreement, and relates in any manner to the performance of the City or the Contractor under this Agreement.

1.5 Authority shall mean the Solid Waste Authority of Palm Beach County.

1.6 Automated Collection Service shall mean the Collection of Garbage and Rubbish in a Garbage Cart using fully automated equipment (e.g., a side-loading Collection Vehicle that is manned with a driver only) or semi-automated equipment (e.g., a rear-loading Collection Vehicle that is equipped with a hydraulic "tipper," a driver, and a crew of one or two people).

1.7 Biological Waste shall mean dead animals, fish, and birds. However, Biological Waste does not include dead horses, cows, or other equally large animals.

1.8 Biomedical Waste shall mean any solid or liquid waste which may present a threat of infection to humans, including non-liquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes which contain human disease-causing agents; discarded sharps; and absorbent materials saturated with blood or body fluids.

1.9 Bulky Waste shall mean a large item that (a) is discarded by a Customer on their own Property as a result of normal housekeeping activities on that property, (b) cannot be placed in a Garbage Cart because of its size, shape or weight, and (c) is not Yard Waste or Land Clearing Debris. Bulky Waste includes, but is not limited to, White Goods, furniture, mattresses, fixtures, sinks, toilets, ladders, large pieces of carpet, and construction debris from small "do-it-yourself" projects.

1.10 Certificate of Occupancy shall mean a document issued by the City certifying that a newly constructed or renovated building complies with the City's specifications and is suitable for use.

1.11 Change in Law shall mean the adoption, promulgation, or modification of any Applicable Law after the Effective Date that directly and substantially affects the Contractor's or City's ability to perform under this Agreement. A Change in Law does not include a change in any tax law or workers' compensation law.

1.12 City shall mean, depending on the context, either (a) the geographic area contained within the boundaries of the incorporated City of Delray Beach, Florida, or (b) the government of the City of Delray Beach, Florida, acting through the Commission or the Commission's designees.

1.13 City Indemnified Parties shall mean the City, the Commission and each of its members, and every agent, officer, official, servant, and employee of the City.

1.14 City's RFP shall mean the City's Request for Proposals (RFP No. 2022-046) that resulted in the award of this Agreement to the Contractor

1.15 Collection shall mean the process of picking up Solid Waste (i.e., Garbage, Rubbish, Bulky Waste, and Yard Waste) and Program Materials from a Person that generates such waste and materials, and then transporting and delivering the Solid Waste and Program Materials to a Designated Facility (e.g., a Solid Waste Management Facility owned by or operated for the benefit of the Authority).

1.16 Collection Container shall mean Garbage Carts, Recycling Containers, and Mechanical Containers that comply with the standard specifications for containers used in the Solid Waste industry, as determined by the Administrator.

1.17 Collection Plan shall mean the Contractor's written plan for providing Collection Service in compliance with the requirements in this Agreement, as described in Section 25, below.

1.18 Collection Service shall mean one or more of the services provided by the Contractor for the Collection of Solid Waste and Recyclable Materials pursuant to this Agreement. Collection Service includes Residential Collection Service, Commercial Collection Service, Special Collection Service, and Collection Service provided to the City's facilities.

1.19 Commencement Date shall mean October 1, 2023, which is the date when the Contractor shall begin providing Collection Services in the City pursuant to this Agreement.

1.20 Commercial Collection Service shall mean the Collection of Commercial Waste from a Commercial Customer. Commercial Collection Service also includes the Collection of Source Separated Recyclable Materials from a Commercial Customer if the Customer requests such service. Commercial Collection Service includes: (a) the rental of Mechanical Containers; (b) rolling out and returning Collection Containers on the Customer's site; (c) locking and unlocking Mechanical Containers; (d) opening and closing doors and gates to access Collection Containers; (e) exchanging Collection Containers; (f) supplying locks and locking mechanisms for Mechanical Containers; and (g) other services required for the proper use and maintenance of Collection Containers used by Commercial Customers.

1.21 Commercial Customer shall mean any Person that owns or occupies Commercial Property and receives or should receive Commercial Collection Service from the Contractor pursuant to this Agreement.

1.22 Commercial Lawn Care Company shall mean a Person that provides lawn and garden maintenance services for remuneration. This definition includes landscapers.

1.23 Commercial Property shall mean real property that is located in the Service Area and not classified as Residential Property. Commercial Property includes property used primarily for: (a) commercial purposes, such as hotels, motels, stores, restaurants, business offices, theaters, and service stations; (b) institutional purposes, such as governmental offices, churches, hospitals, and schools; and (c) not-for-profit organizations. Commercial Property also includes industrial property, as well as vacant land that is not classified as Improved Property.

1.24 Commercial Waste shall mean Garbage, Rubbish, and Bulky Waste generated on Commercial Property. Commercial Waste does not include Yard Waste or Land Clearing Debris.

1.25 Commission shall mean the City Commission of the City of Delray Beach, Florida.

1.26 Community Events shall mean parades, festivals, and other civic events that are sponsored by the City and designated by the City pursuant to Section 8.8, below.

1.27 Compactor shall mean a stationary or mobile mechanism that is used to compress and densify Solid Waste in a Mechanical Container.

1.28 Construction and Demolition Debris shall have the meaning set forth in Section 403.703(6), Florida Statutes. In general, Construction and Demolition Debris means discarded materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, resulting from the construction, destruction, or renovation of a structure.

1.29 Consumer Price Index (CPI) shall mean the “CPI for All Urban Consumers, garbage and trash collection, U.S. city average, Base Period 1983 = 100 (Series ID CUSR0000SEHG02),” as published by the U.S. Department of Labor, Bureau of Labor Statistics, or a successor agency.

1.30 Contaminated Recyclable Material shall mean Recyclable Material that is mixed or otherwise comingled with Non-Conforming Material (e.g., Garbage) in quantities that exceed the thresholds in this Section 1.30. The contents of a Recycling Container or a Load of Recyclable Material shall be deemed to be Contaminated Recyclable Material if: (a) the contents contain Biological Waste, Biomedical Waste, Hazardous Material, or radioactive waste; (b) more than ten percent (10%) of the contents is Non-Conforming Material; or (c) comingled Program Materials contain more than five percent (5%) Fiber Products. With regard to Recycling Containers used to collect Fiber Products, and with regard to Loads of Fiber Products, the contents of the container or Load shall be deemed to be Contaminated Recyclable Material if more than five percent (5%) of the contents is Non-Conforming Material.

1.31 Contingency Plan shall mean the Contractor’s plan for avoiding an interruption in Collection Service in the event that an emergency, disaster, equipment breakdown, or other situation upsets the Contractor’s normal operations, renders the Contractor’s operations yard or equipment unusable, or prevents the Contractor’s drivers from reporting for work.

1.32 Contractor shall mean Waste Management, Inc. of Florida.

1.33 Curbside shall mean a location adjacent to a road or right-of-way that abuts a Customer’s property and provides access for the Contractor’s Collection vehicles. If there is no public access to the Customer’s property, Curbside shall mean a location that is adjacent to a public or private roadway where the Contractor may lawfully gain access and provide Collection Service to the Customer. The adjacent location shall be within three (3) feet of the curb or the edge of the road.

1.34 Customer shall mean a Person (other than the City) that uses or is entitled to use one or more of the Contractor's Collection Services under this Agreement. A Customer is either a Residential Customer or a Commercial Customer.

1.35 Designated Facility shall mean a facility designated by the City for the Recycling or disposal of the Solid Waste and Source Separated Recyclable Materials collected pursuant to this Agreement. As of the Effective Date, the Designated Facilities shall be the same facilities that the City and Authority designated for such purposes in their Interlocal Agreement, which is attached hereto as Exhibit 13.

1.36 Disaster Debris shall mean debris produced or generated by a natural or human event that is declared an emergency or disaster by the federal government, governor, or the City. Disaster Debris includes but is not limited to Yard Waste, Construction and Demolition Debris, and Bulky Waste that is generated by such disaster.

1.37 Disaster Debris Contract shall mean the City's contract(s) with one or more contractors for removing, transporting, processing, disposing, or Recycling of Disaster Debris.

1.38 District Manager shall mean the senior employee designated by the Contractor as the Contractor's primary representative with regard to matters involving this Agreement.

1.39 Dwelling Unit shall mean any type of structure or building, or a portion thereof, intended for or capable of being used for residential living. A Dwelling Unit includes a room or rooms constituting a separate, independent living area with a kitchen or cooking facilities, a separate entrance, and bathroom facilities, which are physically separated from other Dwelling Units, whether located in the same structure or in separate structures. However, a room in a licensed hotel or motel is not a Dwelling Unit.

1.40 Effective Date shall mean the date when this Agreement is signed and duly executed by the Commission or its designee, which shall occur after the Agreement is signed and duly executed by the Contractor.

1.41 Electronic Equipment shall mean large electronic devices that have been discarded, including but not limited to computers, monitors, televisions, cathode ray tubes, printers, scanners, and copying machines.

1.42 Exempt Waste shall mean materials that are exempt from the Contractor's exclusive franchise under this Agreement.

1.43 Fiber Products shall mean newspapers (including inserts), magazines, catalogs, telephone books, corrugated cardboard, Mixed Paper, Office Paper, and kraft paper bags.

1.44 Field Supervisor shall mean the Contractor's employee that is responsible for directly supervising the Contractor's Collection Services in the City on a daily basis.

1.45 Force Majeure shall mean the following events or circumstances, but only to the extent that they delay or preclude the City or the Contractor from performing any of its obligations (other than payment obligation) under this Agreement: (a) an act of God, tornado, hurricane, flood, fire, explosion (except those caused by the negligence of the Contractor, its agents, and assigns), landslide, earthquake, epidemic, pandemic, and extremely abnormal and inclement weather; (b) acts of a public enemy, acts of war, terrorism, insurrection, riots, civil disturbances, or national or international calamities; (c) the suspension, termination, or interruption of utilities necessary to a Party's operations or duties under this Agreement; (d) an injunction, or a legal or equitable proceeding brought against a Party, or a Change in Law; and (e) any

act, event, or condition that is determined by mutual agreement of the City and the Contractor to be of the same general type as the events of Force Majeure identified in Sections 1.45 (a) through (d).

1.46 Franchise Fee shall mean the fee paid by the Contractor for: (a) the Contractor's exclusive right to provide certain Collection Services in the City; (b) the City's agreement to not compete in the provision of such Collection Services; (c) the Contractor's use of the City's rights-of-way when conducting its business; (d) reimbursement to the City for the City's services that aid in the Contractor's provision of Collection Services; (e) reasonable compensation to the City in its proprietary capacity for its oversight of the provision of Collection Services and the implementation of this Agreement; and (f) the other rights and benefits provided to the Contractor under this Agreement.

1.47 Garbage shall mean all kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.

1.48 Reserved.

1.49 Garbage Cart shall mean a Garbage container that is made with heavy-duty hard plastic or other impervious material, with an enclosed bottom and sides, mounted on two wheels, equipped with a tight-fitting hinged lid, having a capacity of approximately one hundred (100) gallons or less, with a lift bar, and used for the automated or semi-automated Collection of Garbage and Rubbish.

1.50 Hazardous Waste shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. Hazardous Waste includes any material or substance identified as a hazardous waste or hazardous substance in the Florida Administrative Code, Florida Statutes, U.S. Code, Code of Federal Regulations, or other Applicable Law.

1.51 Holiday shall mean a day when the Contractor does not need to provide Collection Service to Residential Customers. The only Holidays are Thanksgiving and Christmas (December 25), unless the City and the Contractor mutually agree to designate additional days as Holidays.

1.52 Improved Property shall mean any cleared, graded or drained real property upon which a building or structure is erected and occupied or capable of being occupied (i.e., a Certificate of Occupancy has been issued) for residential, commercial, institutional or industrial use.

1.53 Indemnified Loss shall mean all actual costs, losses, damages, expenses, and liabilities that a City Indemnified Party incurs or suffers pursuant to or in connection with, or are caused by or result from, directly or indirectly, in whole or in part, any wrongful act, any error or omission, or any negligence by the Contractor or any of its agents or employees, or any tier of subcontractors to the Contractor, or any subcontractor to a subcontractor of the Contractor, or anyone employed by any of those Persons for whose wrongful act, error or omission, or negligence any of them may be liable, in the execution or performance of the Contractor's obligations under or incidental to this Agreement. Such costs include, but are not limited to attorneys' fees, court costs, and expert witness fees in all trial, appellate, mediation and bankruptcy proceedings. An Indemnified Loss includes, but is not limited to: (a) any bodily injury, property damage, sickness, disease, or death; (b) any claim arising under or from any actual or alleged violation of any Applicable Law (including workers' compensation laws, environmental laws, and health and safety laws) or any common law duty; (c) any actual or alleged infringement of any intellectual rights or property of any Person; (d) any actual or alleged pollution of or damage or destruction to property, natural resources, or the

environment; (e) any claim resulting from or related to the designation by the Contractor of any document or material as exempt from public disclosure or public records laws; (f) any lawsuit resulting from or related to the City's decision to award this Agreement to the Contractor; and (h) defending, settling, prosecuting, investigating, or participating in (as a witness or otherwise) any proceeding that arises out of or pertains to any of the foregoing; in each case, to the extent permitted by law and not otherwise prohibited, without regard to or limitation by the amount or type of benefits, damages, or compensation payable by or for the Contractor, any subcontractor of the Contractor, or any subcontractor of a subcontractor of the Contractor under any insurance policy or any Applicable Law (including employee benefits, disability benefits, and workers' compensation laws). Indemnified Loss does not include losses caused by the sole negligence of the City, its employees, and agents.

1.54 Interest shall mean a payment by the City or the Contractor for the use of money, which shall be set at a percentage rate determined pursuant to Section 55.03(1), Florida Statutes.

1.55 Interlocal Agreement shall mean the "Interlocal Agreement for the Delivery of Municipal Solid Waste to Designated Facilities and for a Municipal Revenue Sharing Recycling Program" between the City and the Authority. The Interlocal Agreement is attached hereto as Exhibit 13.

1.56 Land Clearing Debris shall mean the trees, tree trunks, limbs, stumps, bushes, vegetation, rocks, soil, and other materials resulting from a land clearing or lot clearing operation.

1.57 Legitimate Complaint shall mean any complaint by a Customer or the City in a case where one or more of the applicable requirements in this Agreement were not satisfied by the Contractor, as reasonably determined by the Administrator.

1.58 Load shall mean the Solid Waste, Recyclable Material, and other cargo that is transported in one of the Contractor's Collection vehicles.

1.59 Manager shall mean the City's chief executive officer or the Manager's designee.

1.60 Materials Recovery Facility shall mean a Solid Waste management facility that provides for the extraction from Solid Waste of Recyclable Materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

1.61 Mechanical Container shall mean a dumpster, Roll-Off Container, Compactor, or other large container that is placed on and removed from a Person's Premises with mechanical equipment, and used for the Collection of Solid Waste or Source Separated Recyclable Materials. However, Garbage Carts and Recycling Carts are not Mechanical Containers.

1.62 Mixed Paper shall mean a mixture of various types and grades of paper, including Office Paper, colored paper, corrugated cardboard, envelopes (excluding envelopes with cellophane windows), junk mail, kraft bags, magazines, and catalogs. However, Mixed Paper does not include tissue paper or paper towels.

1.63 Missed Collection shall mean any occasion when (a) the Contractor fails to provide Collection Service to a Customer in compliance with the requirements in this Agreement and (b) the Customer properly Set Out their Solid Waste and/or Recyclable Material.

1.64 Multi-Family Collection Service shall mean the collection of Residential Waste from Multi-Family Dwellings pursuant to this Agreement.

1.65 Multi-Family Dwelling shall mean apartments, condominiums, and other structures that have two (2) or more Dwelling Units under one roof.

1.66 New Customer shall mean a Person occupying Improved Property that begins to receive or becomes entitled to receive Collection Service from the Contractor on or after the Commencement Date.

1.67 Non-Collection Notice shall mean a written form, tag, or sticker that is used by the Contractor to notify a Customer of the reason(s) why the Solid Waste or other materials Set Out by the Customer were not collected by the Contractor.

1.68 Non-Conforming Material shall mean any material that is not a Program Material. Non-Conforming Material includes Garbage, Rubbish, Bulky Waste, Yard Waste, and Recyclable Materials that are not Program Materials.

1.69 Office Paper shall mean paper used for office purposes, including paper with a letterhead, legal paper, loose-leaf paper, white ledger paper, and paper used for letters, computer print-outs, copy machines, or typing.

1.70 Operating Day shall mean each calendar day during which the Contractor provides Collection Services pursuant to this Agreement. The Operating Days will include Monday through Saturday, except Holidays, from the Commencement Date until this Agreement expires or terminates.

1.71 Operating Month shall mean each calendar month from the Commencement Date until this Agreement expires or terminates. The first Operating Month shall begin on the Commencement Date and the last Operating Month shall end on the day when this Agreement expires or terminates.

1.72 Operating Year shall mean a period of twelve (12) consecutive Operating Months, beginning on October 1 and ending on September 30 of the following year. Notwithstanding the foregoing, the last Operating Year shall end on the day when this Agreement expires or terminates.

1.73 Ordinances shall mean the City's Code of Ordinances and any amendments thereto.

1.74 OSHA shall mean the Occupational Safety and Health Administration.

1.75 Party shall mean, depending on the context, either the City or the Contractor.

1.76 Parties shall mean the City and the Contractor.

1.77 Performance Bond shall mean the financial security furnished by the Contractor as a guarantee that the Contractor will perform its work and pay all lawful claims in compliance with the terms of this Agreement.

1.78 Person shall mean any and all persons, natural or artificial, including any individual, firm, partnership, joint venture, or other association, however organized; any municipal or private corporation organized or existing under the laws of the State of Florida or any other state; any county or municipality; and any governmental agency of any state or the federal government.

1.79 Plastic Bag shall mean a heavy-duty plastic or biodegradable bag that has a drawstring at the top, has a capacity of approximately forty (40) gallons or less, and is designed to be used for the Collection of Solid Waste.

1.80 Premises shall mean Improved Property.

1.81 Program Materials shall mean Source Separated Recyclable Materials that are accepted for Recycling at the Designated Facility for Recyclable Materials. As of the Effective Date, the Program Materials shall be the same as the “Designated Recyclables” identified in the Interlocal Agreement (Exhibit 13). The Designated Recyclables are: (a) Fiber Products; (b) Recyclable Containers; and (c) other Recyclable Materials that the Authority designates.

1.82 Radioactive Waste shall mean any equipment or materials that are radioactive or have radioactive contamination, and are required by law to be stored, treated, or disposed of as radioactive waste.

1.83 Rates shall mean the fees and charges approved by the City for the Contractor’s Collection Services.

1.84 Recovered Materials shall mean metal, paper, glass, plastic, textile, or rubber materials that have known Recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the Solid Waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste. Recovered Materials do not include any material or substance that does not fit within one of the six categories described in this definition (metal, paper, glass, plastic, textile, or rubber). Among other things, a mixture of different types of Construction and Demolition Debris is not Recovered Material.

1.85 Recovered Materials Processing Facility shall mean a facility engaged solely in the storage, processing, resale, or reuse of Recovered Materials. For example, a Recovered Materials Processing Facility includes a facility operated by, for, or on behalf of the Authority for the purpose of receiving, sorting, processing, storing, and/or preparing Program Materials for sale.

1.86 Recyclable Containers shall mean: aluminum cans; steel and ferrous cans; glass bottles and jars made with green, brown or clear glass; aseptic containers; gable-topped containers; and containers made with plastic (plastic nos. 1 through 7, but not Styrofoam).

1.87 Recyclable Materials shall mean those materials that are capable of being recycled and would otherwise be processed or disposed of as Solid Waste.

1.88 Recycling shall mean any process by which materials that would otherwise have been Solid Waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

1.89 Recycling Bin shall mean a rectangular bin that is approximately eighteen (18) or twenty-five (25) gallons in capacity, made of heavy-duty hard plastic or other impervious material, and used for the storage and Collection of Source Separated Recyclable Materials.

1.90 Recycling Cart shall mean a container that is made of heavy-duty hard plastic or other impervious material, with enclosed sides and a bottom, mounted on two wheels, equipped with a tight-fitting hinged lid, having a capacity of approximately one hundred (100) gallons or less, and used for the automated or semi-automated Collection of Source Separated Recyclable Materials.

1.91 Recycling Container shall mean any container approved by the Administrator for the Collection of Recyclable Materials, including but not limited to Recycling Bins and Recycling Carts.

1.92 Residential Collection Service shall mean the Collection of Residential Waste from Residential Property pursuant to this Agreement.

1.93 Residential Customer shall mean a Person that receives or is entitled to receive Residential Collection Service.

1.94 Residential Customer List shall mean a list that identifies the Dwelling Units in the Service Area that are entitled to receive Residential Collection Service from the Contractor.

1.95 Residential Property shall mean each parcel of Improved Property that is included in the Residential Customer List. Residential Property generally includes each parcel of Improved Property in the Service Area on which there is a Dwelling Unit, including a single-family Dwelling Unit, duplex, triplex, quadraplex, mobile home, or Multi-Family Dwelling; however, the Administrator may determine that some parcels of Improved Property with Dwelling Units (e.g., mixed use buildings that are predominantly commercial; condominiums) will be excluded from the Residential Customer List and treated as Commercial Property.

1.96 Residential Waste shall mean Garbage, Rubbish, Yard Waste, Recyclable Materials, and Bulky Waste generated by a Customer upon the Customer's Residential Property.

1.97 Roll-Off Container shall mean a large metal container (i.e., typically with a capacity of 10, 20, 30 or 40 cubic yards) used for the Collection of Solid Waste or Source Separated Recyclable Materials, which is rolled-off of a motor vehicle when the container is placed at a site and then rolled onto the vehicle when the container is ready to be transported to a Solid Waste Management Facility.

1.98 Route shall mean the roadways that will be used by one Collection vehicle on a single Operating Day when providing Collection Service. Each Route shall have a designated starting location, a designated sequence of streets to be followed when providing Collection Service, a designated location for finishing, and a Scheduled Collection Day.

1.99 Rubbish shall mean waste materials (other than Garbage, Yard Waste, and Bulky Waste) resulting from normal housekeeping activities on Residential Property and Commercial Property. Rubbish includes but is not limited to discarded trash, rags, sweepings, packaging, Recyclable Materials that are not source separated, and similar materials.

1.100 Scheduled Collection Day shall mean an Operating Day when the Contractor is scheduled to collect a Customer's Source Separated Recyclable Materials or one of the components of the Customer's Residential Waste.

1.101 Service Area shall mean the geographic area where the Contractor has a franchise from the City pursuant to this Agreement. The Service Area is the incorporated area of the City, as shown in Exhibit 1.

1.102 Set Out shall mean the Customer's preparation and placement of Solid Waste and Source Separated Recyclable Materials for Collection at the Customer's Premises, in accordance with the requirements in this Agreement.

1.103 Side Door Service shall mean the Collection of Solid Waste and Source Separated Recyclable Materials from a Residential Customer's side yard, back yard, or other location that is not Curbside, pursuant to Section 7.6, below.

1.104 Sludge shall mean the accumulated solids, residues and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other waste having similar characteristics.

1.105 Solid Waste shall have the meaning set forth in Section 403.703(35), Florida Statutes, which states that Solid Waste means "Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or Garbage, Rubbish, refuse, special waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations." Solid Waste includes but is not limited to Biological Waste, Biomedical Waste, Bulky Waste, Commercial Waste, Construction and Demolition Debris, Disaster Debris, Electronic Equipment, Garbage, Hazardous Waste, Land Clearing Debris, Radioactive Waste, Recyclable Materials that have not been source separated, Residential Waste, Rubbish, White Goods, and Yard Waste.

1.106 Solid Waste Management Facility means any Solid Waste disposal area, volume reduction plant, transfer station, Materials Recovery Facility, or other facility, the purpose of which is resource recovery or the disposal, Recycling, processing, or storage of Solid Waste. The term does not include Recovered Materials processing facilities that meet the requirements of Section 403.7046, Florida Statutes, except the portion of such facilities, if any, which is used for the management of Solid Waste.

1.107 Source Separated Recyclable Materials shall mean Recyclable Materials that are separated from the Solid Waste at the location where they are generated (e.g., Residential Property) and then Set Out for Collection at that location.

1.108 Special Collection Service shall mean any service requested by a Customer that is in addition to or different than the normal Collection Service provided to similarly situated Customers. Special Collection Services include: (a) the Collection of discarded material at times other than the Customer's Scheduled Collection Day for such material; (b) the Collection of discarded material in quantities that are greater than the amounts authorized herein for such material; and (c) the services identified in Exhibit 7. Special Collection Service also include services requested by the City that are in addition to or different than the Collection Services normally provided to the City.

1.109 Tipping Fee shall mean a fee that must be paid for the disposal of Solid Waste or other material.

1.110 Transition Period shall mean the period of time between the Effective Date and the Commencement Date.

1.111 Transition Plan shall mean a document describing in detail the activities that will be undertaken and the schedule that will be followed by the Contractor to ensure the Contractor successfully provides Collection Service in compliance with this Agreement on and after the Commencement Date.

1.112 White Goods shall mean large discarded appliances (e.g., refrigerators, ranges, washing machines, clothes dryers, water heaters, freezers, and air conditioners) that are generated by the Customer on the Improved Real Property where the White Goods are collected.

1.113 Yard Waste shall mean any vegetative matter resulting from yard and landscaping maintenance, including but not limited to shrub and tree trimmings, bagged grass clippings, palm fronds, and branches. Yard Waste does not include Land Clearing Debris.

2. CONTRACTOR'S FRANCHISE

2.1 EXCLUSIVE FRANCHISE FOR RESIDENTIAL AND COMMERCIAL COLLECTION SERVICE

Subject to the conditions and limitations contained in this Agreement, the Contractor is hereby granted an exclusive franchise to provide Residential Collection Service and Commercial Collection Service in the Service Area. The Contractor's franchise includes the exclusive right to collect: (a) Garbage, Rubbish, Yard Waste, Bulky Waste, and Source Separated Recyclable Materials that are generated on Residential Property and collected at Curbside; (b) Garbage, Rubbish, Bulky Waste, and Source Separated Recyclable Materials that are generated on Residential Property (i.e., Multi-Family Dwellings) where the Garbage and Rubbish are collected in Mechanical Containers; and (c) Garbage, Rubbish, and Bulky Waste generated on Commercial Property. The Contractor shall have the sole right to provide these Collection Services in the Service Area. The Contractor shall have the sole responsibility for providing these Collection Services in compliance with the requirements in this Agreement.

2.2 NON-EXCLUSIVE FRANCHISE FOR SOURCE SEPARATED RECYCLABLE MATERIALS GENERATED ON COMMERCIAL PROPERTY

Subject to the conditions and limitations contained in this Agreement, the Contractor is hereby granted a non-exclusive franchise for the Collection of Source Separated Recyclable Materials generated on Commercial Property in the Service Area. At its option, the City may grant any other Person a non-exclusive franchise, license, or other authorization for the Collection of Source Separated Recyclable Materials generated on Commercial Property in the Service Area.

2.3 LIMITATIONS ON THE CONTRACTOR'S FRANCHISE

This Agreement only grants a franchise for the services and types of Solid Waste that are explicitly addressed herein. No other services or materials are subject to the Contractor's franchise under this Agreement. For example, the Contractor's exclusive franchise does not include the Collection of Construction and Demolition Debris in Roll-Off Containers. Section 23, below, identifies some of the other materials that are not subject to the Contractor's franchise.

2.4 ENFORCEMENT OF THE EXCLUSIVE FRANCHISE

The Contractor shall provide notice to the City pursuant to Section 74, below, if the Contractor concludes that a Person is not complying with or otherwise infringing upon the Contractor's exclusive rights under this Agreement. The City shall determine, in its sole discretion, the measures the City will use to ensure that the Contractor's exclusive rights under this Agreement are not infringed upon by a third party. The City also shall determine, in its sole discretion, how and when it will implement those measures. The Contractor shall have no right to compel the City to undertake any specific action to enforce or maintain the exclusivity of the Contractor's franchise.

3. TERM OF THIS AGREEMENT

3.1 INITIAL TERM OF FRANCHISE AGREEMENT

This Agreement shall take effect and be binding upon the Parties from the Effective Date until the date when this Agreement is terminated or expires. The initial term of this Agreement shall begin on the Effective Date and continue through and including September 30, 2030, unless this Agreement is terminated earlier.

3.2 CITY'S OPTION TO RENEW THE AGREEMENT

At the end of the initial term, the City shall have the right to renew this Agreement for one (1) renewal term of three (3) years, subject to the same conditions and Rates in this Agreement, unless the Contractor delivers written notice to the Manager in accordance with the requirements in Section 74, below, on or before February 1, 2029, and thereby expressly informs the Manager that the Contractor is not willing to renew this Agreement under such conditions and Rates.

4. THE SERVICE AREA

4.1 DESCRIPTION OF THE SERVICE AREA

The Service Area includes all of the land located within the incorporated areas of the City. A general map of the Service Area is provided in Exhibit 1. Exhibit 1 also identifies the areas where the Contractor shall collect Garbage and Rubbish that is Set Out at Curbside in Plastic Bags, rather than Garbage Carts.

4.2 ADJUSTMENTS TO THE SERVICE AREA

The boundaries of the Service Area may be adjusted if lands are added to or removed from the City pursuant to an annexation, interlocal agreement, or similar change after the Effective Date. In such cases, the rights of the Contractor may be revised in accordance with Section 171.062, Florida Statutes, or other Applicable Laws.

The annexation of lands after the Effective Date may require the Contractor to provide Collection Services in the annexed area or, in the alternative, such area may be served by another Person. In either case, the Contractor shall provide its services to the City (with or without the annexed area) for the Rates established in this Agreement. There shall be no change in the Contractor's Rates if Collection Service in the annexed area is provided by another Person. There also shall be no change in the Contractor's Rates if the boundaries of the Service Area are revised after the Effective Date.

5. CONTRACTOR'S OBLIGATIONS PRIOR TO COMMENCEMENT DATE

5.1 CONTRACTOR'S TRANSITION PLAN

The Contractor shall ensure that the Customers and the City do not experience any delay or disruption in service when the Contractor begins to provide its services under this Agreement on the Commencement Date. The Contractor shall prepare and provide the Administrator with a Transition Plan in compliance with the requirements herein. At a minimum, the Transition Plan shall demonstrate that the Contractor will hire and train the necessary personnel, and procure and prepare the necessary vehicles and equipment, to enable the Contractor to provide its Collection Services in compliance with this Agreement on and after the Commencement Date. The Transition Plan shall contain a detailed description of the steps the Contractor will take, and the schedule for completing each of those steps, as the Contractor prepares for the Commencement Date. Among other things, the Transition Plan shall identify and describe: (a) the number and types of Collection vehicles and Mechanical Containers that the Contractor will need to have in stock at its local equipment yard before the Commencement Date; (b) how and when the Contractor will provide its Garbage Carts, Recycling Containers, and Mechanical Containers to the Customers; and (c) how the Contractor will provide additional personnel, vehicles, and containers to serve the City if the Contractor needs additional resources on or after the Commencement Date. The Transition Plan

is subject to the approval of the Administrator. If requested, the Contractor shall revise the plan within twenty (20) calendar days and resubmit the plan for the Administrator's approval.

5.2 DEADLINES FOR THE CONTRACTOR'S TRANSITION PLANNING

The Contractor shall address the following performance requirements in the Transition Plan and shall accomplish these requirements no later than the following deadlines:

- (a) Within two weeks after the Effective Date, the Contractor and City shall meet and discuss the concepts to be addressed in the Contractor's Transition Plan and any other matters that will help ensure the successful implementation of the Contractor's Transition Plan.
- (b) Within three months after the Effective Date, the Contractor shall provide the Administrator with documentation demonstrating that all necessary Collection vehicles, equipment, and Collection Containers have been ordered.
- (c) Approximately 3 weeks before the Commencement Date, Contractor shall provide the Administrator with: (1) a vehicle list that shows the make, model, year, tare weight, license tag number, and identification number for each Collection vehicle; and (2) a list that shows the identification number and capacity of each Mechanical Container that will be used by the Contractor under this Agreement.

5.3 THE CONTRACTOR'S INITIAL SERVICES

The Contractor shall assign one of its Customer service representatives to work at the City's offices each Operating Day during the first Operating Month. The Contractor's service representative shall assist the City in addressing Customer complaints concerning the Contractor's performance. After the first week of operations, the Contractor may request the Administrator to waive the requirements in this Section 5.3 if the City no longer needs the service representative's assistance with the Legitimate Complaints that the City receives as a result of the Contractor's performance under this Agreement.

6. GENERAL SCOPE OF CONTRACTOR'S DUTIES AFTER COMMENCEMENT DATE

This Section 6 describes the general scope of the Contractor's duties under this Agreement. The general requirements in this Section 6 are supplemented by the specific requirements in other sections of this Agreement. Subject to the conditions contained herein, the Contractor shall:

- (a) provide Residential Collection Service, Multi-Family Collection Service, and Commercial Collection Service in the Service Area;
- (b) provide Collection Service for the City's facilities and Community Events;
- (c) deliver all of the Solid Waste and Source Separated Recyclable Materials it collects under this Agreement to the Designated Facilities;
- (d) pay the applicable Tipping Fees at the Designated Facilities;
- (e) comply at all times with the requirements in this Agreement and Applicable Law;
- (f) provide all labor, services, supervision, materials, equipment, insurance, and other resources necessary to accomplish the Contractor's work under this Agreement; and
- (g) perform all of its work and satisfy all of its obligations under this Agreement at the

Contractor's sole expense, in exchange only for the payments by the City and Customers that are expressly authorized herein.

7. CONTRACTOR'S SPECIFIC COLLECTION SERVICES

7.1 GENERAL REQUIREMENTS FOR RESIDENTIAL COLLECTION SERVICE AT CURBSIDE

The Contractor shall provide the following Residential Collection Services to each Residential Customer that resides in: (a) a single-family Dwelling Unit; (b) a duplex; (c) a triplex; (d) a quadraplex; (e) a mobile home; or (f) a Multi-Family Dwelling that cannot or should not receive Collection Service with a Mechanical Container, as determined by the Administrator.

- 7.1.1 The Contractor shall collect each Customer's Garbage and Rubbish at the Curbside twice each week. The Contractor shall provide this Collection Service by using automated or semi-automated equipment and Garbage Carts (i.e., Automated Collection Service), except in areas designated by the City for the Collection of Garbage and Rubbish in Plastic Bags. Exhibit 1 identifies the Residential Property where the Contractor shall collect Garbage and Rubbish that is Set Out in Plastic Bags.
- 7.1.2 The Contractor shall collect each Customer's Source Separated Recyclable Materials at the Curbside once each week. The Contractor shall provide this service by using manual labor and Recycling Bins.
- 7.1.3 The Contractor shall collect each Customer's Yard Waste at the Curbside once each week.
- 7.1.4 The Contractor shall collect each Customer's Bulky Waste at Curbside once each week.
- 7.1.5 Except as otherwise expressly provided herein, the Contractor shall collect all of the Garbage, Rubbish, Yard Waste, Bulky Waste, and Source Separated Recyclable Materials that are Set Out at Curbside by each Residential Customer. There is no limit on the number of Garbage Carts and Recycling Bins that may be Set Out at Curbside by a Residential Customer.
- 7.1.6 The Contractor shall collect all of the Garbage and Rubbish that is Set Out at Curbside in a Customer's Garbage Cart(s). The Contractor is not required to collect Garbage or Rubbish that is placed outside of a Garbage Cart, except (a) as provided in Section 7.1.1 for areas where Plastic Bags are allowed and (b) on the dates identified in Section 7.1.7, below. The Contractor shall place a Non-Collection Notice on any Plastic Bags, boxes, or materials that the Contractor leaves at Curbside and the Contractor shall comply with the applicable requirements in Sections 17.1 and 17.7, below.
- 7.1.7 Notwithstanding the provisions in Section 7.1.6, above, the Contractor shall collect all of the Garbage and Rubbish that is Set Out at Curbside in Plastic Bags, including Plastic Bags that are outside of the Customer's Garbage Cart (a) on the Friday, Saturday, and Monday immediately after Thanksgiving and (b) on each Operating Day from December 26th through January 1st during the term of this Agreement.

7.2 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR RECYCLABLE MATERIALS

The Contractor shall collect all of the Source Separated Recyclable Materials that Residential Customers Set Out in Recycling Bins or paper bags at Curbside, except as otherwise provided in Section 77, below. The Contractor also shall collect Source Separated Recyclable Materials that are placed at Curbside in paper bags, cardboard boxes, or other containers that are similar to the City's Recycling Bins. Further, the Contractor shall collect cardboard that is Set Out at Curbside if the cardboard is cut into pieces no larger than three (3) feet by three (3) feet in size.

The Contractor shall sort the Source Separated Recyclable Materials at Curbside into a "dual stream" – e.g., Fiber Products shall be segregated and placed in one Recycling Bin and a second Recycling Bin shall be used for the Collection of Recyclable Containers and other Program Materials. The Contractor shall place these two different streams of Recyclable Materials into separate compartments in the Contractor's Collection vehicles. The Contractor shall not mix the different types of material together when the Contractor places the Source Separated Recyclable Materials into the Collection vehicle or when the Contractor transports the materials to the Designated Facility for Recycling.

7.3 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR BULKY WASTE

7.3.1 Subject to the limitations herein, the Contractor shall collect Bulky Waste that is Set Out at Curbside by Residential Customers. The Contractor shall collect six (6) cubic yards of Bulky Waste from each Residential Customer each week. If more than six (6) cubic yards is Set Out at Curbside by Residential Customers, the Contractor shall (a) place a Non-Collection Notice on the remaining Bulky Waste or on the Customer's doorknob, in compliance with Section 17.1, below; (b) take time and date-stamped photographs showing the volume of Bulky Waste at Curbside; and (c) notify the Administrator about the Bulky Waste; and (c) notify the Administrator about the Bulky Waste. The Contractor's notice shall be sent to the Administrator via email before the end of the Operating Day when the Bulky Waste was left at Curbside. The Contractor's notice shall contain the street address where the Bulky Waste is located, an estimate of the amount of Bulky Waste, and the Contractor's photographs of the Bulky Waste.. The Contractor is not obligated to collect any item of Bulky Waste that is too large or too heavy to safely pick-up and transport in a clamshell truck.

7.3.2 The Contractor shall collect Construction and Demolition Debris as Bulky Waste, but the Contractor is not required to collect more than two (2) cubic yards of Construction and Demolition Debris from any Residential Customer on any Scheduled Collection Day. If a Residential Customer Sets Out more than two (2) cubic yards of Construction and Demolition Debris for Collection, the Contractor shall collect at least two (2) cubic yards of the material, but the Contractor may leave the remainder. In such cases, the Contractor shall: (a) place a Non-Collection Notice on the Construction and Demolition Debris or on the Customer's doorknob, in compliance with Section 17.1, below; (b) take time and date-stamped photographs showing the volume of Construction and Demolition Debris at Curbside; and (c) notify the Administrator about the Construction and Demolition Debris. The Contractor's notice shall be sent to the Administrator via e-mail before the end of the Operating Day when the Construction and Demolition Debris was left at Curbside. The Contractor's notice shall contain the street address where the Construction and Demolition Debris is located, an estimate of the amount of Construction and Demolition Debris at Curbside, and the Contractor's photographs of the Construction and Demolition Debris.

7.4 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR YARD WASTE

7.4.1 Subject to the limitations herein, the Contractor shall collect all of the Yard Waste that is

Set Out at Curbside by each Residential Customer. Yard Waste that is Set Out at Curbside shall be collected if it is in Garbage Carts, biodegradable bags, or Plastic Bags. Yard Waste also shall be collected if it is tied, bundled, or stacked in piles at Curbside. However, the Contractor is not required to collect grass clippings, leaves, pine needles, and similar small loose items unless such materials are placed in Garbage Carts, biodegradable bags, or Plastic Bags.

- 7.4.2 There is no limit on the amount of Yard Waste that may be Set Out at Curbside by Residential Customers, but the Contractor is not required to collect more than six (6) cubic yards of Yard Waste from any Customer on any Scheduled Collection Day. If a Residential Customer Sets Out more than six (6) cubic yards of Yard Waste for Collection, the Contractor shall collect at least six (6) cubic yards of the Customer's Yard Waste on the Scheduled Collection Day, but the Contractor may leave the remainder. If the Contractor leaves some of the Yard Waste at Curbside, the Contractor shall return each Scheduled Collection Day thereafter and collect at least six (6) cubic yards of Yard Waste each time until all of the Yard Waste is removed.
- 7.4.3 The Contractor shall collect each palm frond that is Set Out at Curbside, regardless of the length or weight of the palm frond. However, the Contractor is not required to collect any other single piece of Yard Waste that exceeds six (6) feet in length, ten (10) inches in diameter, or fifty (50) pounds in weight. The Contractor is not required to collect Land Clearing Debris.
- 7.4.4 The Contractor shall collect any natural Christmas tree that is Set Out at Curbside, unless the Christmas tree or a section of the tree exceeds eight (8) feet in length or fifty (50) pounds in weight.
- 7.4.5 If the Contractor elects to leave any Yard Waste or Land Clearing Debris at Curbside, the Contractor shall place a Non-Collection Notice on the remaining material or on the Customer's doorknob, in compliance with Section 17.1, below.
- 7.4.6 The Contractor shall not collect Yard Waste and Bulky Waste in the same vehicle; Bulky Waste and Yard Waste shall be collected in separate vehicles.

7.5 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR EXCESS AND OVERSIZED MATERIALS

This Agreement does not require the Contractor to collect the following materials at Curbside from any Residential Customer on a single Operating Day: (a) Yard Waste that exceeds six (6) cubic yards; (b) Construction and Demolition Debris that exceeds two (2) cubic yards; (c) Bulky Waste that exceeds six (6) cubic yards; or (d) any item of Yard Waste that exceeds the size and weight limits in Section 7.4, above. At its option, however, the Contractor may collect such materials as part of its routine Collection Service for Residential Customers.

7.6 RESIDENTIAL SIDE DOOR SERVICE

The Contractor shall provide Side Door Service to a Residential Customer, without charging an additional Rate for Side Door Service, if the City determines that the Residential Customer is physically unable to deliver its Garbage, Rubbish, and Recyclable Materials to the Curbside and there are no able-bodied people living with the Residential Customer. The City may require a letter or other documentation from a physician before the City concludes that a Residential Customer is physically unable to use Curbside Collection Service. The Administrator shall resolve any disputes concerning whether a Residential Customer is eligible for Side Door Service without charge.

7.7 RESIDENTIAL COLLECTION SERVICE FOR MULTI-FAMILY DWELLINGS

Pursuant to Section 13.1, below, the Administrator shall determine whether a Customer residing in a Multi-Family Dwelling must Set Out their Garbage and Rubbish in a Garbage Cart at Curbside or in a Mechanical Container. If a Residential Customer resides in a Multi-Family Dwelling and receives Collection Service at Curbside, the Contractor shall serve that Customer in compliance with the provisions in Sections 7.1 through 7.6, above.

The Contractor shall provide the following services to each Residential Customer that resides in a Multi-Family Dwelling and receives Collection Service with a Mechanical Container:

- 7.7.1 The Contractor shall collect all of the Garbage and Rubbish that the Customer places in the Mechanical Container used to provide Collection Service at the Customer's Premises. This Collection Service shall be provided at least two (2) times each week, unless the Customer requests and the Administrator approves Collection Service on a weekly basis. The Administrator's approval shall be granted unless the Administrator reasonably concludes that weekly service will result in objectionable odors or other nuisance conditions. Notwithstanding the foregoing, in all cases the Contractor shall provide Collection Services for Garbage and Rubbish at least once each week.
- 7.7.2 The Contractor shall provide centrally located Recycling Carts or other Recycling Containers for those Customers that reside in Multi-Family Dwellings and use Mechanical Containers for the disposal of Garbage and Rubbish. The Contractor shall collect all of the Source Separated Recyclable Materials that are placed into the Recycling Containers, except as otherwise provided in Section 77, below. Source Separated Recyclable Materials shall be collected at least once each week at each Multi-Family Dwelling that uses Mechanical Containers for the disposal of Garbage and Rubbish.
- 7.7.3 The Contractor shall collect all of the Bulky Waste that is generated at Multi-Family Dwellings where Mechanical Containers are used for the Collection of Garbage and Rubbish. The Contractor shall collect the Bulky Waste that is placed outside the Mechanical Containers used for the Collection of Garbage and Rubbish. In addition, the Contractor shall place Roll-Off Containers for Bulky Waste at each Multi-Family Dwelling where a container for Bulky Waste is requested. There is no limit on the size, weight, or quantity of Bulky Waste that may be Set Out at Multi-Family Dwellings. The Contractor shall collect Bulky Waste on a Scheduled Collection Day at least once each week at each Multi-Family Dwelling.
- 7.7.4 The Contractor shall collect and remove Yard Waste that a Customer or the Customer's lawn maintenance company generates on the Customer's Premises and then places in a Mechanical Container used for the Collection of Garbage and Rubbish.

