

Exhibit "A"

Amended and Restated

Exclusive Franchise Agreement Between  
The City of Coconut Creek, Florida And  
Republic Services of Florida, Limited Partnership  
For  
The Collection of Solid Waste & Recyclable Materials

**Franchise Agreement for the Collection of Solid Waste &  
Recyclable Materials**

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## EXCLUSIVE FRANCHISE AGREEMENT

This Exclusive Franchise Agreement ("Agreement") is made and entered into this day of October, ~~2026~~<sup>2019</sup> by and between the City of Coconut Creek, Florida ("City"), a municipal corporation of the State of Florida, and Republic Services of Florida, Limited Partnership ("Contractor"), a limited partnership, which is authorized to do business in the State of Florida.

### RECITALS

WHEREAS, on February 17, 2019, the City issued a request for proposals ("RFP") for the Collection of certain types of Solid Waste and Recyclable Materials that are generated in the City; and

WHEREAS, the Contractor and three (3) other companies submitted proposals in response to the City's RFP (RFP No. 04-17-19-1 O); 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, 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 City 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 City Commission finds that the franchise granted herein properly balances (a) the Commission's desire to provide excellent, environmentally-sound Collection services to the City's residents and businesses, and (b) the Commission's desire to minimize and reasonably allocate the cost of such services.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements 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:

### SECTION I: DEFINITIONS

The capitalized words and phrases in this Agreement are defined in this Section I. The definitions contained in this Section I shall be used when interpreting this Agreement. In the event that a definition herein conflicts with a similar definition in a federal, state, or local law, the definition herein shall prevail when construing this Agreement. If the definition of a term in this Agreement is inconsistent with the definition of the same term in Section 403.703, Florida Statutes, the definition in Section 403.703, Florida Statutes, shall prevail, but only to the extent necessary to resolve the conflict between the two (2) definitions.

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

1.2 **Advertising** means 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** means this Exclusive Franchise Agreement between the City and the Contractor.
- 1.4 **Applicable Law** means 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 Contractor under this Agreement.
- 1.5 **Automated Collection Service** means the Collection of Garbage and Rubbish in a Garbage Cart and the Collection of Source Separated Recyclable Materials in a Recycling Cart, using fully automated equipment (e.g., a side-loading Collection vehicle that is staffed with a driver only) or semi-automated equipment (e.g., a rear-loading Collection vehicle equipped with a hydraulic "tipper," a driver, and a crew of one or two people).
- 1.6 **Back Door Service** means the Collection of Solid Waste and Source Separated Recyclable Materials from a Residential Curbside Customer's back yard, side yard, or other location that is not Curbside.
- 1.7 **Biomedical Waste** means any solid or liquid waste that 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 that contain human disease-causing agents; discarded sharps; and used absorbent materials saturated with blood or body fluids.
- 1.8 **Bulky Waste** means a large discarded item that (a) is discarded by a Customer as a result of the Customer's normal housekeeping activities on their own Premises and (b) cannot be placed in a Garbage Cart or Garbage Can because of its size, shape or weight. Bulky Waste includes furniture, fixtures, White Goods, large pieces of foam, and large pieces of carpet.
- 1.9 **Certificate of Occupancy** means 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.
- 1.10 **Change in Law** means 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.
- 1.11 **City** means, depending on the context, either (a) the geographic area contained within the municipal boundaries of the City of Coconut Creek, Florida, or (b) the government of the City of Coconut Creek, acting through the Commission or its designees.
- 1.12 **City Indemnified Parties** mean the City, including its officers, agents, volunteers, or employees while acting within the course and scope of their office or employment.
- 1.13 **Collection** means the process of picking up the Solid Waste and Source Separated Recyclable Materials that are Set Out by a Customer and then transporting and delivering the Solid Waste and Source Separated Recyclable Materials to a Designated Facility.
- 1.14 **Collection Containers** mean Garbage Cans, Garbage Carts, Recycling ContainersCarts, and Mechanical Containers.
- 1.15 **Collection Plan** means the Contractor's written plan for providing Collection Services in compliance with the requirements in this Agreement, as described in Section 23, below.
- 1.16 **Collection Service** means one or more of the services provided by the Contractor for the Collection of Solid Waste and Source Separated 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.

1.17 **Commencement Date** means October 1, 2019, which is the date when the Contractor shall begin providing Collection Services in the City pursuant to this Agreement.

1.18 **Commercial Collection Service** means: (a) the Collection of Commercial Waste from a Commercial Customer; (b) the Collection of Source Separated Recyclable Materials from a Commercial Customer, when such service is requested by the Commercial Customer; and (c) the Collection of Construction and Demolition Waste.