7.8 COLLECTION OF GARBAGE AND RUBBISH FROM COMMERCIAL PROPERTY

- 7.8.1 The Contractor shall collect Garbage and Rubbish from each Commercial Customer in the Service Area. This Collection Service shall be provided at least once each week for each Commercial Customer.

7.8.2 The Contractor shall use Mechanical Containers to provide Commercial Collection Service for Garbage and Rubbish. However, the Contractor shall allow a Commercial Customer to Set Out its Garbage and Rubbish in Garbage Carts if the Commercial Customer generates less than two (2) cubic yards of waste each week. The Contractor shall collect all of the Garbage and Rubbish that is Set Out in Mechanical Containers and Garbage Carts by Commercial Customers, but the Contractor is not obligated to collect Garbage or Rubbish that is placed outside the Mechanical Container or Garbage Cart.

7.9 COLLECTION OF SOURCE SEPARATED RECYCLABLE MATERIALS FROM COMMERCIAL PROPERTY

The Contractor shall collect Source Separated Recyclable Materials from Commercial Property when such service is requested by a Commercial Customer, except as otherwise provided in Section 77, below. The Contractor may offer to collect Source Separated Recyclable Materials from any Person that owns or occupies Commercial Property in the Service Area. With regard to such Customers, the Contractor may collect Program Materials, such as Recyclable Containers, Office Paper, Mixed Paper, and corrugated cardboard.

7.10 COLLECTION OF CONSTRUCTION AND DEMOLITION DEBRIS, BULKY WASTE AND YARD WASTE FROM COMMERCIAL PROPERTY

This Agreement does not give the Contractor the right to collect Construction and Demolition Debris, Bulky Waste, or Yard Waste from Commercial Customers in the Service Area. If the Contractor wishes to collect one or more of these materials, the Contractor must comply with the Applicable Law governing such services, including the City's permitting requirements. For example, if the Contractor wishes to collect Construction and Demolition Debris in Roll-Off Containers, the Contractor must apply to the City and obtain the City's approval before the Contractor begins to collect such material in the Service Area.

8. CONTRACTOR'S COLLECTION SERVICES FOR THE CITY

8.1 GENERAL REQUIREMENTS

Subject to the conditions contained herein, the Contractor shall provide Collection Services for the City at certain facilities and public locations designated by the City. The Contractor shall be solely responsible for all of the costs and expenses associated with these services, including but not limited to the cost of Collection and disposal (Tipping Fees), and the cost of purchasing, delivering, maintaining, and using Collection Containers needed to provide Collection Services pursuant to this Section 8.

With regard to the Contractor's services for the City, the City shall determine: (a) the size of the Collection Containers that shall be provided by the Contractor; (b) the frequency of Collection Service for each Collection Container; (c) the location where the Collection Container will be placed by Contractor; and (d) the types of Collection Containers to be used. The City shall have the right to increase or decrease the number of Collection Containers at any location, as well as the right to add new locations for the placement of Collection Containers.

At a minimum, the Contractor's Collection Services for the City's properties and facilities shall be provided in compliance with the following requirements:

- (a) Garbage shall be collected twice each week;
- (b) Source Separated Recyclable Materials shall be collected once each week; and
- (c) Mechanical Containers shall be emptied by the Contractor on a Scheduled Collection Day. If the Administrator does not designate a Scheduled Collection Day for a Mechanical Container, the Mechanical Container shall be emptied within 24 hours after the Administrator notifies the Contractor that the Mechanical Container is full.

The Contractor shall increase the size of the Collection Container or the frequency of Collection Service for any Collection Container if the Administrator determines the current level of service is inadequate.

8.2 COLLECTION OF SOLID WASTE AND SOURCE SEPARATED RECYCLABLE MATERIALS AT CITY FACILITIES

The Contractor shall provide for the Collection of Solid Waste and Source Separated Recyclable Materials from any property that is owned, occupied, leased, or controlled by the City at any time during the term of this Agreement. Exhibit 17 identifies the City properties that, as of the Effective Date, shall receive Collection Service. Exhibit 17 also identifies the type and level of Collection Service to be provided to each City property, beginning on the Commencement Date. The Contractor's obligations also include the Collection of Solid Waste and Source Separated Recyclable Materials that are collected by the City at other locations as a result of City operations and then transported to the City properties identified in Exhibit 17. The City may add properties to Exhibit 17, if they are acquired, occupied, leased, or controlled by the City after the Effective Date. In addition, the Contractor shall also collect and remove Recyclable Materials from up to forty (40) Recycling Containers located in the Beach Area (i.e. as part of the Blue Flag program) seven (7) times each week.

8.3 COLLECTIONS FROM TRASH RECEPTACLES AND RECYCLING CONTAINERS AT BUS SHELTERS, PARKS, AND OTHER PUBLIC LOCATIONS

The Contractor shall provide Collection Service for all of the Garbage and Rubbish discarded in: (a) the trash receptacles located adjacent to the public bus shelters that are identified in Exhibit 15; (b) the trash receptacles located along Atlantic Avenue, the Beach area, and Pineapple Grove, which are identified in Exhibit 18; and (c) the trash receptacles that are identified in Exhibit 16. 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 empty each trash receptacle, and pick up all of the litter within ten (10) feet of each trash receptacle, at least seven (7) times each week.

The City has installed containers for the Collection of Source Separated Recyclable Materials at the locations identified in Exhibit 20. The Contractor shall collect and remove the Source Separated Recyclable Materials from each of these Recycling Containers at least two (2) times each week. The Contractor also shall empty the Recycling Containers and replace the Plastic Bag (if any) in each Recycling Container, as necessary..

The City shall be responsible for purchasing, installing, maintaining, and replacing the trash receptacles and Recycling Containers that will be used pursuant to this Section 8.3. Each trash receptacle and Recycling Container shall be approximately forty (40) gallons or less in capacity. The Contractor shall promptly notify the Administrator if one of the City's trash receptacles or Recycling Containers needs to be repaired or replaced.

Exhibit 8 contains “per unit” Rates (\$ per month) for providing Collection Service to a trash receptacle located in any one of the areas identified in Exhibits 15, 16, and 18. If the City increases or decreases the number of trash receptacles located in these areas, the City’s payments to the Contractor shall increase or decrease, as applicable, based on the per unit Rate set forth in Exhibit 8, subject to the limits in Section 8.10, below. In the same manner, the City’s payments to the Contractor shall be increased or decreased, as applicable, if the City increases or decreases the number of Recycling Containers located in the areas identified in Exhibits 15, 16, and 18.

8.4 COLLECTION OF SOURCE SEPARATED RECYCLABLE MATERIAL AT PUBLIC DROP-OFF FACILITIES

The Contractor shall collect the Source Separated Recyclable Materials that are delivered to the City’s public drop-off facilities. The locations of the City’s public drop-off facilities are identified in Exhibit 20. At each of these facilities, the Contractor shall provide separate Collection Containers for (a) paper and cardboard, and (b) plastics, metal, and glass. The Authority currently collects the paper and cardboard at each of the City’s public drop-off facilities. As long as the Authority provides Collection Service for paper or cardboard, the Contractor shall not be required to collect such materials from the City’s public drop-off facilities. Subject to this exception for paper and cardboard, the Contractor shall collect all of the Source Separated Recyclable Materials at each drop-off facility at least once each week. If necessary, the Contractor shall provide larger Collection Containers or increase the frequency of Collection Service, without increasing the Rate charged to the City.

8.5 COLLECTION OF BULKY WASTE AND YARD WASTE

The Contractor shall assign a driver and a clamshell truck to work with the Administrator on a full-time basis, five (5) days each week. This driver and vehicle shall be used primarily to collect piles of Bulky Waste and Yard Waste that have been placed at the Curbside before a Customer’s Scheduled Collection Day. This driver and vehicle also may be used to collect debris from illegal dumping. This driver and truck shall be in addition to the equipment and personnel used to collect Bulky Waste and Yard Waste on Scheduled Collection Days. If the City elects to use the driver and clamshell truck, the City shall pay the Contractor’s Rate for such service, as shown in Exhibit 8.

8.6 COLLECTION OF BIOLOGICAL WASTE

The Contractor shall provide Collection Service for dead animals, fish, and birds (collectively, “Biological Waste”), when requested to do so by the Administrator. Collection Service shall be provided if such Biological Waste is located on a public right-of-way, park, or other City property. The Contractor shall provide such Collection Service within two (2) hours after the Administrator requests service from the Contractor. In addition, each driver of the Contractor’s Collection vehicles shall be instructed to promptly notify the Field Supervisor if the driver sees Biological Waste in any of the City’s roadways or public areas. The Field Supervisor shall promptly dispatch an employee to collect the Biological Waste after receiving notice from one of the Contractor’s drivers. Notwithstanding the foregoing requirements in this Section 8.6, the Contractor is not required to collect and remove dead horses, cows, whales, porpoises, or other equally large animals.

8.7 COLLECTIONS FOR SPECIAL PROJECTS

The Contractor shall collect and dispose of the Construction and Demolition Debris and other Solid Waste generated by the City’s employees when the City’s employees undertake special construction projects in the City’s parks or undertake similar projects on other City properties. However, the Contractor is not obligated to collect or dispose of Solid Waste generated by a third-

party contractor when the third-party contractor is constructing or renovating the City's buildings or performing other similar work for the City.

8.8 COLLECTION FOR COMMUNITY EVENTS

The Contractor shall provide Collection Service for certain Community Events (e.g., community clean-ups, parades, and other special events) that are designated by the Administrator. It is anticipated that the Contractor will be required to provide Collection Service for at least ten (10) Community Events each year, including but not limited to the City's First Night celebration, the annual Christmas Tree Lighting, the Fourth of July celebration, the Chris Evert Tennis Tournament, and the Delray Beach Open Tennis Tournament. The Administrator shall designate the number and size of the containers required for each Community Event. The Contractor shall provide up to twelve hundred (1200) cubic yards of capacity in Roll-Off Containers each year for Community Events, without charge. For an additional up to five (5) Community Events, the Contractor shall provide temporary Solid Waste containers (in a size to be jointly agreed upon by Contractor and City), and Collection Services for same, which containers shall be placed in the area where the Community Event is being held.

The Contractor also shall provide Collection Service for Garbage, Rubbish, Source Separated Recyclable Materials, Bulky Waste, Yard Waste, and other debris collected when the City conducts a neighborhood or lot clean-up program for illegal dumping. In cases involving illegal dumping or other conditions that pose a nuisance or danger to the public, the Contractor shall provide its Collection Service within one (1) Operating Day after receiving a request for Collection Service from the Administrator.

8.9 CITY'S INTEGRATED SOLID WASTE MANAGEMENT PROGRAM AND PUBLIC EDUCATIONAL ACTIVITIES

The City supports the integrated Solid Waste management plan adopted by the Authority and the City wishes to implement the plan in the Service Area. The Contractor agrees to schedule a meeting of stakeholders in the Downtown business area for the purpose of addressing their specific needs related to recycling. Thereafter, the Contractor shall present to the City Commission, at a public meeting, its plan to assist and encourage local businesses in this effort. In addition, the City also wants to enhance the City's Recycling programs. The Contractor shall help the City by providing technical advice and assistance concerning these activities. The Contractor also shall help the City develop educational programs and materials concerning integrated Solid Waste management practices, including Recycling. Further, the Contractor shall make presentations to schools, civic groups, homeowners' associations, and other similar groups, when requested to do so by the Administrator. However, the Contractor is not obligated to make any out-of-pocket expenditures to comply with the requirements in this Section 8.9.

8.10 CHARGES FOR EXTRA COLLECTION SERVICES

The Contractor shall not be paid a fee for providing its Collection Services to the City pursuant to Section 8 of this Agreement, except in the following instances:

- (a) The Contractor provides Collection Service for more than ten (10) Community Events in one Operating Year;
- (b) The Contractor collects more than twelve hundred (1200) cubic yards of capacity in Mechanical Containers for Community Events in one Operating Year;
- (c) The Contractor provides more than five (5) Mechanical Containers for community clean-up events or illegal dumping in one Operating Year;

- (d) The City adds four (4) or more properties to the list of City facilities in Exhibit 17;
- (e) The City adds more than ten (10) trash receptacles to the list in Exhibit 18;
- (f) The City adds four (4) or more bus shelters to the list in Exhibit 15; or
- (g) The City adds two (2) or more City Parks to the list in Exhibit 19.

In all such cases, the proposed fee for the Contractor's additional Collection Services shall be negotiated with the Administrator before the Contractor provides any Collection Service that would require a payment pursuant to this Section 8.10. No payment from the City shall be required for any such service unless the Contractor advises the City in advance that the requested service will exceed one of the thresholds identified in (a) – (g), above, and the City confirms in writing that the City wants the Contractor to provide its Collection Services, based on the negotiated Rates. The Contractor's Rates for these additional Collection Services shall be consistent with the Rates set forth in Exhibits 2-8 and shall not exceed the amount charged by the Contractor when providing similar services to other Persons.

8.11 COMMUNITY CONTRIBUTIONS

The Contractor shall provide financial contributions and in-kind services to support City-sponsored events, local educational institutions, and non-profit organizations in their efforts to improve the local community. The Contractor's contributions and services shall equal or exceed Eighty Thousand Dollars (\$80,000) each Operating Year. On October 1, 2024 and each Operating Year thereafter, the value of the Contractor's contributions shall increase by at least Three Thousand Dollars (\$3,000). On October 1, 2024 and each October 1st thereafter, the Contractor shall provide documentation to the Administrator demonstrating that the Contractor has satisfied these financial commitments. If at any time the City reasonably concludes that the Contractor has not fully satisfied these financial commitments, the Contractor shall remedy the shortfall within twelve (12) months after receiving written notice from the Administrator.

9. SPECIAL COLLECTION SERVICES

The Contractor shall provide Special Collection Services for Residential Customers. The Special Collection Services for Residential Customers include the Collection of excess and oversized material pursuant to Section 7.5. Similarly, the Contractor shall provide Special Collection Services for Commercial Customers, including but not limited to the services identified in Section 7.10 and Exhibit 7. The Contractor shall be paid for Special Collection Services pursuant to Section 39.10, below.

10. HOURS AND DAYS OF CONTRACTOR'S COLLECTION SERVICES

- 10.1** The Contractor may provide Collection Services to Residential Customers every day of the year, except Sundays, Thanksgiving, and Christmas. The Contractor shall offer, and upon request shall provide, Collection Services to Commercial Customers every day of the year, except Sundays, Thanksgiving, and Christmas. In addition, the Contractor may provide Collection Services to Commercial Customers (e.g., restaurants) in the City's "Downtown District" on Sundays, Thanksgiving, and Christmas if such services are approved by the Administrator in advance. The Contractor also shall empty trash receptacles and perform the other services required pursuant to Section 8.3, above, on Sundays, if necessary to comply with the schedules and requirements in Section 8.3.

- 10.2** The Contractor shall not provide Residential Collection Service at any location before 6:00 a.m. or after 6:00 p.m. The Contractor shall not provide Collection Service to a Multi-Family Dwelling, or any Commercial Customer at any location within 150 yards of a single-family or Multi-Family Dwelling Unit, before 7:00 a.m. or after 6:00 p.m. The Contractor may provide Commercial Collection Service at any other location at any time that is acceptable to the Contractor's Commercial Customer.
- 10.3** If the City receives complaints about the noise or disturbance caused by the Contractor's Collection Services at a particular location, the Administrator may restrict the times for the Contractor's Collection Services at that location to the hours between 7:00 a.m. and 6:00 p.m., without increasing the Contractor's Rates.
- 10.4** Notwithstanding anything else contained herein, the hours and days of Collection Service may be extended or modified (a) when such change is requested by the Contractor and approved in advance by the Administrator and (b) when the Administrator determines that such change is necessary or otherwise appropriate to protect the public health, safety, or welfare.

11. SCHEDULES AND ROUTES FOR COLLECTION SERVICES

11.1 SCHEDULES AND ROUTES

The Contractor shall establish Routes and schedules that satisfy the requirements of this Agreement and maximize the efficiency of the Contractor's operations. However, to the extent practicable, the Contractor also shall attempt to minimize any changes to the Routes and schedules used for Residential Customers prior to the Commencement Date. The Routes established under this Agreement shall be separate from the Routes the Contractor uses for the Collection of Solid Waste generated outside of the Service Area (e.g., in the unincorporated area of Palm Beach County; in another municipality). The Contractor shall submit its proposed Routes and schedules to the Administrator as part of the Collection Plan that is required pursuant to Section 25, below. The proposed Routes and schedules shall be subject to the Administrator's approval. After the Contractor's Collection Plan is approved by the Administrator, the Contractor shall provide Collection Service in accordance with the approved Routes and schedules in the Collection Plan. The Administrator may waive one or more of the requirements in this Section 11.1 if the Administrator concludes that a waiver is in the public interest.

11.2 SCHEDULED COLLECTION DAYS FOR BULKY WASTE, YARD WASTE, AND SOURCE SEPARATED RECYCLABLE MATERIALS

The following requirements apply to the Contractor's Collection of a Residential Customer's materials at Curbside:

- 11.2.1** The Contractor shall collect a Residential Customer's Bulky Waste on the first Scheduled Collection Day each week for the Collection of that Customer's Garbage and Rubbish.
- 11.2.2** The Contractor shall collect a Residential Customer's Yard Waste on one of the Scheduled Collection Days each week for the Collection of that Customer's Garbage and Rubbish.
- 11.2.3** The Contractor shall collect a Residential Customer's Source Separated Recyclable Material on one of the Scheduled Collection Days each week for the Collection of that Customer's Garbage and Rubbish.

11.3 SCHEDULES FOR TWICE WEEKLY SERVICE

Whenever the Contractor is required to provide a Collection Service two (2) times each week pursuant to this Agreement, the Scheduled Collection Days for that service shall be seventy-two (72) hours apart unless the Administrator approves a different schedule. For example, a Residential Customer shall receive Collection Service at Curbside for Garbage on Monday and Thursday, or Tuesday and Friday, or Wednesday and Saturday.

12. CHANGES TO COLLECTION SCHEDULES AND ROUTES FOR RESIDENTIAL SERVICE

12.1 NO CHANGES WITHOUT ADMINISTRATOR'S APPROVAL

After the Commencement Date, the Contractor shall not change a Route or a schedule for Residential Collection Service unless the Contractor receives the Administrator's written approval for the proposed change. The Contractor shall submit a description of all proposed Route and schedule changes to the Administrator at least thirty (30) calendar days prior to the implementation of such changes to Residential Collection Services.

12.2 HOLIDAY SCHEDULES

12.2.1 The Contractor is not required to provide Collection Service on a Holiday (i.e., Thanksgiving Day or Christmas Day).

12.2.2 If a Residential Customer receives Collection Service at Curbside, and the Customer's Scheduled Collection Day for Garbage falls on a Holiday, the Contractor may delay the Collection of the Customer's Garbage until the first Scheduled Collection Day for the Collection of the Customer's Garbage following the Holiday. Consequently, the Customer will receive Collection Service for Garbage only once during the week of the Holiday.

12.2.3 If a Residential Customer receives Collection Services at Curbside and the Customer's Scheduled Collection Day for Bulky Waste, Yard Waste, or Source Separated Recyclable Material falls on a Holiday, the Contractor may delay the Collection of such waste until the next Scheduled Collection Day for that type of material. Consequently, the Residential Customer will not receive Collection Service for Bulky Waste, Yard Waste, and/or Source Separated Recyclable Material until the week after the Holiday.

12.2.4 If a Residential Customer receives Collection Service with a Mechanical Container and the Customer's Scheduled Collection Day for Garbage or Source Separated Recyclable Materials falls on a Holiday, the Contractor shall provide Collection Service to the Customer on the first Operating Day after the Holiday.

12.2.5 Notwithstanding the provisions in Section 12.2.2, 12.2.3, and 12.2.4, the Contractor may propose, and the Administrator may approve alternate schedules for the Collection of Residential Waste immediately before and after a Holiday.

12.3 PUBLIC NOTICE OF CHANGES

If the Administrator approves a change in the Contractor's schedules or Routes, the Contractor shall provide all affected Customers with notice of the change and shall comply with the requirements in Section 36, below, unless a different notice is authorized by the Administrator.

12.4 NOTICE OF TEMPORARY DELAYS

The Contractor shall inform the Administrator about any event (e.g., disabled trucks, accidents, or shortage of staff) that will cause delays in the Contractor's normal Collection Schedule. The Contractor shall provide such notice within two (2) hours of the event.

12.5 NO DELAYS EXCUSED FOR FLUCTUATIONS IN SOLID WASTE QUANTITIES

The quantity of Solid Waste generated in the City may fluctuate during an Operating Year and from year-to-year. These fluctuations will not justify or excuse a failure by the Contractor to provide Collection Service in compliance with the approved schedules and Routes. The Contractor is responsible for the timely Collection of all of the Solid Waste and Recyclable Material that is Set Out on the Scheduled Collection Days, subject to the conditions herein, regardless of any fluctuations in the amount of material that is Set Out.

13. ADMINISTRATOR'S AUTHORITY TO DETERMINE REQUIREMENTS FOR COLLECTION SERVICE

- 13.1** The Administrator shall have the exclusive authority to determine whether a Multi-Family Dwelling shall receive Collection Service at Curbside or, in the alternative, Collection Service with a Mechanical Container. For example, the Administrator may require the Contractor to provide Collection Service at Curbside for a Multi-Family Dwelling in cases where the Administrator determines that (a) there is insufficient access or space for a Mechanical Container or (b) other site-specific factors make the use of a Mechanical Container inappropriate.
- 13.2** If a Customer will receive Collection Service with a Mechanical Container, the Contractor and Customer initially shall determine the size of the Collection Container that will be used and the frequency of the Collection Service, but Collection Service with Mechanical Containers shall be provided: (a) at least once each week for all Customers; and (b) at least twice each week for all restaurants, grocery stores, and other Commercial Customers that generate significant quantities of Garbage. However, the Administrator may approve less frequent Collection Service if the Contractor or Customer demonstrates to the Administrator's satisfaction that less frequent service will not cause objectionable odors or other nuisance conditions.
- 13.3** The Administrator shall have the right to increase or decrease (a) the frequency of any Collection Service and (b) the size and number of the Collection Containers used by any Customer. The size of the Collection Container and the frequency of Collection Service provided to a Customer shall be sufficient to ensure that the Collection Container is not overfilled, and Solid Waste is not placed outside the Collection Container, between Scheduled Collection Days. If necessary, the Administrator may initiate a Code enforcement proceeding against the Customer to ensure that the Customer receives an appropriate level of service.
- 13.4** If the Contractor and a Customer cannot agree about the size of the Collection Container or the frequency of Collection Service, the Contractor or the Customer may notify the Administrator about their dispute. In such cases, the Administrator shall determine whether it is necessary to change the frequency of service or the size of the Collection Container, and the Contractor shall provide its service in compliance with the Administrator's determination. The Customer shall pay the appropriate Rates for the Contractor's Collection Service, whether the level of service is increased or decreased.

- 13.5 The Administrator also shall have the authority to determine the appropriate location for the placement of any residential or commercial Collection Container.

14. THE RESIDENTIAL CUSTOMER LIST

- 14.1 The City shall prepare a Residential Customer List, which identifies each Dwelling Unit that is entitled to receive Residential Collection Service from the Contractor pursuant to this Agreement. No later than ninety (90) days before the Commencement Date, the City shall provide its preliminary Residential Customer List to the Contractor. The preliminary Residential Customer List shall be based on the City's list of people and Improved Property that currently are included in the assessment roll used by the Authority to assess and collect a non-ad valorem special assessment in the City for disposal services. The preliminary Residential Customer List shall be subject to any additions or deletions deemed appropriate by the City. If the Contractor believes the Residential Customer List is inaccurate or incomplete, the Contractor shall promptly notify the Administrator about any proposed additions, deletions, or other revisions to the Residential Customer List. All such additions, deletions, and revisions shall be provided to the Administrator at least thirty (30) days before the Commencement Date.
- 14.2 The Contractor shall have an affirmative duty to help ensure that the Residential Customer List is accurate at all times after the Commencement Date. The Contractor shall notify the City within five (5) Operating Days if the Contractor begins to provide Residential Collection Service to a parcel of Improved Property that is not on the Residential Customer List. The Contractor also shall notify the City within five (5) Operating Days if the Contractor identifies a parcel of Improved Property that should be added to or deleted from the Residential Customer List.
- 14.3 The City shall notify the Contractor promptly after (a) a Certificate of Occupancy is issued by the City for a new Dwelling Unit that should be added to the Residential Customer List and (b) the City determines it is time to provide Collection Service to such Dwelling Unit. After receiving this notification, the Contractor shall begin to provide Residential Collection Service to the Dwelling Unit within three (3) Operating Days, except as otherwise provided herein.
- 14.4 The City shall notify the Contractor if the City wants the Contractor to terminate its Residential Collection Service to a Dwelling Unit. The Contractor shall terminate its Residential Collection Service within three (3) Operating Days after receiving the City's notice.
- 14.5 The City shall update the Residential Customer List at least once each Operating Month. The City shall adjust the Residential Customer List to correspond with the occupancy of existing and new buildings, as well as the demolition of old buildings. A new Dwelling Unit shall be deemed to be occupied when a Certificate of Occupancy has been issued and the City requests the Contractor to provide Collection Service to the New Dwelling Unit. At a minimum, the updated Residential Customer List shall identify the changes in occupancy that occurred two (2) months before the update occurred. For example, when the list is updated in June of each Operating Year, the list shall at least reflect the addition of new buildings and the demolition of old buildings in April of the same year.

15. PROPER COLLECTION PROCEDURES FOR CONTRACTOR

- 15.1 When providing Collection Services, the Contractor shall thoroughly empty the Customer's Collection Containers and return them in an upright position to the location where they were placed by the Customer. The Contractor shall not place a Collection Container in a location where the container blocks a sidewalk, street, alley, or driveway.
- 15.2 After the Contractor empties a Collection Container that has a lid, the Contractor shall place the lid back on top of the Collection Container and close it securely. This requirement does not apply to Garbage Carts or Recycling Carts that are collected with fully-automated equipment (e.g., auto- side loading trucks).
- 15.3 The Contractor shall handle Collection Containers carefully and in a manner to prevent damage. Garbage Carts, Recycling Containers, and their lids shall not be tossed or thrown by the Contractor.
- 15.4 The Contractor shall provide Collection Service with as little noise and disturbance as possible.
- 15.5 The Contractor shall be responsible for the proper handling of any White Goods and Electronic Equipment that the Contractor collects. The Contractor shall take appropriate steps to minimize the release of Freon, coolants, and other similar materials from White Goods. Among other things, the Contractor shall not crush or compact any White Goods or Electronic Equipment that the Contractor collects, if such materials are Set Out separately for Collection. However, a Customer is not required to remove Freon, coolants, or other similar materials from White Goods before the White Goods are Set Out, and the Contractor is not required to remove such materials from the White Goods before the White Goods are collected.

16. RESTRICTIONS ON COLLECTION OF MIXED LOADS

- 16.1 During the Collection process, Garbage and Rubbish may be combined by the Contractor.
- 16.2 During the Collection process, the Contractor shall not combine Source Separated Recyclable Materials or Electronic Equipment with each other or with any other type of material. However, the Contractor shall have no obligation to separate these materials if the Customer placed them in a Collection Container with Garbage or other types of Solid Waste.
- 16.3 During the Collection process, the Contractor shall collect Source Separated Recyclable Materials in a "dual stream" and shall keep the two different categories of Source Separated Recyclable Materials in separate compartments of the Collection vehicle, as described in Section 7.2, above.
- 16.4 During the Collection process, Bulky Waste and Yard Waste shall be collected separately by the Contractor and shall not be mixed together in the Collection vehicles. The Contractor shall not combine Bulky Waste or Yard Waste with Garbage, Rubbish, Source Separated Recyclable Materials, or Electronic Equipment.
- 16.5 During the Collection process, the Contractor shall not use the same vehicle to collect Solid Waste in the Service Area and Solid Waste outside of the Service Area.
- 16.6 During the Collection process, the Contractor shall not use the same vehicle to collect Residential Waste and Commercial Waste.

- 16.7 The Contractor shall not collect Source Separated Recyclable Material in a vehicle that is used to collect Solid Waste. The Contractor shall not collect Solid Waste in a vehicle that is used to collect Source Separated Recyclable Material.
- 16.8 Notwithstanding the foregoing, the Administrator may grant relief from all of the restrictions in this Section 16, and thus allow the Contractor to combine different types of Solid Waste and Recyclable Materials, if the Administrator determines that this practice will be in the public interest. In such cases, the Contractor shall file a request for relief with the Administrator, describing the specific procedures that will be established to properly account and pay for the management of the mixed materials. The Administrator may grant or deny the request, in the Administrator's sole discretion.

17. NON-COLLECTION PROCEDURES

- 17.1 The Contractor shall place a Non-Collection Notice on a Customer's Collection Container if the Contractor decides that the Contractor will not collect the Customer's waste because the waste was not Set Out in compliance with the applicable requirements in this Agreement. If the Contractor does not place a Non-Collection Notice on the Customer's Collection Container and fails to collect the materials in the Customer's Collection Container, the Administrator may require the Contractor to return to the Customer's Premises promptly and collect the waste. If the Administrator notifies the Contractor before 12 p.m. (noon), the Collection shall be completed before the end of that Operating Day. If the Administrator notifies the Contractor after 12:00 p.m. (noon), the Collection shall be completed before noon on the next Operating Day.
- 17.2 The Contractor is responsible for determining whether a Customer's Recycling Container contains Contaminated Recyclable Material. The Contractor may leave the Contaminated Recyclable Material in the Recycling Container, but if the Contractor does, the Contractor shall immediately place a Non-Collection Notice on the container, explaining why the material was not collected.
- 17.3 The Contractor shall not collect Residential Waste or Commercial Waste from a Customer if the Contractor believes the Residential Waste or Commercial Waste contains Hazardous Waste, Radioactive Waste, or Biomedical Waste. In such cases, the Contractor shall place a Non-Collection Notice on the Collection Container, take photographs of the improper waste, and immediately notify the Field Supervisor. If the generator of such waste is unknown, the Contractor shall work with the Administrator to identify the generator and identify an appropriate method to remove and dispose of the waste in a lawful manner.
- 17.4 If a Collection Container is temporarily inaccessible, the Contractor shall provide Collection Service later the same Operating Day, whenever feasible. If it is not feasible, the Contractor shall leave a Non-Collection Notice and provide Collection Service on the next Operating Day.
- 17.5 The Contractor shall notify the Administrator about any Customer that routinely fails to comply with the Set Out requirements in this Agreement. For example, the Contractor shall notify the Administrator if a Residential Customer routinely places: (a) Garbage-filled Plastic Bags outside of their Garbage Cart; (b) more waste at the Curbside than is allowed under Section 7.3 or Section 7.5; (c) pieces of Yard Waste at Curbside that exceed the limits in Section 7.4; or (d) Contaminated Recyclable Material in their Recycling Container. The Contractor also shall notify the Administrator about any Commercial Customer that routinely overloads or overfills the Mechanical Container it uses.

- 17.6** The design and content of the Non-Collection Notices shall be developed by the Contractor but shall be subject to the approval of the Administrator. At a minimum, the Non-Collection Notices shall contain the following information: (a) the issuance date; (b) the Contractor's reason for not providing Collection Service; (c) information advising the Customer how to correct the problem; and (d) the telephone number to call if the Customer has any questions for the Contractor.
- 17.7** The Contractor shall make a good faith effort to collect the Solid Waste that is Set Out for Collection, even if some inappropriate material is comingled with it. For example, if a Residential Customer places Bulky Waste or Yard Waste at the Curbside, but also places a Plastic Bag filled with Garbage on top of the Bulky Waste or Yard Waste, the Contractor shall set aside the Plastic Bag and collect the other materials. However, if a Customer has comingled Garbage with Yard Waste or Bulky Waste to such an extent that it is not practicable to segregate the materials, the Contractor shall place a Non-Collection Notice on the materials and promptly notify the Administrator concerning the location and estimated size of the pile of combined materials. If the Contractor fails to leave a non-Collection Notice and notify the Administrator, the Contractor may be required to collect the pile of combined materials pursuant to Section 17.1, above.

18. PROCEDURES FOR MISSED COLLECTIONS

Whenever the Administrator or a Customer notifies the Contractor about a Missed Collection, the Contractor shall promptly return to the Customer's Premises and collect all of the Residential Waste, Commercial Waste, and Source Separated Recyclable Material that has been Set Out for Collection. The Contractor shall collect such materials before the end of that Operating Day if the Contractor is notified before 12 p.m. (noon). If the Contractor is notified after noon, the Collection of such materials shall be completed before noon on the next Operating Day. However, the requirements in this Section 18 shall not apply if the Contractor presents photographs, GPS data, or other relevant information and thus demonstrates to the Administrator's reasonable satisfaction that the Contractor provided timely Collection Service to the Customer, but the Customer failed to Set Out their Residential Waste, Commercial Waste, or Source Separated Recyclable Material in a timely manner.

19. PROTECTION OF PRIVATE AND PUBLIC PROPERTY

- 19.1** The Contractor's employees shall not trespass on private property; provided, however, the Contractor's employees may walk on a Customer's property when providing Collection Service (e.g., Side Door Service) pursuant to this Agreement. The Contractor's employees shall follow the sidewalk for pedestrians and shall not cross a Customer's property to an adjoining property unless the occupants or owners of both properties have given permission. The Contractor's employees shall not loiter on or meddle with any property of any other Person.
- 19.2** The Contractor's employees shall not damage any public or private property, including but not limited to roads, driveways, sidewalks, utilities, mailboxes, trees, flowers, shrubs, grass, and Collection Containers. However, except in the case of Contractor's negligence or willful misconduct, the Contractor shall not be liable for any damages to pavement or other driving surface resulting from the weight of its trucks or equipment.
- 19.3** The Contractor shall not damage trees in the City. Among other things, the Contractor shall not drive large vehicles on narrow streets, or drive tall vehicles under overhanging limbs, where the vehicles will break or damage the tree limbs. The Contractor also shall not damage tree trunks or roots when collecting Yard Waste or other materials (e.g., when Collecting Yard Waste with a clamshell bucket).

- 19.4** The Contractor shall promptly restore the soil, sod, and grade at any location where the Contractor's Collection of Yard Waste or other material creates a depression that is six (6) inches or more below the surrounding grade (e.g., when collecting Yard Waste with a clamshell bucket). The Contractor shall fill such depressions, restore the grade to match the surrounding area, and replace any sod that has been destroyed by the Contractor's actions.
- 19.5** The Contractor shall instruct its employees concerning the proper procedures to be followed when there is an accident involving damages to public or private property. At a minimum, if the Contractor's employee causes such damage, the employee shall immediately notify the Field Supervisor and the property owner. If the property owner is not known or readily identifiable, the driver shall leave a notice that includes the Contractor's name and phone number.
- 19.6** The Contractor shall be responsible for all damages, costs, and liabilities associated with the repair, restoration, or replacement of any property that has been damaged by the Contractor's equipment, employees, or agents, to the extent that such damage was caused by or results from the actions of the Contractor, its employees, or agents. The Contractor shall promptly investigate and respond to any claim concerning property damage. If the Administrator or a Customer notifies the Contractor before 12 p.m. (noon) concerning any such damage, the Contractor shall investigate and respond to the Administrator and Customer before the end of that day. If the Administrator or a Customer notifies the Contractor after noon, the Contractor shall investigate and respond to the Administrator and Customer before noon on the next Operating Day. The Contractor shall repair any damage within three (3) Operating Days, unless the Contractor requests and the Administrator grants approval of an extension of time. If the Contractor uses continuous and diligent efforts to meet the deadlines in this Section 19.6 but nonetheless is unable to comply, the Administrator shall grant reasonable extensions of time for the work required herein. Any disputes concerning the Contractor's obligations for the repair of property damages shall be resolved by the Administrator. In all cases, the Contractor shall be required to restore the public or private property to a condition that is at least equal to the condition that existed before the damage occurred. If the Contractor fails to complete the repair or restoration work within the timetable specified by the Administrator, the City may hire a third party to perform the work and then deduct the cost of the work from the City's payments to the Contractor.
- 19.7** In all cases, the Contractor may submit photographs, GPS data, or other relevant information to demonstrate that the Contractor did not cause the damage. The Administrator shall fairly consider all such information before the Administrator decides whether the Contractor must undertake any repairs or other work pursuant to this Section 19.

20. CONTRACTOR'S ACCESS TO STREETS AND COLLECTION CONTAINERS

- 20.1** Except as otherwise provided herein, the Contractor shall have the right to use all of the public roadways in the City.
- 20.2** The Contractor shall use suitable vehicles and equipment (e.g., smaller trucks), as necessary, to provide Collection Service on narrow and dead-end streets, unpaved streets, private roads, and other areas where access is limited.
- 20.3** The Contractor's vehicles shall not enter or drive upon any private driveway or Improved Property, to turn around or for any other purpose, unless the Contractor has received the owner's prior written permission to do so.

- 20.4 The Contractor's vehicles shall not unreasonably interfere with vehicular or pedestrian traffic. The Contractor's vehicles shall not be left unattended on streets or alleys.
- 20.5 The City reserves the right to deny the Contractor's vehicles access to certain streets, alleys, bridges, and roadways when the City is repairing such areas, or the City otherwise determines it is in the public's best interest to restrict access. The City shall provide the Contractor with reasonable notice of such restrictions so that the City's action does not unduly interfere with the Contractor's normal operations.
- 20.6 If the Contractor cannot provide Collection Service to a Customer because a public or private street is temporarily closed to vehicular traffic, the Contractor shall return no later than the next Operating Day to provide service to the Customer. If the street is still closed at that time, Contractor shall provide Collection Service to the Customer on the next Scheduled Collection Day.
- 20.7 If access to a street, alley, bridge, or public or private roadway becomes impassable or if access is denied for any reason, the Contractor shall work with the Customer to determine a mutually acceptable location for the Collection of the Customer's waste. If a mutual agreement cannot be reached, the Contractor shall provide Collection Service from the nearest public roadway that is accessible by the Contractor's Collection vehicle or from a location specified by the Administrator.
- 20.8 If the Contractor encounters a Customer or situation (e.g., dogs; narrow streets; low-hanging electrical wires) that prevents the Contractor from gaining the access needed to provide the Collection Service required in this Agreement, and the Contractor is unable to resolve the issue with the Customer, then the Contractor shall report the problem to the Administrator and the Administrator shall resolve the problem. The Contractor and the Customer shall take such action as the Administrator deems necessary and appropriate to enable the Contractor to provide Collection Service to the Customer.

21. THE CITY'S DESIGNATED FACILITIES

- 21.1 The Contractor shall deliver all of the Residential Waste, Commercial Waste, and Source Separated Recyclable Materials collected pursuant to this Agreement to a Designated Facility.
- 21.2 The Designated Facilities for Residential Waste, Commercial Waste, and Source Separated Recyclable Materials shall be the Solid Waste Management Facilities that are described in the Interlocal Agreement. In general, such facilities are operated by, on behalf of, or for the benefit of the Authority and are licensed to accept such waste and materials.
- 21.3 The requirements in this Section 21 do not apply to: (a) Recovered Materials that the Contractor collects from Commercial Customers; or (b) Exempt Waste, as described in Section 23, below.

22. SPILLAGE AND LITTER BY CONTRACTOR

- 22.1 The Contractor shall not cause or allow any Solid Waste, liquid, or other material to be spilled, released, or otherwise dispersed in the City as a result of the Contractor's activities.
- 22.2 The Contractor shall immediately pick up any spillage or litter from Collection Containers that is caused by the Contractor.

- 22.3** When hauling or transporting any material over public roads in the City, the Contractor shall use a covered or enclosed vehicle or other device to prevent the material from falling, blowing, or escaping from the vehicle. If Solid Waste or any other material escapes from or is scattered by Contractor's vehicle for any reason, Contractor shall immediately stop and pick up such material.
- 22.4** The Contractor's vehicles shall not release or cause litter in violation of the Florida Litter Law (Section 403.413, Florida Statutes) or the Ordinances. If litter is released or falls from the Contractor's vehicle for any reason, the Contractor shall immediately stop the vehicle and retrieve the litter.
- 22.5** The Contractor shall immediately clean up any oil, hydraulic fluid, or other liquid that leaks or spills from Contractor's vehicles. The Contractor also shall repair any damage associated with such leaks or spills. The Contractor shall repave the damaged area if the Administrator concludes such action is necessary to repair the damage caused by the Contractor. The requirements in Section 19.6 shall apply to the Contractor's actions under this Section 22.5.
- 22.6** If the Administrator or a Customer notifies the Contractor before 12 p.m. (noon) that the Contractor has caused litter, or caused a leak or spill of Solid Waste, oil, hydraulic fluid, or other liquids or materials, the Contractor shall clean up the liquids and materials before the end of that Operating Day. If the Administrator or a Customer notifies the Contractor after noon, the Contractor shall clean up the liquid or material before noon on the next Operating Day. However, the Contractor's obligation to clean up litter, leaks, and spills shall be waived by the Administrator if the Contractor demonstrates to the Administrator's reasonable satisfaction that the Contractor did not cause the litter, leak, or spill.

23. EXEMPT WASTES AND RECOVERED MATERIALS

- 23.1** The following types of Exempt Waste are not subject to the Contractor's exclusive franchise under this Agreement. These Exempt Wastes may be collected by the owner or occupant of the Improved Property where the Exempt Waste is generated, or by their agent, and taken to any Solid Waste Management Facility or other facility that is licensed to receive such materials. This Agreement does not prohibit the Contractor from collecting Exempt Waste as a Special Collection Service or otherwise, provided that the Contractor complies with all Applicable Law when collecting such material.
- (a) Land Clearing Debris.
 - (b) Yard Waste generated by a Commercial Lawn Care Company or plant nursery.
 - (c) Roofing materials generated, collected, and transported by a roofing company.
 - (c) Construction and Demolition Debris (except as provided in Section 7.3.2).
 - (d) Recovered Materials that are generated and Source Separated on Commercial Property.
 - (e) Excavated fill and earthen material.
 - (f) Solid Waste and by-products generated from an industrial process.

- (g) Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
- (h) Trash, debris, animal bedding, animal wastes, and other materials resulting from farming, equestrian, or agricultural operations.
- (i) Wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts, including used oil, tires, and lead-acid batteries.
- (j) Boats, boat motors, and boat trailers.
- (k) Disaster Debris.
- (l) Hazardous Waste, Biomedical Waste, and Radioactive Waste.
- (m) Sludge.
- (n) Materials and wastes similar to those listed above, when designated by the Administrator.

- 23.2** Pursuant to Section 403.7046(3), Florida Statutes, nothing in this Agreement requires a commercial establishment to sell or convey its Source Separated Recovered Materials to the City or a facility designated by the City. Nothing contained in this Agreement restricts the right of a commercial establishment to sell or convey the establishment's Source Separated Recovered Materials to a properly certified Recovered Materials dealer that has satisfied the requirements in Section 403.7046, Florida Statutes.

24. THE CONTRACTOR'S SAFETY PROGRAM

- 24.1** The Contractor shall develop, implement and maintain a written safety plan for all of its operations under this Agreement. The safety plan shall comply with all OSHA requirements and other Applicable Laws. A written copy and an electronic copy of the safety plan shall be provided to the Administrator for informational purposes. The City's receipt of the safety plan shall not constitute the City's approval of the plan or the City's acquiescence concerning the appropriateness of such plan. The Contractor shall comply with its safety plan at all times.
- 24.2** The Contractor shall appoint an employee who is qualified and authorized, as defined by OSHA, to supervise and enforce safety compliance.
- 24.3** The Contractor shall provide routine safety training to all of its employees, in compliance with OSHA requirements and all Applicable Laws. Refresher courses and supplemental training shall be provided as necessary. Documentation of the Contractor's training programs, and documentation of the successful training of each employee, shall be maintained on file and shall be provided to the Administrator upon request.
- 24.4** The Contractor shall follow all OSHA regulations and Applicable Laws regarding personal protective equipment.

- 24.5 The Contractor's employees shall be trained and instructed to drive in a safe, defensive manner. Among other things, the drivers of the Contractor's Collection vehicles shall be instructed that they shall not "text" or talk on their telephones while they are driving a Collection vehicle that is moving.
- 24.6 The Contractor's safety plan shall include a written procedure for the immediate removal to a hospital or a doctor's care of any employee or other Person that is injured and requires medical assistance.
- 24.7 Contractor shall regularly update its safety plan to reflect any changes in Contractor's operations. The Contractor shall deliver an updated safety plan to the Administrator with the Contractor's annual report, pursuant to Section 35.4, below.

25. THE CONTRACTOR'S COLLECTION PLAN

- 25.1 The Contractor shall prepare a Collection Plan that describes in detail how the Contractor will provide Collection Service in compliance with the requirements in this Agreement. At a minimum, the Collection Plan shall identify and describe the vehicles, equipment, personnel, Routes, and schedules the Contractor will use for each type of Collection Service. The Collection Plan shall include all of the vehicles and personnel that the Contractor promised to commit to the City, as described in the Contractor's proposal and summarized in Exhibit 14. The Collection Plan shall include a legible map for each Route. The map shall identify: (a) the Operating Days when Collection Service will be provided on each Route; (b) the starting and ending points for each Route; and (c) the type of Collection Service that will be provided on each Route on each Scheduled Collection Day.
- 25.2 The Collection Plan shall identify each Designated Facility that will receive the materials collected by the Contractor pursuant to this Agreement.
- 25.3 The Collection Plan shall identify the procedures that will be used by the Contractor to ensure that the City is not billed inappropriately for the Collection, disposal, or Recycling of Solid Waste or other materials. Among other things, the Collection Plan shall identify the procedures that will be used by the Contractor to ensure that each Designated Facility is fully informed whenever the Contractor delivers Solid Waste or other material for which the Contractor, rather than the City, must pay the applicable Tipping Fee (e.g., when Solid Waste is collected from a Person that is not a Residential Customer under this Agreement).
- 25.4 If requested by the Administrator, the Collection Plan shall include the manufacturer's specification sheets for the Collection Containers provided by the Contractor under this Agreement.
- 25.5 An updated Collection Plan shall be submitted to the Administrator within ten (10) days whenever the Contractor changes a Route or other component of the plan.
- 25.6 At least seven (7) days before the Commencement Date, the Collection Plan shall be updated to include all of the information required pursuant to Section 5.2(c), above. Thereafter, the Collection Plan shall be updated whenever the Contractor adds or permanently removes a Collection vehicle or Mechanical Container from service in the City.
- 25.7 The Collection Plan and all revisions to the plan are subject to the Administrator's prior written approval. The Contractor shall provide its services in compliance with the approved Collection Plan, unless the Administrator has given prior written approval for a deviation from the plan.

26. OWNERSHIP OF SOLID WASTE AND RECYCLABLE MATERIALS

For the purposes of this Agreement, Solid Waste and Source Separated Recyclable Material belongs to the Person generating such waste or material, until the Solid Waste or material is Set Out by that Person (i.e., the generator) and collected by the Contractor. When the Contractor takes possession of the Solid Waste and Source Separated Recyclable Material on behalf of the City, title to the waste and material shall pass to the City. Nonetheless, the Contractor shall be solely responsible and liable for the proper handling and lawful management of such waste and material until it is delivered to and accepted by a Designated Facility. Upon acceptance, title to the waste and material shall pass to the owner of such facility.

Notwithstanding anything else contained herein: (a) the Contractor shall not take, keep, process, alter, sell, remove, or otherwise dispose of any such waste or material without the prior written consent of the City; (b) the generator shall at all times retain title to and liability for Hazardous Waste, Biomedical Waste, and Radioactive Waste; and (c) the Contractor shall not be responsible for the actions of a Designated Facility that has accepted the City's Solid Waste and Source Separated Recyclable Material from the Contractor.

27. SET OUT PROCEDURES FOR CUSTOMERS

The procedures and requirements established in this Section 27 shall be followed by the Contractor's Customers. However, the Contractor shall collect a Customer's Solid Waste and Source Separated Recyclable Materials, even if the Customer fails to strictly comply with the requirements in this Section 27, unless (a) the Administrator concurs in advance that the Contractor does not need to provide Collection Service to the Customer or (b) the Contractor places a Non-Collection Notice on the Customer's Collection Container and complies with the requirements in Section 17, above. The requirements in the City's Ordinances, including but not limited to Chapter 51 (titled "Garbage and Trash") of the City's Ordinances, shall supplement the requirements contained herein.

27.1 GENERAL PROCEDURES FOR ALL CUSTOMERS

The following procedures shall apply to all Customers:

- 27.1.1 Garbage and other putrescible waste shall not be collected, stored, or Set Out in an open, uncovered box, bag, or Collection Container.
- 27.1.2 Source Separated Recyclable Materials shall be Set Out in a Recycling Container. Source Separated Recyclable Materials shall not be placed in the same Collection Container with Solid Waste.
- 27.1.3 Source Separated Recyclable Materials shall not be Set Out in a Plastic Bag.
- 27.1.4 A Customer shall not overfill a Collection Container; the lid on a Collection Container shall be closed securely by the Customer.
- 27.1.5 A Customer shall not place their Solid Waste in another Person's Collection Container, unless they have received prior approval from such Person to do so.
- 27.1.6 A Customer shall only Set Out for Collection the Solid Waste that the Customer generated on their own Premises. A Customer shall not Set Out for Collection any

Solid Waste that was generated by another Person or generated on another Person's property, except as otherwise provided in Sections 27.1.5, 27.1.7, and 27.1.8.

- 27.1.7 A Customer's Solid Waste shall be Set Out for Collection on the Premises where the Solid Waste was generated, except as otherwise provided in Sections 27.1.5, 27.1.6, and 27.1.8.
- 27.1.8 A Customer shall not Set Out Solid Waste for Collection on property that is not owned or occupied by the Customer, unless the Customer has received the prior approval of the owner or occupant of such property.
- 27.1.9 The weight of the materials placed in a Garbage Cart or Recycling Cart by a Customer shall not exceed the cart's rated capacity (as shown on the lid of the cart).
- 27.1.10 If the Customer and Contractor cannot agree upon an appropriate location to Set Out a Collection Container or non-containerized waste, the Administrator shall designate the point of Collection.
- 27.1.11 When necessary to carry out the purpose and intent of this Agreement, the Administrator may authorize the placement of a Collection Container at a location that is not on the Customer's Premises.
- 27.1.12 Each Customer shall use due care and diligence to avoid causing damage to any Collection Container or other equipment provided by the City or the Contractor. The Collection Containers and equipment provided by the City and/or Contractor shall not be altered by the Customer and shall only be used for their intended purpose.
- 27.1.13 Each Customer shall provide unobstructed access to their Collection Containers on the Customer's Scheduled Collection Days.

27.2 SPECIFIC PROCEDURES FOR RESIDENTIAL CUSTOMERS RECEIVING COLLECTION SERVICE AT CURBSIDE

The following procedures shall apply to Residential Customers that receive Collection Service at Curbside.

- 27.2.1 Each Residential Customer receiving Collection Service at Curbside shall Set Out their Garbage and Rubbish in one or more Garbage Carts (except for Residential Customer residing in areas where Plastic Bags may be used).
- 27.2.2 Residential Customers shall place their Yard Waste at Curbside for Collection. Leaves, twigs, and other small pieces of Yard Waste shall be placed in a biodegradable bag or Plastic Bag. If the Customer wishes to Set Out larger pieces of Yard Waste that will not fit into the Customer's bags, the Yard Waste shall be stacked neatly in a pile at Curbside. A Residential Customer may, but is not required to, tie larger pieces of Yard Waste in a bundle. There is no limit on the quantity of Yard Waste that may be Set Out at Curbside by a Residential Customer.
- 27.2.3 Source Separated Recyclable Materials shall be Set Out for Collection in a Recycling Bin, paper bag, cardboard box, or other container that is similar to a Recycling Bin. Cardboard also may be Set Out next to a Recycling Bin, but large pieces of cardboard must be cut into pieces no larger than three (3) feet by three (3) feet in size.

- 27.2.4 Each Residential Customer shall place their Garbage, Rubbish, Yard Waste, Bulky Waste and Source Separated Recyclable Materials at the Curbside prior to 6:00 a.m. on the Scheduled Collection Day for such materials.
- 27.2.5 Any carpet Set Out for Collection at Curbside shall be rolled and tied or otherwise bound.
- 27.2.6 Reserved.
- 27.2.7 Residential Customers shall not comingle Yard Waste with other types of Residential Waste.
- 27.2.8 Plastic Bags and biodegradable bags shall not be loaded with materials weighing more than fifty (50) pounds or the rated capacity of the bag, whichever is less.
- 27.2.9 A Residential Customer shall not place more than two (2) cubic yards of Construction and Demolition Debris at Curbside in any week (i.e., between the Scheduled Collection Days for Bulk Waste).
- 27.2.10 A Residential Customer may Set Out a natural Christmas tree at Curbside but shall cut the tree into smaller pieces if the tree exceeds eight (8) feet in length or fifty (50) pounds in weight.
- 27.2.11 Notwithstanding anything else contained herein, a Residential Customer receiving Collection Service at Curbside may Set Out their Garbage and Rubbish in Plastic Bags if the Customer's Dwelling Unit is located in an area designated by the City for Collection Service with Plastic Bags.

27.3 SPECIFIC PROCEDURES FOR CUSTOMERS IN MULTI-FAMILY DWELLINGS THAT USE MECHANICAL CONTAINERS

The following requirements apply to Customers that reside in Multi-Family Dwellings and receive Collection Service with Mechanical Containers.

- 27.3.1 Each Customer in a Multi-Family Dwelling that uses Mechanical Containers shall comply with the following Set Out Procedures: (a) Garbage and Rubbish shall be placed in a Mechanical Container located on the Customer's Premises; and (b) Source Separated Recyclable Materials shall be placed in a Recycling Container located on the Customer's Premises.
- 27.3.2 The Contractor and the Customer shall select mutually acceptable locations for the placement of the Mechanical Container(s) and Recycling Container(s) that will be used by the Customer and serviced by the Contractor at a Multi-Family Dwelling. These locations are subject to the Administrator's approval. Whenever possible, the Recycling Containers shall be placed in close proximity to the Mechanical Container at the Multi-Family Dwelling.
- 27.3.3 A Customer residing at a Multi-Family Dwelling shall call the Contractor and schedule a date for the Collection of their Bulky Waste if the Customer does not have a Scheduled Collection Day for Bulky Waste. A Customer shall not Set Out their

Bulky Waste more than one (1) day before the Scheduled Collection Day or the date that the Customer scheduled with the Contractor for the Collection of Bulky Waste. A Customer shall not place their Bulky Waste in a location that blocks the Contractor's access to a Mechanical Container.

27.4 PROCEDURES FOR COMMERCIAL CUSTOMERS

- 27.4.1 Each Commercial Customer must have a Mechanical Container or Garbage Cart for the Collection of their Garbage and Rubbish; however, two (2) or more Commercial Customers may share the use of a Mechanical Container, subject to the requirements herein. Each Commercial Customer shall place their Garbage and Rubbish in their Mechanical Container or Garbage Cart, as applicable. If a Commercial Customer receives Collection Service for Source Separated Recyclable Materials or Recovered Materials, the Customer must place those materials in a separate cart or container (i.e., not the cart or container used for Garbage and Rubbish).
- 27.4.2 Commercial Customers shall not place or commingle Construction and Demolition Debris with any other type of Solid Waste in a Collection Container.
- 27.4.3 All Collection Containers shall be placed in locations that are safely and readily accessible to the Customer and the Contractor's vehicles.
- 27.4.4 Each Mechanical Container shall be placed on a paved level surface. The approaches to the Mechanical Container shall be capable of supporting the weight of the Collection vehicle.
- 27.4.5 A Commercial Customer shall call the Contractor and schedule a time for the Collection of their Bulky Waste, if the Commercial Customer wishes to have the Contractor collect Bulky Waste. A Commercial Customer shall not Set Out their Bulky Waste more than one (1) day before such materials are to be collected by the Contractor. A Commercial Customer shall not place their Bulky Waste in a location that blocks the Contractor's access to a Mechanical Container serving the Commercial Customer or any other Person.

28. COLLECTION CONTAINERS

28.1 PURCHASE AND OWNERSHIP OF CONTAINERS

- 28.1.1 Plastic Bags, and Biodegradable Bags – Each Customer shall purchase and provide the Plastic Bags and biodegradable bags, if any, that the Customer uses.
- 28.1.2 Recycling Bins – Recycling Bins previously were purchased by the Authority and provided to the Customers in the Service Area. These Recycling Bins are and shall remain the property of the Authority. If the Authority provides additional Recycling Bins for the Customers in the Service Area, the Recycling Bins shall remain the property of the Authority.
- 28.1.3 Garbage Carts – Garbage Carts previously were purchased by the City and provided to Residential Customers. The City also has an inventory of Garbage Carts. These Garbage Carts are and shall remain the property of the City.

The Contractor shall be allowed to distribute and use the Garbage Carts in the City's inventory when the Contractor provides Garbage Carts to Residential Customers pursuant to this Agreement. When the City's inventory is depleted, the Contractor shall purchase, assemble, and deliver all of the Garbage Carts that the Contractor must provide under this Agreement.

28.1.4 Garbage Carts and Recycling Bins for New and Existing Customers

On and after the Commencement Date, the Contractor shall purchase, assemble, and deliver one new Garbage Cart to each New Customer that will receive Collection Service at Curbside. In addition, the Contractor shall provide two (2) new Recycling Bins to each New Curbside Customer.

During the term of this Agreement, the Contractor shall purchase, assemble, and deliver: (a) a new or refurbished Garbage Cart to each Curbside Customer in the Service Area whose Garbage Cart was stolen, or damaged or worn beyond repair; (b) a new Garbage Cart for each Customer that wishes to purchase an additional cart pursuant to Section 39.9, below; and (c) a new or refurbished Garbage Cart for each Customer that wishes to exchange their cart pursuant to Section 28.4, below. For the purposes of this Section 28.1.4, a "refurbished" cart means a cart that was cleaned and repaired to "like new" condition. In addition, the Contractor shall deliver two (2) new or refurbished Recycling Bins to any Curbside Customer that requests them.

The Contractor shall deliver the Garbage Carts and Recycling Bins within three (3) Operating Days after the Customer or the Administrator requests them, except as otherwise provided in Section 28.4, below. The Carts delivered by the Contractor shall be the size that was requested (i.e., approximately sixty-four (64) gallons or ninety-six (96) gallons).

The Contractor shall not charge a fee to a Residential Customer for a replacement Garbage Cart, except as provided in Section 28.1.5, below. If a Residential Customer wishes to purchase an additional Garbage Cart, the Contractor may charge for the purchase and/or delivery of the cart, but such fees shall be subject to the limitations in Section 28.1.5, below.

The Contractor shall purchase all of the Garbage Carts that the Contractor is required to provide under this Agreement, including the Garbage Carts for Existing Customers, New Customers, Residential Customers, Commercial Customers, and the City. The Contractor shall obtain all of the Recycling Bins that need to be provided under this Agreement from the Authority, pursuant to the City's interlocal agreement with the Authority (Exhibit 13).

28.1.5 Replacement of Garbage Carts - With regard to stolen and damaged carts, the Contractor shall provide one replacement Garbage Cart to each Curbside Customer. These replacements will be provided without charge to the City or the Customer.

The right to receive one free replacement Garbage Cart shall be linked to each Dwelling Unit—i.e., the right to receive the free replacement at a Dwelling Unit shall be renewed whenever a new Person moves into that Dwelling Unit. For example, if a hypothetical Customer named Smith received a free replacement cart while living at

123 Madison Avenue and then moved to 456 Rosehill Drive, the next Person moving into 123 Madison Avenue would be entitled to receive a free replacement cart, and Smith would be entitled to receive a free replacement cart at 456 Rosehill Drive.

With regard to stolen and damaged carts, the Contractor may charge a fee for providing replacement carts only if a Curbside Customer already has received a free replacement cart and then that Customer requests additional carts, all while living in the same Dwelling Unit. In such circumstances, the Customer shall purchase the new cart. The fee for purchasing a new Garbage Cart shall not exceed Sixty-Five Dollars (\$65) and the fee for delivering a cart to the Customer's residence shall not exceed Twenty-Five Dollars (\$25). No delivery fee shall be charged if the Customer picks up the carts at the Contractor's local office, as described in Section 31.7, below.

Although the Contractor must replace individual Garbage Carts that are stolen or worn beyond repair, nothing herein shall be construed to require the Contractor to replace all of the Garbage Carts used by all of the Curbside Customers in any subdivision or in the entire Service Area. If the City decides to replace all of the carts used in a subdivision or all of the carts used in the City, the City shall reimburse the Contractor for the actual cost (without markups) of purchasing, assembling, and delivering the replacement carts.

The Contractor shall replace stolen and damaged Recycling Bins, without charge, pursuant to Section 28.1.4, above.

- 28.1.6 Garbage Carts for Other Customers - The Contractor may provide Garbage Carts to its Commercial Customers, pursuant to Section 7.8.2. The Contractor shall be responsible for purchasing, assembling, and delivering the Garbage Carts to all such Customers.
- 28.1.7 Ownership of Garbage Carts - Garbage Carts purchased by the Contractor pursuant to this Agreement shall become the property of the City when this Agreement expires or terminates. Upon the expiration or termination of this Agreement, all Garbage Carts held in the Contractor's inventory for the City (e.g., carts that are hot-stamped or labeled with the City's name or logo) shall be delivered to and become the property of the City. Title to all such carts, and title to all Contractor-provided carts in the possession of Customers, shall be transferred automatically to the City, without further action by either Party, upon the termination or expiration of this Agreement.
- 28.1.8 Mechanical Containers – The Contractor shall provide Mechanical Containers to any Customer that wishes to use them if the Customer has a location where the containers can be placed in compliance with the requirements in this Agreement and the Ordinances. If the Contractor provides a Mechanical Container to a Multi-Family or Commercial Customer, the Contractor may charge the applicable Rates for the Collection and disposal of Solid Waste. The Contractor shall be responsible for the purchase or lease of all Mechanical Containers that the Contractor is required to provide to Customers and the City under this Agreement. Mechanical Containers purchased by the Contractor shall remain the property of the Contractor, until the containers are sold.

A Customer may own its Compactor and attached Roll-Off Container or lease a Compactor and attached Roll-Off Container from a Person other than the Contractor, if the Compactor and Roll-Off Container are compatible with and can be serviced by the Contractor's equipment. In such cases, the Compactor and attached Roll-Off Container shall remain the property of the Customer. Notwithstanding the provisions of Section 34.1, below, the term of the Contractor's lease agreements for Compactors may extend beyond the term of this Agreement.

28.2 MAINTENANCE AND REPAIR OF CONTAINERS

28.2.1 Reserved.

28.2.2 Garbage Carts and Recycling Bins – Each Customer shall be responsible for cleaning their Recycling Bins and Garbage Carts, if any, and keeping the bins and carts in a sanitary condition.

The Contractor shall be responsible for repairing all of the new and existing Garbage Carts that are used by the Customers. The Contractor shall procure, and maintain at all times, an adequate supply of spare parts (e.g., wheels, lids) to ensure the prompt repair of these Garbage Carts. The Contractor shall repair or replace any such cart no later than three (3) Operating Days after (a) the Contractor observes that the cart is defective or (b) the Contractor is informed by a Customer or the Administrator that the cart needs to be repaired or replaced.

28.2.3 Mechanical Containers – The Contractor shall maintain each of its Mechanical Containers in good working order at all times to ensure continuous and efficient Collection Services. The Contractor shall procure, and maintain at all times, an adequate supply of spare parts for its Mechanical Containers. The Contractor shall maintain and repair each Mechanical Container as needed to ensure that the container is free from holes, broken hinges, broken doors or door fasteners, broken wheels, broken lids, or other defects. Mechanical Containers shall be kept painted (with the exception of containers made of plastic, aluminum, stainless steel, or other materials that do not readily accept paint), and shall be kept free from graffiti, at all times so the containers do not become a detriment to the community. Mechanical Containers shall be washed by the Contractor on a regular basis, as necessary, to minimize the potential for objectionable odors and nuisance conditions. The Contractor shall promptly replace, repair, paint, clean, wash, and otherwise maintain a Mechanical Container when requested to do so by the Administrator, pursuant to Section 29.9.2, below.

Each Customer shall be responsible for cleaning, maintaining, and repairing any Mechanical Container that the Customer owns, as well as any Mechanical Container the Customer leases from a Person other than the Contractor.

If a Mechanical Container is damaged or otherwise in need of repair, the Contractor shall provide a front-load Mechanical Container within two (2) Operating Days after receiving a request for such service from a Customer. In the alternative, the Contractor may provide a Roll-Off Container, if the use of such container is approved by the Administrator. In all cases, the Contractor shall promptly provide assistance to ensure uninterrupted service to the Customer.

28.3 STORAGE, DISTRIBUTION AND REPLACEMENT OF CONTAINERS

28.3.1 Reserved.

28.3.2 Garbage Carts and Recycling Bins – Each Customer shall be responsible for storing their Recycling Bins and Garbage Carts, if any.

The Contractor shall be responsible for purchasing Garbage Carts pursuant to Section 28.1.4 and Section 28.2.2, above. The Contractor shall deliver the carts to the Customer within three (3) Operating Days after the Contractor receives a request for them from the Customer or the Administrator, except as provided in Section 28.4, below.

No later than the Commencement Date, the Contractor shall coordinate with the Administrator to ensure that the Contractor orders and maintains an inventory of Garbage Carts in the Contractor's local office that is sufficient to satisfy the Contractor's obligations under this Agreement. Until the carts are delivered to Customers, the Contractor shall be responsible for the storage of the Garbage Carts.

28.3.3 Mechanical Containers – The Contractor shall be responsible for the storage, distribution, and replacement of its Mechanical Containers. The Contractor shall provide a Mechanical Container within two (2) Operating Days after receiving a request for a Mechanical Container from the Administrator or a Customer.

28.3.4 Collection Containers Damaged by Contractor – The Contractor shall repair or replace a Customer's Collection Container within three (3) Operating Days after being informed by the Administrator or a Customer that the Customer's Collection Container was damaged by the Contractor. Any replacement shall be similar in style, material, quality, and capacity to the Customer's original container and shall be delivered to the Customer, without charge to the Customer or the City.

28.4 EXCHANGE OF CARTS AND CONTAINERS

The Garbage Carts provided by the Contractor to Residential (Curbside) Customers shall be approximately thirty-five (35) gallons, sixty-four (64) gallons, or ninety-six (96) gallons in size. When providing Carts to Customers, the Contractor shall provide the size that the Customer requests. The Contractor shall deliver a different Garbage Cart to any Curbside Customer that wishes to exchange their cart for one that is a different size and shall do so within ten (10) Operating Days after receiving the Customer's request. The Contractor's fee for delivering the Garbage Cart shall not exceed Twenty-Five Dollars (\$25.00). No delivery fee shall be charged if the Customer picks up the cart at the Contractor's local office, as described in Section 31.7, below.

The Contractor shall exchange a Mechanical Container when an exchange is requested by the Administrator or a Customer if the Contractor has the requested size in stock. The Contractor shall deliver the requested container within two (2) Operating Days after receiving the Customer's request. There shall be no charge for exchanging a Mechanical Container.

28.5 TECHNICAL SPECIFICATIONS FOR COLLECTION CONTAINERS

28.5.1 Garbage Carts – The Garbage Carts provided by the Contractor shall comply with the size, color, and technical specifications established by the Administrator. In general, the carts shall: (a) have a nominal rated capacity of approximately ninety-six (96)

gallons, sixty-four (64) gallons, or thirty-five gallons, as applicable; (b) be hot-stamped or labeled with the City's logo, in accordance with the specifications provided by the Administrator; and (c) be compatible with the hydraulic lifting and dumping mechanism mounted on the Contractor's Collection vehicles. Each cart shall have a flat area on the top (outside) of the lid, which shall be at least eight (8) inches by sixteen (16) inches in size and suitable for the placement of informative stickers or decals. The Administrator may require the lid to be hot-stamped rather than labelled with stickers and decals, with instructions concerning the materials that may be placed in the cart.

Each cart in each size category shall be uniform with regard to color, volumetric capacity, dimensions, finished surfaces, and hot stamping/labeling.

Each Garbage Cart shall be constructed to prevent the intrusion of water and animals, with covers that are free from sharp edges, and without any inside structures that prevent the discharge of its contents. The Contractor shall replace the labels (if any) on the Garbage Carts on an as-needed basis, subject to the Administrator's approval. The Contractor shall provide the Administrator with the manufacturer's specification sheets for the Garbage Carts, which shall be subject to the Administrator's review and approval before the Contractor orders the carts from the manufacturer.

- 28.5.2 Minimum Warranty for Carts – Each Garbage Cart shall be protected by a manufacturer's warranty with a minimum duration of ten (10) years. The warranty shall explicitly provide that the warranty is transferable to and enforceable by the City, as well as the Contractor. A copy of the manufacturer's warranty shall be provided to the Administrator before any carts are ordered by the Contractor. The Contractor shall comply with the warranty requirements in Section 11 of Exhibit 11 (Specifications for Garbage Carts).
- 28.5.3 Minimum Specifications for Carts – All Garbage Carts purchased by the Contractor shall, at a minimum, comply with the requirements set forth in Exhibit 11 (Specifications for Garbage Carts). The Administrator may waive any of the requirements in Exhibit 11, upon a showing of good cause.
- 28.5.4 Mechanical Containers – Mechanical Containers supplied by the Contractor shall be in good condition and shall be subject to the approval of the Administrator. Mechanical Containers shall have attached lids, unless the Administrator approves a different design for a particular use, or they are open top Roll-Off Containers used for the Collection of Construction and Demolition Waste. Mechanical Containers shall have solid, durable sides and bottoms. Each Mechanical Container (except open top Roll-Off Containers) shall have a heavy-duty removable plug in the bottom. The Contractor shall provide and install casters and locking devices for each Mechanical Container, upon the request of the Administrator or a Customer. Mechanical Containers used for Recycling shall be painted a different color than Mechanical Containers used to collect Garbage and Rubbish. In the alternative, Mechanical Containers used for Recycling shall have distinctive labeling or other features to readily identify their use for Recycling. The colors and labeling for such Mechanical Containers shall be subject to the approval of the Administrator.

29. CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

29.1 GENERAL REQUIREMENTS FOR CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

- 29.1.1 In general, the Contractor shall use clean, safe, and well-maintained trucks whenever providing Collection Service pursuant to this Agreement. The Contractor shall purchase or lease, and maintain and repair, all of the vehicles and equipment necessary to provide Collection Service in compliance with the approved Collection schedules and otherwise promptly and efficiently comply with the requirements in this Agreement. The Contractor's vehicles and equipment shall be compatible (in size and weight) with, and appropriate for, the areas where such vehicles and equipment are utilized. Smaller vehicles or specialty equipment shall be used in areas where narrow streets, unpaved roads, low hanging limbs or electrical wires, or other obstructions preclude the use of the Contractor's normal vehicles and equipment; however, in certain cases, as determined appropriate by the City's Administrator, the City will assist the Contractor to provide safe service to the customers.
- 29.1.2 The Contractor's Collection vehicles and equipment shall be a standard product of a reputable manufacturer so that continuing service, and the supply and delivery of spare parts, may be ensured. Replacement parts do not need to be a product of the same manufacturer as the original parts.
- 29.1.3 All of Contractor's Collection vehicles shall have waterproof seals and shall be watertight to a depth sufficient to prevent the discharge or leaking of liquids that have accumulated in the vehicle's cargo area during loading and transport operations.
- 29.1.4 Each Collection vehicle shall fully enclose the Contractor's Load. A Collection vehicle shall have a fully enclosed metal top, a tarpaulin, or a net cover with mesh openings not greater than one and one-half (1½) inches in size. The top, tarpaulin, or cover shall be kept in good working condition and shall be free from tears and holes. The Contractor shall use the cover and shall fully enclose the Contractor's Load at all times when the vehicle's speed exceeds 20 miles per hour and at other times when necessary to prevent the Contractor's Load from blowing out of the vehicle.
- 29.1.5 All Collection vehicles shall be painted a uniform color. At the Administrator's request, vehicles used to collect Source Separated Recyclable Materials shall have signs with the Contractor's toll-free telephone number for requesting Recycling Bins.
- 29.1.6 Advertising shall not be allowed on the Contractor's vehicles, Collection Containers, or equipment used to provide Collection Service in the City.
- 29.1.7 Vehicles used for the Collection of Source Separated Recyclable Materials at Curbside shall be designed with two (2) or more separate compartments so that the Contractor can separately store and transport the different types of Recyclable Materials (e.g., paper and fiber products; glass, metal, plastic and other). Packer trucks may be used, but the compartment used to collect glass bottles and containers shall not compress or compact the contents in that compartment to a level that exceeds fifty (50) pounds per square inch.

29.2 DEDICATED FLEET FOR CITY

The Contractor shall maintain a dedicated fleet of front-line vehicles for the City's benefit. The front-line vehicles used to provide Collection Services under this Agreement shall not be used to collect Solid Waste or Recyclable Materials outside of the Service Area, and vehicles used outside of the Service Area shall not be used to provide Collection Service pursuant to this Agreement, unless the Contractor receives the Administrator's prior written approval for such activity. However, the Contractor's reserve (spare) vehicles do not have to be dedicated to the exclusive use of the City.

29.3 AGE OF CONTRACTOR'S COLLECTION VEHICLES

None of the Collection vehicles (front-line or reserve) used by the Contractor under this Agreement shall be more than three (3) years old on the Commencement Date or more than ten (10) years old at any time during the term of this Agreement. The average age of the Contractor's fleet of Collection vehicles shall not exceed seven (7) years during the term of this Agreement. The age of a vehicle shall be calculated from the vehicle's model year.

All of the vehicles used by the Contractor to provide Collection Services shall be maintained in good operating condition at all times. The Administrator may waive the age limits in this Section 29.3 if the Contractor demonstrates to the Administrator's reasonable satisfaction that a Collection vehicle is capable of providing safe and reliable service (e.g., the vehicle recently was refurbished or the vehicle has relatively little wear and tear).

29.4 ANCILLARY EQUIPMENT IN CONTRACTOR'S VEHICLES

29.4.1 All vehicles used to provide Collection Services under this Agreement shall be equipped at all times with: (a) all safety equipment required by Applicable Laws; (b) a functional fire extinguisher; (c) a shovel and broom; (d) a spill response kit; (e) a functional and audible back-up warning device; and (f) a functional back-up camera. The spill response kit shall be suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from Contractor's Collection vehicles.

29.4.2 All vehicles used to provide Collection Services under this Agreement shall be equipped with a two-way radio, cellular telephone, or other equipment appropriate for communications between the vehicle operator, the Field Supervisor, and the District Manager.

29.4.3 All of the Contractor's Collection vehicles shall be equipped with Global Positioning Systems ("GPS") that identify and record the locations of the vehicles when they are being used to provide Collection Services under this Agreement. The vehicle locations shall be recorded at least once every five (5) seconds.

29.4.4 All of the vehicles used to collect Residential Waste at Curbside shall be equipped with a "3rd Eye" or comparable camera system that takes pictures of the area surrounding the vehicle. The camera system shall be operated continuously when the Collection vehicle is being used to provide Collection Service. The photographs shall be stamped or otherwise marked to show the time and date when they were recorded.

29.5 RESERVE VEHICLES AND EQUIPMENT

- 29.5.1 The Contractor shall have sufficient reserve vehicles and equipment available to complete daily Collection Routes according to the schedules established pursuant to this Agreement. The use of reserve vehicles and equipment shall include, but not be limited to occasions when front-line vehicles and equipment are out of service, or when delays will prevent front-line vehicles and equipment from completing their Collection Route(s) within the established hours of Collection.
- 29.5.2 The reserve vehicles and equipment shall be ready to go into service within two (2) hours of any breakdown or delay experienced by a front-line vehicle. The reserve vehicles and equipment shall be similar in size and capacity to the vehicles and equipment being replaced.

29.6 MAINTENANCE AND CLEANING

- 29.6.1 The Contractor shall keep all Collection vehicles, Mechanical Containers, and equipment cleaned and painted to present a pleasing appearance at all times. All Collection vehicles and Mechanical Containers used primarily for the Collection of Garbage shall be emptied, washed (if needed), and sanitized with a suitable disinfectant and deodorant at least once each month, unless the Administrator approves an alternate cleaning schedule. All Collection vehicles and Mechanical Containers shall be cleaned and washed, as necessary, to minimize the potential for odors and nuisance conditions.
- 29.6.2 The Contractor's Collection Plan must include a schedule for cleaning, painting, and maintaining each Collection vehicle and Mechanical Container. At a minimum, the Contractor shall maintain each Collection vehicle and Mechanical Container in compliance with the manufacturer's recommendations. The Collection Plan also must describe how the Contractor will comply with the requirements in Section 29.6.3, below.
- 29.6.3 The Contractor shall monitor, maintain, and repair its Collection vehicles and equipment to prevent fuel, lubricants, and other liquids from leaking or spilling. Oil and hydraulic systems, and waterproof seals and enclosures, on the Contractor's vehicles and equipment shall be kept in good repair at all times to prevent leaks and spills.
- 29.6.4 Upon the request of a Customer or the Administrator, the Contractor shall provide a new or reconditioned Mechanical Container to replace a Mechanical Container used by the City or a Customer. This requirement applies to all Mechanical Containers, including Roll-Off Containers. To demonstrate compliance with this requirement, the Contractor shall paint by stencil or use other permanent means to mark the date (i.e., month and year) on each Mechanical Container when the Mechanical Container is placed into service. This date shall be marked on the front upper left corner of the Mechanical Container. The size of the Mechanical Container, measured in cubic yards, shall be marked in the same manner on the front upper right corner of the Mechanical Container. Notwithstanding the foregoing, the Contractor is not required to provide a new Mechanical Container to a Customer more than one time during any term of this Agreement, unless the Administrator instructs the Contractor to do so.

29.7 IDENTIFICATION OF CONTRACTOR'S VEHICLES AND EQUIPMENT

- 29.7.1 The Contractor's name and telephone number shall be displayed at all times, in letters at least five (5) inches high, on the driver's side and the passenger's side of each of the Contractor's vehicles used to provide Collection Service. Truck identification numbers shall be displayed at all times, in letters at least five (5) inches high, on all four (4) sides of all vehicles used to provide Collection Services.
- 29.7.2 All of the Contractor's vehicles used to provide Collection Services shall display information identifying the type of material (e.g., Solid Waste or Recyclable Materials) being collected. The information shall be displayed at all times, on the driver's side and the passenger's side of the vehicle body, in letters at least five (5) inches high.
- 29.7.3 The Contractor shall label each one of its Mechanical Containers with the Contractor's name and telephone number, and the identification number for the Mechanical Container. The labels shall be comprised of letters and numbers that are at least five (5) inches high. The labels shall be placed on at least two (2) sides of each Mechanical Container. At least one label must be readily visible when the Mechanical Container is placed at a Customer's site.
- 29.7.4 All Compactors owned or collected by the Contractor pursuant to this Agreement must be labeled in compliance with the requirements in Section 29.7.3, above. The label also must identify the owner of the Compactor. The Contractor shall not use or provide Collection Service to any Compactor that fails to comply with the requirements in this Section 29.7.4.

29.8 COMPLIANCE WITH THE LAW APPLICABLE TO VEHICLES

- 29.8.1 At all times, the Contractor and its employees shall operate and maintain all Collection vehicles and equipment in compliance with all Applicable Laws.
- 29.8.2 At all times, the Contractor shall maintain all necessary licenses and registrations, and shall timely pay all fees and taxes, on all vehicles and equipment, as required under Applicable Laws.
- 29.8.3 All equipment shall be operated in compliance with the Florida Uniform Traffic Control Law, Chapter 316, Florida Statutes, and the Ordinance.

29.9 CITY'S RIGHT TO INSPECT CONTRACTOR'S VEHICLES AND EQUIPMENT

- 29.9.1 The Administrator may inspect the Contractor's vehicles, equipment, licenses, and registrations at any reasonable time, without providing advance notice of the inspections. The City has the right, but not the obligation, to inspect each Collection vehicle, each day, prior to its use in the City.
- 29.9.2 The Administrator shall have the authority to require the Contractor to immediately remove from service any Collection vehicle, Collection Container, or equipment that is leaking or spilling fluids, Solid Waste, or other materials. The Administrator also may require the Contractor to immediately clean, wash, paint, repair or otherwise maintain any Collection vehicle, Collection Container, or other equipment when the Administrator concludes that such action is necessary to comply with the standards

established in this Agreement. If the Administrator requests such action, the Contractor shall comply with the Administrator's request within one (1) Operating Day or the Contractor shall take the vehicle, container, or equipment out of service until the requested work can be completed. Further, the Administrator may require the Contractor to pressure spray and promptly clean any location where one of the Contractor's Mechanical Containers has leaked fluids or spilled Solid Waste and thereby stained soils or pavement or created an odorous or nuisance condition.

29.10 LOCAL STORAGE AND REPAIR OF CONTRACTOR'S VEHICLES

Throughout the term of this Agreement, the Contractor shall provide a storage yard, garage, and maintenance facility that enables all-weather, year-round maintenance operations for the vehicles and equipment used pursuant to this Agreement. The Contractor's storage yard, garage, and maintenance facility must be located within twenty-five (25) miles of the City. The Contractor shall not use City property to store, wash, repair, or maintain any vehicles or equipment.

30. CONTRACTOR'S PERSONNEL

30.1 GENERAL REQUIREMENTS

The Contractor shall use competent, qualified personnel to provide the services required by this Agreement. The Contractor shall devote sufficient personnel, time, and attention to its operations under this Agreement to ensure that its performance will be satisfactory to the City.

30.2 DISTRICT MANAGER

The Contractor shall appoint an employee to serve as the District Manager. The District Manager shall be the Contractor's primary point of contact with the City for all technical and administrative matters pertaining to this Agreement. The District Manager and the Field Supervisor(s) must have at least five (5) years of prior managerial experience providing for the Collection of Residential Waste in a community that has at least twenty thousand (20,000) single family Dwelling Units. The District Manager must have the authority to make significant decisions relevant to the day-to-day operation of Contractor's program under this Agreement. The District Manager must have direct access to the Contractor's management for resolving problems beyond the District Manager's authority. At all times during the term of this Agreement, the District Manager must be immediately accessible to the Administrator by telephone and electronic mail. The District Manager shall be responsible for overseeing and implementing the Contractor's performance under this Agreement.

30.3 FIELD SUPERVISOR

The Contractor shall designate one or more Field Supervisors, who shall directly oversee the Collection Service provided under this Agreement each Operating Day. The Field Supervisor(s) must have at least five (5) years of prior experience supervising drivers and other employees that are responsible for collecting the Solid Waste in a community that has at least twenty thousand (20,000) single family Dwelling Units. The Field Supervisor(s) shall have immediate access to an automobile or truck between 7:00 a.m. and 7:00 p.m., every Operating Day. At all times during the term of this Agreement, the Administrator shall have immediate access to the Field Supervisor(s) by telephone and electronic mail.

30.4 EMPLOYEE CONDUCT

The Contractor's personnel shall maintain a courteous and respectful attitude at all times toward the public and the City's representatives. The Contractor shall instruct its employees to avoid loud

or profane language during the performance of their duties under this Agreement. The Contractor's employees shall not cause any disturbance, interference, or delay to any work or service rendered to the City or by the City. The Contractor's employees shall not conduct themselves in a negligent, disorderly, or dishonest manner.

30.5 EMPLOYEE IDENTIFICATION

The Contractor shall furnish each employee with an appropriate means of identifying him or her as an employee of the Contractor (e.g., a shirt or uniform with a name tag and company logo). The Contractor's employees shall wear the identification at all times while on duty. The Administrator has the right to approve the identifiers or identification furnished by the Contractor.

30.6 ATTIRE FOR EMPLOYEES

Employees and subcontractors of the Contractor shall wear proper attire at all times when working for the City under this Agreement. Proper attire shall consist of appropriate pants or shorts, a shirt with the Contractor's name or logo, and boots or similar footwear. The Contractor's employees shall wear reflective vests, back braces, goggles, and other safety equipment, if required by Applicable Law.

30.7 REMOVAL OF EMPLOYEES

The Administrator reserves the right to disapprove and request removal of any Contractor personnel assigned to the City's work. Such disapproval or request shall be for good cause only, and shall be addressed in writing to the Contractor's District Manager. Notwithstanding the foregoing, the Contractor shall not be required to take any action with regard to the Contractor's personnel that would violate any Applicable Law or employment contract. The Contractor shall defend, save, and hold the City harmless from and against legal actions by any employees so removed.

30.8 EMPLOYEE TRAINING AND LICENSES

30.8.1 All of the Contractor's employees shall be qualified and appropriately trained for the tasks assigned to them. The Contractor shall provide refresher courses and additional training to its employees, as needed, to ensure compliance with the requirements of this Agreement and all Applicable Laws.

30.8.2 At all times when operating vehicles or equipment pursuant to this Agreement, the Contractor's drivers shall carry a valid Florida driver's license for the type of vehicle or equipment being operated.

30.8.3 The Administrator may request the Contractor's employees to produce their driver's license for inspection at any time when the employee is on duty.

30.9 CONTRACTOR'S COMPLIANCE WITH LABOR LAWS

The Contractor shall comply with all Applicable Laws concerning the protection and rights of employees, including but not limited to equal employment opportunity laws, minimum wage laws, immigration laws, the Americans with Disabilities Act, and the Fair Labor Standards Act.

30.10 LEGAL STATUS OF CONTRACTOR'S EMPLOYEES

The City shall have no obligation to pay or provide any salary or employment benefits to the Contractor's employees. A Person employed by the Contractor shall have no right or claim to any pension, workers' compensation, unemployment compensation, civil service, or other employee

rights or privileges granted to the City's officers and employees. The Contractor shall have the sole responsibility for paying any wages and providing any employment benefits to such Person.

30.11 SUBCONTRACTORS AND TEMPORARY LABOR

To the extent practicable, the Contractor shall provide all of its Collection Services within the City by using permanent employees of the Contractor and its subcontractors. However, the Contractor shall be allowed to use temporary labor to provide Collection Services if the Contractor concludes that the use of temporary labor is necessary or otherwise appropriate.

No subcontractors shall be used to provide Collection Services without the prior approval of the Administrator, which approval shall not be unreasonably withheld. However, any subcontractor that was identified in the Contractor's response to the City's RFP shall be deemed approved, without any further action by the Administrator.

30.12 COMPLIANCE WITH E-VERIFY SYSTEM

The City requires the Contractor and its subcontractors to register with the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of their newly hired employees. Within five (5) Operating Days after receiving a written request from the Administrator, the Contractor shall provide proof of registration with the E-Verify System and an affidavit stating that each subcontractor it hires does not employ, contract with, or subcontract with an unauthorized alien.

31. CONTRACTOR'S LOCAL OFFICE

- 31.1** The Contractor shall maintain a local customer service and dispatch office within twenty-five (25) miles of the City. The Contractor's office shall be open for business at least from 8:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 2:00 p.m. on Saturdays. However, the Contractor's office does not need to be open on Holidays.
- 31.2** The Contractor's office shall be equipped with sufficient personnel and equipment to document and timely respond to all inquiries, issues, and Legitimate Complaints raised by the City or Customers. A responsible, experienced person shall be present and in charge of the office during all business hours. The Contractor's office staff shall be familiar with the City and the Contractor's obligations under this Agreement. The Contractor shall have extra staff working in the Contractor's office on the Commencement Date and as long as necessary thereafter to ensure the Contractor's compliance with the requirements in this Section 31, as well as Sections 32.1.4 and 32.1.5, below.
- 31.3** The Contractor shall have a toll-free telephone number for calls from Customers in the City. The Contractor's telephone number shall be listed in the Contractor's webpage, the Contractor's invoices to customers, and the notices provided pursuant to Section 36.1, 36.2, 36.3, and 36.4, below. The Contractor's telephone system shall have the capacity to receive multiple telephone calls simultaneously. All calls concerning complaints shall be answered by a Person located in the Contractor's local office or a central call center in Florida. The Contractor shall have extra staff working in the Contractor's office whenever necessary to ensure Contractor's compliance with the requirements in this Agreement. The Contractor shall use an answering machine or answering service to receive and record messages when the office is closed, or the Contractor is receiving more calls than its staff can answer. The answering machine or service shall give Customers the telephone number that the Customers may use to report an emergency.