1.19 **Commercial Customer** means a Person that owns or occupies Commercial Property and receives or is entitled to receive Commercial Collection Service from the Contractor pursuant to this Agreement.

1.20 **Commercial Lawn Care Company** means a Person that provides lawn and garden maintenance services for remuneration. This definition includes a Person that provides landscaping services.

1.21 **Commercial Property** means all 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, and service stations; (b) institutional purposes, such as governmental offices, churches, hospitals, and schools; and (c) not-for-profit organizations. Commercial Property includes commercially zoned property that is used primarily for residential purposes. Vacant land, not classified as Improved Real Property, shall be deemed Commercial Property.

1.22 **Commercial Waste** means Garbage, Rubbish, and Bulky Waste generated on Commercial Property. Commercial Waste does not include Yard Waste.

1.23 **Commission** means the City Commission of the City of Coconut Creek.

1.24 **Community Events** mean parades, festivals, and other CIVIC events that are sponsored or supported by the City and designated by the Administrator pursuant to Section 36.4, below.

1.25 **Compactor** means a stationary or mobile mechanism that compresses Solid Waste in a Mechanical Container and achieves a minimum compaction ratio of 2.5 to 1.

1.26 **Construction and Demolition Waste** shall have the meaning set forth in Section 403.703(6), Florida Statutes, except Construction and Demolition Waste does not include Land Clearing Debris. In general, Construction and Demolition Waste 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.

~~1.261.27~~ **Consumer Price Index or "CPI"** means the "Consumer Price Index - **Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, by detailed expenditure category Garbage and trash collection**

~~Consumer Price Index or "CPI"~~ means the "Consumer Price Index - All Items in the U.S. City Average, All Urban Consumers, not seasonally adjusted, Base Period 1982-84 = 100 (Series I.D. CUUR0000SA0)," as published by the U.S. Department of Labor, Bureau of Labor Statistics, or a successor agency.

~~1.271.28~~ **Contingency Plan** means the Contractor's plan for avoiding an interruption in Collection Service in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable or prevents the Contractor's drivers from reporting for work.

~~1.281.29~~ **Contractor** means Republic Services of Florida, Limited Partnership.

~~1.291.30~~ **County** means Broward County, Florida.

**1.301.31 Curbside** means 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 means a location that is adjacent to a roadway where the Contractor may lawfully gain access and provide Collection Service to the Customer. In all cases, the Curbside location must be within three (3) feet of the curb or the edge of the road.

**1.311.32 Customer** means a Person, other than the City, that uses or is entitled to use the Contractor's Collection Services under this Agreement. Customers are Residential Customers or Commercial Customers.

**1.321.33 Customer List** means the City's list of the Residential Property and Single Family Dwellings that are entitled to receive Collection Service from the Contractor pursuant to this Agreement.

**1.331.34 Designated Facility** means a facility designated by the City for the Recycling or disposal of the Solid Waste and other materials collected pursuant to this Agreement.

**1.341.35 Disaster Debris** means debris that is produced or generated by a natural or human event that is declared a disaster by the federal government or the City. Disaster Debris includes Yard Waste, Construction and Demolition Waste, and Bulky Waste that is generated by such disaster.

**1.351.36 Disaster Debris Contract** means the City's contract(s) for the removal, hauling, processing, disposal, or Recycling of Disaster Debris.

**1.361.37 District Manager** means the senior employee that has been designated by the Contractor to serve as the Contractor's primary representative when dealing with the City on matters involving this Agreement.

**1.371.38 Dwelling Unit** means 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.

**1.381.39 Effective Date** means the date when this Agreement is signed and duly executed by the Commission's designee, which shall occur after the Agreement is signed and duly executed by the Contractor.

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

**1.401.41 Exempt Waste** means materials that are exempt from the Contractor's exclusive franchise under this Agreement.

**1.411.42 Field Supervisor** means the Contractor's employee that is responsible for directly supervising the Contractor's Collection Services in the City.

**1.421.43 First Operating Year** means the period from the Commencement Date through and including September 30, 2020, unless this Agreement is terminated earlier.

**1.431.44 Force Majeure** means the following events or circumstances, but only to the extent that they delay or preclude the City or Contractor from performing any of its obligations (other than payment obligation) under this Agreement: (a) a hurricane, tornado, flood, fire, explosion (except those caused by the negligence of Contractor, its agents, and assigns), landslide, earthquake, or epidemic; (b) acts of a public enemy, acts of war, terrorism, insurrection, riots, civil disturbances, or national or international calamities; (c) 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 the City or Contractor, or a Change in Law; and (e)

any act, event, or condition, which 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 1.44 (a) through (d), above.