- 31.4** The Contractor shall establish a process for receiving and handling emergency calls, both during and after normal operating hours. The Contractor's process shall ensure that a Customer receives an immediate response after reporting an emergency. Such process shall be subject to the Administrator's approval. For the purposes of this Section 31.4, an "emergency" means an accident, event, or condition that requires immediate action because it has caused an injury or poses an immediate threat of injury to human health, the public welfare, or the environment. An emergency does not include Missed Collections.
- 31.5** All of the people answering the telephones for the Contractor must be fluent in English or Spanish. At all times the Contractor must have a sufficient number of English-speaking employees and a sufficient number of Spanish-speaking employees in its local office or call center to respond promptly to all telephone calls from Customers, regardless of whether the Customer speaks English or Spanish. All of the messages on the Contractor's answering machines must be provided in English and Spanish.
- 31.6** The Contractor's office shall be equipped with cellular telephones and computers or other devices that can be used to promptly contact the Administrator, the Contractor's District Manager, the Contractor's Field Supervisor, and all of the Contractor's Collection vehicles via telephone calls and electronic mail (e-mail).
- 31.7** The Contractor shall allow Residential Customers to purchase and exchange Garbage Carts at the Contractor's local office pursuant to Sections 28.1.5 and 28.4 herein. The Contractor shall maintain an adequate supply of Garbage Carts (i.e., both 64 and 96-gallon capacity carts) at the local office to provide for such purchases and exchanges.

32. CUSTOMER RELATIONS

32.1 HANDLING CUSTOMER COMPLAINTS AND REQUESTS

- 32.1.1** The Contractor shall be responsible for receiving all complaints and requests for service. If the Contractor receives a complaint or a request from a Customer or the City, the Contractor shall enter the complaint or request into the Contractor's electronic tracking system pursuant to Section 32.1.4 or Section 32.1.5, as applicable, and then the Contractor shall promptly initiate its response.
- 32.1.2** The District Manager or their designee shall determine initially whether a Customer's complaint is a Legitimate Complaint. If the Customer disputes the District Manager's determination, the Contractor shall notify the Administrator and the Administrator shall make the final determination as to whether a Customer's complaint is a Legitimate Complaint. In all such cases, the Contractor shall have the right to present photographs, GPS data, and any other relevant information to demonstrate that the complaint is unfounded and thus not legitimate. Legitimate Complaints include but are not limited to:
- Missed Collections;
 - Failure to respond to Missed Collections in compliance with the requirements of this Agreement;
 - Mishandling of Solid Waste, Recyclable Materials, or Collection Containers;
 - Damage to public or private property; and

- Failure to pick up litter.

- 32.1.3 The Contractor shall take whatever steps are necessary to promptly remedy the cause of a Legitimate Complaint. If the Contractor is informed about a Legitimate Complaint before noon on an Operating Day, the Contractor must remedy the complaint before the end of that day. If the Contractor is notified about a Legitimate Complaint after noon on an Operating Day, or at any time on a Sunday or Holiday, the Contractor must remedy the complaint before noon on the next Operating Day. The Contractor may request, and the Administrator shall grant additional time to remedy a Legitimate Complaint when the Contractor uses its best efforts to correct the problem, but is unable to do so within the time provided herein.
- 32.1.4 The Contractor must establish a real-time, web-based system for tracking all complaints. The Contractor shall enter each complaint into the Contractor's electronic tracking system within one hour after the Contractor receives the complaint; however, if complaints are received when the Contractor's local office is closed, the complaint shall be entered into the electronic tracking system within two (2) hours after the office reopens on the next Operating Day. The Contractor's system shall be designed to provide immediate notice to the Administrator when a complaint is entered into the Contractor's tracking system. The Administrator does not need the ability to enter or delete data in the electronic tracking system, but the Administrator shall be provided the ability to monitor the status of complaints at all times. The format of the information collected in the electronic tracking system shall be subject to the Administrator's approval. With the Administrator's approval, the electronic tracking system may be used as the Contractor's complaint log, pursuant to Section 35.2.6, below. This tracking system shall be fully operational upon the effective date.
- 32.1.5 The Contractor shall establish a real-time, web-based system for receiving and tracking a Customer's request for service. The Contractor's web-based system shall be designed to enable the Administrator and Customers to easily submit requests for service and receive prompt responses from the Contractor via electronic mail. The web-based system shall be available to all Customers and the Administrator. The Contractor shall closely monitor such requests and shall provide initial responses no later than the next Operating Day after receiving a request from a Customer or the City. The Contractor's system shall provide immediate notice to the Administrator when a Customer submits a request to the Contractor. The Contractor's system also shall be configured to allow the Administrator to monitor the status of Customer requests at all times. This tracking system shall be fully operational upon the effective date.
- 32.1.6 The Contractor shall work with the City to establish links from the City's website to the Contractor's web-based systems for tracking complaints and requests for service.

32.2 DISPUTE RESOLUTION PROCESS FOR CUSTOMERS

- 32.2.1 The Contractor shall promptly notify the Administrator whenever the Administrator needs to resolve a dispute between a Customer and the Contractor, including but not limited to disputes concerning the proper interpretation and implementation of this Agreement and the Ordinances. The Contractor also shall promptly notify the Administrator about any disputes with a Customer that the Contractor has not been

able to resolve within two (2) Operating Days after receiving the Customer's complaint.

- 32.2.2 The Administrator shall evaluate the facts concerning such disputes and shall make a fair and impartial determination about such matters. The Administrator shall notify the Contractor and the Customer in writing concerning the Administrator's decision about the disputed issues.
- 32.2.3 The Contractor and Customer shall have three (3) Operating Days to comply with the Administrator's decision or, in the alternative, provide the Administrator with a written request for a hearing before the Manager.
- 32.2.4 If a request is filed, the Manager shall act upon such request within thirty (30) days. The Manager shall provide the parties an opportunity to present their arguments and evidence concerning the relevant issues. The Manager shall notify the Customer, the Contractor, and the Administrator in writing concerning the Manager's decision. The Manager may: (a) confirm, in whole or in part, the Administrator's findings; (b) grant relief to the Customer or the Contractor; or (c) take whatever other action the Manager deems necessary and appropriate. The Manager's decision shall be final and shall not be subject to further appeal within the City.

33. CONTRACTOR'S RELATIONSHIP WITH THE CITY

33.1 AVAILABILITY OF CONTRACTOR'S REPRESENTATIVES

The Contractor shall cooperate with the City in every reasonable way to facilitate the successful completion of the activities contemplated under this Agreement. The City shall have twenty-four(24) hour access to the Contractor's District Manager and Field Supervisor via telephone and electronic mail from the City. Answering machines, pagers, or other devices that do not provide for immediate contact with the Contractor's District Manager and Field Supervisor shall not satisfy the requirements of this paragraph. The Contractor's District Manager shall meet with the Administrator within five (5) Operating Days after receiving a request for a meeting to discuss the Contractor's performance under this Agreement or other issues of concern to the Administrator.

33.2 ADMINISTRATOR'S REVIEW OF CONTRACTOR'S PERFORMANCE

The Administrator is hereby designated as the public official responsible for the day-to-day administration of this Agreement by the City. The Contractor shall diligently work with the Administrator to formulate and adopt procedures that will facilitate the Contractor's performance under this Agreement and the Administrator's review of the Contractor's work.

33.3 CITY'S RIGHT TO INSPECT CONTRACTOR'S OPERATIONS

The City shall have the right to inspect the Contractor's facilities and operations at any reasonable time to determine whether the Contractor's performance complies with the requirements of this Agreement. The Contractor shall make its facilities and operations available for the City's inspection and shall cooperate fully. The City is not obligated to provide advance notice of its inspections.

33.4 CITY'S RIGHT TO APPROVE

Whenever this Agreement authorizes the City or one of its representatives (e.g., the Administrator) to approve a request by the Contractor, the City shall have the right to withhold its approval until

the Contractor submits all of the information needed to evaluate the Contractor's request. The City shall fairly and objectively evaluate the information provided by the Contractor, as well as any other relevant facts. The consent of the City shall not be unreasonably withheld or delayed, except as otherwise explicitly provided herein. However, the City shall have the exclusive right to weigh the relevant facts and determine whether the approval of the Contractor's request is consistent with the requirements in this Agreement and the public interest. In all cases, the City must give its approval in writing before the Contractor undertakes any action in reliance thereon. In the absence of any written approval, it shall be conclusively presumed that the City did not approve the Contractor's request.

33.5 THE CITY'S RIGHT TO REQUIRE PERFORMANCE

The City shall have the right to take all steps necessary to ensure the Collection of Solid Waste in the Service Area. If the Administrator instructs the Contractor to collect Solid Waste pursuant to this Agreement and the Contractor fails to do so within twenty-four (24) hours after the Contractor receives the Administrator's request, the City may collect such material using its own resources or by using a third-party vendor. The City may deduct the cost of collecting such material from the City's monthly payments to the Contractor if the Contractor was obligated under this Agreement to collect the Solid Waste. If the Contractor collects the Solid Waste pursuant to the request of the Administrator and it is subsequently determined that the Contractor was not obligated to do so under this Agreement, the City shall pay the reasonable, documented, out-of-pocket costs incurred by the Contractor for such services.

34. CONTRACTS FOR COMMERCIAL COLLECTION SERVICE

34.1 CONTRACTS FOR COMMERCIAL COLLECTION SERVICE

The Contractor shall enter into a service contract with each New Customer before the Contractor provides Commercial Collection Service to that Customer. During the Transition Period, the Contractor shall use its best efforts to enter into service contracts with all existing Commercial Customers (i.e., Customers receiving Collection Service from the City's franchised hauler before the Commencement Date).

The Contractor shall prepare a standard form that the Contractor shall use as its service contract with Commercial Customers. The proposed form shall be provided to the Administrator for approval on or before the deadline set forth in eight weeks before commencement date and whenever the Contractor proposes to change its content. The terms and conditions contained in the form shall be consistent with the requirements in this Agreement; the service contract shall not contain any requirements or fees that are not authorized in this Agreement. The term of the service contract shall not extend beyond the term of this Agreement. The Administrator shall have the authority to approve the Contractor's service contract, or require additions, deletions, or changes to the language therein, including changes to the disclosure statement provided below. The Contractor's service contract shall identify: (a) the service(s) that will be provided to the Customer; (b) the size and type(s) of Collection Container(s) that will be used; (c) the frequency of Collection Service; (d) the Scheduled Collection Day(s); (e) the Rates for the services that will be provided to the Customer; and (f) the total amount to be paid each month by the Customer. The service contract also shall contain the following disclosure statement, unless alternate language is approved by the Administrator:

REGULATION BY DELRAY BEACH

This contract for the collection of solid waste is regulated by the City of Delray Beach. If you have questions or concerns regarding the terms in this contract, you may call the Contractor at (561) 547-4000 or the City's Contract Administrator at (561) 243-7240 for assistance.

COMPACTORS AND ATTACHED ROLL-OFF CONTAINERS

You may purchase or rent a compactor and mechanical container from anyone, provided the compactor and container are the type that can be serviced by the Contractor's collection equipment. In the alternative, you may obtain a compactor and mechanical container from the Contractor, if you pay the applicable rates to the Contractor. In all cases, the compactor and mechanical container must be maintained in a safe, sanitary, serviceable condition by the owner of the compactor and mechanical container.

SPECIAL SERVICES

The Contractor will roll mechanical containers out of storage areas, open doors or gates to obtain access, or provide other special services, upon request. However, these services also may be provided by the Customer. If the Contractor provides such services, the Contractor may charge additional fees for such services. These fees must be separately identified in the "Rates For Services" disclosure statement. The maximum fees for many special services are fixed by the City. A copy of these fees can be obtained from the Contractor or the City's Contract Administrator.

RATES FOR SERVICES

The City has approved standard rates for the collection of solid waste and recyclable materials. Under this contract, you will pay the following rates for the Contractor's services. You may call the Contractor or the City's Contract Administrator if you have questions about any of the Contractor's rates.

On or before October 1st of each Operating Year, the Contractor shall provide each Commercial Customer with a copy of the disclosure statement. The disclosure statement may be incorporated into the Contractor's invoices to its Commercial Customers, or it may be distributed as a separate document.

34.2 DISCLOSURE OF FEES FOR COMMERCIAL COLLECTION SERVICE

The Contractor's service contract shall identify all of the services that the Contractor will provide to the Commercial Customer and all of the associated Rates. No fees or charges may be collected from any Commercial Customer unless such fees and charges were disclosed to that Customer before the Contractor provided its services. With regard to existing Commercial Customers, the Contractor shall be presumed to have disclosed its Rates if the Contractor provided notice in compliance with Section 36 prior to the Commencement Date. This presumption shall expire six (6) months after the Commencement Date. Thereafter, if a dispute arises with a Customer concerning the Contractor's Rates, the Contractor will not be entitled to payment unless the Contractor demonstrates that it has a service contract with the Customer and the Contractor fully disclosed its Rates to the Customer prior to providing its Collection Service.

34.3 INITIATION OF SERVICE TO A COMMERCIAL CUSTOMER

On the Commencement Date, the Contractor shall begin to provide its Collection Services to each Commercial Customer in the Service Area. Thereafter, the Contractor shall provide its Collection Services for Commercial Waste within three (3) Operating Days after the Contractor receives a request for service from a New Customer that has signed a service contract with the Contractor.

34.4 TERMINATION OF SERVICE TO A COMMERCIAL CUSTOMER

The Contractor may terminate Collection Service to a Commercial Customer based on the Customer's failure to pay the Contractor's bills for Collection Service. The Contractor shall notify the Administrator at least fifteen (15) calendar days before service is terminated to a Commercial Customer. Upon being notified, the City shall take whatever action it deems appropriate to enforce compliance with the City's Ordinances.

If Collection Service is terminated, the Contractor may remove its Collection Containers and other equipment from the Customer's Premises. The Contractor may charge Interest on delinquent accounts with Commercial Customers and may charge a reasonable fee for the resumption of service to Commercial Customers, subject to Applicable Laws. Any fee for the resumption of service shall be subject to the Administrator's approval. The Collection of delinquent accounts with Commercial Customers is solely the responsibility of Contractor. The Contractor shall comply with all federal and state laws governing the collection of debts.

34.5 REQUIREMENTS FOR MULTI-FAMILY DWELLINGS

All of the requirements in Section 34.1 through 34.4, above, also shall apply to the Contractor when dealing with Customers that own or manage Multi-Family Dwellings. For the purposes of this Section 34.5, such Customers shall have the same rights, remedies, and obligations as Commercial Customers.

35. RECORD KEEPING AND REPORTING

35.1 GENERAL RECORD KEEPING AND REPORTING REQUIREMENTS

35.1.1 The Contractor shall be solely responsible for keeping all of the records and documents necessary to demonstrate that Contractor has performed its duties in compliance with the requirements in this Agreement. The Contractor's records shall be accurate, well-organized and up-to-date at all times. The Contractor's records concerning its performance under this Agreement shall be kept in the Contractor's local office, or in another location approved by the City, throughout the term of this Agreement. Following the expiration or termination of this Agreement, the Contractor shall retain all such records for at least seven (7) years, or the Contractor shall provide digital copies of the records to the City.

35.1.2 The Contractor shall prepare and maintain records, reports, and other information in compliance with the requirements in this Agreement and consistent with generally accepted management practices and principles. All of the Contractor's reports to the City shall be submitted in an electronic (digital) format that is compatible with the City's software (currently Microsoft). Hard copies also shall be provided, if requested by the Administrator or if they are expressly required herein. The format and content of the Contractor's reports are subject to the Administrator's approval. The reports

shall be signed by the District Manager or other duly authorized representative of the Contractor.

- 35.1.3 All of the Contractor's records shall be maintained in an electronic database. The database shall be available for inspection by the City at any time during normal business hours. Upon request, the information in the logs shall be provided to the Administrator on-line (e.g., via e-mail) within five (5) Operating Days.

35.2 SPECIFIC RECORD KEEPING REQUIREMENTS

- 35.2.1 Collection Service Log – The Contractor shall maintain records and a log concerning all of the Collection Services the Contractor provides to each Customer in the Service Area. At a minimum, the records shall identify: the type of service provided to each Customer; the date(s) when service was provided; the size of, and frequency of Collection for, the Mechanical Containers (if any) used by the Customer; and the Collection Services (e.g., Special Collection Services), if any, for which the Customer paid a fee directly to the Contractor. The Contractor shall maintain the same records with the same information for all of the Collection Services that the Contractor provides to the City pursuant to Section 8. The Contractor shall summarize its records in a log.
- 35.2.2 Solid Waste Disposal Log – The Contractor shall maintain records and a log concerning all of the Solid Waste it collects in the Service Area, including the materials collected for the City pursuant to Section 8. The records shall identify the amount of Solid Waste collected and the locations where the Solid Waste was taken for disposal, as documented by scale house tickets and receipts. The records shall address each Load of Solid Waste for each Collection vehicle for each Operating Day. These records shall be summarized in a log.
- 35.2.3 Recyclable Materials Log – The Contractor shall maintain records and a log concerning all of the Source Separated Recyclable Materials it collects in the Service Area, including the materials collected for the City pursuant to Section 8. The records shall identify the amount of Source Separated Recyclable Materials collected and the locations where the Source Separated Recyclable Materials were taken for processing, as documented by scale house tickets and receipts. The records shall address each Load of Source Separated Recyclable Materials for each Collection Vehicle for each Operating Day. These records shall be summarized in a log.
- 35.2.4 Vehicle Maintenance Log – The Contractor shall keep maintenance records and a log for each vehicle used for Collection Service. At a minimum, the log shall show: the identification number for the vehicle; the date and description of all routine maintenance activities; and the date and description of all repair activities.
- 35.2.5 Non-Collection Notice Log – The Contractor shall maintain records and a log of all occasions when the Contractor issued Non-Collection Notices. The log shall include: the date when the notice was issued; the Customer's street address; and the reason for the Non-Collection Notice.
- 35.2.6 Complaint Log – The Contractor shall maintain records and a log of all complaints. The log shall include: the date and time when the Contractor was notified by the City or Customer; the Customer's street address; a description of the complaint; whether

the complaint was a Legitimate Complaint; the date and time when the complaint was resolved; and a description of how the complaint was resolved.

35.2.7 Property Damage Log – The Contractor shall maintain records and a log concerning all accidents and events when Contractor's employees, vehicles, or equipment caused an injury to any Person or domestic animal, or damage to any public or private property. At a minimum, the log shall include: the date and time when the event occurred; the address where the event occurred; a description of the event; the vehicle or equipment number, and the name of the employee involved in the event; the name and address of the Person suffering the injury or damage; a description of the injury or damage suffered; and a description of how and when the matter was resolved.

35.2.8 Garbage Cart and Recycling Bin Log – The Contractor shall maintain records and a log concerning the Garbage Carts and Recycling Bins that are provided by the Contractor pursuant to this Agreement. At a minimum, the log shall identify: the location of the Residential Property occupied by each Customer that received a Garbage Cart or Recycling Bin; whether the Customer received a replacement cart or purchased a new cart; and the size of the cart that was provided.

35.3 QUARTERLY REPORT

35.3.1 Upon request, the Contractor shall submit a quarterly report to the Administrator no later than the fifteenth (15th) day of each calendar quarter (i.e., January 15; April 15, July 15; October 15) during each Operating Year. The report shall be submitted electronically (digitally) via e-mail. At a minimum, the quarterly report shall contain the following information for the previous quarter: (a) the total quantity of each type of Residential Waste (e.g., Garbage; Bulky Waste, Yard Waste) delivered to each Designated Facility pursuant to this Agreement; (b) the total quantity of Source Separated Recyclable Material delivered to each Designated Facility; (c) the amount of Solid Waste and Source Separated Recyclable Material (if any) delivered to other facilities; (d) the number of Missed Collections; (e) a summary of each accident involving personal injuries or property damage; (f) the total number of Legitimate Complaints; (g) the total number of Garbage Carts delivered to the City; and (h) the total number of Garbage Carts delivered to Residential Customers by the Contractor. The quarterly report also shall include the Contractor's records for its monthly billings to each Multi-Family Dwelling that uses Mechanical Containers.

35.3.2 Upon request, the quarterly report shall include any information that is needed by the City to comply with the City's reporting obligations under Chapter 403, Florida Statutes, or other Applicable Laws concerning Recycling rates, Recycling goals, Solid Waste management programs, or similar matters.

35.3.3 Whenever the Contractor submits a quarterly report to the City, the Contractor also shall submit a signed written statement from the District Manager or their designee, verifying that the quarterly report is accurate in all respects. The District Manager or their designee also shall verify in each quarterly report that (a) all of the Solid Waste and Source Separated Recyclable Material collected by the Contractor under this Agreement has been delivered to a Designated Facility, and (b) the Contractor's quarterly report accurately accounts for all such deliveries.

35.4 ANNUAL REPORT

In addition to the other reporting requirements in this Agreement, upon request, the Contractor shall submit an annual report to the Administrator no later than sixty (60) calendar days after the end of each Operating Year. At a minimum, the annual report shall include the following information: (a) annualized information for all items required in the quarterly reports; (b) updated lists of all vehicles and equipment used to provide Collection Service under this Agreement; (c) a description and inventory of the equipment, facilities, manpower, and other resources available for emergency conditions; (d) a trend analysis and overall evaluation of the number and types of Legitimate Complaints received by the Contractor on a monthly and annual basis during the term of this Agreement; (e) a corrective action plan for systemic and chronic problems, if any; (f) an updated Collection Plan; (g) an updated Contingency Plan; (h) an updated Safety Plan; (i) a summary of all accidents and Legitimate Complaints involving personal injuries or damage to public or private property during the prior year; and (j) a list of the vehicles, if any, that will be replaced in the upcoming year to comply with the requirements in Section 29.3 herein. The first annual report shall be submitted to the City on or before December 1, 2024.

35.5 ACCIDENT REPORTS

The Contractor shall notify the Administrator of all OSHA reportable events and serious accidents involving the Contractor's staff, vehicles, or equipment that occur while the Contractor is performing services under this Agreement and: (a) result in personal injuries, or damage to public or private property that exceeds Five Hundred Dollars (\$500) in value; or (b) require notification to OSHA or another regulatory agency under Applicable Laws. In all such cases, oral notice shall be provided within six (6) hours of the accident and a written report shall be provided to the Administrator within one (1) Operating Day of the accident. If any issues are unresolved at that time, a subsequent report shall be provided to the Administrator within two (2) Operating Days following the ultimate disposition of the case. The oral and written reports shall include the date and time of the event, a description of the event, the names of any persons who witnessed the event, an estimate of the damages and injuries (if any) caused by the event, and a description of how the event and any associated damages and injuries were handled or will be handled.

35.6 CITY'S RIGHT TO INSPECT AND AUDIT CONTRACTOR'S RECORDS

The Contractor shall cooperate with the Administrator and provide every reasonable opportunity for the City to ascertain whether the duties of the Contractor are being performed properly. In addition to the information explicitly required by this Agreement, the Contractor shall promptly provide any information regarding the services provided by the Contractor under this Agreement that the Administrator or the Contractor deem relevant under the circumstances.

The City shall have the right to inspect, copy, and audit, at the City's expense, all of the Contractor's records concerning the Contractor's services under this Agreement, except documents that are exempt from disclosure under Florida law. The Contractor's records shall be made available for inspection in the City during normal business hours, within five (5) Operating Days after the City requests the records. The Contractor may provide electronic copies of the records, in lieu of hard copies.

35.7 PUBLIC'S RIGHT TO INSPECT CONTRACTOR'S RECORDS

In accordance with Chapter 119, Florida Statutes, any written documents that are submitted to the City will become the property of the City and will not be returned. All information contained within such documents shall be available for public inspection, except as otherwise provided under Chapter 119, Florida Statutes, or other Applicable Laws.

The Parties acknowledge and agree that the statements and provisions below are required to be included in this Agreement pursuant to Section 119.0701(2), Florida Statutes. The inclusion of this statement and the provisions below shall not be construed to imply that the Contractor has been delegated any governmental decision-making authority, governmental responsibility, or governmental function, or that the Contractor is acting on behalf of the City as provided under Section 119.011(2), Florida Statutes, or that the statements or provisions are otherwise applicable to the Contractor. As stated below, the Contractor may contact the City's custodian of public records with questions regarding the application of the public records law; however, the Contractor is advised to seek independent legal counsel as to its legal obligations. The City cannot provide advice to the Contractor regarding the Contractor's legal rights or obligations. The City shall provide the Contractor with written notice if the name or contact information for the public records custodian changes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACTOR'S WORK UNDER THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT TELEPHONE NO. (561) 741-2352; E-MAIL: LAURAC@DELRAY BEACH.FL.US; MAILING ADDRESS: CITY CLERK, 210 MILITARY TRAIL, DELRAY BEACH, FL 33458.

If the Contractor is providing services and is acting on behalf of the City as provided under Section 119.011(2), Florida Statutes, the Contractor shall comply with the public records law and shall:

- (a) Keep and maintain public records required by the City to perform the services.
- (b) Upon request from the City's custodian of public records, provide the City 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.
- (c) 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 Agreement if the Contractor does not transfer the records to the City.
- (d) Upon completion of the Contractor's work under this Agreement, transfer at no cost to the City, all public records in the possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, 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 Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

Failure of the Contractor to comply with Chapter 119, Florida Statutes, or the requirements of this Section 35.7 shall constitute a default under this Agreement and shall be grounds for termination of this Agreement.

36. PUBLIC NOTICES AND EDUCATIONAL SERVICES

The Contractor shall provide the following notices and educational services to help inform the public about the City's Solid Waste management system. The Contractor shall work closely with the City when preparing the notices, educational materials, and promotional information required pursuant to this Section 36. The design and content of the notices, educational materials, and promotional information shall be subject to the Administrator's prior approval. The Contractor shall be responsible for all expenses associated with designing, printing, publishing, and delivering the notices and otherwise providing the educational services required herein.

36.1 NOTICE FOR COMMENCEMENT OF SERVICE

At least thirty (30) calendar days before the Commencement Date, the Contractor shall design, print, and deliver a notice to each Commercial Customer concerning the Contractor's Collection Services. Notice shall be provided to all Residential Customers approximately two (2) weeks before the Commencement Date.. The notice to Residential Customers shall be delivered by the U.S. Postal Service or hand delivered via door hangers. At a minimum, the notice to Residential Customers shall: (a) identify each of the Scheduled Collection Days for the Customer receiving the notice; (b) summarize the applicable Set Out requirements; (c) identify the telephone number and e-mail address that Customers can use to notify the Contractor about complaints; and (d) include other educational and promotional information provided to the Contractor by the City. The notice also may provide other relevant information concerning the Contractor's services. The notices for Commercial Customers and Residential Customers shall be posted to the Contractor's website at least thirty (30) days before the Commencement Date.

36.2 NOTICES FOR NEW CUSTOMERS

The Contractor shall design, print, and mail or deliver appropriate informational materials for each New Customer. At a minimum, the notice shall include the same general information that is contained in the notice pursuant to Section 36.1. The notice shall be provided no later than the date when the Contractor begins to provide Collection Service to the New Customer.

36.3 NOTICES CONCERNING PERMANENT CHANGES IN COLLECTION SCHEDULES

The Contractor shall design, print, and deliver a notice to each Residential Customer and each Commercial Customer that will be affected by a permanent change in the Scheduled Collection Days occurring after the Commencement Date. An electronic (digital) copy of the draft notice shall be submitted to the Administrator for review and approval at least thirty (30) days prior to the printing and delivery of the notice. The approved notice shall be delivered to the affected Commercial Customers at least five (5) days before the Contractor changes its Scheduled Collection Days. Notice shall be provided twice to Residential Customers that receive Collection Service at Curbside. Such Customers shall receive notice at least two (2) weeks prior to the change and they shall receive notice again at least one (1) week prior to the change. The Contractor also shall place the notice on the Contractor's website at least fifteen (15) days before the permanent change occurs.

36.4 NOTICES FOR HOLIDAYS

The Contractor shall provide notice to each Customer that will be affected by a change in their Scheduled Collection Days because of a Holiday. Specifically, the Contractor shall publish notice in the newspaper of general circulation that has the largest number of subscriptions in Palm Beach County. In the alternative, the Contractor may use e-mails and telephone calls to provide such notice, if the Contractor demonstrates to the Administrator's reasonable satisfaction that this method of providing notice will be effective. The Contractor also shall place a notice on the Contractor's website. The newspaper notice shall be published at least three (3) days before the Holiday. The notice on the Contractor's website shall be in place at least ten (10) days before the Holiday.

37. CONTRACTOR'S EMERGENCY SERVICES

37.1 COLLECTION OF GARBAGE AFTER A DISASTER

When severe weather (e.g., a hurricane or tropical storm) is approaching or a natural or manmade disaster is anticipated, the Contractor shall continue to provide Collection Service in compliance with this Agreement until: (a) the City or the State of Florida declares a "State of Emergency" for the Service Area; (b) the Administrator and the Contractor agree that Collection Services should be suspended due to unsafe operating conditions; (c) sustained winds exceed thirty (30) miles per hour, as determined by the local or national weather service; or (d) Collection Services must be suspended pursuant to Applicable Law. Following a hurricane, tornado, or other natural or human event that is declared a City, state, or federal disaster, the Contractor shall use its best efforts to immediately collect, by any means available, all of the Garbage that is Set Out by Customers. This shall be the Contractor's primary responsibility until the Contractor is able to provide Collection Services on a routine basis, as mutually determined by the Administrator and Contractor. The Contractor shall use its best efforts to resume its Collection Services for Bulky Waste, Yard Waste, and Source Separated Recyclable Materials on the Scheduled Collection Days as soon as possible after being directed to do so by the Administrator. Until the Contractor resumes normal Collection Service, the Contractor's work for the City shall be the Contractor's highest priority and it shall take priority over the Contractor's work for Commercial Customers and other members of the private sector. All of the vehicles and other equipment that the Contractor and its subcontractors (if any) have dedicated to serving the City during normal operations under this Agreement shall continue to be dedicated to the City following a disaster. When the Administrator is determining whether to suspend or resume the Contractor's Collection Service, the Administrator shall consult with the Contractor and carefully consider the safety of the Contractor's employees and equipment, in addition to the safety of the other members of the community.

37.2 EMERGENCY VARIANCES IN ROUTES AND SCHEDULES

If a hurricane, tropical storm, tornado, or other natural or human event is declared an emergency or a state or federal disaster, the Administrator may grant the Contractor a variance from the Contractor's regular Routes and schedules. Requests for a variance shall be submitted in writing to the Administrator. If the Contractor's request is granted, the Contractor shall furnish a map depicting the revised Routes and shall provide the revised schedules in writing. Thereafter, the Contractor shall contact the Administrator on a daily basis and describe the status of the Contractor's efforts to provide Collection Service and resume the use of normal Routes and schedules.

37.3 COLLECTION OF DISASTER DEBRIS

This Agreement does not give the Contractor the right to collect Disaster Debris. The City will enter into a separate contract with the Contractor if the City wishes to utilize the Contractor's services for the Collection of Disaster Debris. Nothing herein shall require the City to utilize the services of Contractor, or prevent the City from hiring another Person, to collect Disaster Debris. Among other things, the City may utilize the City's Disaster Debris Contract in accordance with the City's emergency management plan, or the City may utilize City personnel and equipment, for the Collection of Disaster Debris.

If the Federal Emergency Management Agency declares that the City is a federal disaster area, the City shall be primarily responsible for the Collection of Disaster Debris in the Service Area, subject to the conditions contained herein. The City shall make a good faith effort to collect and remove the Disaster Debris generated by the federally declared disaster, but the City shall have the sole authority to determine the extent of the clean-up that will be conducted by the City and its agents. When the City's tasks under this paragraph have been completed, as determined by the Administrator, the Administrator shall notify the Contractor to resume all of its normal Collection Services.

37.4 CONTRACTOR'S CONTINGENCY PLAN

The Contractor shall develop a Contingency Plan, which shall describe the Contractor's plan of action in the event that an emergency or other situation disrupts the Contractor's normal operations (e.g., renders the Contractor's operations yard or equipment unusable, or prevents the Contractor's drivers from reporting for work). The Contingency Plan shall describe the steps that the Contractor shall take to avoid interruptions or reductions in Collection Service under such circumstances. The Contingency Plan shall be submitted to the Administrator in compliance with the schedule in eight weeks prior to Commencement Date. The Contingency Plan shall be updated annually and resubmitted to the Administrator (a) with the Contractor's annual report and (b) within ten (10) Operating Days after the plan is revised by the Contractor. The Administrator shall have the right, but not the obligation, to approve the Contingency Plan and all revisions to the plan.

37.5 CITY'S EMERGENCY MANAGEMENT MEETINGS

If requested by the Administrator, the Contractor shall attend the City's emergency management and disaster preparedness meetings and shall provide the City with any materials that may be useful to the City's efforts, including but not limited to Collection schedules and Routes. The Administrator shall notify the Contractor of the date, time, and location of the meetings, and shall identify any necessary materials that are to be provided by the Contractor.

38. RATES FOR CONTRACTOR'S SERVICES

38.1 UNIFORM RATES FOR ALL COLLECTION SERVICES

The Rates in Exhibits 2-8 are the maximum amounts that shall be charged for the Collection Services provided by the Contractor pursuant to this Agreement. The Rates shall be applied uniformly to all Customers receiving Collection Services from the Contractor within the City after the Commencement Date. The Contractor shall utilize the Rates in Exhibits 2-8 and no others, when billing its Customers or the City.

The Contractor shall charge the same Rates for all Residential Customers that receive service at Curbside, regardless of the number of Garbage Carts and Recycling Bins a Customer uses. The

Contractor shall not charge an additional fee or increased Rate simply because a Residential Customer uses multiple Garbage Carts and Recycling Bins.

38.2 RATES FOR SPECIFIC COLLECTION SERVICES

The Rates for Residential Collection Services are set forth in Exhibits 2, 3, and 4. The Rates for Commercial Collection Services are set forth in Exhibits 5 and 6. The Rates for Special Collection Services are set forth in Exhibit 7. The Rates identify the Collection component and the disposal component, if any, that are applicable to each Collection Service. All of the Rates include the Franchise Fees that shall be paid to the City.

38.3 CPI ADJUSTMENTS TO COLLECTION COMPONENT OF RATES

Subject to the conditions herein, on October 1, 2024 and each October 1 thereafter during the term of this Agreement, the Collection component of the Rates shall be adjusted upward to reflect the change in the cost of Collection during the previous year due to inflation (i.e. in no case shall the Rates be adjusted downward). More specifically, the Collection component of the Rates in Exhibits 2, 3, 4, and 5 shall be adjusted to reflect changes in the cost of fuel, as well as changes in the cost of the non-fuel components of the Contractor's expenses. For the purposes of this Agreement, the non-fuel components of the Rates are assumed to represent ninety percent (90%) of the Contractor's costs. Therefore, ninety percent of the then current Rates for Collection shall be adjusted each October 1, based on changes in non-fuel costs. Such Rates shall be adjusted by an amount that is equal to one hundred percent (100%) of the percentage change in the average Consumer Price Index (as defined in Section 1.29, above) during the most recent twelve (12) consecutive month period beginning on April 1 and ending on March 31, multiplied by 0.9. For example, with regard to the CPI adjustment on October 1, 2024, the relevant period will be April 1, 2022 through March 31, 2023.

The percentage change in the CPI shall be calculated by using the following formula:

$$\text{PC CPI} = \text{CPI 1 divided by CPI 2, minus 1.0, multiplied by 100, multiplied by 0.9.}$$

The formula also can be shown as:

$$\text{PC CPI} = \left[\frac{(\text{CPI 1})}{(\text{CPI 2})} - 1 \right] \times 100 \times 0.9$$

Where:

PC CPI is the percentage change in the CPI from one year to the next

CPI 1 is the average CPI index number for the most recent year from April to March (e.g., April 2022 to March 2023)

CPI 2 is the average CPI index number for the year before CPI 1 (e.g., April 2021 to March 2022)

The average CPI index number for any year shall be calculated by adding the CPI index numbers for each month during that year and then dividing the sum by 12.

In addition to the adjustments based on the CPI, the Collection component of the Contractor's Rates in Exhibits 2, 3, 4, and 5 shall be adjusted once each Operating Year to account for changes in the price of fuel as listed in the Producer's Price Index (PPI), Industry Data for Petroleum Refineries – Diesel Fuel, Not Seasonally Adjusted, Series ID PCU324110324110C2. The fuel adjustments shall occur on October 1, 2024 and each October 1 thereafter (e.g., October 1, 2024)

during the term of the Agreement. For the purposes of this Agreement, fuel is assumed to represent ten percent (10%) of the Contractor's costs and, therefore, each fuel adjustment shall be applied to ten percent (10%) of the then current Rates. Such Rates shall be adjusted by an amount that is equal to one hundred percent (100%) of the percentage change in the average PPI (as defined above) during the most recent twelve (12) consecutive month period beginning on April 1 and ending on March 31, multiplied by 0.1.

The percentage change in the PPI shall be calculated by using the following formula:

PC PPI = PPI 1 divided by PPI 2, minus 1.0, multiplied by 100, multiplied by 0.1.

The formula also can be shown as:

$$\text{PC PPI} = \left[\frac{(\text{PPI 1})}{(\text{PPI 2})} - 1 \right] \times 100 \times 0.1$$

Where:

PC PPI is the percentage change in the PPI from one year to the next

PPI 1 is the average PPI index number for the most recent year from April to March (e.g., April 2022 to March 2023)

PPI 2 is the average PPI index number for the year before PPI 1 (e.g., April 2021 to March 2022)

The average PPI index number for any year shall be calculated by adding the PPI index numbers for each month during that year and then dividing the sum by 12.

The adjustments to the CPI and fuel components of the Rates shall be calculated in the manner shown in Exhibit 12. The total adjustment to the Rates in any year shall be equal to the sum of the CPI adjustment and the fuel adjustment.

Notwithstanding anything else contained herein, the combined CPI adjustment and fuel adjustment to the Rates in a single Operating Year collectively shall not cause the Rates to increase by an amount that exceeds six percent (6%) of the Rate in the prior Operating Year. There shall be no "catch up" adjustment to the Rates in future years (i.e., there will not be an adjustment to the Rates in the future to offset or mitigate the effect of an increase greater than the six percent (6%) "cap" in a year when the combined CPI adjustment and/or the fuel adjustment would collectively exceed six percent (6%), but for the six percent (6%) limitation contained herein).

If the CPI or PPI is discontinued or substantially altered, the City may select another relevant price index published by the United States government or by a reputable publisher of financial and economic indices.

The Rates in Exhibit 7 (Rates for Special Collection Services) shall be adjusted on October 1, 2024 and each October 1 thereafter during the term of this Agreement. The adjustments to the Rates in Exhibit 7 shall be equal to one hundred percent (100%) of the percentage change in the CPI and shall be subject to the same requirements provided above for CPI adjustments, except that the adjustments to Exhibit 7 shall not be multiplied by 0.9.

38.4 ADJUSTMENTS TO DISPOSAL COMPONENT OF COMMERCIAL RATES

The disposal component of the Rates for Commercial Customers shall be adjusted, upward or downward, by the Administrator whenever there is a change in the Tipping Fees charged at the Designated Facility. The Contractor shall provide the City and its Customers with advance notice of any pending changes in the Tipping Fees. The Rate adjustment shall be effective on the date of the change in the Tipping Fee at the Designated Facility or the date when the Contractor gave notice of the Rate adjustment to its Customers and the City, whichever occurs later.

38.5 RATE ADJUSTMENTS FOR CHANGES IN LAW

If a Change in Law will directly and materially affect the Contractor's cost of providing its services under this Agreement, the Contractor may request the City to adjust the Rates. If the Contractor wishes to exercise this option, the Contractor shall prepare and submit a schedule of proposed Rates that will distribute the increased costs in a fair and non-discriminatory manner. The Contractor's request shall be accompanied by all data and analyses necessary for the City to fairly evaluate the proposed Rate increase. The Manager may request, and upon request the Contractor shall provide, additional information as necessary. After receiving the requested information, the Manager shall present the Contractor's request and the Manager's recommendations to the Commission. The Contractor shall be given a reasonable opportunity to explain the basis for its request at a duly noticed public meeting of the Commission.

The Manager and the Commission shall fairly evaluate the Contractor's request in a timely manner and in compliance with the requirements in Section 33.4, above. Subject to the provisions of Section 33.4, the Contractor's request shall be approved if the request complies with the requirements in this Section 38.5 and the Agreement. The Commission's decision to grant, grant in part, or deny the Contractor's request shall constitute final action by the City.

If any adjustments to the Rates are approved, the adjusted Rates shall become effective upon the date designated by the Commission. Adjustments (if any) to the Rates shall be designed to compensate the Contractor for the increased costs incurred by the Contractor after the Change in Law took effect.

If a Rate adjustment is approved pursuant to this Section 38.5 and the adjustment will cause the Rate for any Collection Service to increase by an amount that is equal to or greater than twenty percent (20%) of the Rate in effect before the adjustment took effect, or cause the Rate for any Collection Service to be greater than one hundred fifty percent (150%) of the Rate on the Effective Date, the Commission may terminate this Agreement at any time after providing one hundred eighty (180) days' notice to the Contractor. The termination shall take effect on a date selected by the Commission.

38.6 EXTRAORDINARY RATE ADJUSTMENTS

38.6.1 Once each Operating Year, before April 1, the Contractor may petition the Manager for a Rate adjustment on the basis of extraordinary or unusual changes in the cost of its operations that could not reasonably be foreseen by a prudent Person. The Contractor's petition shall contain a detailed justification for the Rate adjustment. Among other things, the Contractor's petition shall include adequate documentation of Contractor's historical and current expenses, demonstrating that Contractor has incurred an extraordinary increase in Contractor's costs due to factors beyond the Contractor's control, which have occurred through no fault or negligence of the Contractor. The audited statement shall be prepared by a certified public accountant that is licensed in the State of Florida and not an employee of the Contractor or its affiliates. At its expense, the City may audit the Contractor's records to evaluate the Contractor's request. The Manager may request from the Contractor, and the Contractor shall provide, all of the information that is reasonably necessary for the

Manager to evaluate the Contractor's petition. After receiving the necessary information, the Administrator shall place the Contractor's request and the Administrator's recommendations on the agenda for one of the Commission's public meetings.

38.6.2 The Contractor shall be given a reasonable opportunity to explain the grounds for its petition at the public meeting conducted by the Commission. The Commission shall grant, grant in part, or deny the Contractor's request in a timely manner after the Manager receives all of the information requested from the Contractor. The Commission may deny the Contractor's request for any reason or no reason, in its sole discretion, as the Commission deems appropriate. The Commission's decision shall constitute final action by the City.

38.6.3 If the Contractor's request is granted in whole or in part, the Commission shall have the right to reduce the Contractor's Rates, if and to the extent that the factors causing the Contractor's price increase have been ameliorated or eliminated. Every twelve (12) months after a request is granted, the Manager shall have the right to request, and the Contractor shall prepare promptly upon request, an updated audit and explanation of whether the extraordinary Rate increase should remain in effect. The Manager may reduce the Contractor's Rates to the levels that were in effect before the extraordinary Rate increase was granted, or to an appropriate intermediate level, unless the Contractor demonstrates that the City should continue to pay the extraordinary Rate increase. The Commission shall provide at least thirty (30) days advance notice and a reasonable opportunity for the Contractor to be heard by the Commission before the Commission reduces the Contractor's Rates.

38.7 RATES FOR DISASTER DEBRIS

If the Administrator wishes to have the Contractor collect Disaster Debris following a federally declared disaster, the City and the Contractor shall enter into a separate contract and the City shall pay the Contractor in accordance with the terms, conditions, and Rates that are mutually agreed upon by the City and Contractor before the commencement of the Contractor's work under that contract. The Rates for the Collection of Disaster Debris shall not exceed the Rates provided herein for the same or similar services. This Agreement does not authorize any payments for the Collection of Disaster Debris.

38.8 ADJUSTMENTS TO FRANCHISE FEE

Whenever any Rate is adjusted, the Franchise Fee shall be recalculated and then paid based on the adjusted Rate. If the Franchise Fee is adjusted, the Rates shall be adjusted. The adjusted Rate shall include the Franchise Fee. When the adjusted Rate (including the Franchise Fee) takes effect, the Contractor may bill and collect the adjusted Rate from its Customers. It is intended that the Franchise Fee will be set by the City and then passed through to the Contractor's Customers as part of the Rates.

38.9 PAYMENTS FOR SHARED MECHANICAL CONTAINERS

The Contractor may prorate its charges to accommodate Customers that share a Mechanical Container; however, the charges collectively shall not be more than the amounts set forth in the approved Rates, unless the Administrator approves the Contractor's charges in advance, based on special circumstances. Similarly, the Administrator may require a shopping center to receive and pay for Collection Service that is greater than the sum of the needs of the individual shops sharing a Mechanical Container, if the public also is using the Mechanical Containers in the shopping center.

39. PAYMENTS TO CONTRACTOR FOR COLLECTION SERVICES

39.1 GENERAL BILLING AND PAYMENT PROVISIONS

Subject to the conditions and limitations contained herein, the City and the Customers shall pay the Contractor for the services that the Contractor provides in compliance with the requirements in this Agreement. However, the City and the Customers shall have no obligation to pay any fee, charge, cost, or other sum to the Contractor unless such payment is explicitly authorized in this Agreement and (a) the fee is identified in Exhibit 2-8 or (b) the Agreement explicitly provides that the fee shall be negotiated between the Contractor and the Customer. The Rates for Collection Services in Exhibits 2-8 shall constitute full and complete compensation to the Contractor for the services provided by the Contractor under this Agreement. The Rates shown in Exhibits 2-5 include the Franchise Fee that must be paid to the City pursuant to Section 40.1, below. In all cases, the City shall have the sole authority to determine whether and the extent to which the Contractor is entitled to payment for services it provided under this Agreement.

39.2 PROHIBITIONS ON PAYMENTS FROM CUSTOMERS TO CONTRACTORS

Neither the Contractor nor its agents, subcontractors, employees or other representatives shall solicit or accept any payment or monetary remuneration from any Customer for the provision of any Service described in this Agreement, unless such payments are explicitly authorized in this Agreement and the payments are less than or equal to the amounts authorized. If a Customer or other Person delivers any money to the Contractor for any service provided in the Service Area, and such payment is not explicitly required in this Agreement, the Contractor shall return the money to the Customer within five (5) Operating Days after the money is received by the Contractor.

39.3 PAYMENTS FROM CITY FOR RESIDENTIAL COLLECTION SERVICE

Subject to the conditions and limitations contained herein, the City shall pay the Contractor for the Residential Collection Service that is provided by the Contractor in compliance with this Agreement. The City's payments will be based on the Rates set forth in Exhibit 2 and Exhibit 4. The Residential Collection Service includes curbside services, and Multi-family Dwellings with solid waste containers up to 2x per week.

On or before the tenth day of each Operating Month, the Contractor shall provide the City with an invoice for the Residential Collection Services that were provided by the Contractor during the prior Operating Month. The format and content of the Contractor's invoice shall be subject to the approval of the City's Chief Financial Officer. The Contractor's invoice shall identify the type of Residential Collection Service provided (e.g., Curbside Collection with Garbage Carts; Curbside Collection with Plastic Bags) and the number of Dwelling Units that received each type of Collection Service. The amount of the City's payments to the Contractor shall be calculated by multiplying the applicable monthly Rate for a Residential Service times the number of Dwelling

Units on the Residential Customer List receiving that specific type of Collection Service. For the purposes of calculating the amount of the City's payments, the Contractor shall use the Residential Customer List as it existed on the first day of the Operating Month for which payment is being made.

The Contractor's monthly invoice also shall include the following information for the previous Operating Month: (a) the total quantity of each type of Residential Waste (e.g., Garbage; Yard Waste; Bulky Waste) delivered to each Designated Facility pursuant to this Agreement; and (b) the total quantity of Source Separated Recyclable Material delivered to each Designated Facility pursuant to this Agreement. The information provided with the invoice may be included in the report submitted by the Contractor pursuant to Section 40.1 for Franchise Fees.

If the City identifies any errors or omissions in the Contractor's invoice, the City will request the Contractor to prepare and submit a revised invoice. The Contractor's request for payment will not be approved until the City receives a correct invoice. The City shall pay the Contractor within thirty (30) days after the City receives a proper invoice, but the City may deduct any unpaid Franchise Fees from its payment, pursuant to Section 40.1, below. The City shall have the right to request and obtain additional information from the Contractor concerning the Contractor's invoice. The City also has the right to contest the amounts requested in the Contractor's invoice. However, the City shall pay all undisputed amounts in compliance with the Florida Prompt Payment Act (Section 218.70, et seq., Florida Statutes).

The City will bill the residential accounts for the benefit of the Contractor. All single family Dwellings and Multi-Family Dwellings that are assessed on their Palm Beach County property tax bill for disposal fees also shall pay the City's monthly charge for the Collection of Recyclable Materials.

39.4 CITY'S PAYMENTS FOR COLLECTION SERVICES PROVIDED FOR CITY PROPERTIES, TRASH RECEPTACLES, AND RECYCLING CONTAINERS

The Contractor shall not bill the City, and the City shall not pay the Contractor, for the services provided to the City pursuant to Section 8 of this Agreement, except as expressly provided in Section 8.10, above. The City's payments (if any) will be based on the Rates set forth in Exhibit 8. The Contractor's invoice shall identify the specific services that were provided and the applicable Rate for each service. The invoice shall be submitted with the Contractor's invoice for Residential Collection Services and it shall be reviewed and paid in the same manner, subject to the requirements and limitations set forth above in Section 39.3.

39.5 CITY'S CREDITS FOR DISPOSAL COSTS

The Authority collects non-ad valorem special assessments to pay for the disposal of Solid Waste generated on Residential Property and the City's property. The Authority then issues "disposal credits" that the City may use to pay the Authority's Tipping Fees when the City delivers its Solid Waste to the Authority's facilities for disposal. Under this Agreement, the City shall give and assign its rights in the disposal credits to the Contractor, but the credits shall be used only for the disposal of the Solid Waste generated in the City. Accordingly, for each Operating Year, the Contractor shall receive the City's disposal credits for the Solid Waste generated on the Residential Property in the Service Area, as well as the disposal credits for the Solid Waste that is generated on the City's property and delivered to the Authority's facilities. Except for the assignment of its disposal credits, the City shall have no obligation to pay the Contractor for the disposal of any Solid Waste collected when providing Residential Collection Service or when providing the Collection Services required pursuant to Section 8 of this Agreement. The City also shall have no obligation

to pay the Tipping Fee for any Contaminated Recyclable Material that is rejected by the Designated Facility for Recyclable Materials. Notwithstanding the foregoing, if the City's disposal credits exceed the cost of disposal for the materials generated on Residential Property and the City's property, the Contractor may use the excess disposal credits to pay for the disposal of Commercial Waste.

Under this Agreement, the Contractor is obligated to collect Solid Waste from trash receptacles that are located along Atlantic Avenue, the Beach area, and Pineapple Grove and identified in Exhibit 18. Approximately eighty-four (84) of these receptacles do not have property control numbers and, therefore, the City does not pay disposal costs to the Authority for these receptacles. Since the City does not have disposal credits to assign to the Contractor for the disposal of the Solid Waste collected in these trash receptacles, the City shall pay the Contractor for the cost of disposing of the material collected in these trash receptacles. The amount of the City's payments shall be calculated in the manner described in Exhibit 8. The City's payment of these monthly disposal costs shall be itemized and submitted with the City's payment for Residential Collection Services.

39.6 CITY'S UNDERPAYMENTS AND OVERPAYMENTS TO CONTRACTOR

If the City pays the Contractor in error, for whatever reason, the Contractor shall promptly notify the Administrator to rectify the mistake. The City shall make appropriate adjustments to the Contractor's payments under this Agreement to off-set past underpayments and overpayments resulting from any error. However, the City shall not be obligated to make any adjustments to correct for underpayments that occurred more than six (6) months before the City received the Contractor's notice of the error. The Parties agree that this limitation on the Contractor's remedies is reasonable and necessary to prevent untimely claims.

39.7 LIMITATIONS ON CONTRACTOR'S RIGHT TO PAYMENT FROM CITY

The City shall have no obligation to pay for any of the Collection Services provided by the Contractor, except as provided in Sections 39.3 and 39.4, above. The Contractor shall have no right to any revenues or funds obtained by the City from any other sources, including but not limited to funds distributed to the City by the Florida Department of Environmental Protection or any other Person.

39.8 PAYMENT FOR COMMERCIAL COLLECTION SERVICES

The Contractor shall be solely responsible for billing its Commercial Customers and collecting the Rates, fees, and other charges for the Commercial Collection Services the Contractor provides under this Agreement. The Contractor also shall be responsible for the payment of all Tipping Fees associated with the disposal of the Solid Waste and other material collected by the Contractor when providing its Commercial Collection Services. The Contractor may bill its Commercial Customers in advance for the Commercial Collection Services the Contractor will provide during the next Operating Month. Contractor may suspend or terminate service to accounts that become more than sixty (60) days past due, following fifteen (15) days' written notice to the Commercial Customer. Contractor may charge a reactivation fee and/or may require a deposit from the Commercial Customer to resume service.

Part of the cost of disposing of Commercial Waste will be billed and collected by the Authority through the use of non-ad valorem special assessments. Any disposal costs for Commercial Waste that are not covered by the Authority's special assessment may be billed by the Contractor to its Commercial Customers. The Contractor shall be solely responsible for paying the Authority for any Tipping Fees or other disposal costs incurred by the Contractor when providing Commercial Collection Services.

The Contractor may bill a Commercial Customer the applicable Rates set forth in Exhibits 5 and 6, including: (a) a fee for the disposal of the Solid Waste generated by the Commercial Customer; (b) a fee for the Collection of the Commercial Customer's Solid Waste and/or Source Separated Recyclable Materials; (c) a fee for each Special Collection Service; (d) a fee for the lease of a Compactor; (e) a fee for maintaining the Mechanical Container used by the Commercial Customer; (f) a fee for overfilling a Mechanical Container; and (g) a Franchise Fee.

The Rates include the cost of leasing and using the Contractor's Mechanical Containers, except Compactors. The Contractor may negotiate and charge an appropriate fee for the use of its Compactors. The Contractor may charge a fee for maintaining a Mechanical Container used by a Commercial Customer, based on the Rates shown in Exhibit 6.

The Contractor may collect a fee of One Hundred Dollars (\$100.00) from a Commercial Customer each time the Commercial Customer overfills a Mechanical Container. A Mechanical Container shall be deemed to be overfilled if the lid on the container cannot be closed and the Solid Waste in the container extends more than two (2) feet above the walls of the container. The Contractor shall provide the Commercial Customer and the Administrator with time and date-stamped photographs of the Mechanical Container when the Contractor bills the Commercial Customer for overfilling a Mechanical Container.

The Contractor's charges for waste disposal shall be based on the Tipping Fees established by the Authority. The Contractor's disposal charges shall increase or decrease whenever the Authority's fees increase or decrease.

39.9 PAYMENTS FOR GARBAGE CARTS

The Contractor will purchase and provide the Garbage Carts used by Residential Customers and Commercial Customers. The cost of providing such carts is included in the Rates. The City shall have no obligation to pay any other fees to the Contractor for the carts. However, if a Residential Customer wishes to purchase an additional Garbage Cart, the Contractor may charge the fees described in Sections 28.1.4 and 28.1.5, above.

39.10 PAYMENTS FOR SPECIAL COLLECTION SERVICES

The Rates for Special Collection Service shall be paid in addition to the Rates for the routine Collection Service received by the Customer.

The Contractor shall promptly notify the City whenever the Contractor provides any Special Collection Services to a Residential Customer. The Contractor's notice shall identify the specific services that were provided to the Residential Customer and the Rate that shall be charged for the Contractor's services. The City shall bill the Residential Customer for the Special Collection Services when the City issues its bills for water service, pursuant to Section 51.72 of the City Ordinances. The City shall pay the Contractor for its Special Collection Services promptly after the City receives payment from the Residential Customers.

The Contractor shall be solely responsible for billing its Commercial Customers and collecting the applicable Rates for any Special Collection Services the Contractor provides to Commercial Customers pursuant to this Agreement. The Contractor also shall be responsible for the payment of all Tipping Fees associated with the disposal or processing of Solid Waste collected by the Contractor when providing Special Collection Services to Residential Customers and Commercial Customers.

In cases where there are no established Rates in this Agreement for the requested Special Collection Service, the Contractor and the Customer shall negotiate a mutually acceptable Rate for the Contractor's services. With regard to Special Collection Services provided to Residential Customers, the negotiated Rate shall not exceed the Rate in Exhibit 5 for Commercial Customers receiving the same type or level of service. In the event that the Contractor and Commercial Customer are unable to agree about the Rate, the Administrator shall determine the amount of the Rate. The Contractor shall not be entitled to any compensation for a Special Collection Service unless the Customer agreed to pay the applicable Rate before the Contractor provided its service.

40. PAYMENTS TO THE CITY

40.1 FRANCHISE FEES

The Contractor shall pay Franchise Fees to the City in exchange for the rights and privileges granted to the Contractor pursuant to this Agreement, as described in Section 1.46, above. Among other things, the Contractor shall pay a Franchise Fee for the Contractor's exclusive right to provide Residential Collection Services and Commercial Services in the City. The Franchise Fees also compensate the City for the cost of the administration, supervision, and inspection services rendered by the City for the effective performance of the Agreement, as well as other costs related to Collection.

The Franchise Fee for Residential Collection Services shall be equal to five percent (5%) of the Contractor's gross billings for all of the Collection Services provided by the Contractor to Residential Customers pursuant to this Agreement. The Franchise Fee for Commercial Collection Services shall be equal to ten percent (10%) of the Contractor's gross billings for all of the Collection Services provided to Commercial Customers by the Contractor pursuant to this Agreement. With regard to Residential Collection Services and Commercial Collection Services, gross billings include the Contractor's Collection Costs, but do not include disposal costs (e.g., Tipping Fees), Franchise Fees, or administrative fees imposed pursuant to Section 40.2, below. The Contractor shall not be required to pay Franchise Fees for billings that are based on: (a) the Collection Services provided to the City pursuant to Section 8 of this Agreement; or (b) the Collection of Source Separated Recyclable Materials or Source Separated Recovered Materials from Commercial Customers. The Contractor's gross billings shall include the billings for Special Collection Services. Gross billings means the amount billed in the invoices sent to the Contractor's Customers, not the revenues received by the Contractor.

On or before the tenth (10th) day of each Operating Month, the Contractor shall deliver to the City's Chief Financial Officer or their designee a report that summarizes the Contractor's Residential Collection Services and Commercial Collection Services during the prior Operating Month. The report shall identify the amount of the Franchise Fee to be paid by the Contractor to the City. The report also shall identify the amount of the administrative fees to be paid to the City pursuant to Section 40.2, below. The format and content of the report shall be subject to the approval of the City's Chief Financial Officer or their designee. The report shall include, but is not limited to: the name of each Commercial Customer; the service address of each Commercial Customer; the account number of each Commercial Customer; the exact services rendered to each Commercial Customer, including the size of each Collection Container used by the Customer and the frequency of Collection Service; the amount billed to each Commercial Customer; the Special Collection Services (if any) provided to each Residential Customer; and the amount billed to each Residential Customer for Special Collection Services. The report shall be submitted with an Excel spreadsheet or in another format that is compatible with the City's computer software programs.

The City shall deduct the Franchise Fees and administrative fees for Residential Collection Services from the revenues the City collects from Residential Customers. The Contractor shall pay the Franchise Fees and administrative fees for Commercial Collection Services each month, within ten (10) days after the end of the month in which the Commercial Collection Service were provided. If the Contractor fails to timely pay the Franchise Fees and administrative fees for Commercial Collection Service, the City may deduct those Franchise Fees and administrative fees from the City's monthly payment to the Contractor for Residential Collection Services or withhold the City's monthly payment until the Franchise Fees and administrative fees are paid.

The exact nature and amount of the Franchise Fees and administrative fees for Residential and Commercial Collection Services may be changed by the Commission from time-to-time. Any such changes shall warrant a corresponding change in any Rates or calculations that include the Franchise Fee or administrative fee.

The City may hire an independent, third party accountant to conduct an audit of the Contractor's records concerning the Franchise Fees and administrative fees paid to the City during a prior Operating Year. The cost of the audit will be paid by the City. However, the Contractor shall pay the cost of the audit if the audit reveals that the Contractor's payments of Franchise Fees or administrative fees during the Operating Year were less than ninety-five percent (95%) of the total amount actually owed for such services for the year.

40.2 ADMINISTRATIVE FEES

The Contractor shall pay an administrative fee to the City for each Commercial Customer that receives Collection Services from the Contractor pursuant to this Agreement. The administrative fee currently is Thirty Five Cents (\$0.35) per Customer. It is intended that this administrative fee shall be passed on to and paid by the Contractor's Customers; the fee is independent of and separate from the Contractor's Rates.

40.3 OTHER PAYMENTS

The City shall submit invoices to the Contractor for any fee or charge that is due and owed to the City from the Contractor, except for the payments otherwise addressed in this Section 40. The Contractor shall pay the City's invoice within thirty (30) calendar days after receipt.

41. RECYCLING REVENUES FOR CITY

The Contractor shall not receive any revenues derived from the sale of Source Separated Recyclable Materials that the Contractor collects from any Residential Customers. The City and the Designated Facility for Source Separated Recyclable Materials shall decide whether, and the extent to which, they will share the revenues derived from the sale of such materials. The current revenue sharing arrangement is described in the Interlocal Agreement. However, the provisions of this Section 41 do not apply to the sale of Recovered Materials that are generated and Source Separated on Commercial Property.

42. PAYMENT OF TIPPING FEES

- 42.1** Subject to the conditions and limitations contained herein, the Contractor shall pay the Tipping Fees for the disposal of any Solid Waste that is collected by the Contractor under this Agreement, including the Tipping Fees charged by the Authority for the disposal of Contaminated Recyclable Material. The Contractor shall receive the City's disposal credits pursuant to Section 39.5, but if these credits are insufficient to pay the Tipping Fees or other costs of disposal, the Contractor shall

pay those costs. Among other things, the Contractor also shall pay the Tipping Fees and disposal costs for any Solid Waste that: (a) is collected from a Commercial Customer; (b) is collected outside of the Service Area; (c) is not Residential Waste; or (d) is not collected pursuant to this Agreement.

- 42.2** Pursuant to the interlocal agreement that is attached hereto in Exhibit 13, the Authority may require the City to pay the Tipping Fees for the disposal of any Load of Contaminated Recyclable Material that the Contractor delivers to the Authority's Solid Waste Management Facilities or Recovered Materials Processing Facilities. If the City pays such Tipping Fees to the Authority, the City shall deduct an equal sum from the City's next monthly payment to the Contractor.

43. VERIFICATION OF PAYMENT AMOUNTS

The City's acceptance of any payment from the Contractor, or the City's deduction of any amount from any payment due to the Contractor, shall not be construed as an accord that the amount paid is the correct amount, nor shall it be construed as a release or satisfaction of any claim the City may have for additional sums payable from the Contractor.

44. ADMINISTRATIVE CHARGES

44.1 BASIS FOR ADMINISTRATIVE CHARGES

The City and Contractor acknowledge and agree that it is difficult or impossible to accurately determine the amount of damages that would or might be incurred by the City due to those failures or circumstances described in this Section 44 and for which the Contractor would otherwise be liable. Accordingly, the Contractor and the City have established the terms and amounts of the administrative charges set forth herein, and the Parties agree that the administrative charges are reasonable under the circumstances. The Contractor and City also have consulted with their legal counsel and confirmed that these administrative charges are appropriate and will help the Parties accomplish their mutual goal of providing certainty about such matters. Therefore, the following administrative assessments shall constitute liquidated damages, not penalties, for the Contractor's breach of this Agreement.

44.2 PROCEDURE FOR ASSESSING ADMINISTRATIVE CHARGES

- 44.2.1** The Administrator shall conduct a preliminary evaluation of the relevant facts before the Administrator decides whether administrative charges should be assessed against the Contractor. At a minimum, the Administrator shall provide written notice to the Contractor, and offer to discuss the relevant facts with the Contractor within five (5) Operating Days after the date of the notice. In all cases, the Contractor shall have the right to present photographs, GPS data, and other relevant information to the Administrator and thus demonstrate that administrative charges should not be imposed. Following this discussion (if any) or the expiration of the five (5) Operating Day period, whichever occurs first, the Administrator shall determine whether administrative charges should be assessed. The City shall not assess and the Contractor shall not be required to pay administrative charges in those cases where the delay or failure in the Contractor's performance was (a) excused in advance by the Administrator or (b) due to unforeseeable causes that were beyond the Contractor's reasonable control, and without any fault or negligence on the part of the Contractor.

- 44.2.2 Prior to assessing administrative charges, the Administrator shall provide written notice to the Contractor, indicating the City's intent to assess administrative charges and the basis for the City's position. The Administrator's notice shall be provided to the Contractor within ninety (90) days after the incident that is the subject of the proposed administrative charges.
- 44.2.3 After receiving the Administrator's letter, Contractor shall have ten (10) Operating Days to file a written letter of protest with the Administrator.
- 44.2.4 If a protest is timely filed, the matter shall be referred to the Manager for resolution. The Manager shall review the issues in a timely manner and then provide a written decision to the Contractor. The Manager's decision shall be final and non-appealable, except as provided in Section 44.2.6.
- 44.2.5 If a protest or petition is not timely filed by the Contractor, or if the Manager concludes that administrative charges should be assessed, the Contractor shall deliver its payment of administrative charges to the Administrator within twenty (20) days of receiving the written decision of the Administrator or Manager, as applicable. If the Contractor fails to pay an administrative charge when due, the City may deduct the administrative charge from the City's monthly payments to the Contractor or withhold the monthly payment until the administrative charge is paid.
- 44.2.6 The procedures in this Section 44 shall be used in lieu of the procedures in Section 49 when resolving disputes concerning administrative charges, unless the administrative charges assessed in one month will exceed Ten Thousand Dollars (\$10,000). If the administrative charges will exceed this threshold, then the Contractor may use the procedures in Section 49, at the Contractor's option, to resolve any dispute concerning the administrative charges for that month.

44.3 ADMINISTRATIVE CHARGES BEFORE COMMENCEMENT DATE

In addition to the administrative charges authorized pursuant to Section 44.4, below, the Administrator shall impose administrative charges for the Contractor's actions during the Transition Period in the amounts set forth in Sections 44.3.1 through 44.3.4, below:

- 44.3.1 Failure to provide purchase orders or other documentation to the City by the deadline in Section 5.2(d) confirming that all necessary Collection vehicles, equipment, and Collection Containers have been ordered and are scheduled to be delivered to the Contractor's equipment yard no later than the deadline in Section 5.2(d). For each calendar day of delay, Five Hundred Dollars (\$500) shall be assessed against the Contractor.
- 44.3.2 Failure to mail or deliver the City-approved brochures and informational materials to all Customers in compliance with the schedules in Section 36.1. For each calendar day of delay, Twenty-Five Dollars (\$25) shall be assessed against the Contractor for each Customer that did not receive the appropriate materials in compliance with the schedules herein, but the maximum assessment shall not exceed Three Thousand Dollars (\$3,000) per day.

- 44.3.3 Failure to have all of the necessary Collection vehicles delivered to the Contractor's equipment yard by the deadline in Section 5.2(d). For each calendar day of delay, Four Thousand Dollars (\$4,000) shall be assessed against the Contractor.
- 44.3.4 Failure to timely file any report, plan, or other document (collectively, "Document") required pursuant to Section 5.2 shall result in the imposition of a One Hundred Dollar (\$100) assessment for each calendar day that such Document is late. A separate assessment shall be imposed for each Document that is late. For the purposes of this Section 44.3.4 only, a Document shall be deemed late if (a) the Administrator gives written notice to the Contractor that the Document was not filed in compliance with the schedule in Section 5.2 and (b) the Contractor fails to submit the Document within five (5) Operating Days after the Administrator provides notice.

44.4 ADMINISTRATIVE CHARGES DURING TERM OF AGREEMENT

On the Commencement Date and throughout the remainder of the term of the Agreement, the Administrator shall assess administrative charges as follows:

- 44.4.1 Failure to clean up Solid Waste, litter, or other material in compliance with the requirements in this Agreement, within the deadlines set forth herein, after receiving written notification by the Administrator or a Customer. Each failure shall result in the imposition of a One Hundred Fifty Dollar (\$150) assessment per event.
- 44.4.2 Failure to collect the Garbage, Rubbish, Yard Waste, Bulky Waste, or Source Separated Recyclable Material that was properly Set Out for Collection by a Customer on the Scheduled Collection Day, within twenty-four (24) hours after receiving written notification (e.g., via e-mail) from the City or Customer. Each failure shall result in the imposition of a One Hundred Dollar (\$100) assessment for each Operating Day of delay.
- 44.4.3 Failure to complete a Route on the Scheduled Collection Day, within the deadlines set forth herein, after receiving written notification by the City or the Customer. A Route shall be considered incomplete if ten (10) or more Dwelling Units on the Route do not receive Collection Service on the Scheduled Collection Day. Each failure shall result in an assessment of One Thousand Dollars (\$1,000) per Route, per Operating Day. This assessment shall be used in lieu of Section 44.4.2 in cases involving incomplete Routes.
- 44.4.4 Mixing Source Separated Recyclable Materials with Solid Waste, or mixing any other materials that are required to be collected separately, shall result in the imposition of a Five Hundred Dollar (\$500) assessment per occurrence. This assessment shall only be imposed in cases where the Contractor mixed such materials together. An assessment shall not be imposed in cases where the Contractor merely collected materials that already had been mixed together by a Customer.
- 44.4.5 Failure to maintain a Collection vehicle or equipment in a clean and sanitary manner within the deadlines set forth herein, after receiving written notification from the Administrator, shall result in the imposition of an assessment of One Hundred Dollars (\$100) per incident per Operating Day.

- 44.4.6 Failure to respond to a Legitimate Complaint within the time frame specified herein, after receiving written notification from the Administrator or a Customer, shall result in a Fifty Dollar (\$50) assessment per occurrence.
- 44.4.7 Failure to resolve a Legitimate Complaint, other than a Missed Collection, within seven (7) Operating Days after receiving written notification from a Customer or the Administrator, shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment per Operating Day until such complaint is resolved to the reasonable satisfaction of the Administrator. The deadline for resolving the complaint shall be extended where such extension is authorized by other provisions of this Agreement.
- 44.4.8 Failure to timely file any report, plan, or other document (collectively, "Document") required herein shall result in the imposition of a One Hundred Dollar (\$100) assessment for each Operating Day that such Document is late. A separate assessment shall be imposed for each Document that is late. For the purposes of this Section 44.4.8 only, a Document shall be deemed late if (a) the Administrator gives written notice to the Contractor that the Document was not filed in compliance with the schedule in this Agreement and (b) the Contractor fails to submit the Document within five (5) Operating Days after the Administrator provides notice.
- 44.4.9 Failure to dispose of any Residential Waste or Commercial Waste collected in the Service Area at a Designated Facility shall result in the imposition of an assessment equal to the current Tipping Fee at the Designated Facility times the amount (tonnage) of material disposed at the non-Designated Facility. If the tonnage is unknown, the assessment shall be Two Thousand Dollars (\$2,000) per occurrence.
- 44.4.10 Failure to deliver Source Separated Recyclable Materials to a Designated Facility for such materials pursuant to Section 21, or delivering Source Separated Recyclable Materials to a facility for disposal, shall result in the imposition of an assessment of Three Thousand Dollars (\$3,000) per occurrence.
- 44.4.11 Failure to correct chronic Collection problems shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment per occurrence. Chronic shall mean three (3) or more Legitimate Complaints at the same Premises for the same issue within a twelve (12) month period. The first assessment shall be imposed for the third Legitimate Complaint. An additional assessment in the same amount shall be imposed for each Legitimate Complaint thereafter.
- 44.4.12 Failure to correct chronic problems with a Collection Vehicle shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment. Chronic shall mean three (3) instances of the same or similar problem with the same vehicle within a twelve (12) month period. The first assessment shall be imposed for the third problem. An additional assessment in the same amount shall be imposed for each problem thereafter.
- 44.4.13 Failure to properly and legibly label a Collection Vehicle or Collection Container in the manner required herein, within five (5) Operating Days after receiving notice from the Administrator, shall result in the imposition of a One Hundred Dollar (\$100) assessment for each vehicle and each container that is not properly labeled.

- 44.4.14 Failure to have a vehicle operator properly licensed, or failure of the operator to carry his license while on duty, shall result in a One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.15 Failure to maintain office hours in the manner specified in this Agreement shall result in a Two Hundred Dollar (\$200) assessment per occurrence.
- 44.4.16 Failure to deliver a Collection Container, or failure to replace or repair a damaged Collection Container, or failure to replace a stolen Collection Container, or failure to exchange a Collection Container, within the deadlines specified in this Agreement after receiving written notice from the Administrator or a Customer, shall result in a One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.17 If the Contractor notifies the Administrator that a complaint has been resolved, when the complaint has not been resolved, there shall be a Two Hundred Dollar (\$200) assessment per occurrence.
- 44.4.18 Collecting Solid Waste or Source Separated Recyclable Materials at times that are outside of the hours specified in this Agreement, without prior approval of the Administrator, shall result in a One Hundred Dollar (\$100) assessment per occurrence per vehicle.
- 44.4.19 Leaving Collection Containers where they block driveways, alleys, streets, or roads shall result in the imposition of a One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.20 Failure to provide timely notices and educational materials to a Customer, as required pursuant to Section 36, shall result in the imposition of an assessment in the amount of Twenty-Five Dollars (\$25) per Customer per occurrence, but the maximum assessment shall not exceed One Thousand Dollars (\$1,000) per occurrence.
- 44.4.21 Failure to clean up spilled liquids, including but not limited to leachate, oil, and hydraulic fluids, within the deadlines set forth in Section 22.6, shall result in the imposition of an assessment of Five Hundred Dollars (\$500) per occurrence for each Operating Day of delay.
- 44.4.22 Failure to repair damage to public or private roadways, including but not limited to damage resulting from spills of oil, hydraulic fluids, or other liquids, within the deadlines in Section 19.6, shall result in the imposition of a Five Hundred Dollar (\$500) assessment per occurrence for each Operating Day of delay.
- 44.4.23 Failure to repair damage to a Customer's property within the deadlines set forth in this Agreement, after receiving written notice from the Customer or Administrator, shall result in the imposition of an assessment of Two Hundred Fifty Dollars (\$250) per occurrence per Operating Day. This Section 44.4.23 does not apply to cases involving damages to roadways.
- 44.4.24 Failure to respond to the Administrator by 5:00 p.m. on the first Operating Day following a telephone call, voice message, facsimile transmission, or electronic message requesting a response from the District Manager, shall result in the

imposition of an assessment of One Hundred Dollars (\$100), which shall be increased by another One Hundred Dollars (\$100) per day for each additional Operating Day of delay. For the purposes of this Section 44.4.24, a response from the District Manager's designee (e.g., a supervisor) shall be sufficient.

- 44.4.25 Failure to comply with the deadlines and requirements in Section 50 concerning the Contractor's obligations prior to the termination of this Agreement, shall result in the imposition of an assessment of Two Thousand Dollars (\$2,000) per Operating Day per occurrence.
- 44.4.26 Failure to cover or enclose Solid Waste and Source Separated Recyclable Materials in the Contractor's Collection vehicles, as required herein, shall result in an assessment of Two Hundred Fifty Dollars (\$250) per occurrence.
- 44.4.27 Willful, negligent, or fraudulent failure to provide accurate information to the City concerning the Contractor's Collection Services or the calculation of the Franchise Fees for such Services, shall result in the imposition of an assessment of One Thousand Dollars (\$1,000) per occurrence.
- 44.4.28 Failure to close the gate on an enclosure for a Mechanical Container, or failing to close the lid on a Mechanical Container, or failing to lock all of the locks on a Commercial Customer's Mechanical Container, shall result in an imposition of an assessment of One Hundred Dollars (\$100) per occurrence.
- 44.4.29 Failure of the Contractor's employee to wear an appropriate uniform while on duty, pursuant to Section 30.5, shall result in a Fifty Dollar (\$50) assessment per occurrence.
- 44.4.30 Failure to place a warning notice or educational materials on a Recycling Container that contains Contaminated Recyclable Material shall result in the imposition of an assessment of Fifty Dollars (\$50) per occurrence.
- 44.4.31 Failure to use all of the vehicles that the Contractor promised to commit to the City, as summarized in Exhibit 14, shall result in the imposition of an assessment of Two Thousand Dollars (\$2,000) per vehicle per Operating Day, but the assessment shall not exceed Ten Thousand Dollars (\$10,000) per vehicle per Operating Month.
- 44.4.32 Failure to use all of the employees that the Contractor promised to commit to the City, as summarized in Exhibit 14, shall result in the imposition of an assessment in the amount of Three Hundred Dollars (\$300) per employee per Operating Day, but the assessment shall not exceed Three Thousand Dollars (\$3,000) per employee per Operating Month.

Solely for the purposes of this Section 44, the following provisions shall apply: (a) written notice includes electronic mail that is sent to the Contractor; and (b) written notice must be provided under Sections 44.3 and 44.4 only in those cases where it is expressly required.

45. PAYMENTS WITHHELD FROM CONTRACTOR

In addition to the remedies provided elsewhere in this Agreement, the City may withhold part or all of any payment otherwise due the Contractor from the City if the Administrator concludes that the Contractor's actions or inactions have resulted in the following:

- (a) The Contractor's failure to carry out lawful instructions or orders from the Administrator, when required by this Agreement;
- (b) Failure of the Contractor to make payments to any subcontractor, which results in a claim against the City;
- (c) Unsafe working conditions allowed to persist by the Contractor, after receiving notice from the City or OSHA;
- (d) Failure of the Contractor to provide Routes, schedules, data, documents or reports in compliance with this Agreement, within five (5) Operating Days after receiving written notice from the City in compliance with Section 74, below; or
- (e) Failure to pay an administrative charge when due.

If the foregoing problems are corrected, payment shall be made to the Contractor for the amounts withheld, but the City shall not be liable to the Contractor for Interest on any delayed payment. The Administrator shall not exercise the City's right to withhold payments under this Section 45 unless the Administrator concludes that such action is reasonable and necessary in light of the Contractor's repeated problems or persistent failure to perform in compliance with the requirements herein. Under this Section 45, the City shall not withhold more than a total of Fifty Thousand Dollars (\$50,000) from any single payment.

46. NO LIABILITY FOR DELAYS OR NON-PERFORMANCE DUE TO FORCE MAJEURE EVENTS

- 46.1** If the City or the Contractor is unable to perform or is delayed in the performance of any obligations under this Agreement by reason of any event of Force Majeure, such inability or delay shall be excused for any time during which compliance is prevented by such event and during such period thereafter as may be reasonably necessary for the City or the Contractor to correct the adverse effect of such event of Force Majeure.
- 46.2** Although a failure of performance shall be excused when caused by a Force Majeure event, Multi-Family Customers using Mechanical Containers and Commercial Customers shall only be required to pay for the services they receive. The Contractor shall not be paid by such Customers for services that were not provided due to a Force Majeure event. The City shall continue to pay the Contractor for all Residential Collection Services, notwithstanding the interruption or delay of performance caused by the Force Majeure event, but, after seventy-two (72) hours, the City is not required to pay for any service that is not provided by Contractor. For example, the City shall not be obligated to pay for a Residential Collection Service (e.g., Collection of Yard Waste) if that service is never provided as a result of a Force Majeure event. The City shall not be liable for any loss suffered by the Contractor as a result of an event of Force Majeure.

- 46.3** Labor disputes, labor shortages, changing economic conditions, and the economic hardship of the Contractor shall not be considered an event of Force Majeure.
- 46.4** To be entitled to the benefit of this Section 46, a Party claiming an event of Force Majeure shall give prompt written notice to the other Party, specifying in detail the event of Force Majeure, and shall diligently proceed to correct the adverse effect of any Force Majeure. The Parties agree that, as to this Section 46, time is of the essence.

47. BREACH AND TERMINATION OF AGREEMENT

47.1 TERMINATION BY EITHER PARTY FOR CAUSE

Subject to the other provisions contained herein, either Party may terminate this Agreement if the other Party fails to perform any of its material obligations hereunder. A default by the Contractor shall include but not be limited to the following:

- 47.1.1 Refusing to comply with any lawful and material order of the Manager.
- 47.1.2 Failing to begin work within the time specified in this Agreement.
- 47.1.3 Discontinuing operations without prior authorization from the Administrator.
- 47.1.4 Failing to resume work that has been suspended within a reasonable time, not to exceed two (2) Operating Days, after being notified to do so.
- 47.1.5 Failing to obey any Applicable Law.
- 47.1.6 Soliciting or accepting any Rates, charges or fees from Customers for the Collection, disposal, or processing of Solid Waste or Source Separated Recyclable Materials collected within the Service Area, except when such actions are explicitly authorized herein.
- 47.1.7 Failing to deliver Residential Waste, Commercial Waste, or Source Separated Recyclable Materials collected in the Service Area to a Designated Facility.
- 47.1.8 Failing to pay or circumventing the payment of any Tipping Fee that the Contractor is obligated to pay to a Designated Facility pursuant to this Agreement.
- 47.1.9 Failing to comply with the procedures in the Contractor's Collection Plan.
- 47.1.10 Failing to obtain or continuously maintain insurance policies in the manner required herein.
- 47.1.11 Failing to pay, when due, any sums owed to a subcontractor for services or materials provided pursuant to this Agreement.
- 47.1.12 Failing to provide or continuously maintain the Performance Bond required pursuant to Section 54.
- 47.1.13 A Parent Corporation Guarantee provided pursuant to Section 55 is revoked.

- 47.1.14 A representation or warranty provided by the Contractor in this Agreement is or becomes inaccurate in any material respect.

Before a party may terminate this Agreement pursuant to this Section 47.1, the non-defaulting party shall give written notice to the other party that a default exists which will, unless corrected, constitute an event of default on the part of the defaulting party. The notice shall inform the defaulting party that this Agreement shall be terminated unless the default is cured within seven (7) calendar days following the defaulting party's receipt of the notice. If a cure cannot reasonably be effected within seven (7) days despite the exercise of due diligence, the defaulting Party may request an extension of time to cure the default. In such circumstances, the defaulting Party shall submit a written request to the non-defaulting Party, explaining in detail why the cure cannot be completed within seven (7) days. The request shall be delivered prior to the expiration of the cure period. If the defaulting Party's request is reasonable, as determined by the Administrator in cases where the defaulting Party is the Contractor, the time to cure the default shall be extended to include such additional time as is reasonably necessary to effect a cure, provided that the defaulting party exercises continuous diligent efforts to cure the default during the extended cure period. If the defaulting party fails to cure the default within the cure period, the non-defaulting party may terminate this Agreement. The termination shall take effect as of the date specified by the non-defaulting party. Upon termination, the non-defaulting party may cure the default at the expense of the defaulting party, and shall have recourse to any other right or remedy to which the non-defaulting party may be entitled under this Agreement, at law, or in equity.

Notwithstanding anything else contained herein, each of the events described in Sections 47.1.15, 47.1.16, 47.1.17, and 47.1.18, below, shall constitute an event of default for which there shall be no opportunity to cure. For such events, termination shall be effective three (3) calendar days after the non-defaulting party gives notice to the defaulting party or at such other time designated by the non-defaulting party.

47.1.15 Voluntary Bankruptcy

Written admission by a party that it is bankrupt; or filing by a party of a voluntary petition under the Federal Bankruptcy Act; or consent by a party to the court appointment of a receiver or trustee for all or a substantial portion of its property or business; or the making of any arrangement by a party with, or for the benefit of, its creditors or assigning to a trustee, receiver, or similar functionary (regardless of how designated) all or a substantial portion of a party's property or business; or by becoming insolvent.

47.1.16 Involuntary Bankruptcy

Final adjudication of a party as bankrupt under the Federal Bankruptcy Act.

47.1.17 Public Entity Crime

The Contractor is placed on a convicted vendor list following a conviction for a public entity crime; or

47.1.18 Fraud

The Contractor commits an act or omission constituting fraud, gross negligence, misfeasance, or willful malfeasance toward the City.

47.2 INTERIM OPERATIONS

In the event that this Agreement is terminated before the end of any term, the Contractor shall continue its operations for an interim period of up to twelve (12) additional calendar months if requested to do so by the City. The Contractor shall be paid for its services during said interim period at the rates in effect prior to issuance of the notice of termination, subject to CPI and other applicable adjustments.

Notwithstanding anything else contained herein, the City may hire an alternate Person to provide some or all of the Collection Services in the City if the Contractor fails to provide Collection Service for a period of three (3) consecutive Operating Days. The City's interim service provider shall continue to provide Collection Service until the Contractor demonstrates to the City's satisfaction that the Contractor is able to resume work in compliance with the requirements in this Agreement. However, if the Contractor is unable for any reason to resume performance within thirty (30) calendar days, the City may terminate this Agreement, effective as of the date designated by the City. The Contractor shall reimburse the City for any and all reasonable costs incurred by the City related to or arising from the use of an alternate Person to provide Collection Service.

47.3 EFFECT OF TERMINATION

If this Agreement is terminated pursuant to the provisions of this Section 47, neither the City nor the Contractor shall have any further duty, right, liability, or obligation under this Agreement, except that: (a) a party will not be relieved from liability for a breach of a warranty, obligation, or representation under this Agreement that occurred before the effective date of the termination; (b) the City shall pay all amounts owed to the Contractor, and the Contractor shall pay all amounts owed to the City, pursuant to this Agreement, through the date of the termination; (c) the Contractor shall deliver to the City all reports concerning the Contractor's activities through the end of the month in which termination occurs; (d) at a minimum, the provisions of Sections 35.1, 35.6, and 52 shall survive the expiration or termination of this Agreement; and (e) any term, condition, covenant, or obligation which requires performance by a party subsequent to the termination of this Agreement shall remain enforceable against such party subsequent to such termination.

48. OPERATIONS DURING DISPUTE

If a dispute arises between the City, the Contractor, or any other Person concerning the Contractor's performance, rights, or compensation under this Agreement, the Contractor shall continue to perform its duties in strict compliance with the requirements of this Agreement, regardless of the pending dispute.

49. DISPUTE RESOLUTION PROCESS

- 49.1** The City and the Contractor agree to cooperate and act in good faith at all times when dealing with each other. If a dispute arises between the Parties, the Parties shall attempt to resolve their differences quickly and informally. If they are unable to do so, they shall seek relief by following the procedures set forth below.
- 49.2** All claims, disputes and controversies arising out of or related to the performance, interpretation, application or enforcement of this Agreement, including but not limited to claims for payment and claims for breach of this Agreement, shall be referred to non-binding mediation before initiation of

any adjudicative action or proceeding at law or in equity, unless it shall be unreasonable to do so or an emergency situation or necessity dictates otherwise. All applicable statutes of limitations and defenses based on the passage of time shall be tolled while the mediation process is pending. The Parties will take all reasonable measures necessary to effectuate such tolling.

- 49.3** Either Party may initiate the mediation process by delivering written notice to the other Party that sets forth with particularity the nature of the Party's claim or demand, the authority for making the claim or demand, a proposed remedy, the nature and extent of any monetary claim, and a request for mediation. The Contractor and the City shall then participate fully in the mediation process and conscientiously attempt to resolve their dispute. The mediation shall be conducted in Palm Beach County, Florida, in accordance with the Florida Supreme Court's mediation rules and Chapter 44, Florida Statutes, within sixty (60) days after the selection of a certified civil mediator who is mutually acceptable to the Parties. After consultation with the Parties and their counsel, the mediator shall fix a reasonable time and place in Palm Beach County for the mediation conference. The mediation conference shall be scheduled for no less than one full working day, and each Party and its primary counsel shall attend the mediation conference. If either a Party or its primary legal counsel fails to attend the mediation conference, that Party shall be liable for the other Party's reasonable cost of attending the mediation conference, including the mediator's fee and the other Party's attorney fees and costs. Except as provided in the preceding sentence, the Parties shall share equally the costs of mediation, including the fees of the mediator and any rental or other cost of obtaining a place for the mediation, but excluding their own expenses and attorney fees. The Parties recognize that any proposed settlement of their dispute may need to be approved by the City Commission. If the Parties reach a mutually acceptable settlement of the dispute during the mediation, and the settlement is approved by the appropriate representatives of the Parties, the Parties shall memorialize the settlement in a written settlement agreement that will be binding on both of them. Mediation discussions between Parties and opinions of the mediator are confidential and are not permitted to be relied on, referred to, or introduced as evidence in any subsequent litigation or other legal proceeding. If a dispute is not resolved pursuant to mediation within sixty (60) days after the initiation of the mediation conference, either Party to the dispute may elect to resolve the dispute by initiating litigation, after providing ten (10) days' advance written notice to the other Party.
- 49.4** Notwithstanding the foregoing, if either Party terminates this Agreement for cause, the terminating Party shall have the right, in its sole discretion, to proceed directly with litigation of any claims or disputes relating to the termination for cause and may include other claims and disputes unrelated to the termination, and shall not be required to submit such claims or disputes to mediation.
- 49.5** The Parties agree that any claim filed in state or federal court concerning this Agreement shall be heard by a judge, sitting without a jury.
- 49.6** AFTER CONSULTING WITH THEIR OWN LEGAL COUNSEL, THE CITY AND THE CONTRACTOR HEREBY KNOWINGLY, VOLUNTARILY, AND PERMANENTLY WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL CONCERNING THE PERFORMANCE, INTERPRETATION, APPLICATION OR ENFORCEMENT OF THIS AGREEMENT.