**1.441.45 Franchise Fee** means a fee paid by the Contractor for (a) the exclusive right to provide Collection Services in the City and (b) the other rights and benefits provided to the Contractor under this Agreement.

**1.451.46 Garbage** means 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.

**1.461.47 Garbage Can** means any commonly available metal or heavy-duty plastic container for Solid Waste that has enclosed sides and bottom, a tight fitting lid or top, handles on the sides, and a capacity of approximately thirty-five (35) gallons or less.

**1.471.48 Garbage Cart** means 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-fighting hinged lid, having a capacity of approximately one hundred (100) gallons or less, and used for the automated or semi-automated Collection of Garbage and Rubbish.

**1.481.49 Hazardous Material** means 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 Material includes any material or substance identified as a hazardous waste or hazardous substance in the Florida Administrative Code, Florida Statutes, or other Applicable Law.

**1.491.50 Holiday** means a day when the Contractor does not need to provide Collection Service to Residential Customers. The only Holiday is Christmas Day (December 25), unless the City Manager and the District Manager mutually agree to designate additional days as Holidays.

**1.501.51 Improved Property** means any cleared, graded, or drained property in the City 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. Improved Property includes recreational vehicle park lots contained within areas designated as mobile home parks by the Health Department.

**1.51.52 Indemnified Loss** means 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, error or omission, or negligence by the Contractor or any of its agents, employees, or any tier of subcontractors of the Contractor, or 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 attorneys' fees, court costs, and expert witness fees in all trial, appellate, mediation, and bankruptcy proceedings. An Indemnified Loss includes (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 lawsuit 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 (g) 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 or 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 to a subcontractor of the Contractor under any insurance policy or any Applicable Law (including employee benefits, disability benefits, and workers' compensation laws). Notwithstanding anything else contained herein, Indemnified Loss shall not include costs, losses, damages, expenses, or liabilities to the extent they are caused by: (i) the negligence of the City Indemnified Party; (ii) the breach of a term, condition, representation, or warranty in this Agreement by the City; or (iii) the violation of an Applicable Law by the City Indemnified Party.

**1.521.53 Industrial Property** means real property, not classified as Residential Property, where a Person is engaged in manufacturing, or processing raw materials, or altering or modifying material for the purpose of producing a usable or finished product, and such Person generates Solid Waste as a by-product of their activities.

**1.531.54 Interest** means a payment for the use of money, which shall be set at a percentage rate determined pursuant to Section 55.03(1), Florida Statutes.

**1.541.55 Land Clearing Debris** means the trees, tree trunks, limbs, stumps, bushes, vegetation, rocks, soil, and other materials resulting from ~~a land-clearing or lot-clearing operation from the process to prepare land for construction, farming, or to create open space and not part of normal trimming and maintenance.~~

**1.551.56 Legitimate Complaint** means 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.

**1.561.57 Load** means the Solid Waste and other cargo that is transported in one of the Contractor's vehicles.

**1.571.58 Manager** means the City Manager of the City of Coconut Creek or the Manager's designee(s).

**1.581.59 Mechanical Container** means 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.

**1.591.60 Missed Collection** means any occasion when the Contractor fails to provide Collection Service to a Customer on a Scheduled Collection Day in compliance with the requirements in this Agreement.

**1.601.61 Multi-Family Dwelling** means a building with multiple Dwelling Units that are located under one roof. Multi-Family Dwellings include apartments, condominiums and mixed-use buildings that contain multiple Dwelling Units.

**1.611.62 New Customer** means a Person that did not receive service from the City's franchisee before the Commencement Date, but is entitled to receive Collection Service from the Contractor pursuant to this Agreement.

**1.621.63 Non-Collection Notice** means 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.

**1.631.64 Non-Conforming Material** means any material that is Set Out for Collection in a Recycling Container ~~Cart~~, but is not a Program Material.

**1.641.65 Operating Day** means a calendar day, except Sundays and Holidays, from the Commencement Date until this Agreement expires or terminates.

**1.651.66 Operating Month** means each calendar month from the Commencement Date until this Agreement

expires or terminates. However, the last Operating Month shall end on the day when this Agreement expires or terminates.

**1.661.67 Operating Year** means 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 First Operating Year shall begin on the Commencement Date and end on September 30, 2020, and the last Operating Year shall end on the day when this Agreement expires or terminates.

**1.671.68 Ordinances** mean the City's Code of Ordinances and any amendments thereto.

**1.681.69 OSHA** means the Occupational Safety and Health Act and all implementing regulations.

**1.691.70 Party** means, depending on the context, either the City or the Contractor.

**1.701.71 Parties** mean the City and the Contractor.

**1.711.72 Performance Bond** means the financial security furnished by the Contractor as a guarantee that the Contractor will perform its work and pay all lawful claims in accordance with the terms of this Agreement.