IF A PARTY REQUESTS A JURY TRIAL IN ANY CASE IN WHICH THE RIGHT TO A JURY TRIAL HAS BEEN WAIVED PURSUANT TO THIS SECTION 49.6, THAT PARTY SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS INCURRED BY THE OTHER PARTY IN OPPOSING THE REQUEST FOR A JURY TRIAL, PROVIDED: (A) THE PARTY OPPOSING THE REQUEST NOTIFIED THE OTHER PARTY IN WRITING

THAT THE RIGHT TO A JURY TRIAL HAD BEEN WAIVED PURSUANT TO THIS SECTION 49.6; (B) THE PARTY REQUESTING THE JURY TRIAL FAILED TO WITHDRAW ITS REQUEST WITHIN THIRTY (30) DAYS AFTER RECEIVING SUCH NOTICE; AND (C) THE COURT RULED THAT THE REQUEST FOR A JURY TRIAL HAD BEEN WAIVED PURSUANT TO THIS SECTION 49.6. IN SUCH CASES, THE COURT SHALL AWARD REASONABLE ATTORNEYS' FEES AND COSTS TO THE PARTY OPPOSING THE JURY TRIAL.

50. CONTRACTOR'S OBLIGATIONS PRIOR TO TERMINATION OF THIS AGREEMENT

50.1 CONTINUATION OF CONTRACTOR'S SERVICE

The City will attempt to award a new franchise agreement to a Person at least nine (9) months prior to the expiration of this Agreement and thus help ensure that there is a smooth transition in services when this Agreement expires. If the City concludes that it will be unable to award and implement a new agreement in a timely manner, the City may extend this Agreement for up to an additional twelve (12) calendar months, subject to the terms and conditions in effect at that time. However, the Contractor shall not be obligated to provide its services under this Section 50.1, or Section 47.2, or both, for more than a total of twelve (12) calendar months.

50.2 SALE OR LEASE OF CONTRACTOR'S MECHANICAL CONTAINERS

Upon request, the Contractor shall enter into good faith negotiations to allow the City or the City's newly selected franchise hauler to purchase, or rent for up to three (3) Operating Months, the Mechanical Containers (if any) used and owned by the Contractor in the Service Area. The purchase price and rental fee shall be negotiated, but the purchase price shall not be greater than the fair market value.

50.3 SCHEDULE FOR TERMINATION OF CONTRACTOR'S SERVICE

Prior to the termination of this Agreement, the Contractor shall work with the City to ensure that there is no interruption or reduction of service when the Contractor ends its services to the City. If a new franchise agreement is awarded to a Person other than the Contractor, the Contractor shall coordinate and cooperate with the newly selected franchise hauler, as well as the City, to minimize any disruptions in the service provided to the public. At a minimum, the Contractor shall comply with the following performance requirements and deadlines:

180 calendar days prior to expiration of Agreement	If requested, the Contractor shall provide to the Administrator and the selected franchise hauler a Mechanical Container inventory, in a format acceptable to the City that includes each container's location (street address), capacity, identification number, and Collection frequency. Thereafter, the Contractor shall not replace or exchange any Contractor-owned Mechanical Container listed in the inventory, without the Administrator's approval.
150 calendar days prior to expiration of Agreement	The Contractor shall attend a coordination meeting with the selected franchise hauler and the City. At or before the coordination meeting, the Contractor shall provide the City with a list of Contractor-owned containers that may be purchased by the City or the selected franchise hauler.

120 calendar days prior to expiration of Agreement	The Contractor shall work with the selected franchise hauler to develop a mutually agreeable schedule for the removal of Contractor-owned Collection Containers and placement of the selected franchise hauler's containers.
30 calendar days prior to expiration of Agreement	The Contractor shall begin to implement the schedule in cooperation with the selected franchise hauler. The Contractor shall take all steps necessary to ensure there is no interruption in the Collection Service provided to Customers.

50.4 CITY'S RIGHT TO PROCURE NEW SERVICES

At any time, the City may issue a request for proposals, or commence negotiations with a Person other than the Contractor, or take any other step deemed necessary by the City to obtain the services of a Person who will collect Solid Waste for the City after this Agreement expires or is terminated.

51. DAMAGES

51.1 LIABILITY

The Contractor shall be liable for all injuries and conditions to the extent that are caused by or result from the Contractor's actions or omissions, including but not limited to the Contractor's negligence, willful misconduct, or failure to perform in accordance with the terms of this Agreement. To the extent that the City and the Contractor are found to be joint tortfeasors, losses shall be apportioned in the manner described in Section 51.2, below.

51.2 CONTRIBUTION

In the event of joint negligence on the part of the City and the Contractor, or joint negligence on the part of a City Indemnified Party and the Contractor, all losses and costs shall be apportioned in accordance with the provisions of Section 768.31, Florida Statutes, the Uniform Contribution Among Tortfeasors Act, subject to the recovery limits set forth in Section 768.28, Florida Statutes.

51.3 DAMAGES

The measure of damages to be paid by the Contractor to the City or by the City to the Contractor, due to any failure by the Contractor or the City to meet any of its obligations under this Agreement, shall be the actual damages incurred by the City or the Contractor. Neither Party shall have any liability under this Agreement for consequential, delay, special, indirect, or punitive damages. The foregoing shall apply without regard to either Party's rights to the Performance Bond, insurance proceeds, or other factors.

If the Contractor fails to comply with any Applicable Law, the Contractor shall promptly pay to the City the following:

- (a) All lawful fines, penalties, and forfeitures charged to the City by any judicial order or by any governmental agency responsible for the enforcement of the Applicable Law; and
- (b) The actual costs incurred by the City as a result of the Contractor's failure to comply with the Applicable Law, including any costs incurred in investigating and remedying the conditions which led to or resulted from the Contractor's failure to comply with the Applicable Law.

51.4 NO PERSONAL LIABILITY

Nothing in this Agreement shall be construed as creating any personal liability on the part of any officer, employee, agent or representative of the City or the Contractor.

52. INDEMNIFICATION

To the greatest extent allowed by Applicable Law, the Contractor releases and shall indemnify, hold harmless, and, if requested by the City, defend, each of the City Indemnified Parties from and against every Indemnified Loss. The obligation of the Contractor under this Section 52 is absolute and unconditional; to the extent allowed by Applicable Law and not otherwise prohibited, it is not conditioned in any way on any attempt by a City Indemnified Party to collect from an insurer any amount under a liability insurance policy, and is not subject to any set-off, defense, deduction, or counterclaim that the Contractor might have against the City Indemnified Party.

It is the intent of this Section 52 that the Contractor's indemnification obligations include all liabilities, including joint and several liability, of the Contractor, any subcontractor to the Contractor, or any subcontractor to a subcontractor of the Contractor, and anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

The City may employ any attorney of its choice or may use its in-house counsel to enforce or defend the City's right to indemnity provided by this Agreement. If a City Indemnified Party requests that the Contractor defend it with respect to any Indemnified Loss, the City Indemnified Party may participate in the defense at its sole cost and expense. The Contractor shall advance or promptly reimburse to a City Indemnified Party any and all costs and expenses incurred by the City Indemnified Party in connection with investigating, preparing to defend, settling, or defending any legal proceeding for which the City Indemnified Party is entitled to indemnification under this Agreement, whether or not the City Indemnified Party is a party or potential party to such proceeding.

The Contractor's obligation to indemnify, defend, and pay for the defense, or at the City's option, to participate and associate with the Contractor in the defense and trial of any claim and related settlement negotiations, shall be triggered by the City's notice of claim for indemnification. The Contractor's inability to evaluate liability or its evaluation of liability shall not excuse the Contractor's duty to defend and indemnify within seven (7) calendar days after receiving such notice from the City. Only an adjudication or final judgment after the highest appeal is exhausted, specifically finding the City solely negligent, shall excuse performance of the Contractor's obligations under this Section 52.

53. CONTRACTOR'S INSURANCE

The Contractor shall maintain, on a primary basis and at its sole expense, at all times on and after the Commencement Date until this Agreement expires or is terminated, policies of insurance that insure the Contractor against any and all claims, demands, or causes of action for injuries received or damages to people or property relating to the Contractor's negligent acts, and errors and omissions under this Agreement. At a minimum, the Contractor shall maintain at all times the following insurance coverage, with the limits and endorsements described herein. The requirements contained herein, as well as the City's review of and comments concerning the insurance maintained by the Contractor, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Agreement.

53.1 COMMERCIAL GENERAL LIABILITY

The Contractor shall maintain Commercial General Liability with the following minimum limits and coverage:

Each Occurrence/General Aggregate	\$1,000,000/\$2,000,000
Products – Completed Operations	\$2,000,000
Personal and Adv. Injury	\$1,000,000
Fire Damage	\$ 50,000
Contractual Liability	Included

The General Liability insurance form shall be no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent, without restrictive endorsements. Coverage shall not contain any endorsement(s) excluding nor limiting Products/Completed Operations, Contractual Liability or Cross Liability any further than the restrictions included in the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) or equivalent. The coverage shall include: (1) Bodily Injury and Property Damage; (2) Premises and Operations; (3) Independent Contractors; (4) Products and Completed Operations; (5) Broad Form or equivalent Contractual Coverage applicable to the Agreement and consistent with the indemnification and hold harmless provisions in the Agreement; (6) Broad Form or equivalent Property Damage Coverage; and (7) Personal Injury Coverage with employment and contractual exclusions removed and deleted.

53.2 BUSINESS AUTOMOBILE LIABILITY

The Contractor shall maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Combined Single Limit / Each Accident. Coverage shall include liability for Owned, Non-Owned & Hired automobiles.

53.3 POLLUTION LIABILITY

The Contractor shall maintain Pollution Legal Liability and Remediation Insurance at a minimum limit of liability not less than \$2,000,000 Each Occurrence / \$5,000,000 Aggregate including all sudden and non-sudden events. The policy shall be maintained for a minimum of three (3) years following the expiration or termination of the Agreement.

53.4 UMBRELLA OR EXCESS LIABILITY

The Contractor shall provide an Umbrella or Excess Liability policy with coverage in the amount of \$10,000,000. The Contractor may utilize the Umbrella or Excess Liability policy to meet the aggregate limit requirements of any underlying liability policy. The Contractor shall endorse the City as an “Additional Insured” on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a “True Following-Form” basis. This liability may be satisfied by the Umbrella Liability form, and the limit may be satisfied by multiple layers of coverage.

53.5 WORKERS’ COMPENSATION INSURANCE & EMPLOYERS’ LIABILITY

The Contractor shall maintain Workers’ Compensation Insurance & Employers’ Liability in accordance with Chapter 440, Florida Statutes. The Contractor shall maintain Employers’ Liability Limits not less than \$1,000,000 Each Accident, \$1,000,000 Disease Each Employee, and \$1,000,000 Disease Policy Limit.

53.6 ADDITIONAL INSURED ENDORSEMENTS

The Contractor shall endorse its insurance with the City as an Additional Insured as follows: (1) for the Commercial General Liability, the Contractor shall endorse the City with the CG 2010 07 04 or CG 2010 04 13 Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization endorsement, or similar endorsement; (2) for the Business Automobile Liability, the Contractor shall endorse the City with a CA 2048 – Designated Insured, or similar endorsement; (3) for the Pollution Liability, the Contractor shall endorse the City with the standard Additional Insured endorsement filed by the insurer for use in the State of Florida; and (4) for the Excess Liability, the Contractor shall endorse the City as an "Additional Insured" on the Umbrella or Excess Liability, unless the policy provides coverage to the underlying policies on a "True Following-Form" basis. The Additional Insured shall read "City of Delray Beach, a municipal corporation of the State of Florida, and the Commission," for all endorsements. These endorsements shall specifically state that the coverage afforded by the endorsement shall be provided on a primary and non-contributory endorsement. This primary and non-contributory language can be included in the additional insured endorsement, can be provided in a separate stand-alone endorsement, or this language can be included in the actual liability coverage form for the line of insurance coverage that is being evidenced to the City. A copy of any endorsement issued to extend coverage to the City must be provided when evidencing insurance to the City.

53.7 WAIVER OF SUBROGATION

The Contractor shall endorse the Commercial General Liability with a Waiver of Subrogation endorsement GC 2404 A 05 09 Waiver of Transfer of Rights of Recovery Against Other to Us, or similar endorsement providing equal or broader Waiver of Subrogation, as well as a Waiver of Subrogation for every other required policy herein in favor of the City for each required policy providing coverage during the entire term of this Agreement. When required by the insurer, or should a policy condition not permit the Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, the Contractor shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy that includes a condition specifically prohibiting such an endorsement, or voids coverage should the Contractor enter into such an agreement on a pre-loss basis. A copy of any endorsement issued to extend coverage to the City must be provided when evidencing insurance to the City.

53.8 CERTIFICATE(S) OF INSURANCE

Within ten (10) days after the Effective Date, the Contractor shall provide the City with a Certificate of Insurance evidencing that all coverages, limits, and endorsements required herein are maintained and in full force and effect. Said Certificate of Insurance shall provide a minimum of thirty (30) days prior written notice to the City of any cancellation or non-renewal of coverage. If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, the Contractor shall provide notice to the City within five (5) Operating Days, and the notice shall include a copy of the non-renewal or cancellation notice or a written statement specifically identifying the coverage that is no longer in compliance. The Certificate of Insurance shall identify the City's RFP and this Agreement in the Certificate.

The Certificate of Insurance shall be provided to the City Attorney's Office, at the address provided in Section 74, below. Copies shall be provided to the Manager and the City's Risk Management Division at the same address. The Contractor shall submit updated copies of the Certificates of Insurance to the City Attorney's Office and the City's Risk Management Division within ten (10)

days after the Contractor receives a renewed or revised Certificate of Insurance. The Contractor shall ensure that all such certificates comply with the requirements herein.

53.9 DEDUCTIBLES, SELF-INSURED RETENTIONS, AND SUPPLEMENTAL COVERAGE

The Contractor shall be solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention. When a self-insured retention or deductible exceeds Two Hundred Fifty Thousand Dollars (\$250,000) for any of the foregoing required policies, the City reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report to determine the reasonability of the retention levels, based on the financial capacity of the Contractor. At the City's option, the Contractor may be required to procure a bond guaranteeing payment of losses and related claims expenses.

The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the Contractor and any subcontractor providing the insurance.

For policies written on a "Claims-Made" basis, the Contractor shall maintain a Retroactive Date prior to or equal to the Effective Date of this Agreement. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggers the right to purchase a Supplemental Extended Reporting Period (SERP) coverage during the term of this Agreement, the Contractor agrees to purchase a SERP with a minimum reporting period not less than two (2) years. The requirement to purchase a SERP shall not relieve the Contractor of the obligation to provide replacement coverage.

53.10 RIGHT TO REVISE OR REJECT

The City reserves the right, but not the obligation, to reject any insurance policy that fails to meet the criteria stated herein. Additionally, the City reserves the right, but not the obligation, to review or reject any insurer providing coverage due to its poor financial condition or failure to operate in compliance with Applicable Laws. Neither the City's approval of any insurance provided by the Contractor or a subcontractor, nor the City's failure to disapprove such insurance, shall relieve the Contractor or a subcontractor of any part or all of its responsibility for any liability, damages, or accidents, as set forth herein.

53.11 MINIMUM REQUIREMENTS FOR INSURANCE COMPANIES

All of the insurance provided by the Contractor pursuant to this Agreement shall be issued by an insurance company or companies licensed or approved to do business in the State of Florida with a Financial Stability Rating of "A" or better based on the most recent edition of A.M. Best's Insurance Guide. Additionally, the Financial Category Size must be "VIII" or greater.

53.12 OTHER INSURANCE REQUIREMENTS

At its option, the City may allow the Contractor to be self-insured for one or more lines of coverage. In such circumstances, the Contractor shall be required to demonstrate to the satisfaction of the City that the Contractor has adequate financial resources to defend and cover all claims in the amounts and categories required by the City. The Contractor shall be responsible for all of its subcontractors (if any) and their insurance.

54. PERFORMANCE BOND

The Contractor shall furnish to the City an irrevocable, annually renewable, Performance Bond for the faithful performance of this Agreement and all of the Contractor's obligations hereunder. The Performance Bond shall be in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) or one-third of the Contractor's gross annual revenue under this Agreement, whichever is greater. The form and content of the Performance Bond shall be substantially the same as the draft bond in Exhibit 10, and shall be subject to the approval of the City Attorney. The Performance Bond shall be issued by a surety company that is licensed to do business in the State of Florida and that is acceptable to the City. At a minimum, the surety company shall be rated "A" or better as to management and "FSC X" or better as to strength by Best's Insurance Guide or Surety, and shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds. The Surety shall have been in business and have a record of successful and continuous operation for at least five years. The Performance Bond shall: (a) contain any provisions required by Applicable Law; (b) guarantee the performance of the Agreement; and (c) not be canceled or altered without at least thirty (30) calendar days' prior notice to the City. The Contractor shall furnish the Performance Bond to the City Attorney at least five (5) calendar days before the Effective Date.

Maintenance of the Performance Bond and the performance by the Contractor of all of the obligations under this Section 54 shall not relieve the Contractor of liability under the default and termination provisions set forth in this Agreement or from any other liability resulting from any breach of this Agreement. The Performance Bond may be "called" (drawn upon) and used if there is any uncured default or breach of this Agreement by the Contractor. Calling or drawing upon the Performance Bond shall not restrict or preclude the use of any other remedies available to the City against the Contractor for breach, default, or damages.

In the event of a strike of the employees of the Contractor or any other labor dispute which makes performance of this Agreement by the Contractor substantially impossible, the City shall have the right to call the Performance Bond three (3) days after giving notice to the Contractor. In such cases, the City shall have the right to engage another Person to provide necessary Collection Services.

55. PARENT CORPORATION GUARANTEE

The Contractor shall provide a corporate guarantee from the Contractor's parent company ("Guarantor"), whereby the Guarantor shall guarantee the performance of the Contractor's obligations under this Agreement. The form and content of the corporate guarantee shall be substantially the same as the draft guarantee in Exhibit 9 and shall be subject to the City Attorney's approval. The form must be executed by a representative of the Contractor's parent company (i.e., the corporate entity that is at the top of any chart showing the Contractor's corporate organization), who has the legal authority to bind the entity, and is not an intermediary between the Contractor and its parent. The corporate guarantee shall be delivered to the City at least five (5) days before the Effective Date.

56. ASSIGNMENT OF AGREEMENT

- 56.1** No assignment of this Agreement or any right or responsibility occurring under this Agreement, shall be made in whole or in part by the Contractor without the express written consent of the City, which consent shall not be unreasonably withheld. The City shall have the right to approve any proposed or actual assignment by the Contractor, subject to the conditions in Section 33.4, above. The City's consent to an assignment shall not be unreasonably withheld. 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.
- 56.2** In the event that the City's consent to any proposed assignment is denied, the Contractor shall continue to provide all of the services required herein for the remainder of the term.

- 56.3** If any assignment is approved by the City, the assignee shall fully assume all of the obligations, duties, and liabilities of the Contractor.
- 56.4** The requirements of this Section 56 shall include, but not be limited to cases where the Contractor hires a subcontractor to undertake any of the Contractor's obligations to provide Collection Services under this Agreement, unless (a) the specific subcontractor was identified by the Contractor before the Effective Date or (b) the Administrator provides advance written approval of the subcontractor.

57. TRANSFER OF AGREEMENT

A transfer of this Agreement shall be effective only after approval by the City. A transfer includes but is not limited to a one-time event that results in a transfer of twenty-five percent (25%) or more of the ownership or controlling interests of the Contractor, or a series of changes that result in a cumulative change of fifty percent (50%) or more of the ownership or controlling interests of the Contractor, and any other event that results in a material change in the ownership or control of the Contractor, whether accomplished by a sale of assets or other means. Any transaction that results in the Contractor or its assets being purchased by or merged with another Person shall constitute a transfer of this Agreement, which is subject to the City's approval. An application to transfer this Agreement shall be submitted jointly by the proposed transferor and transferee, and shall contain the same type of information about the transferee that was provided by the Contractor before the City granted this franchise. At a minimum, the proposed transferee shall (a) verify in writing that it will comply with all of the requirements in this Agreement and (b) demonstrate that it has the financial resources, expertise, personnel, equipment and other capabilities necessary to do so. The application shall be accompanied by a non-refundable application fee in the amount of Five Thousand Dollars (\$5,000.00). The Commission may grant or deny the application for transfer, or grant the application with conditions, or deny the application, subject to the provisions in Section 33.4. Among other things, the Commission's approval may be subject to conditions requiring an increase in the amount of the Performance Bond, an increase in the levels and types of insurance coverage, and other safeguards designed to ensure that the City's work will be completed in compliance with the requirements in this Agreement. In the event that the Commission's consent to the transfer is denied, the Contractor shall continue to provide all of the services required herein for the remainder of the term of this Agreement.

Notwithstanding the other provisions in Section 56 and Section 57 of this Agreement, the City shall cooperate with the Contractor in the event that a strike, lockout, or similar labor dispute results in the Contractor's use of a subcontractor to provide the Collection Services required under this Agreement. In such circumstances, the provisions of Section 56 and Section 57 shall be waived by the City for a period not to exceed ninety (90) days.

58. SUBSEQUENT CITY ORDINANCES

Nothing contained in any City ordinance hereafter adopted shall be construed to affect, change, modify or otherwise alter the duties, responsibilities, and operations of the Contractor under this Agreement, unless it is agreed to in writing by both the Contractor and the City and this Agreement is amended accordingly.

59. AMENDMENTS TO THE AGREEMENT

59.1 GENERAL REQUIREMENTS

This Agreement constitutes the entire Agreement and understanding between the parties hereto. This Agreement shall not be considered modified, altered, changed or amended in any respect unless the Agreement is amended in writing and the amendment is signed by the Contractor and the Commission or its designee.

59.2 CITY'S POWER TO AMEND AGREEMENT

At its option, the City may request changes in this Agreement relative to the scope and method of providing Collection Service, when the City deems it necessary and desirable for the public welfare. The Administrator shall give the Contractor notice of any proposed change and an opportunity to be heard concerning any relevant matters. In all cases involving changes to this Agreement, the City and Contractor shall enter into good faith negotiations to modify this Agreement and the Rates, as necessary, in a manner that is mutually acceptable. The scope and method of providing Collection Service, as referenced herein, shall be liberally construed to include, but not be limited to all procedures, operations, and obligations of the Contractor. Among other things, the City and the Contractor may wish to amend this Agreement if the Authority begins to accept Source Separated Recyclable Materials that are collected in a "single stream" – i.e., all of the Recyclable Materials are collected and handled together in one bin or cart. No changes to the Agreement shall take effect until the Parties execute an amendment to the Agreement in the manner required herein.

In the future, the City may wish to obtain new services that are not addressed under this Agreement. For example, the City may wish to expand its Recycling program in ways that have not yet been identified. If the City and the Contractor are unable to agree upon the terms and conditions governing such services, including but not limited to the Rates for such services, the City shall have the right to procure such services from other Persons, notwithstanding the Contractor's exclusive franchise under this Agreement.

59.3 AMENDMENTS DUE TO CHANGES IN LAW

The City and the Contractor understand and agree that changes in the Applicable Laws may require amendments to some of the conditions or obligations of this Agreement. In the event any future change in any Applicable Law materially alters the obligations of the Contractor or the City, then the provisions and Rates in this Agreement may need to be modified. The City and the Contractor agree to enter into good faith negotiations regarding amendments to this Agreement, which may be required in order to implement changes for the public welfare or due to a Change in Law. Section 38.5, above, shall govern any adjustment to the Rates that result from a Change in Law.

60. WAIVER OF RIGHTS

No delay or failure to exercise a right under this Agreement shall impair such right or be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the City or the Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the City or the Contractor thereafter to enforce same. Nor shall waiver by the City or the Contractor of any breach of any term of this Agreement be taken or held to

be a waiver of any succeeding breach of such term or as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

61. WAIVER OF FLOW CONTROL CLAIMS

The Contractor has voluntarily entered into this Agreement for the purpose of enjoying the economic and other benefits conferred upon the Contractor by this Agreement. To ensure that the City also enjoys the benefits of this Agreement, the Contractor hereby knowingly, voluntarily, and permanently waives its right to challenge, contest, or invalidate the provisions in this Agreement that require the Contractor to use a Designated Facility for the disposal or processing of Solid Waste or Recyclable Materials collected by the Contractor in the Service Area. This waiver includes but is not limited to any claim that this Agreement implements an inappropriate form of Solid Waste "flow control", regardless of whether the claim is based on local, state, or federal law, or the Florida or U.S. Constitution, or any other grounds, and regardless of whether the claim seeks damages, injunctive relief, or other remedies at law or in equity.

62. GOVERNING LAW, VENUE AND ATTORNEYS FEES

The laws of the State of Florida shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement. Any and all legal or equitable actions necessary to enforce this Agreement shall be held and maintained solely in the state and federal courts in and for Palm Beach County, Florida. Venue shall lie exclusively in Palm Beach County. In any legal or other proceeding to interpret, apply, or enforce the terms of this Agreement, each Party shall pay its own legal fees and all associated costs, except as otherwise provided in Sections 49.3 and 49.6, above.

63. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor shall at all times comply with all Applicable Laws now in effect or hereafter enacted, which are applicable in any way to the Contractor, its officers, employees, agents, or subcontractors.

64. PERMITS AND LICENSES

The Contractor, at its sole cost and expense, shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals necessary or required for the Contractor to perform the work and services described herein.

65. EQUAL OPPORTUNITY EMPLOYMENT

The Contractor agrees that it shall not discriminate against any employee or applicant for employment for work under this Agreement because of handicap, race, color, religion, sex, age, or national origin and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment by the Contractor without regard to race, color, creed, religion, sex, gender identity or expression, sexual orientation, age, national origin, ancestry, disability, medical condition, or any other characteristic protected under federal or state law. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Contractor shall furnish the City with a copy of its non-discrimination and equal employment opportunity policy, upon request.

66. AGREEMENT DOCUMENTS

This Agreement and the following documents comprise the entire Agreement between the City and the Contractor. The following documents are attached to this Agreement and they are incorporated in this Agreement by this reference:

Exhibit 1 through Exhibit 20

After the Effective Date, the Agreement shall be supplemented with the following:

Performance Bonds and Insurance Certificates

Any amendments to this Agreement that are approved by the Commission and the Contractor

There are no Agreement documents other than those listed above. In the event of a conflict between this Agreement and the provisions of any exhibit, the provisions of this Agreement shall control when interpreting or applying this Agreement.

67. ALL PRIOR AGREEMENTS SUPERSEDED

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained herein. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

This Agreement shall govern the Parties' relationship, regardless of anything contained in the City's RFP or the Contractor's response to the RFP. Nonetheless, in the event that an order of precedence is needed, it shall be this Agreement, the City's RFP, and then the Contractor's response to the RFP.

68. CONSTRUCTION OF AGREEMENT

The following rules shall govern the interpretation and construction of this Agreement:

- (a) The words "include" and "including" shall not be construed to be terms of limitation. References to included matters or items will be regarded as illustrative and will not be interpreted as a limitation on, or an exclusive listing of, the matters or items referred to.
- (b) Whenever the context requires, the singular form of a word includes the plural and the plural includes the singular. The gender of any pronoun includes the other genders.
- (c) Both parties are represented by legal counsel and they waive any rule of law that would require any vague or ambiguous provision herein to be construed against the Party that physically prepared this Agreement. The rule sometimes referred to as "Fortius Contra Proferentum" shall not be applied to the interpretation of this Agreement.
- (d) The words "shall" and "must" are used when referring to mandatory duties and obligations. The word "may" is permissive.
- (e) The word "Section" refers to the sections in this Agreement, unless the context clearly indicates otherwise (e.g., citations to sections of the Florida Statutes).

- (f) The word “herein” refers to the provisions in this Agreement.
- (g) All citations to the Florida Statutes refer to the statutes in existence on the Effective Date - i.e., Florida Statutes (2021).
- (h) Headings in this Agreement are for convenience of reference only and shall not be considered when interpreting this Agreement.
- (i) The Recitals set forth above are true, correct, and incorporated herein.

69. SURVIVABILITY

Any term, condition, covenant, or obligation which requires performance by a party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.

70. SEVERABILITY

The definitions and provisions contained in this Agreement shall not be construed to require the City or the Contractor to take any action that is contrary to any local, state or federal law. Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect. This Agreement shall be construed as if such invalid, illegal, void or unenforceable provision had never been contained herein.

71. FAIR DEALING

The Contractor declares and warrants that the Contractor enters into this Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no Commission member, City officer, or City employee, directly or indirectly owns more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such Person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement, nor has the Contractor provided any gift to any such Person or their family. The Contractor warrants that it has not employed or retained any company or Person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and the Contractor has not paid or agreed to pay any Person, other than a bona fide employee working solely for the Contractor, any fee, percentage, gift or any other compensation contingent upon or resulting from the award or making of this Agreement.

72. SOVEREIGN IMMUNITY AND LIMITATIONS ON THIRD PARTY LAWSUITS

Nothing in this Agreement shall be interpreted or construed to mean that the City waives its common law sovereign immunity or the limits on liability set forth in Section 768.28, Florida Statutes. Nothing in this Agreement shall constitute the City's consent to be sued by any third party in any matter arising out of or related to this Agreement.

73. REMEDIES NOT EXCLUSIVE

To the greatest extent allowed by law, the remedies specified in this Agreement shall supplement, and not be in lieu of, any other remedies provided at law or in equity. The payment of any administrative charges by the Contractor shall not constitute a defense for the Contractor, nor an election of remedies by the City, nor serve as the basis for a claim of estoppel against the City, nor prevent the City from terminating this Agreement. The City's decision to refrain from assessing administrative charges, or suspending or terminating this Agreement, or seeking any other relief from any failure in the Contractor's performance, shall not constitute a waiver of the City's right to pursue any other remedy or a waiver of its right to pursue a remedy for any future failure by the Contractor. No remedy conferred by this Agreement is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

74. NOTICES TO PARTIES

All notices, requests, authorizations, approvals, protests, and petitions provided for herein shall be in writing. Except as provided in Section 44.4, above, such documents shall be addressed as shown below and either (a) hand delivered or (b) mailed by registered or certified mail (postage prepaid), return receipt requested. The documents shall be deemed to have been duly delivered when personally delivered, or when transmitted by telecopier (facsimile) and receipt is confirmed by telephone, or when delivered by U.S. Mail or courier service, as shown by the return receipt. The Contractor and the City designate the following as the appropriate people and places for delivering notices and other documents:

As to City:	City Manager City of Delray Beach 100 N.W. 1st Avenue Delray Beach, FL 33444 Telephone: (561) 243-7010
Copies to:	City Attorney City of Delray Beach 200 N.W. 1st Avenue Delray Beach, FL 33444 Telephone: (561) 243-7090
As to Contractor:	David Myhan – President, Waste Management Inc. of Florida 1800 North Military Trail, Suite 200 Boca Raton, Florida 33431
Copy to:	Lisa Silva – Senior Counsel, WM 1800 North Military Trail, Suite 200 Boca Raton, Florida 33431

Both parties reserve the right to designate a different representative or representatives in the future, and to change the address(es) for notice, by providing written notice to the other party of such change.

75. NO THIRD PARTY BENEFICIARIES

THIS AGREEMENT ONLY PROVIDES RIGHTS AND REMEDIES FOR THE CITY AND THE CONTRACTOR, EXCEPT TO THE EXTENT THAT SECTION 52 PROVIDES LIMITED RIGHTS FOR CITY INDEMNIFIED PARTIES. NOTWITHSTANDING ANYTHING ELSE CONTAINED HEREIN, THIS AGREEMENT DOES NOT PROVIDE ANY RIGHTS OR REMEDIES FOR ANY OTHER PERSON. THERE ARE NO THIRD PARTY BENEFICIARIES UNDER THIS AGREEMENT, EXCEPT FOR CITY INDEMNIFIED PARTIES.

76. COOPERATION WITH THE INSPECTOR GENERAL

Pursuant to Ordinance No. 2011-009, Palm Beach County has established the Office of the Inspector General, which is authorized to review City contracts and records. The Contractor shall fully cooperate with the Inspector General and shall provide access to the Contractor's records in the manner provided herein for the City to inspect such records. Failure to cooperate with the Inspector General, or interfering with or impeding any investigation of the Inspector General, shall be a violation of County Ordinance 2009-049 and shall be punishable pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

77. REDUCING CONTAMINATION OF RECYCLABLE MATERIALS

If the Contractor's employees see that a Residential Customer's Recycling Bin contains Contaminated Recyclable Material, the Contractor's employees shall (a) place a warning notice or educational materials on the Recycling Container to encourage the Customer to "recycle right" and (b) leave the Contaminated Recyclable Material on the Customer's Premises. The same procedure shall be followed if the Contractor collects Recycling Carts with a split-body rear-loading vehicle and the Contractor's employee sees that the cart contains Contaminated Recyclable Material before the employee unloads the cart into the vehicle. Further, the same procedure shall be followed if the Contractor uses Mechanical Containers to collect Program Materials and the Contractor's driver sees that a Mechanical Container contains Contaminated Recyclable Material before the Mechanical Container is unloaded into the Contractor's vehicle. In all of these cases, the Contractor shall leave a Non-Collection Notice on the Recycling Container and the Contractor shall leave the Contaminated Recyclable Material at the Customer's Premises.

However, nothing contained in this Agreement requires the Contractor to look into a Recycling Cart or otherwise inspect the contents of a Mechanical Container before the Contractor collects the contents of that Recycling Cart or Mechanical Container. The Contractor shall coordinate with the Administrator concerning the content of any Non-Collection Notices and educational materials used pursuant to this Section 77.

The Administrator shall have the exclusive authority to resolve any dispute as to whether the contents of a Recycling Container or Load constitute Contaminated Recyclable Material. The Administrator's determination may be based on any visual inspection or measurement that the Administrator deems sufficient, including a visual inspection of photographs of the container's contents.

78. MANAGEMENT OF CONTAMINATED RECYCLABLE MATERIAL

Pursuant to Section 403.706, Florida Statutes, the City is adopting a definition of Contaminated Recyclable Material that is appropriate for the local community. The City's definition of Contaminated Recyclable Material is contained in Section 1.30, above. The City plans to reduce the amount of Contaminated Recyclable Material being collected in the City primarily by (a) using Recycling Bins and a "dual stream" method of collecting Recyclable Materials and (b) implementing public education and outreach programs. The Contractor will assist the City in this effort by providing educational notices pursuant to Sections 36 and 77, above, and by providing technical and educational services pursuant to Section 8.9, above. Section 77, above, describes the basic procedures that the Contractor shall use for identifying, documenting, managing, and rejecting Contaminated Recyclable Material. Collectively, Sections 8.9, 36, and 77 describe the educational and enforcement measures that the Contractor is responsible for implementing when providing Collection Services under this Agreement. Leaving the Contaminated Recyclable Material in the Recycling Container at curbside is the Contractor's primary remedy when the Contractor discovers Contaminated Recyclable Materials in a Recycling Container. In addition, the Contractor should report to the Administrator pursuant to Sections 17.5, above, if a Customer repeatedly Sets Out Contaminated Recyclable Material for Collection. The City is responsible for implementing educational and enforcement programs, as the City deems appropriate in light of its funding and other constraints, and thus promoting proper Recycling techniques. Subject to its budgetary and other constraints, the City intends to explore potential outreach and messaging campaigns, enforcement mechanisms, and other measures that will encourage Customers to "recycle right." The City shall have the exclusive authority to determine whether the City will adopt or implement any specific program or course of action.

79. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to the City that:

- (a) The Contractor is a corporation existing in good standing under the laws of the state of its formation, is in good standing under the laws of the State of Florida, and is duly qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.
- (b) The Contractor has the requisite power, authority, and legal right to enter into and perform its obligations under this Agreement and possesses all orders, permits, consents, licenses, approvals, franchises, certificates, registrations, and other authorizations from third parties and governmental authorities that are necessary to conduct its current business and to satisfy its duties and obligations under this Agreement.
- (c) This Agreement has been duly executed and delivered by the Contractor and, as of the Effective Date, constitutes a legal, valid, and binding obligation of the Contractor, enforceable by the City against the Contractor in accordance with its terms, except to the extent its enforceability is limited by (1) the application of general principles of equity and by bankruptcy, insolvency, moratorium, debtor relief, and similar laws of general application affecting the enforcement of creditor rights and debtor obligations, and (2) public policy limitations on the enforceability of indemnification provisions.

- (d) The execution, delivery, and performance of this Agreement by the Contractor: (1) have been duly authorized; (2) do not require the approval of any governmental officer or body, other than those permits or approvals contemplated to be obtained after the Effective Date; (3) have been duly authorized by all requisite action of the Contractor, and no other proceedings on the part of the Contractor, its officers, partners or managers are necessary to authorize this Agreement or to perform the duties and obligations of the Contractor contemplated by it; (4) will not violate any law applicable to the Contractor or its property or any provisions of the Contractor's articles of incorporation, by-laws, articles of organization or operating agreement; (5) do not constitute a default under or result in the creation of, any lien, charge, encumbrance, or security interest upon any assets of the Contractor under any agreement or instrument to which the Contractor is a party or by which the Contractor or its assets may be bound or affected in any manner that prohibits or otherwise adversely affects the Contractor's ability to perform its obligations under this Agreement; and (6) do not and will not violate any copyrights, patents, or other intellectual or proprietary rights of any Person.
- (e) To the best of the Contractor's information and belief, there is no action, suit, or proceeding, at law or in equity, before or by any court or governmental authority pending against the Contractor, in which an unfavorable decision, ruling, or finding would materially and adversely affect the performance by the Contractor of its obligations under this Agreement, or that in any way would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Contractor or any of its affiliates in connection with this Agreement.
- (f) The Contractor did not engage, directly or indirectly, in any collusion, bribery, deception, or fraud in connection with its efforts to procure the work awarded under this Agreement.
- (g) None of the agents, members, managers, partners, officers, directors, employees, or executives of the Contractor, or any affiliate that is active in the management of the Contractor, has been convicted of a public entity crime, as defined in Section 287.133(g), Florida Statutes.
- (h) The personnel employed by the Contractor have the proper skill, licenses, training, background, knowledge, experience, authorizations, integrity, and character necessary to perform the Contractor's obligations in accordance with this Agreement.
- (i) No City employee received or will receive, directly or indirectly, any benefit, interest, or profit out of the procurement process that resulted in the award of this Agreement or in connection with this Agreement or the services to be provided pursuant to this Agreement, and no City employee has or will have any direct or indirect financial interest in the award of this Agreement or any of the services to be provided pursuant to this Agreement.
- (j) The Contractor acknowledges that Section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of \$1,000,000 or more that are on the Scrutinized Companies with Activities in the Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy List, or the other lists identified therein. The Contractor certifies, represents, and warrants to the City that the Contractor is not on any of those lists. The Contractor acknowledges and agrees that, pursuant to Section 287.135, Florida Statutes, the City may terminate this Agreement and civil penalties may be assessed

against the Contractor if the Contractor is found to have submitted a false certification concerning these matters.

- (k) The Contractor has registered with the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of the Contractor's newly hired employees. The Contractor's subcontractors do not employ, contract with, or subcontract with unauthorized aliens.

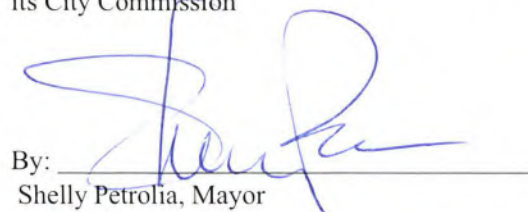
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IN WITNESS WHEREOF, the Parties have made and executed this Agreement, as attested to by the signature of their duly authorized officers or representatives and their official seals affixed hereon, the day and year first above written.

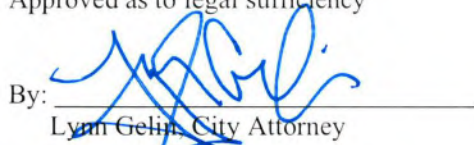
Attest:


Katerri Johnson, City Clerk

CITY OF DELRAY BEACH, by and through
its City Commission

By: 
Shelly Petrolia, Mayor
21st day of February, 2023

Approved as to legal sufficiency

By: 
Lynn Gelin, City Attorney
21st day of February, 2023

WITNESSES:

Signature

Printed Name

27th day of February, 2023

Signature

Printed Name

27 day of February, 2023

ATTEST:

Asst. SECRETARY LISA P. SILVA, ASST. SEC.

WASTE MANAGEMENT INC. OF FLORIDA

By:

David M. Myhan

Printed Name and Title

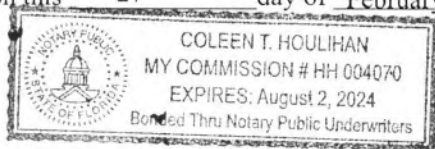
27 day of February, 2023

STATE OF FLORIDA)
) SS:
COUNTY OF Palm Beach)

The foregoing Exclusive Franchise Agreement was acknowledged before me, an officer duly authorized by law to administer oaths and take acknowledgments, by means of ☒ physical presence or ☐ online notarization, this 27 day of February, 2023 by David M. Myhan, as

President [title] of Waste Management Inc. of Florida [Contractor], a corporation authorized to do business in the State of Florida, and who executed the foregoing Agreement as the proper official of Waste Management Inc. of Florida [Contractor] for the uses and purposes mentioned in it, and that the instrument is the act and deed of that corporation. He/She is ☒ personally known to me or ☐ has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the state and city aforesaid on this 27 day of February, 2023.



NOTARY PUBLIC

My Commission Expires: _____



CITY OF DELRAY BEACH
CITY ATTORNEY'S OFFICE
200 NW 1ST Avenue, Delray Beach, FL 33444
561-243-7090



LEGAL REVIEW FORM

This form is to be used solely for the legal review of documents not including procurement agreements. Procurement Agreements are reviewed under a separate cover. This form shall only be completed by a member of the City Attorney's Office.

Date of Review: 2/17/23

Document Name: Waste Management Exclusive Franchise Agreement

Document Type: Agreement

Submitted by: Casetra Thompson/Sammie Walthour

☒ This document is approved as to form and legal sufficiency.

☐ This document is approved as to form and legal sufficiency; however, the undersigned made the following change(s):

☐ This document is not approved as to form and legal sufficiency for the following reason(s):

_____.

s/Kelly W. Brandon, Esq.
Attorney

Copy to:

___ City Attorney's Office (with a copy of the approved document)

EXHIBITS TO:

Exclusive Franchise Agreement

between

City of Delray Beach, Florida

and

Waste Management, Inc. of Florida

for the Collection of

Solid Waste and Recyclable Materials

EXHIBITS

EXHIBIT 1	GENERAL MAP OF SERVICE AREA
EXHIBIT 2	RATES FOR RESIDENTIAL CURBSIDE COLLECTION SERVICES
EXHIBIT 3	RESERVED
EXHIBIT 4	RATES FOR MULTI-FAMILY DWELLINGS WITH MECHANICAL CONTAINERS
EXHIBIT 5	RATES FOR COMMERCIAL COLLECTION SERVICES
EXHIBIT 6	MONTHLY CONTAINER MAINTENANCE FEES
EXHIBIT 7	RATES FOR SPECIAL COLLECTION SERVICES
EXHIBIT 8	RATES FOR COLLECTION SERVICES FOR THE CITY
EXHIBIT 9	PARENT CORPORATION GUARANTEE
EXHIBIT 10	PERFORMANCE BOND
EXHIBIT 11	SPECIFICATIONS FOR GARBAGE CARTS
EXHIBIT 12	SAMPLE CALCULATIONS FOR CPI ADJUSTMENTS
EXHIBIT 13	THE CITY’S INTERLOCAL AGREEMENT WITH THE AUTHORITY
EXHIBIT 14	CONTRACTOR’S VEHICLES AND STAFF
EXHIBIT 15	LIST OF BUS SHELTER LOCATIONS IN DELRAY BEACH
EXHIBIT 16	BIG BELLY UNITS SUBJECT TO LEASE AGREEMENT
EXHIBIT 17	LIST OF CITY PROPERTIES RECEIVING COLLECTION SERVICE
EXHIBIT 18	LIST OF TRASH RECEPTACLES ON ATLANTIC AVENUE, THE BEACH, AND PINEAPPLE GROVE
EXHIBIT 19	CITY OF DELRAY BEACH PARKS
EXHIBIT 20	LIST OF CITY’S PUBLIC DROP-OFF FACILITIES FOR RECYCLABLE MATERIALS

EXHIBIT 1

GENERAL MAP OF SERVICE AREA

Exhibit 1 - Curb Side Plastic Bag Service

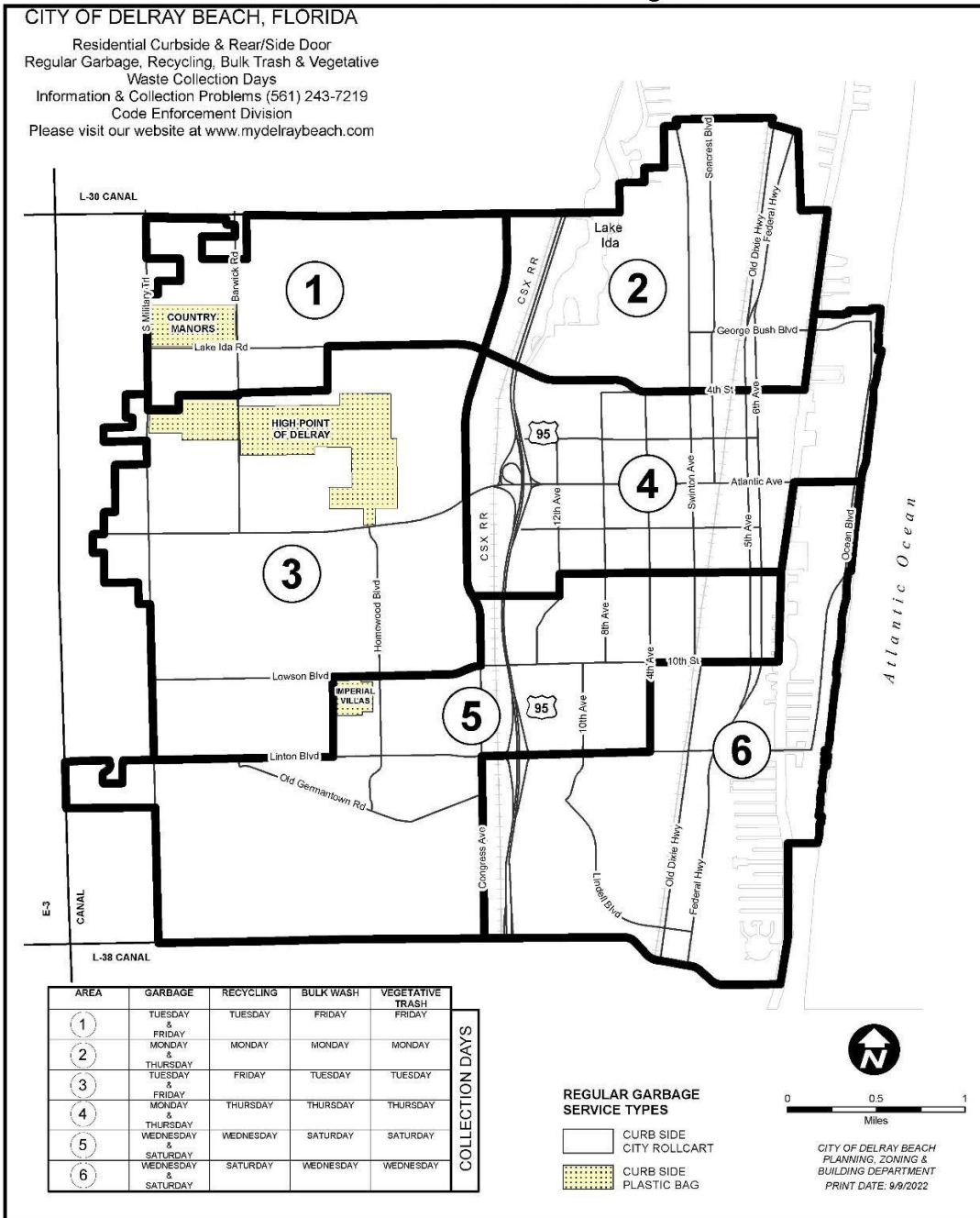


EXHIBIT 2
RATES FOR RESIDENTIAL CURBSIDE
COLLECTION SERVICE

Rates for Residential Curbside Collection Service with Garbage Carts or Plastic Bags	
1. Garbage	<u>\$8.84</u> per month (2x/wk)
2. Yard Waste	<u>\$3.86</u> per month (1x/wk)
3. Source Separated Recyclable Material	<u>\$2.30</u> per month (1x/wk)
4. Bulky Waste	<u>\$2.28</u> per month (1x/wk)
5. Monthly Cost per Dwelling Unit for Contractor's Services (i.e., Contractor's Total Fee, which equals the sum of 1 + 2 + 3 + 4, above)	<u>\$17.28</u> per month
6. Franchise Fee (i.e., 5% of Contractor's Total Fee)	<u>\$0.86</u> per month
7. Total Monthly Cost per Dwelling Unit (i.e., the sum of 5 + 6, above)	<u>\$18.14</u> per month

These Rates do not include administrative fees.

The "Monthly Cost per Dwelling Unit for Contractor's Services" is the Collection component of the Rate, as described in Section 38.3 of the Agreement.

EXHIBIT 3
RESERVED

EXHIBIT 4
RATES FOR MULTI-FAMILY DWELLINGS
WITH MECHANICAL CONTAINERS

Collection Service for Multi-Family Dwellings With Mechanical Containers	
1. Garbage	\$8.54_____per month (2x/wk)
2. Yard Waste	Not Applicable
3. Source Separated Recyclable Material	\$3.62_____per month (1x/wk)
4. Bulky Waste	\$0.74_____per month (1x/wk)
5. Monthly Cost per Dwelling Unit for Contractor's Services (i.e., Contractor's Total Fee, which equals the sum of 1 + 2 + 3 + 4, above)	\$12.90_____per month
6. Franchise Fee (i.e., 5% of Contractor's Total Fee)	\$0.65_____per month
7. Total Monthly Cost per Dwelling Unit (i.e., the sum of 5 + 6, above)	\$13.55_____per month

These Rates do not include administrative fees.

The "Monthly Cost per Dwelling Unit for Contractor's Services" is the Collection component of the Rate, as described in Section 38.3 of the Agreement.

EXHIBIT 5
RATES FOR COMMERCIAL COLLECTION SERVICES*

RATES FOR COMMERCIAL COLLECTION SERVICES	
Rate for Collection of Commercial Waste with Mechanical Containers (i.e., other than Compactors and Roll-Off Containers)	<u>\$9.69</u> per cubic yard for Collection <u>\$2.81</u> Disposal Total per cubic yard <u>\$12.50</u>
Rate for Collection of Commercial Waste in Compactors (8 cubic yards or less)	<u>\$26.48</u> per cubic yard for Collection <u>\$8.43</u> Disposal Total per cubic yard <u>\$34.91</u>
Rate for Collection of Commercial Waste in Compactors (greater than 8 cubic yards – Roll-Off Compactors)	<u>\$545.42</u> per pull for Collection
Rate for Collection of Commercial Waste in Roll-Off Containers	<u>\$357.50</u> per pull for Collection
Rate for Collection of Recyclable Materials in Mechanical Containers	<u>\$</u> (Commercial recycling is open market.)
Rate for Collection of Commercial Waste with 96 Gallon Garbage Cart collected one time per week (Customers generating less than 2 cubic yards per week)**	<u>\$48.92</u> per month for Collection <u>\$6.08</u> per month for Disposal Total monthly <u>\$55.00</u>
Rate for Collection of Recyclable Materials with 96 Gallon Recycling Cart collected one time per week**	<u>\$48.92</u> per month for Collection

* These Rates include the Franchise Fee.

** The Rates for Garbage Carts and Recycling Carts are based on Collection Service provided one time each week. If a Customer wishes to receive more frequent service, the Rate for the requested service shall

be increased proportionately. For example, if a Customer using a Garbage Cart wishes to receive Collection Service for Garbage on two (2) occasions per week, the Customer shall pay the Rate for such service multiplied by two (2). The Rate shall be multiplied by three (3) if the Customer wishes to receive such service three (3) times per week.

EXHIBIT 6

MONTHLY CONTAINER MAINTENANCE FEES

(Not to be Adjusted during the Term of the Agreement)

CONTAINERS (NON-COMPACTING)	
SIZE (cubic yards)	RATE w/out locking mechanism
2 YD	\$24.00
3 YD	\$26.00
4 YD	\$28.00
6 YD	\$30.00
8 YD	\$32.00
10-40 YD ROLL-OFF	\$50.00

Capacities in between these values can be obtained by interpolation.
Capacities outside of these values can be obtained by extrapolation.

EXHIBIT 7

RATES FOR SPECIAL COLLECTION SERVICES

Service	Rate Per Service
Rolling Out Commercial Garbage Carts (96 or 101 Gallon) with 10 or more feet per direction	\$1.00 (No charge for Residential regardless of distance, no charge for commercial less than 10 feet per direction)
Rolling Out Mechanical Container (and returning it to original location)	\$2.70
Opening (and closing) Doors or Gates	No Charge
Locks for Mechanical Containers	\$12.00 (one time) Charge for Replacements based on cost + 10%
Unlocking Mechanical Containers	\$2.00
Supplying (and retrofitting) Locking mechanism on Mechanical Container*	\$55.00
Adding wheels to or changing wheels on Mechanical Containers	No Charge
Adding lids to or changing lids on Mechanical Containers	No Charge
Moving Mechanical Container Location Per Customer Request	No Charge
Changing Out Sizes of Mechanical Container (More than twice per year)**	\$25.00
Additional Scheduled Pick-ups for Multi-Family Dwellings	Same as Applicable Commercial Collection Rates (No Disposal Charges)
Additional Unscheduled (not including "on-call") Pick-ups for Commercial and Residential Containerized Customers	3 Times Applicable Commercial Rates (No Disposal Charges for Residential)
Special Service or Special Equipment	\$57.13 per month, 2x/week
Collection of Overfilled Mechanical Container***	\$100

* Determination of necessity of locking mechanisms is based on Customer requirements.

** The first two change outs are free to the Customer.

*** There shall be no charge for overfilled containers unless the Contractor complies with the requirements in Section 39.8 of the Agreement.

EXHIBIT 8

RATES FOR COLLECTION SERVICES FOR THE CITY

Rate for Collection of Solid Waste with Mechanical Containers (i.e., other than Compactors and Roll-Off Containers)	Same as Commercial Rate in Exhibit 5
Rate for Collection of Solid Waste in Compactors (8 cubic yards or less)	Same as Commercial Rate in Exhibit 5
Rate for Collection of Solid Waste in Compactors (greater than 8 cubic yards – Roll-off Compactors)	Same as Commercial Rate in Exhibit 5
Rate for Collection of Solid Waste in Roll-Off Containers	Same as Commercial Rate in Exhibit 5
Rate for Collection of Recyclable Materials in Mechanical Containers	Same as Commercial Rate in Exhibit 5
Rate for Collection of Garbage with 96 Gallon Garbage Cart collected one time per week (locations generating less than 2 cubic yards per week)	Same as Commercial Rate in Exhibit 5
Rate for Collection of Recyclable Materials with 96 Gallon Recycling Cart (1 time per week)	Same as Commercial Rate in Exhibit 5
Rate for Clamshell Truck and Driver, five (5) days per week	<u>\$30,000</u> per month
Rate for Collection of Recyclable Materials in a 40 gallon Recycling Container (2 times each week) at a location in the areas identified in Exhibits 15, 16, 18 or 20	<u>\$ 8.40</u> per month

Rate for Collection of trash in a 40 gallon receptacle (7 times each week) at a Bus Shelter, Park, or other location in the areas identified in Exhibits 15, 16, 18 or 20	\$ <u>see below</u> per month Bus Shelters \$10.76/shelter / month Beach Access \$43.84/ per container/month Prices for bus shelters and beach access if locations added as noted above per Sec. 8.10.
--	--

EXHIBIT

(continued)

Explanatory Notes

1. The City may increase or decrease the number of Recycling Containers and trash receptacles it uses in the general areas identified in Exhibits 15 and 16. Subject to the limitations in Section 8.10 of the Agreement, the City's payments to the Contractor shall increase or decrease, as the case may be, when the City increases or decreases the number of Recycling Containers and trash receptacles it uses in the Service Area. The adjustments to the City's payments shall be based on the "per unit" Rate set forth above in this Exhibit 8.
2. Subject to the limitations in Section 8.10 of the Agreement, the Rate for providing Collection Service for Community Events shall depend on the services requested by the City. For such events, the City shall pay the Rates set forth in this Exhibit 8 for a Mechanical Container, Compactor, Garbage Cart, or Recycling Cart.
3. The City shall not pay any disposal costs to the Contractor, except as provided in Paragraph 4, below.
4. The City shall pay the Contractor for the disposal of the trash and other Solid Waste collected from eighty-four (84) of the trash receptacles located along Atlantic Avenue, the Beach area, and Pineapple Grove. The amount of the City's payment to the Contractor shall be calculated in the following manner:

Assume there are eighty-four (84) trash receptacles, each receptacle is approximately thirty (30) gallons in capacity, and each receptacle is picked up six (6) times each week.

Assume the Authority's Tipping Fee is forty-two dollars (\$42.00) per ton, which is equal to two dollars and eighty-one cents (\$2.81) per cubic yard.

Assume each thirty (30) gallon container holds 0.15 cubic yards.

Eighty-four (84) containers x 0.15 cubic yards per container x six (6) pick-ups per week x fifty-two (52) weeks per year x two dollars and eighty-one cents (\$2.81) per cubic yard = eleven thousand forty-six dollars and sixty-seven cents (\$11,046.67) per year.

This annual disposal fee shall be billed in arrears in twelve (12) equal monthly installments of nine hundred twenty dollars and fifty-six cents (\$920.56) each month. If the Authority's Tipping Fee changes in the future, this calculation shall be performed with the new Tipping Fee and the City's payments to the Contractor will be adjusted accordingly.

EXHIBIT 9

PARENT CORPORATION GUARANTEE

THIS GUARANTEE ("Guarantee") is made as of the ____ day of _____, 2023, by _____, a _____ corporation (the "Guarantor"), to and for the benefit of the City of Delray Beach, Florida (the "City") (each capitalized term used and not defined herein shall have the meaning ascribed to such term in the Agreement).

WITNESSETH:

WHEREAS, _____ (the "Contractor"), a _____ corporation and a wholly-owned subsidiary of the Guarantor, is entering into an "Exclusive Franchise Agreement ("Agreement") with the City;

WHEREAS, the Guarantor is willing to guarantee the performance of the Contractor under the Agreement, pursuant to the terms of this Guarantee; and

WHEREAS, the execution of this Guarantee is a condition precedent to the execution by the Contractor and the City of the Agreement, and the City would not enter into the Agreement unless the Guarantor provided this Guarantee;

NOW, THEREFORE, as an inducement to the City to enter into the Agreement, the Guarantor agrees as follows:

1. The Guarantor hereby irrevocably, absolutely and unconditionally guarantees the full, prompt and timely performance and discharge of all of the duties, obligations, covenants and agreements of the Contractor pursuant to and in accordance with the terms and provisions of the Agreement, including but not limited to, the full, prompt and timely payment when due of all sums and amounts payable by the Contractor, including without limitation, the payment of any and all fines, damages, indemnification obligations, costs, and expenses, including without limitation, reasonable fees and expenses of attorneys (collectively, the "Obligations").

2. All Obligations of the Guarantor under this Guarantee shall be irrevocable, absolute, unconditional and continuing, and shall remain in full force and effect until all of the Obligations now existing or hereafter incurred have been performed, discharged and paid in full in accordance with the terms of the Agreement. The Obligations of the Guarantor under this Guarantee shall not be released, discharged, affected, modified or impaired by reason of the happening from time to time of any event or circumstance, including, without limitation, any one or more of the following:

(i) the compromise, settlement, release, discharge or termination of any or all of the Obligations, by operation of law or otherwise, except by payment and performance in full of the Obligations pursuant to the terms of the Agreement;

(ii) the failure of the City to give notice to the Contractor or the Guarantor of the occurrence of any Event of Default under the Agreement;

EXHIBIT 9

(continued)

(iii) the waiver by the City of any payment, performance, or observance of any of the Obligations;

(iv) the extension of the time (whether one or more) for payment or performance of the Obligations, or the extension or the renewal of any thereof;

(v) the invalidity or unenforceability of any term or provision of the Agreement based on the lack of authority, insolvency, bankruptcy or reorganization of the Contractor;

(vi) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting the Contractor, or its assets, or the Guarantor, or its assets, or any allegation of invalidity or contest of the validity of this Guarantee in any such proceedings;

(vii) the default or failure of the Guarantor to fully perform any of its obligations set forth in this Guarantee, or the occurrence of any events of default under the Agreement;

(viii) the failure of any agreement, instrument, certificate, or other document to be executed or delivered in connection with the Agreement; or

(ix) any assignment, amendment, modification, or waiver of, or change in any of the terms, covenants, conditions or provisions of any of the Obligations or the Agreement, or the invalidity or unenforceability of any of the foregoing.

3. This Guarantee shall be construed in accordance with and governed by the laws of the State of Florida, without giving effect to any choice or conflict of law provisions or rules (whether of the State of Florida or any other jurisdiction).

4. Subject to the provisions of Section 7 hereof, this Guarantee shall be binding upon and enforceable against the Guarantor, its successors, or permitted assigns and legal representatives (including any successor by merger or consolidation or any transferee of all or substantially all of the properties or capital stock of the Guarantor), whether or not the Guarantor's obligations hereunder are expressly assumed by such successor, assignee, or transferee, and is for the benefit of the City and any of its successors and assigns under the Agreement.

5. Each and every event of default under the Agreement shall give rise to a separate cause of action hereunder, and separate claims may be brought hereunder by the City as each cause of action arises. The Guarantor waives to the greatest extent permitted by law: notice of acceptance hereof; presentment and protest of any instrument, and notice thereof; notice of default; notice of foreclosure; notice of any modification, release or other alteration of any of the Obligations or of any security therefor and all other notices to which the Guarantor might otherwise be entitled. Should the Contractor default in the payment or performance of any of the Obligations, the obligations of the Guarantor hereunder with respect to such Obligations in default shall become

EXHIBIT 9

(continued)

immediately due and payable to the City without demand or notice of any nature, all of which are expressly waived by the Guarantor. Payments by the Guarantor hereunder may be required by the City on any number of occasions.

6. No failure, omission or delay by the City in exercising any right, power or privilege hereunder or under the Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other right, power or privilege of the City. No waiver, amendment, release or modification of this Guarantee shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the party against whom any such waiver, amendment, release or modification is sought to be enforced.

7. The Guarantor shall not assign its obligation hereunder nor substitute any Person in place of itself hereunder without first obtaining the express prior written consent of the City, which consent may be withheld by the City in its sole and absolute discretion. Any attempted assignment in violation of this Guarantee shall be null and void.

8. The obligations of the Guarantor to the City set forth in this Guarantee are direct, absolute and unconditional without regard to the liability of any other Person; and shall not be subject to any requirement that the City first enforce any remedies it may have against the Contractor or any other Person, or any requirement to seek to recover from the Contractor hereunder before proceeding against the Guarantor hereunder, and shall not be subject to any claim of the Guarantor against any other Person including the City. No setoff, counterclaim, reduction, or diminution of any obligation, or any other defense of any kind of nature (excepting payment or performance in fact and any other defenses the Contractor has under the Agreement) which the Contractor or the Guarantor has or may have against the City shall limit or in any way affect the Guarantor's obligations under this Guarantee.

9. Each of the Guarantor and the City irrevocably (i) consents that any action or proceeding against it under, arising out of or in any manner relating to this Guarantee shall be brought in the state or federal courts in and for Palm Beach County, Florida, and consents to the exclusive jurisdiction of such courts; (ii) consents and submits to the personal jurisdiction of any such court in any such action or proceeding; (iii) consents to the service of summons, notice, or other process relating to any such action or proceeding by delivery thereof by hand or by mail in the manner provided for in Section 13 of this Guarantee and consents that it may be served with any process or paper by registered mail or by personal service within or without the State of Florida, in accordance with applicable laws; (iv) waives any objection, claim or defense which it may have at any time to the laying of venue of any such action or proceeding in any such court; (v) waives any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum; (vi) waives the right to object, with respect to any such action or proceeding brought in any such court, that such court does not have jurisdiction over such party; and (vii) permanently, voluntarily, and with the advice of counsel, waives any rights it may have to a jury trial concerning any dispute involving or arising out of the Agreement or this Guarantee.

10. Upon payment by the Guarantor of any sum to the City hereunder, all rights of the Guarantor against the Contractor arising as a result thereof by way of right of subrogation or

EXHIBIT 9

(continued)

otherwise shall in all respects be subordinate, junior in right of payment to, and not exercisable until, the prior indefeasible payment and performance in full of all Obligations.

11. This Guarantee may be executed in multiple counterparts, including by way of facsimile or other electronic transmission (i.e., pdf), each of which shall be deemed an original, but all of which taken together shall constitute one instrument. If any provision of this Guarantee is determined to be unenforceable, the City and the Guarantor hereby agree that such provision may be reformed so that it is enforceable to the maximum extent permitted by applicable laws. In the event that any provision of this Guarantee cannot be reformed, such provision shall be deemed to be severed from this Guarantee, but every other provision of this Guarantee shall remain in full force and effect. This Guarantee is entered into by Guarantor solely and exclusively for the benefit of the City and may be enforced against Guarantor by the City and any of its successors and assigns. This Guarantee contains the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior agreements, representations and understandings of the parties with respect to the subject matter herein.

12. The Guarantor hereby expressly waives notice from the City of its acceptance of and reliance upon this Guarantee, and of any future creation, renewal or accrual of any of the Obligations.

13. All notices hereunder shall be in writing and shall be sufficiently given for all purposes hereunder if properly addressed and delivered personally by documented overnight delivery service, by certified or registered mail, return receipt requested, or by facsimile or other electronic transmission service at the address or facsimile number, as the case may be, set forth below. Any notice given personally or by documented overnight delivery service is effective upon receipt. Any notice given by registered mail is effective upon receipt, to the extent such receipt is confirmed by return receipt. Any notice given by facsimile transmission or other electronic transmission service is effective upon receipt, to the extent that receipt is confirmed, either verbally or in writing by the recipient. Any notice which is refused, unclaimed or undeliverable because of an act or omission of the party to be notified, if such notice was correctly addressed to the party to be notified, shall be deemed communicated as of the first date that said notice was refused, unclaimed or deemed undeliverable by the postal authorities, or overnight delivery service.

If to the City:

City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, FL 33444
Telephone: (561) 243-7010
Facsimile: (561) 243-7199

EXHIBIT 9
(continued)

Copy to:

City Attorney
City of Delray Beach
200 N.W. 1st Avenue
Delray Beach, FL 33444
Telephone: (561) 243-7090
Facsimile: (561) 278-4755

If to the Guarantor:

Copy to:

Changes in the respective addresses to which such notices shall be sent may be made from time to time by either party by notice given to the other party in accordance with this Guarantee.

14. Any termination of this Guarantee shall be applicable only to transactions having their inception after the effective date of such termination and shall not affect rights and obligations arising out of transactions having their inception prior to such date.

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

ATTEST: _____(Guarantor)

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Seal]

EXHIBIT 9
(continued)

Witnesses:

Signature

Print or Type Name

Signature

Print or Type Name

Signature

Print or Type Name

Signature

Print or Type Name

EXHIBIT 10

PERFORMANCE BOND

CONTRACTOR (name, principal place of business, and phone number):

Waste
Management
Inc. of Florida
1800 North
Military Trail,
Boca Raton,
FL 33431

SURETY (name, principal place of business, and phone number):

CITY:

City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, FL 33444
Telephone: (561) 243-7010

BOND No.

Date: _____

Amount: One Million Five Hundred Thousand Dollars (\$1,500,000)

KNOW ALL MEN BY THESE PRESENTS that we, _____
(hereinafter "CONTRACTOR"), as Principal, and _____, hereinafter "SURETY"), as
Surety, are held and firmly bound unto the City of Delray Beach, Florida (hereinafter "CITY"), as Obligee,
in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00), for the payment whereof
CONTRACTOR and SURETY bind themselves, their heirs, executors, administrators, successors and
assigns, jointly and severally, firmly by these presents.

WHEREAS, the SURETY states that it has read all of the "Exclusive Franchise Agreement"
(hereinafter "Agreement") that is attached hereto and incorporated herein by reference, and SURETY has
carefully considered the CONTRACTOR's obligations and duties under the Agreement, including but not
limited to the provisions of Sections 47 ("Breach and Termination of Agreement") and 51 ("Damages and
Indemnification"); and

WHEREAS, the CITY's issuance of an exclusive franchise to the CONTRACTOR, and the CITY's execution of the Agreement with the CONTRACTOR, are contingent upon the execution of this bond (hereinafter "BOND") and these presents.

EXHIBIT 10

(continued)

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, if the CONTRACTOR shall in all respects promptly and faithfully perform and comply with all of the terms and conditions of the Agreement, and CONTRACTOR's obligations thereunder, then this obligation shall be void; otherwise, the BOND shall remain in full force and effect, in accordance with the Agreement and the following terms and conditions:

1. The SURETY, for value received, as hereby acknowledged, stipulates and agrees that no change, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the requirements for the same shall in any way affect the SURETY's obligations on the BOND, and SURETY does hereby waive notice of any change, alteration, or addition to the terms of the Agreement or to the work.

2. The SURETY, for value received, as hereby acknowledged, further stipulates and agrees that it will pay the CITY all losses, damages, expenses, costs, and attorneys' fees, including fees incurred in appellate proceedings, the CITY sustains because of a default by the CONTRACTOR under the Agreement, up to the maximum amount of the BOND.

3. The fact that the CITY may extend the time within which the CONTRACTOR may perform its obligations shall not release the SURETY from its obligations under this BOND, whether such extension is made after notice to the SURETY or not, and the SURETY hereby consents that the CITY may extend the time for the CONTRACTOR's performance, without providing notice to the SURETY.

4. In the event that the CONTRACTOR defaults in the performance of any of the terms, covenants, or conditions of the Agreement, the CITY shall promptly give notice of such default to the SURETY in writing by certified mail, return receipt requested, addressed to the SURETY at its principal place of business, as identified above.

5. In the event that the CONTRACTOR defaults in the performance of any of the terms, covenants, or conditions of the Agreement, the SURETY shall have the right to complete the work or performance on behalf of the CONTRACTOR, and for that purpose shall have all of the rights of the FRANCHISEE under the Agreement for the completion of performance.

6. In the event that the CONTRACTOR defaults in the performance of any of the terms, covenants, or conditions of the Agreement, the SURETY shall remedy the default or otherwise satisfy its obligations under this BOND.

7. In the event there is a failure to perform the conditions of this obligation, the CITY may bring any and all actions, suits, or proceedings, or otherwise take such steps as it deems appropriate, to enforce the obligation of the SURETY, and the CITY may do so without joining the CONTRACTOR in any such actions, suits, or proceedings. Thereafter, whether judgment is obtained against the SURETY or not, successive actions can be brought against the CONTRACTOR, and this BOND shall remain a continuing obligation on the part of the SURETY and the CONTRACTOR until the conditions of this BOND have been fully performed, including the resolution of third party lawsuits.

8. It is understood and agreed that the obligation of the CONTRACTOR under this BOND continues from day to day until paid, and a new cause of action arises thereon daily with the result that the statute of limitations of the State of Florida does not run against the entire claim. The obligation of the SURETY under this BOND, therefore, continues in this manner, and no action, suit, or proceeding against

EXHIBIT 10

(continued)

the CONTRACTOR or the SURETY hereunder shall be barred, except under such conditions as would bar it under the said statute of limitations.

9. Any proceeding, legal or equitable, under this BOND shall be instituted only in a court of competent jurisdiction in and for Palm Beach County, Florida, and shall be instituted within the statute of limitations after the CONTRACTOR's default or within the statute of limitations after the SURETY refuses or fails to perform its obligations under this BOND, whichever occurs later. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the State of Florida shall be applicable.

10. Notices to the SURETY, the CITY, and the CONTRACTOR shall be mailed or delivered to the addresses shown above.

11. The SURETY represents and warrants to the CITY that it has a rating of "A" or better as to management and "FSC X" or better as to strength by Best's Insurance Guide or Surety; (b) it is listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds; (c) it has been in business continuously for at least five years; and (d) it will not cancel or alter this BOND without providing at least 30 days advance notice to the CITY.

EXHIBIT 10
(continued)

CONTRACTOR AS PRINCIPAL
Company: (Corporate Seal)

SURETY
Company: (Corporate Seal)

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date

Witnesses:

Signature

Signature

Print Name

Print Name

Signature

Signature

Print Name

Print Name

FLORIDA RESIDENT AGENT FOR SURETY

Print Name

Address

Phone

Fax

EXHIBIT 11

SPECIFICATIONS FOR GARBAGE CARTS

1. **MINIMUM REQUIREMENTS:** The following specifications describe the minimum acceptable features and performance requirements for the Garbage Carts the Contractor will provide under the Agreement.
2. **MANUFACTURING PROCESSES AND MATERIALS:** Each cart shall consist of a body, lid, wheels, axle, and necessary accessories. The plastic resin material and the finished cart must meet the minimum specifications herein.

2.1	MANUFACTURING PROCESS: Each cart body must be manufactured by a rotational or injection molding process.
2.2	PLASTIC MATERIAL: Base plastic resin must be first quality linear polyethylene or high-density polyethylene (HDPE) supplied by a national petrochemical producer. Off-spec material is not acceptable. Contractor must submit technical data sheet(s) from the resin producer.
2.3	RESIN ADDITIVES: All plastic parts shall be specifically prepared to be colorfast so that the plastic material does not alter or fade appreciably in normal use. The plastic resin must be enhanced with color pigment and ultraviolet inhibitor, which must be used at a rate that is no less than 1.5% by weight, and which must be uniformly distributed throughout the finished cart. To ensure thorough distribution of these additives, the resin and additives must be mixed in a molted state using a hot-melt blending process. Contractor must submit a statement certifying that all of the plastic resin and additives will be hot-melt blended.

3. **CART REQUIREMENTS:** The carts must be compatible with standard American semi-automated bar-locking lifters (ANSI type B) as well as automated arm lifters (ANSI type G) and function as follows:

3.1	ANSI CONFORMANCE: Carts must meet the requirements of ANSI Z245.30-2008 and ANSI Z245.60-2008 standards for “Type B/G” carts. Contractor must submit independently certified copies of all ANSI test results. Test results must state the load (in pounds) under which the tests were conducted. The load under which the tests were conducted must be the same as the load rating stated in the cart manufacturer’s sales literature and specifications. The ANSI Appendix D test for “Loading and Unloading Test for Carts” must clearly state that the required 520 dump cycles under the cart’s full rated load were performed on both a Semi-Automated Cart Lifter <u>and</u> a Fully Automated Grabber Arm.
3.2	LOAD RATING: Carts must be designed to regularly receive and dump the following amount of waste material, excluding the weight of the cart, without permanent damage or deformation. The load rating must conform with ANSI Standard Z245.30-2008. 32 Gallon – 122 pounds

	64 Gallon – 224 pounds 96 Gallon – 330 pounds Contractor must submit a normal printed color sales brochure which shows the exact products being proposed and the corresponding load ratings. Contractor must mark the location of the load ratings on the brochure with bold red arrows so as to aim directly at the load ratings. The load rating in the sales literature must match the specifications and ANSI certification submitted by the Contractor, and the load rating permanently marked on the cart.
3.3	RESIN WEIGHT: The carts must be manufactured to achieve a minimum resin weight as follows: 32 Gallon – 17.9 pounds minimum 64 Gallon – 23 pounds minimum 96 Gallon – 34.1 pounds minimum
3.4	CAPACITY: The total capacity (volume) of the carts, excluding the lid, must be 32 U.S. gallons (+/- 2%), 64 U.S. gallons (+/-3%), and 96 U.S. gallons (+/- 3%), respectively. Contractor must include independent test results according to ANSI Z245.30, Appendix A (Volume Test), certified by an accredited professional engineer, showing the exact capacity of the cart body (to the nearest 0.1 U.S. gallon), for each size.

3.5	DIMENSIONS: The exterior dimensions of the completely assembled carts shall be approximately as follows: 32 Gallon – Height: 39.13” Depth: 22.88” Width: 20.2” 64 Gallon – Height: 40.25” Depth: 28.0” Width: 26.50” 96 Gallon – Height: 45.13” Depth: 33.73” Width: 28.17”
3.6	WALL THICKNESS: The carts must have a minimum nominal wall thickness of 0.154” throughout the body of the cart, and a minimum wall thickness of 0.185” inches in the critical wear points (i.e., the cart bottom, handle, and lift mechanism). The minimum wall thickness of the lid must be 0.14”.
3.7	MANEUVERABILITY: Contractor must state the average tipping force required to maneuver a fully loaded cart when tilted to the roll position. The Contractor must also submit documentation that conforms to ANSI Z-245.60 (Force To Tip) testing that clearly defines the cart’s maximum average tipping force. The results of this testing may not exceed a maximum average of 27 pounds for 32 gallon carts, 35 pounds for 64 gallon carts, and 50 pounds for 96 gallon carts.
3.8	RIM OF BODY: The upper rim of each cart body must have a closed tubular design or be molded with a reinforced rim for maximum strength during collection. The rim must also include a ledge or other built-in feature that creates a tight seal between the body and lid.
3.9	HANDLES: Each cart must be equipped with a minimum of one handle, with a minimum of 1” diameter. The handle(s) and handle mounts must be an integrally molded part of the cart body. The handles shall be designed to afford the user positive control of the loaded cart at all times. The handles must not have the ability to rotate on their own axis at any time. Handles which are molded as part of the lid are unacceptable. Bolted-on handle mounts or bolted-on handles are unacceptable.
3.10	LID: The lid shall be of one piece construction and manufactured of the same material used in the cart body. The lid shall be configured to ensure that it will not warp, bend, slump, or distort to such an extent that it no longer fits the cart properly or becomes otherwise unserviceable. The lid must be crowned in shape and designed to prevent the entry of rain when in the closed position. The lid must open from a closed position

	through a full 270° arc. Living hinges and lid counter weights are unacceptable. Lid latches are unacceptable.
3.11	BOTTOM: The bottom of the cart must be impact resistant at all points (four corners and the center) of the base for durability. Screw-on, bolt-on, or pop-on wear guards are unacceptable.
3.12	WHEELS: Wheels for 32 gallon and 64 gallon carts shall be a minimum of 10” diameter. Wheels for 96 gallon carts shall be a minimum of 12” diameter and 1.75” wide with rubber treads. All wheels must be capable of supporting a minimum of 200 pounds per wheel.
3.13	AXLE: The axle for 32 gallon carts must be a minimum of 5/8” diameter. The axle for 64 gallon and 96 gallon carts shall be a minimum of 3/4” (0.75”) diameter. All axles shall be zinc chromate plated or powder coated equivalent, solid high strength steel, and fully supported by the cart body. The axle must slide through two molded-in plastic journals in the cart bottom and must not be exposed to the contents inside of the cart. Each molded-in axle journal must be at least 1” wide. Axles attached by means of bolts or rivets are unacceptable.
3.14	STABILITY: Each cart shall be stable and self-balancing when in the upright position, either loaded or empty. The carts must be designed to withstand winds averaging 25 mph when empty.
3.15	LIFT SYSTEM: Each cart shall be equipped with attachment points which make it compatible with standard American semi-automated bar-locking lifters and fully-automated arm lifters. The upper lift point must be integrally molded into the body of the cart. All lower lift bars must be designed to withstand over ten (10) years of lifter attachment. The lower lift bar on 96 gallon carts shall be at least 1” diameter galvanized steel. The lower bar must be mounted in molded-in plastic bearings or held in place with pre-installed latch/push pins. The lower bar must be factory installed and cannot be attached by means of rivets, screws, bolts, or similar fasteners.
3.16	COLOR: The cart body color shall be green, gray, brown, blue or black. Surface treatments, painted or spray-on finishes, and materials that are not homogenous are not acceptable. Contractor must submit color chips or samples for all colors available. The City will select the colors for the carts.
3.17	INTERIOR CONSTRUCTION: The interior surface of each cart must be smooth and free from crevices, recesses, projections, and other obstructions where material inside the cart could become trapped.

4. MARKINGS: Each cart must be permanently marked with letters/numbers, as follows:

4.1	SERIAL NUMBERS: Each cart must have a serial number hot stamped in white on the body. The serial number shall be preceded by a letter or number code which designates the year of manufacture. Serial numbers shall be in sequence beginning with a number designated by the City. The Contractor will maintain a file that identifies the date of manufacture by the serial number.
4.2	CITY SEAL: The City Seal or logo shall be hot stamped onto both sides of the cart body.

4.3	USER INSTRUCTIONS: Instructions for the safe use of the cart must be molded into each lid. Instructions shall be in both English and Spanish.
4.4	LOAD RATING: The load rating of the cart must be raised-relief molded into the lid. Load rating shall be stated in both pounds and kilograms and in English and Spanish.

5. **IN-MOLD LABEL SPECIFICATIONS:** The In-Mold Label must comply with the following listed specifications:

5.1	MANUFACTURING PROCESS: The in-mold label shall be permanently molded into the container lid. It should not wear or peel from normal uses. It shall have ultra-violet and other protection from the effects of the sun.
5.2	COLOR AND GRAPHICS: The in-mold label shall be 4-color and contain the City logo including images and language representing materials deemed acceptable for disposal. All proofs for the label shall be submitted to the City for approval and shall have a minimum size of 5" X 12".

6. **RFID & BAR CODE INTEGRATION:** Not Applicable.
7. **DATA INTEGRATION:** Not Applicable.
8. **WORK ORDER MANAGEMENT AND REPORTING SYSTEM:** Not Applicable.
9. **ASSEMBLY, DISTRIBUTION AND TRACKING SERVICES FOR CARTS**

9.1	The Contractor shall be responsible for coordinating the delivery of carts from the manufacturing plant, unloading loads of carts, assembling necessary parts, and distributing the carts to homes throughout the Service Area.
9.2	The Contractor shall unload all delivery trailers. Any damage to the carts during any phase of the delivery, unloading, assembly, distribution, or exchanging shall be the responsibility of the Contractor to replace in kind.
9.3	Carts shall be assembled and placed at the resident's curb.
9.4	Each cart must include a plastic hanger bag that includes a pre-printed brochure describing the safe care and use of the carts for residents.
9.5	The Contractor will record the cart serial number for each and every address where the carts are delivered. The Contractor will keep an electronic file of the address assignments of carts by serial number and present it to the City in an acceptable electronic format upon request. Verification of a specific cart being associated to a specific address is required.

10. CART MAINTENANCE

10.1	The Contractor must use inventory tracking software or other methods that enable the Contractor to maintain an adequate inventory of carts and spare parts at all times. Upon request, the Contractor shall promptly provide the City with up-to-date information concerning the Contractor's inventory.
10.2	Each cart action shall be tracked by the Contractor using the serial number on the cart or other methods that are mutually acceptable to the Parties. The time, date, and location of all cart deliveries, swap-outs (exchanges), repairs, and cart maintenance activities must be recorded and made available for the City's inspection.
10.3	The City may generate a service work order and submit it electronically to the Contractor for processing. Contractor must be able to receive and respond to work orders from the City electronically via e-mail.
10.4	Completions of work orders shall be documented using cart numbers (IDs), household address, date, and time work is completed.
10.5	The Contractor shall repair all carts at the residence. All carts in need of repair shall be equipped with new parts.

- 11. WARRANTY:** Contractor must submit a document which clearly states the exact warranty of the Contractor. The warranty must be for no less than ten (10) full years and must specifically provide for no-charge replacement of any component parts which fail in materials or workmanship for a period of ten (10) years after installation. The warranty must be transferable to and enforceable by the City. The Contractor's warranty is understood to include, whether stated in Contractor's warranty or not, the following coverage:

11.1	Failure of the lid to prevent rain water from entering the cart when in the closed position.
11.2	Damage to the cart body, lid, or any component parts through opening or closing the lid.
11.3	Failure of the lower lift bar from damage during interface with lifters.
11.4	Failure of the body and lid to maintain their original shape.
11.5	Damage or cracking of the cart body through normal operating conditions.
11.6	Failure of the wheels to provide continuous, easy mobility, as originally designed.
11.7	Failure of any part to conform to the minimum standards as specified herein.
11.8	Warranty specimen of exact warranty offered must be provided to the Contract Administrator before the carts are ordered.

- 12. ILLUSTRATION OF SPECIFICATIONS:** The following illustrations are an example of the dimensions, wording, and additional requirements for the carts that are described in this Exhibit 11.



Part No.	3456560B-B6		City of Delray Beach FL		
Cart Style	35 Gallon Evolution	Metal Bar	Integral Bib	1 Handle	
Color Base	Forest Green (65)	Serial Number	See Order		
Color Lid	Black (60)	Wheels	10" Rubber Wheels		
CUSTOMER APPROVAL					
Print name:					
Sign:					
Date:					
Fax signed approval to: 704-588-8981					

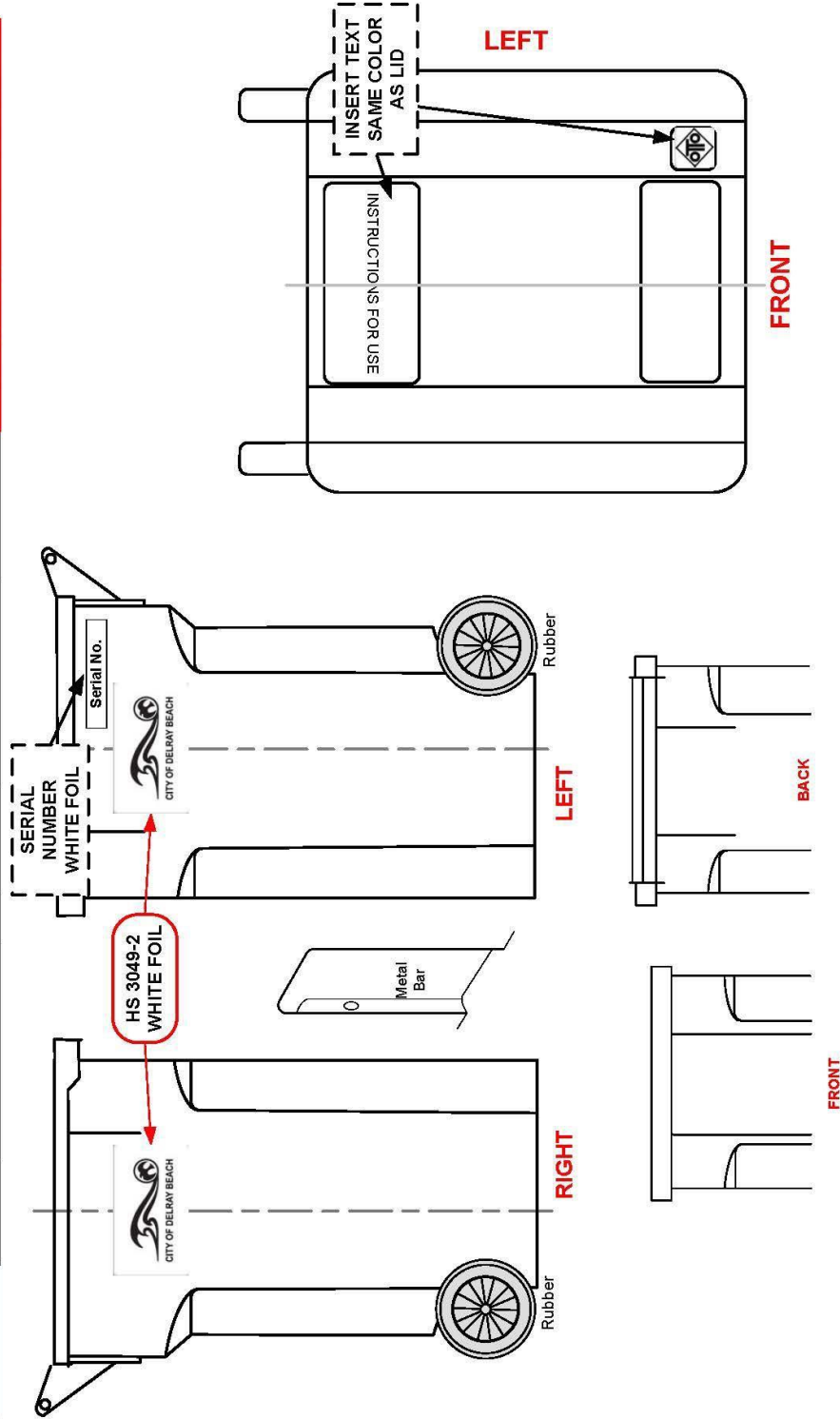
CUSTOMER APPROVAL

Print name: _____

Sign: _____

Date: _____

Fax signed approval to: 704-588-8981





Part No.	34260BLid	
City of Delray Beach FL		
Color Lid	Black (60)	1 Handle

CUSTOMER APPROVAL	
Print name:	
Sign:	
Date:	
Fax signed approval to: 704-588-8981	

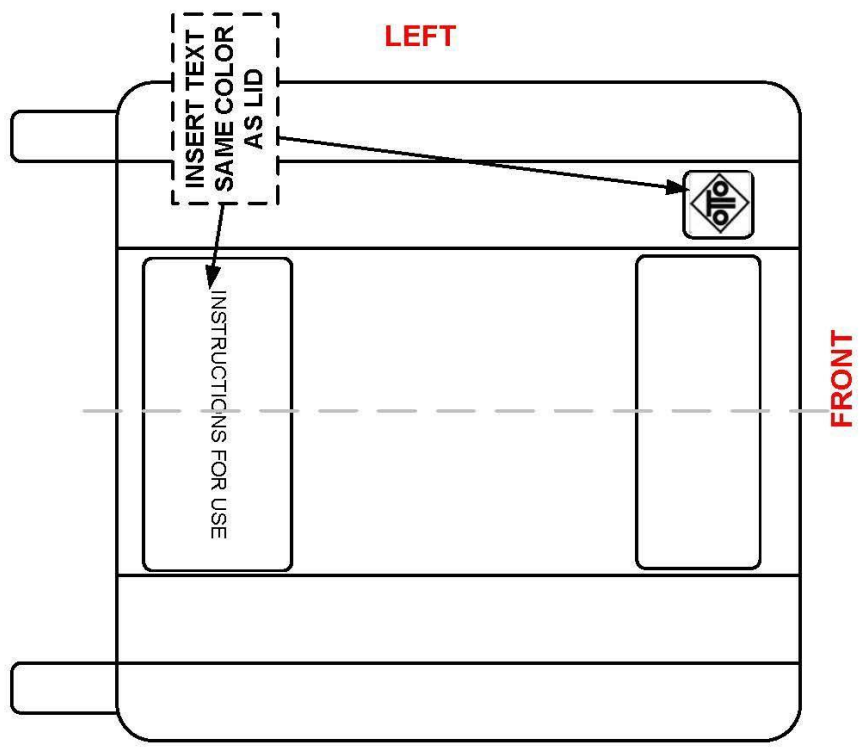


EXHIBIT 12

SAMPLE CALCULATIONS FOR CPI AND FUEL ADJUSTMENTS

The following calculations use hypothetical values to demonstrate how the annual CPI adjustment should be determined under Section 38.3 of the Agreement. More specifically, the examples demonstrate how hypothetical Rates for Residential Collection Services (Curbside Collection with Garbage Carts) should be calculated. The following examples assume the “Total Monthly Cost per Dwelling Unit” on October 1, 2023 will be \$21.87.

CPI Adjustment on October 1, 2023

Collection component of the current monthly Rate per Dwelling Unit: \$21.87

Percentage change in CPI for previous 12 month period: 3.0%

Calculation of CPI Adjustment: $\$21.87 \times 0.03 = \0.6561^*

Calculation of the new Rate: $\$21.87 + \$0.66 = \$22.53$

*The annual adjustment is calculated by rounding to the nearest whole cent.

CPI Adjustment on October 1, 2024

Collection component of current monthly Rate per Dwelling Unit: \$22.53

Percentage change in CPI for previous 12 month period: 10%

Calculation of CPI Adjustment: $\$22.53 \times 0.05 = \1.1265^{**}

Calculation of the new Rate: $\$22.53 + \$1.13 = \$23.66^*$

* For the sake of simplicity, this hypothetical example does not include any adjustment in the Rate that may have occurred in 2023 based on changes in fuel costs.

**Pursuant to Section 38.3 of the Agreement, a single CPI adjustment to the Rate shall not exceed five percent (5%) in any Operating Year. Accordingly, the CPI adjustment in this hypothetical year shall be limited to five percent (5%).

The CPI adjustment shall be applied to ninety percent (90%) of the Collection component of the then current Rates. The adjustment for fuel costs shall be applied to ten percent (10%) of such Rates. The combined CPI and fuel adjustment shall not exceed five percent (5%).

EXHIBIT 13

THE CITY'S INTERLOCAL AGREEMENT WITH THE AUTHORITY

Name:

Address:



CFN 20210117254

OR BK 32286 PG 1568
RECORDED 03/16/2021 11:24:19
Palm Beach County, Florida
Joseph Abruzzo, Clerk
Pgs 1568 - 1575; (8pgs)

**INTERLOCAL AGREEMENT FOR THE DELIVERY OF MUNICIPAL SOLID WASTE
TO DESIGNATED FACILITIES AND FOR A MUNICIPAL REVENUE SHARING
RECYCLING PROGRAM**

THIS Agreement, made and entered into this 9th day of February, 2021 by and between the **SOLID WASTE AUTHORITY OF PALM BEACH COUNTY**, a dependent special district created pursuant to Chapter 2001-331, Laws of Florida, as amended, hereinafter called "Authority", and the **CITY OF Delray Beach**, a municipal corporation, chartered and organized in accordance with the laws of the State of Florida, hereinafter called "CITY".

WITNESSETH:

WHEREAS, the Authority has been empowered by law to carry out the powers, obligations and requirements in Palm Beach County, Florida, prescribed to a "county" pursuant to the provisions of Chapter 403, Part IV, *Florida Statutes*; as amended, and

WHEREAS, the CITY desires to work in cooperation with the Authority to continue a municipal recycling program toward achievement and maintenance of the State recycling goal and the requirements of Chapter 403, Part IV, *Florida Statutes*; as amended, and

WHEREAS, in addition, the CITY provides for the collection of solid waste from the residents and businesses and residential recyclable materials within its boundaries and recognizes the need for safe and sanitary processing and disposal of solid waste and residential recyclable materials; and

WHEREAS, the CITY wishes to participate in a coordinated County-wide program for the management of hazardous waste and control of solid waste processing and disposal and residential recycling participation in cooperation with federal, state, and local agencies responsible for the prevention, control, or abatement of air, water, and land pollution; and

WHEREAS, the CITY together with the Authority recognizes the need to plan and develop an adequate solid waste and residential recycling system for the benefit of all the residents of Palm Beach County.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter contained to be kept and performed by the parties hereto, and for the mutual benefit of the CITY, its constituents and the Authority, it is agreed as follows:

1. The above recitals are true and correct and incorporated into the body of this Agreement as if fully set forth herein.
2. Definitions:
Acceptable Load – Any load of otherwise Designated Recyclables that contains no Prohibited Material and a maximum of 12% Contamination in total, or the Container component contains no Prohibited Material and a maximum of 12% Contamination and

the Fiber component contains no Prohibited Material and a maximum of 5% Contamination.

Acceptable Material – Designated Recyclables as defined herein.

Combined-Haul City – A municipality that has contracted with a Private Hauler that also services other municipal or unincorporated areas within Palm Beach County to collect and deliver Residential Recovered Materials to the Authority.

Containers – Includes aluminum cans, aseptic containers, gable-topped containers, glass bottles and jars (green, brown and clear), and plastic containers #1 - #7 (except Styrofoam).

Contaminated Recyclable Material – Any Recyclable Material that does not conform to the standards for Acceptable Loads.

Contamination – Any material not included in the definition of Designated Recyclables.

Corrugated Cardboard – Containers having liners of either test liner, jute, or kraft.

Designated Facility – The Authority's Recovered Materials Processing Facility (RMPF), the Authority's transfer stations, a Private Commercial Materials Recycling Facility (PCMRF) designated by the Authority or any other sites designated by the Authority for recycling. The Authority reserves the right to add or delete approved facilities with reasonable notice.

Designated Recyclables – Fiber and Containers as defined herein or other materials as the Authority may designate.

Equivalent Residential Unit (ERU) – Single-Family and Mobile Homes equal 1 ERU, Multi-Family Homes equal 0.75 ERUs.

Fiber – Includes newspapers (including inserts), magazines and catalogs, phone books, Corrugated Cardboard, Mixed Paper, Sorted White Ledger, Sorted Office Paper, and kraft bags.

Mixed Paper – A mixture of various types and grades of paper including but not limited to: all office paper, colored paper, corrugated cardboard, envelopes (excluding envelopes with cellophane windows), junk mail, kraft bags, magazines, and catalogs. Mixed Paper does not include tissue or towel paper.

Municipal Solid Waste or MSW – Garbage, sewage, sludge, septage, rubbish, refuse, and other discarded solid or liquid materials resulting from domestic, industrial, commercial, agricultural, and governmental operations, but does not include solid or dissolved materials in domestic sewage, storm drainage, or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants.

Net Revenue – Residential Recovered Materials Revenue minus Processing Cost.

Private Hauler – Any for-profit person or entity providing collection of solid waste and/or recyclables for hire on a routine basis within the municipality.

Processing Cost – The sum(s) due and payable to the contract operator of the RMPF by the Authority.

Prohibited Material – Hazardous, medical or biological waste.

Public/Self Hauler – The municipality providing the collection of solid waste and recyclables using their own resources rather than using the hauling services of a Private Hauler.

Recovered Materials Processing Facility (RMPF) – A facility owned by the Authority that processes Recyclable Material.

Recyclable Material – Includes Containers and Fiber.

Residential Recovered Materials Revenue – Total earned revenue from the sale of designated Residential Recovered Materials.

Residential Recovered Materials – Designated Recyclables collected from residential units less Unacceptable Materials and Prohibited Materials delivered to Designated Facilities.

Self-Haul City – A municipality that collects its own Residential Recovered Materials and delivers it to the Authority or who uses a private contractor that collects its Residential Recovered Materials on dedicated routes and can positively demonstrate that they have collected and are delivering only that jurisdiction's Residential Recovered Materials to the Authority.

Sorted Office Paper – Office paper including letterhead, computer paper, legal paper, loose-leaf paper, copy and typing paper.

Sorted White Ledger – White ledger or computer printout paper.

Unacceptable Load – Any load of Designated Material delivered to a Designated Facility that is deemed not an Acceptable Load as defined herein.

Unacceptable Material – Any material other than Acceptable Material and Prohibited Material.

3. The purpose of this Agreement is to set forth the terms and conditions for the delivery of Municipal Solid Waste (MSW) to Designated Facilities and for the operation of a recycling program between the Authority and the CITY which upon execution by both parties shall automatically rescind the current **INTERLOCAL AGREEMENT FOR THE DELIVERY OF MUNICIPAL SOLID WASTE TO DESIGNATED FACILITIES AND FOR A MUNICIPAL RECYCLING PROGRAM** and shall become effective upon filing with the Clerk of the Courts in accordance with Chapter 163, *Florida Statutes*.
4. The CITY agrees that all MSW and Designated Recyclables collected by or on behalf of the CITY shall be disposed of at a Designated Facility in accordance with this Agreement.
5. The CITY agrees to cooperate with the Authority to provide all necessary and required information to the Authority in a timely manner so that it can be determined if the CITY's MSW and Designated Recyclables are being delivered to a Designated Facility.

6. The Authority agrees to pay the CITY a minimum of 50% of the Net Revenues earned from the sale of Residential Recovered Materials attributable to the CITY on a quarterly basis. The actual percentage will be determined annually through the Authority's budget process. The Net Revenues to be shared will consist of the Residential Recovered Materials Revenues received by the Authority for each quarter less the Processing Cost for that quarter. That amount will be divided by the total tons received to determine an average price per ton and then multiplied by the adopted annual revenue share percentage to set the program price to be paid for the quarter. The Net Revenue distribution formula will be based on the number and type of residential units serviced by the CITY in relation to the total number of these units for all municipalities participating in this program or on the actual amount delivered for municipalities that haul their own material. Each participating municipality will either be classified as a Self-Haul City or a Combined-Haul City. Self-Haul Cities will receive a revenue share based on the actual weight of Acceptable Loads delivered to a Designated Facility. Combined-Haul Cities will share the balance of those net revenues based upon the proportion of their total ERUs serviced in comparison to the total ERUs serviced for all Combined-Hauler Cities in Palm Beach County.
7. The Authority agrees to maintain its Designated Facilities to ensure adequate capacity for the CITY's waste and residential recyclables to operate within all applicable local, state and federal environmental guidelines.

8. Collection of Designated Recyclables

A. Residential

Individual residents/homeowners shall be encouraged by the CITY to separate their MSW into recyclables and non-recyclables. Each residential unit or combination of units will receive from the Authority the appropriate type and number of reusable containers, in accordance with the countywide recycling program, into which Recyclable Materials will be deposited.

Corrugated Cardboard shall be cut to an acceptable size and flattened, and for curbside residents, shall be set beside or in the same reusable container as the Fiber. Residents receiving containerized service may receive a separate container to be used for the collection of Corrugated Cardboard.

The Authority retains the right to modify the manner in which materials are set out for collection with reasonable notice to the CITY. Notice for a substantial change in collection method shall be no less than one year.

B. Commercial

Individual businesses shall be encouraged by the CITY to separate their MSW into two categories: recyclable and non-recyclable. Businesses contracting for services will arrange with their service provider to receive one or more containers into which Recyclable Material may be deposited. Acceptable Materials for commercial recycling shall include: Containers, Corrugated Cardboard, Sorted White Ledger,

Mixed Paper, Sorted Office Paper, and any other materials agreed to in writing by the CITY and the Authority.

The Authority reserves the right to add or delete allowable Designated Recyclables and when doing so will provide the City with reasonable notice to make those changes.

9. Commercial Recycling Revenue Share

As a further incentive for the CITY to actively pursue commercial recycling, the Authority and the CITY may enter into a separate agreement to provide for payment to the CITY for all Acceptable Loads of agreed upon commercial Recyclable Materials. Types of commercial Recyclable Materials eligible for payment shall be determined by the Authority.

10. Transportation and Equipment

The CITY shall be responsible for having collected Designated Recyclables transported to a Designated Facility as defined herein. The Authority or its contractor shall receive, process, dispose of and/or recover all Designated Recyclables delivered by or on behalf of the CITY, at no charge to the CITY, except for Unacceptable Loads as described below. Collection equipment must be of a type to provide for rear, side or front unloading and may be compartmentalized or in separate vehicles.

11. Improperly Prepared and Sorted Recyclable Materials

When a collector's crew encounters improperly prepared and sorted materials or non-recyclable items, they must follow this procedure:

- A. The collector shall pick up all Designated Recyclables except for Contaminated Recyclable Material or those which cannot be safely retrieved from the reusable containers. Improperly prepared and sorted materials or contamination will be left in the reusable containers or temporarily removed and returned to the reusable containers. The collector shall leave an Authority and/or CITY approved form on the material or in the container. The form will notify the resident or business that material has not been properly sorted, and will provide contact information for the CITY or Authority recycling coordinator for further information. Upon request of the CITY, the Authority will provide rejection procedure training for the route drivers. The Authority and the CITY will consult and evaluate the extent of the need for such training, which shall be provided by the Authority.

As a means of strengthening the CITY's ability to have its collector fulfill the CITY's recycling needs, the CITY agrees to notify the Authority when preparing the CITY's future Request for Proposals or Bid for collection services.

- B. It shall be the responsibility of the CITY or its Private Hauler to contact residents or businesses that repeatedly place improperly sorted materials in their designated container and inform and encourage them to properly sort materials. If the problem

persists, the CITY shall notify the Authority, who shall then assist the CITY in resolving the problem.

12. Recycling Containers

The Authority shall provide yellow and blue eighteen (18) and ninety-six (96) gallon recycling containers. The yellow and blue colors reflect a consistent educational advertising effort through TV commercials, newsprint, radio, mailer, or other source. It is the CITY's responsibility to make sure it or its Private Hauler has equipment compatible to provide proper collection of these recycling containers without damage. The CITY or its Private Hauler shall be responsible for replacement of any recycling container(s) damaged during service at no cost to the Authority. The Authority reserves the right to add or delete different size containers and when doing so will provide the City with reasonable notice to make those changes.

13. Compliance with Zoning Ordinances

Any transfer, processing, disposal and/or storage of Municipal Solid Waste and Recyclable Materials shall be undertaken at a Designated Facility that complies with all local zoning ordinances and any other applicable local and state statutes, ordinances, and regulations.

The CITY further agrees to use its best efforts to amend or modify its appropriate zoning, building, or land development code to require new multi-family or commercial developments to provide adequate space for recycling containers.

14. Delivery of Unacceptable Loads

If the City delivers a load of Designated Recyclables that is deemed to be an Unacceptable Load, the CITY or its Private Hauler will be charged the actual disposal cost for any rejected load due to Contamination or equipment failure. The Authority will notify the CITY or its contractor immediately of an Unacceptable Load. If the problem of Unacceptable Loads persists (more than two times in a month), the Authority may elect to monitor the route for proper sorting and tagging procedures, and/or make recommendations to the CITY.

15. Promotion and Education Responsibilities

The Authority will provide recycling containers and assist in promoting and educating residents within the CITY in an effort to increase recyclable tonnages and reduce Contamination.

16. Delivery of Designated Recyclables

The CITY agrees that it shall require that all Designated Recyclables separated from the normal Municipal Solid Waste stream that are collected by or on behalf of the CITY be delivered to Designated Facilities as defined herein. The CITY will take such action as is

necessary and available to ensure against and prevent scavenging and unauthorized removal of such recyclables within the jurisdiction of the CITY.

17. Term

This Agreement shall begin on the later of its effective date or October 1, 2020, and continue through the following September 30th and shall automatically be renewed for successive annual periods. Either party may terminate this Agreement on any October 1st by delivering written notice received by the other party prior to the preceding May 1st. The Authority will continue to provide the necessary recycling containers and ongoing education and advertising as provided in this Agreement. Notwithstanding termination, any rights or duties imposed by law shall remain in effect.

18. Change in Law

In the event any change in law abrogates or modifies any provisions or applications of this Agreement, the parties hereto agree to enter into good faith negotiations and use their best efforts to reach a mutually acceptable modification of this Agreement.

19. Notices

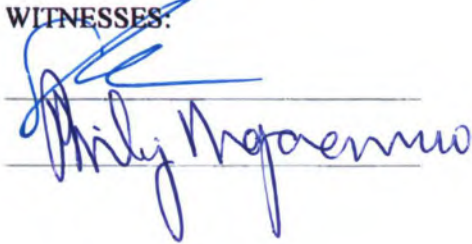
All formal notices affecting the provisions of this Agreement shall be delivered in person or be sent by registered or certified mail to the individual designated below, until such time as either party furnishes the other party written instructions to contact another individual.

For the Authority:	For the CITY:
Solid Waste Authority of Palm Beach County 7501 North Jog Road West Palm Beach, Florida 33412 Attention: Executive Director	City of Delray Beach 100 N.W. 1st Avenue Delray Beach, Florida 33444 Attn: City Manager

20. If any clause, section, or provision of this Agreement shall be declared to be unconstitutional, invalid or unenforceable for any cause or reason, or is abrogated or negated by a change in law, the same shall be eliminated from this Agreement, and the remaining portion of this Agreement shall be in full force and effect and be valid as if such invalid portions thereof had not been incorporated herein.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective as of the day and year first above written:

WITNESSES:


Howard J. Falcon III
General Counsel to the Authority

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Howard J.
Falcon III

Digitaly signed by Howard J. Falcon III
DN: CN=Howard J. Falcon III, OU=SWA, O=SWA, email=HJFalcon@swa.org
Reason: I am the author of this document
Location: your signing location here
Date: 2021.03.08 12:10:33-0500
Full Master Version: 10.1.0

General Counsel to the Authority

Date: _____

As to the Authority:

SOLID WASTE AUTHORITY OF
PALM BEACH COUNTY


Daniel Pellowitz, Executive Director

Date: 3/8/2021

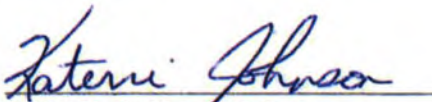
SOLID WASTE AUTHORITY OF PALM
BEACH COUNTY


Sandra J. Vassalotti, Clerk to the Authority

Date: 03/08/2021

(Affix SWA Seal)

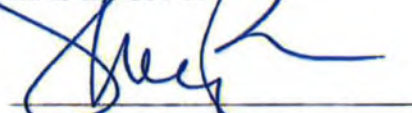
ATTEST:


City Clerk, Katerri Johnson

(Affix Municipal Seal)

CITY OF DELRAY BEACH

As to the CITY:


Shelly Petrolia, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY


CITY Attorney, Lynn Gelin

Date: 2/16/2021



EXHIBIT 14

CONTRACTOR'S VEHICLES AND STAFF

The following list of vehicles and employees was provided in the proposal that the Contractor submitted in response to the City's RFP. At all times during the term of this Agreement, the Contractor shall provide at least as many vehicles and employees to serve the City as is listed below, unless the Administrator approves a deviation from this list pursuant to Section 25.7 of the Agreement.

Trucks	Make	Model	Year	Fuel Type	Cargo Capacity	Frontline Quantity	Reserve Quantity

Job Category	# of Employees In Each Category	Total # of Employees in All Categories	Hours Worked Each Week	Days Worked Each Week

EXHIBIT 15
LIST OF BUS SHELTER LOCATIONS
IN DELRAY BEACH

SHELTER #	LOCATED ON	INTERSECTION	COLLECTION DAY
1	Swinton Avenue	Atlantic Avenue	Monday
2	Congress Avenue	Lake Ida Road	Tuesday
3	Lake Ida Road	Congress Avenue	Tuesday
4	NE 1 st Street	NE 5 th Avenue	Monday
5	West Atlantic Avenue	NW 1 st Avenue	Tuesday
6	West Atlantic Avenue	SW 2 nd Avenue	Tuesday
7	SW 12 th Avenue	SW 4 th Street	Monday
8	SW 12 th Avenue	Auburn Drive	Wednesday
9	West Atlantic Avenue	Whatley Rd. (Opp. Delray Square)	Tuesday
10	N. Swinton Avenue	Lake Ida Road	Monday
11	Lindell Boulevard	Egret Circle	Tuesday
12	SW 10 th Street	Congress Avenue	Tuesday
13*	NW5 th Avenue	NW 2 nd St. (MLK Dr)	Monday
14*	SW 5 th Avenue	West Atlantic Avenue	Tuesday
15	SE 5 th Avenue (US1)	Atlantic Avenue	Monday
16	SE 6 th Avenue (US1)	SE 1 st Street	Monday
17	SW 10 th Street	SW 11 th Terrace	Wednesday
18	Swinton Avenue	SE 10 th Street	Wednesday
19	West Atlantic Avenue	SW 10 th Avenue	Tuesday
20	West Atlantic Avenue	NW 8 th Avenue	Tuesday
21	SW 10 th Avenue	SW 10 th Avenue	Wednesday
22	SE 5 th Avenue	SE 10 th Street	Monday
23	Federal Hwy. (US 1)	Banyan Tree Lane	Monday
24	Federal Hwy. (US 1)	Linton Blvd	Tuesday
25*	Congress Avenue	Linton Blvd	Tuesday
26	South Military Trail	Delray West Plaza Ent.	Wednesday
27	South Military Trail	Bocaray Plaza Ent.	Wednesday
28	Lowson Boulevard	Pines of Delray Ent.	Tuesday
29	West Atlantic Avenue	Sherwood Forest Drive	Tuesday
30	West Atlantic Avenue	Sunset Pine Drive	Tuesday
31	Barwick Road	West Atlantic Avenue	Tuesday
32	Congress Avenue	Congress Park Ent.	Tuesday
33	Congress Avenue	PBC Health Department	Tuesday
34*	Congress Avenue	SW 10 th Street	Tuesday
35	South Military Trail	Wal-Mart Ent.	Wednesday
36	Federal Hwy (US1)	Harbourside Drive	Tuesday
37	Lindell Boulevard	Audubon Boulevard	Wednesday
38	Congress Avenue	2085 South Congress	Tuesday
39*	Federal Hwy (US1)	Lindell Boulevard	Wednesday
40	North Swinton Avenue	NE 5 th Street	Monday
41	Auburn Avenue	Auburn Drive	Wednesday
42	SW 10 th Avenue	1301 SW 10 th Avenue	Wednesday
43	SW 10 th Avenue	1301 SW 10 th Avenue	Wednesday
44	SW 10 th Avenue	Lindell Boulevard	Tuesday

EXHIBIT 15 (continued)

45	SW 10 th Avenue	Linton Boulevard	Tuesday
46	Lindell Boulevard	Lake Delray Apartments	Wednesday
47	Lindell Boulevard	Dotterel Road	Wednesday
48	South Swinton Avenue	SW 4 th Street	
49	Military Trl @ Atlantic Ave	Gramecy Square	
50	West Atlantic Ave @ Whatley Rd	Colony Palms	
51	Federal Hwy @ Mongrove Park	Harbourside	
52	Atlantic Ave @ Congress Square		
53	NE 1 st Street @ NE 2 nd Ave (PGW)		
54	Old Germantown Rd @ Spanish Well Dr		
55	Old Germantown Rd @ SW 36 th Ave		
56	Old Germantown Rd @ Via Verona		
57	SW 22 nd Ave @ Germantown SW		
58	SW 22 nd Ave @ Germantown SE		
59	Federal Hwy @ Ed Morse	FDOT Variance	
60	SW 29 th St @ SW 20 th Terr		
61	SW 10 th Ave	Side of 10 th Street	
62	Linton Blvd @ Linton Squares Oaks		
63	SR-5 @ S Federal Hwy	Transportation Lane	
64	Lamat Ave @ SR-5 Federal Hwy	Ave G	
65	SR-5 @ S Federal Hwy	Fladells Way	
66	SR-5 @ S Federal Hwy	Lindell Blvd	
67	SR-5 @ S Federal Hwy	Delray Plaza	
68	SR-5 @ S Federal Hwy	Tropic Blvd	
69	2501S Federal Hwy	Formerly Ralph Buick	
70	2605 W Atlantic Ave @ NW 24 th Ave	Atlantic High School (Easement)	
71	2605 W Atlantic Ave @ NW 24 th Ave	Golf Course	

EXHIBIT 16

BIG BELLY UNITS SUBJECT TO LEASE AGREEMENT

No	Station	Type	Waste Stream	Description	Groups
1	2401265	BB4	Trash	East on Board Walk -ADP	Beachside
2	2401267	BB4	Trash	Northwest odum field -Pompey Park	Pompey Park
3	2401272	BB4	Trash	Front of Building -Pompey	Pompey Park
4	2401283	BB4	Trash	Next to Basketball Court - Pompey	Pompey Park
5	2401286	BB4	Trash	Between pool & Tennis court	pompey Park
6	2401290	BB4	Trash	East Between fields -Main	Miller Park
7	2401297	BB4	Trash	Back of building, NW corner	Pompey Park
8	2401300	BB4	Trash	Front of Teddy's Field - Pompey	Pompey Park
9	2401924	BB4	Trash	Next to Bathrooms -Anchor Park	Beachside
10	2401925	BB4	Trash	North Seawall -Veterans	Veterans park
11	2401937	BB4	Trash	South Pavilion -Miller Park	Miller Park
12	2401950	BB4	Trash	N End main Pavilion	Beachside
13	2401951	BB4	Trash	Lady Atlantic - Veterans	Veterans park
14	2401960	BB4	Trash	Adult Center -Veterans	Veterans park
15	2401969	BB4	Trash	North Parking Lot -ADP	Beachside
16	2401973	BB4	Trash	Next to the playground -Anchor park	Beachside
17	2401975	BB4	Trash	South parking lot - ADP	Beachside
18	2401977	BB4	Trash	South Parking lot - Anchor	Beachside
19	2401980	BB4	Trash	Concession Stand - Pompey	Pompey Park
20	2401985	BB4	Trash	South or flag pole - Veterans	Veterans park
21	2401987	BB4	Trash	South end corner main - Pavilion	Beachside
22	2402001	BB4	Trash	West parking lot field 2 -Pompey	Pompey Park
23	2402005	BB4	Trash	Middle parking lot - Pompey Park	Pompey Park
24	2401249	BB4	Trash	West of Playground - Lakeview	Lakeview Park
25	2401255	BB4	Trash	Front of bathrooms - Orchard	Orchard View Park
26	2401285	BB4	Trash	Front of City Hall	City Hall

EXHIBIT 17
LIST OF CITY PROPERTIES RECEIVING COLLECTION SERVICE

The following table identifies the name and location of each City facility that will receive collection services, the type of collection service, the size of the collection container and the frequency of service required.

Location	Type of Service	Containers	Frequency
Fire Station #2 35 Andrews Ave	Garbage	3-96 gallon	1 time per week
PD Training Bldg 2350 Seacrest Blvd	Garbage	1-4 yard	1 time per week
Clean & Safe PW 434 S Swinton Ave	Garbage	1-6 yard dumpster	2 time per week
Miller park 1905 SW 4 th Ave	Garbage	1-6 yard	2 times per week
Library 100 W Atlantic Ave	Garbage	5-96 gallon	2 times per week
Library 100 W Atlantic Ave	Recycling	4-96 gallon	1 time per week
City Hall 100 NW 1 st Ave	Garbage	2-8 yard dumpster	3 times per week
Fire Station #1 501 W Atlantic Ave	Garbage	1-8 yard Dumpster	2 time per week
Fire Station #1 501 W Atlantic Ave	Recycling	2-96 gallon	1 time per week
Golf Club 2200 Highland Ave Clubhouse	Garbage	6-96 gallon	1 time per week
Golf Club 2200 Highland Ave Clubhouse	Garbage	1-4 yard dumpster	7 time per week
Golf Club 2200 Highland Ave Clubhouse	Recycling	1-4 yard dumpster	2 time per week
Golf Club 2200 Highland Ave Clubhouse	Recycling	4-96 gallon	1 time per week
Marina 159 Marine Way	Garbage	2-96 gallon	2 times per week
Marina 159 marine Way	Recycling	2-96 gallon	1 time per week
Police Department 300 W Atlantic Ave	Garbage	1-8 yard	3 times per week
Police Department 300 W Atlantic Ave	Recycling	1-4 yard	2 times per week
Police Department 300 W Atlantic Ave	Recycling	4-96 gallons	1 time per week
Pompey Park	Garbage	2-6 yard	2 times per week
Pompey Park	Garbage	1-4 yard	1 time per week
Teen Center 505 SE 5 th Ave	Recycling	2-96 gallon	1 time per week
Water Treatment 200 NW 1 st Ave	Garbage	1-6 yard	1 time per week
Water Treatment 200 NW 1st Ave		1-3 yard	1 time per week
Swim & Tennis Club 2350 Jaeger Dr	Garbage	1-4 yard	1 time per week
Swim & Tennis Club 2350 Jaeger Dr	Recycling	4-96 gallon	1 time per week

Seacrest Soccer 2505 Seacrest Blvd N	Garbage	1-4 yard	2 times per week
PW 434 S Swinton Ave	Garbage	1-8 yard	4 times per week
PW 434 S Swinton Ave	Recycling		1 time per week
PW Pks & Maint 434 SW 4 th Ave	Recycling	1-8 yard	1 time per week
Fire Station #5 4000 Germantown Rd	Garbage	4-96 gallon	2 times per week
Lake View Golf 1200 Dover Rd	Garbage	1-6 yard	2 times per week
Catherine Strong Park	Garbage	1-4 yard	1 time per week
Fire Station #4 4321 Lake Ida Rd	Garbage	2-96 gallon	2 times per week
Fire Station #4 4321 Lake Ida Rd	Recycling	2-96 gallon	1 time per week

EXHIBIT 18

**LIST OF TRASH RECEPTACLES ON ATLANTIC AVENUE THE BEACH,
AND PINEAPPLE GROVE**

! Beach	Amount
S Ocean Blvd and Del Harbor Dr	1
S Ocean Blvd and Casuarina Rd	1
S Ocean Blvd and Anchor Park	1
320 S Ocean Blvd	1
S Ocean Blvd and Bay St	1
S Ocean Blvd and Nassau St	1
S Ocean Blvd and Ocean Terrace	1
S Ocean Blvd and Ingraham Ave	1
S Ocean Blvd and Sandoway Park	1
120 S Ocean Blvd	1
S Ocean Blvd and Miramar Dr	1
88 S Ocean Blvd	1
S Ocean Blvd and Sand Bar	1
40 S Ocean Blvd	1
10 N Ocean Blvd	2
120 N Ocean Blvd	2
126 N Ocean Blvd	1
N Ocean Blvd and Thomas St	1
200 N Ocean Blvd	1
222 N Ocean Blvd	1
N Ocean Blvd and Laing St	1
334 N Ocean Blvd	1
N Ocean Blvd and Seaspray Ave	1
N Ocean Blvd and Beach Dr	1
406 N Ocean Blvd	1
502 N Ocean Blvd	1
513 N Ocean Blvd	1
610 N Ocean Blvd	1
North Side of Atlantic Avenue	
E Atlantic Ave {Marriott}	3
E Atlantic Ave and Andrews Ave	1
1155 E Atlantk Ave	1
E Atlantic Ave and Venetian Dr	1
50 East Rd (Barr Terrace)	2
E Atlantic Ave and NE Jt ^h Ave	1

; 533 E Atlantic Ave	1	
; 507 E Atlantic Ave	1	
445 E Atlantic Ave	1	
401 E Atlantic Ave	: 1	
331 E Atlantic Ave	1	
! 301 E Atlantic Ave	1	
217 E Atlantic Ave	1	
1 137 E Atlantic Ave	.	1
105 E Atlantic	1	
E Atlantic Ave and NE pt Ave	1	
E Atlantic Ave and N Swinton Ave	1	
37 W Atlantic Ave Dunkin Donuts	1	
201 W Atlantic Ave	1	
W Atlantic Ave NW 3 rd Ave	1	
301 W Atlantic Ave (Tony's Market)	1	
301 W Atlantic Ave (SPY Store)	1	
301 W Atlantic Ave (Mens Room)	2	
401 W Atlantic Ave (Ziree)	1	
01 W Atlantic Ave (Aloha Geaners)	1	
; : 401 W Atlantic Ave (Mammas Pizza)	1	
W Atlantic Ave NW 5 th Ave	1	
501W Atlantic Ave (Fire Headquarters)	1	
619 W Atlantic Ave	1	
W Atlantic Ave and NW yth Ave	2	
725 W Atlantic Ave (BP Station)	1	
W Atlantic Ave and NW <i>Sin</i> Ave	1	
W Atlantic Ave {bus stop)	1	
945 W Atlantic Ave	1	
W Atlantic Ave and NW 10 th Ave	1	
1135 W Atlantic Ave	1	
 South Side of Atlantic Ave		
W Atlantic Ave and SW 12 th Ave	1	
W Atlantic Ave and SW 10 th Ave	2	
910 W Atlantic Ave (bus stop)	1	
W Atlantic Ave and SW 8 th Ave	2	i
702 W Atlantic Ave	1	l
W Atlantic Ave and SW 7 th Ave	1	
606 W Atlantic Ave (Shuler Memorial)	1	
W Atlantic Ave and SW 6 th Ave	1	
540 W Atlantic Ave	1	

: 524 W Atlantic Ave {Vintage Tapl	1
i W Atlantic Ave and SW 5 th Ave	1
i 450 W Atlantic Ave (Checkers)	1
+ W Atlantic Ave and SW 4 th Ave	1
300 W Atlantic Ave (Police Dept}	2
W Atlantic Ave and SW 3 rd Ave	1
· W Atlantic Ave (South County Courthouse)	1
! W Atlantic Ave and SW 2 nd Ave	1
i 102 W Atlantic Ave	1
İ 52 W Atlantic Ave	1
l 20 W Atlantic Ave	1
2 E Atlantic Ave	1
44 E Atlantic Ave	1
110 E Atlantic Ave	1
E Atlantic Ave (Park Tavern)	1
1 E Atlantic Ave and SE 2 nd Ave	1
. 250 E Atlantic Ave (Its Sugar)	1
l 290 E Atlantic Ave	1
E Atlantic Ave and SE 3 rd Ave	1
302 E Atlantic Ave (SunTrust)	1
' 330 E Atlantic Ave (Green Owl)	1
400 E Atlantic Ave	1
404 E Atlantic Ave	1
422 E Atlantic Ave	1
428 E Atlantic Ave	1
502 E Atlantic Ave	1
600 E Atlantic Ave (Blue Gallerv)	1
640 E Atlantic Ave	1
-804 E Atlantic Ave (Blue Anchor)	1
900 E Atlantic Ave (Tauriello)	11
900 E Atlantic Ave (Dr Fine)	1
900 E Atlantic Ave (Joseph John Salon}	1
i 900 E Atlantic Ave (Remax)	1
; 900 E Atlantic Ave (Private Jewelers)	1

) 900 E Atlantic Ave (Lapg.Realty)	1
' 1136 E Atlantic Ave	1
1218 E Atlantic Ave (Mimis)	1
E Atlantic Ave and Salina Ave J	1
E Atlantic Ave and S Ocean Blvd	1
1 273 NE 2 nd Ave (Mystery Bookstore)	1
: 200 NE 2 nd Ave (Nourishe)	1
200 NE 2 nd Ave (City Walk)	1
200 NE 2 nd Ave (David Zappitell)	1
200 NE 2 nd Ave (Rustic Rooster)	1
233 NE 2 nd Ave (United State of Fftness}	: 1
186 NE 2 nd Ave	1
NE 2 nd Ave (Art Garage)	4
NE 1 st Ave (Chamber of Commerce)	2
25 NE 2 nd Ave (House of Siam)	1
75 SW 5 th Ave	1
37 SW 5 th Ave	1
26 SW 5 th Ave	1
60 NW 5 th Ave	1
105 NW 5 th Ave	1
182 NW 5 th Ave	1
139 NW 5 th Ave	1
74 NE 4 th Ave	1
Corner of NE 2 nd Ave & NE 3 rd St	1
206 NE 2 nd Ave	2
149 NE 2 nd Ave	1
75 NE 2 nd Ave	: 1
Corner of SW 2 nd Ave & SW 1 st St	1
94 SW 5 th Ave	1
SW 15 th St. between SW 4 th & 5 th Ave.	: 1
Thomas Park at SW 9 th Ave & W. 15 th St	2
186 NW 5 th Ave	2

Rogue cans:

Military Tri and NW 5 th St	1
Military Tri and Lake Ida Rd	1
4675 Linton Blvd	1
Homewood Blvd and Black Olive Rd	1
SW 11 th Terrace and SW 10 th St	1
SE 2 nd Ave and 2 nd St	1
SE 2 nd Ave and 3 rd St	1

SE 2 nd Ave and 4 th St	1
SE 3 rd Ave and SE 4 th St	1
SE 3 rd Ave and SE 10 th St	1
NW 2nd St and NW 10th Ave	1
378 NE 5th Ave	1
900 block NW 2nd St	! 1

EXHIBIT 19
CITY OF DELRAY BEACH PARKS

	Location	Address	Type of Service	Containers	Frequency
1	'505" Teen Center and Hobbit	505 SE 5th Ave	Garbage	1-96 gallon	1 time per week
2	Anchor Park	340 S Ocean Blvd	Garbage	40 gallons	2 times a week
3	Atlantic Dunes Park	1605 S Ocean Blvd	Garbage	40 gallons	2 times a week
4	Barwick Park	735 Barwick Rd	Garbage	40 gallons	2 times a week
5	Bexley Trail Community Park	1400 W. Bexley Park Dr	Garbage	40 gallons	2 times a week
6	Carver Square Park	SW 3rd & SW 7th Ave	Garbage	40 gallons	2 times a week
7	Catherine Strong Splash Park	1500 SW 6th St	Garbage	4 yard dumpster	1 time per week
8	City Hall Passive area (North Parking Lot)	100 NW 1st Ave	Garbage	40 gallons	2 times a week
9	City Marina	159 Marine Way	Recycle	1-96 gallon	1 time per week
10	Community Center	50 NW 1st Ave	Garbage	6 yard dumpster	2 times a week
11	Cornell Park	301 NW 9th St	Garbage	40 gallons	2 times a week
12	Currie Commons Park	750 SE 2nd Ave	Garbage	40 gallons	2 times a week
13	Del Ida Park	NE 2nd Ave & NE 6th St	Garbage	40 gallons	2 times a week
14	DeRay Municipal Beach	South Ocean Blvd	Garbage	40 gallons	2 times a week
15	DeRay Oaks Natural Area	2021 SW 29th St	Garbage	40 gallons	2 times a week
16	DeRay Swim and Tennis Club Pool	2350 Jaeger Dr	Garbage	40 gallons	2 times a week
17	Eagle Park	55 Coral Trace Blvd	Garbage	40 gallons	2 times a week
18	Elizabeth "Libby" Jackson Wesley Plaza	SW 5th Ave & Atlantic Ave	Garbage	40 gallons	2 times a week
19	Family Recreation and Fitness Center Playground	850 N Congress Ave	Garbage	40 gallons	2 times a week
20	Knowles Park	1001 S Federal Highway	Garbage	40 gallons	2 times a week
21	LA Hacienda Gardens	Lake Ave North	Garbage	40 gallons	2 times a week
22	Lakeview Park	1100 Lake Drive	Garbage	40 gallons	2 times a week
23	Leon M. Weekes Environmental Preserve	2800 Albatross Rd	Garbage	40 gallons	2 times a week
24	Mangrove Park	1211 S Federal Highway	Garbage	40 gallons	2 times a week
25	Merrit Park	316 SW 2nd Ave	Garbage	40 gallons	2 times a week
26	Mike Machek Boy Scout Park	413 Lake Ida Rd	Garbage	40 gallons	2 times a week
27	Passive Park	NE 13th Street Playground/ Parking lot	Garbage	40 gallons	2 times a week
28	Passive Park	NE 1st Court and the Intercostal	Garbage	40 gallons	2 times a week
29	Passive Park	NE 2nd Street and the Intercostal	Garbage	40 gallons	2 times a week
30	Passive Park	NE 3rd Street and the Intercostal	Garbage	40 gallons	2 times a week
31	Passive Park	NE 4th Street and the Intercostal	Garbage	40 gallons	2 times a week
32	Passive Park	NE 5th Street and the Intercostal	Garbage	40 gallons	2 times a week
33	Oakmont Park	2200 SW 35th Ave	Garbage	40 gallons	2 times a week
34	Old School Square Park	95 NE 1st Ave	Garbage	40 gallons	2 times a week
35	Orchard View Park	4060 Old Germantown Rd.	Garbage	40 gallons	2 times a week
36	Pine Grove Park	400 SW 10th Street	Garbage	40 gallons	2 times a week
37	Plumosa Park	1720 NE 3rd Ave	Garbage	40 gallons	2 times a week
38	Pompey Park	1101 NW 2nd St	Garbage	40 gallons	2 times a week
39	Pompey Park Pool	1101 NW 2nd St	Garbage	40 gallons	2 times a week
40	Rev. J.W.H. Thomas Jr. Park	SW 9th Avenue & 1st St	Garbage	40 gallons	2 times a week
41	Robert P. Miller Park	1905 SW 4th Ave	Recycle	1-96-gallon	2 times a week
42	Rosemont Park	550 SW 4th Ave	Garbage	40 gallons	2 times a week
43	Sandoway Park	200 Block of A1A, South of Atlantic Ave	Garbage	40 gallons	2 times a week
44	Sarah Gleason Park	2 S Ocean Blvd	Garbage	40 gallons	2 times a week
45	Seacrest Soccer Complex and Hilltopper Stadium	2505 Seacrest Blvd	Garbage	40 gallons	2 times a week
46	Passive Park	SE 3rd Street and the Intercostal	Garbage	40 gallons	2 times a week
47	Sunshine Park	145 SW 15th Ave	Garbage	40 gallons	2 times a week
48	Veterans Park	802 NE 1st St	Garbage	40 gallons	2 times a week
49	Worthing Park	150 E Atlantic Ave	Garbage	40 gallons	2 times a week

EXHIBIT 20

LIST OF CITY'S PUBLIC DROP-OFF FACILITIES
FOR RECYCLABLE MATERIALS

Delray Beach City Hall	100 NW 1st Avenue
City Parking Lot	South Federal Highway between Atlantic Avenue and SE 1 st Street
FEC Railroad Tracks	NE 4th Avenue east of FEC Tracks
City Property at Old Train Depot	Depot Avenue east of CSX Tracks