**1.721.73 Person** means 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.

**1.731.74 Plastic Bag** means a heavy-duty plastic or biodegradable bag, with a capacity of approximately forty (40) gallons or less, that is designed to be used for the Collection of Solid Waste.

**1.741.75 Premises** mean Improved Property.

**1.751.76 Program Materials** means Source Separated Recyclable Materials that are accepted for Recycling at the Designated Facility for Recyclable Materials. The Program Materials are identified in Exhibit 9.

**1.761.77 Radioactive Waste** means 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.

**1.771.78 Rates** mean the fees and charges approved by the City for the Contractor's Collection Services.

**1.781.79 Recovered Materials** 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. A Recovered Material does 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, Construction and Demolition Waste is not a Recovered Material.

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

**1.801.81 Recycling** means 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.

**1.811.82 Recycling Cart** means 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 Program Materials.

~~1.821.83 **Intentionally Omitted Recycling Container** means any container approved by the Administrator for the Collection of Recyclable Materials, including Recycling Carts.~~

**1.831.84 Residential Collection Service** means the Collection of Residential Waste and Program Materials from Residential Customers.

**1.841.85 Residential Curbside Customer** means a Residential Customer that receives Collection Service at Curbside. A Residential Curbside Customer may reside in (a) a Single Family Dwelling or (b) a Multi-family Dwelling that cannot or should not receive Collection Service with a Mechanical Container, as determined by the Administrator.

**1.851.86 Residential Customer** means a Person that (a) occupies Residential Property in the Service Area or (b) owns or manages Dwelling Units located on Residential Property. Residential Customers are Residential Curbside Customers or Residential Mechanical Container Customers.

**1.861.87 Residential Mechanical Container Customer** means a Residential Customer that receives Collection Service with a Mechanical Container.

**1.871.88 Residential Property** means each parcel of Improved Property in the Service Area that is used for residential purposes, including single family residences; duplex, triplex, and quadruplex apartments; apartment buildings; recreational vehicle lots contained within mobile home parks; mobile homes; condominium units; cooperatives established pursuant to Chapter 719, Florida Statutes; time-share apartments; and leased residential Premises of the classes described above, whether occupied or not.

**1.881.89 Residential Waste** means Garbage, Rubbish, Recyclable Materials, Yard Waste, and Bulky Waste generated by a Residential Customer upon the Customer's Residential Property. Residential Waste does not include any waste generated by a commercial business or enterprise.

**1.891.90 Roll-Off Container** means 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 Material, 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 another location.

**1.901.91 Route** means the roadways that will be used by one Collection vehicle on a single Operating Day when providing Collection Services. Each Route shall have a designated starting location and time, a designated sequence of streets to be followed when providing Collection Services, and a designated location for finishing.

**1.911.92 Rubbish** means waste materials (other than Garbage, Yard Waste, and Bulky Waste) resulting from normal housekeeping activities on Residential Property and Commercial Property. Rubbish includes discarded trash, rags, sweepings, packaging, Recyclable Materials that are not source separated, and similar materials.

**1.921.93 Scheduled Collection Day** means an Operating Day when the Contractor is scheduled to collect a Customer's Source Separated Recyclable Materials or one or more of the components of the Customer's Solid Waste.

**1.931.94 Service Area** means the geographic area contained within the municipal boundaries of the City of Coconut Creek, Florida. The Service Area also includes the homes described in Section 4.3, subject to the conditions therein.

**1.941.95 Set Out** means the Customer's preparation and placement of Solid Waste and Program Materials

for Collection at the Customer's Premises, in compliance with the requirements in this Agreement.

- ~~1.951.96~~ **Single Family Dwelling** means a building with a single Dwelling Unit located under one roof.
- ~~1.961.97~~ **Sludge** means 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.
- ~~1.971.98~~ **Solid Waste** shall have the meaning set forth in Section 403.703(36), Florida Statutes. Solid Waste includes Biomedical Waste, Bulky Waste, Commercial Waste, Construction and Demolition Waste, Disaster Debris, Electronic Equipment, Garbage, Hazardous Material, Land Clearing Debris, Radioactive Waste, Recyclable Materials, Residential Waste, Rubbish, Tires, White Goods, and Yard Waste.
- ~~1.981.99~~ **Source Separated Recyclable Materials** 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.
- ~~1.991.100~~ **Special Collection Services** means 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 Back Door Service, the Collection of discarded materials at times other than the Customer's Scheduled Collection Day for such material, the Collection of any material in quantities that are greater than the amounts authorized herein for such materials, and the other services identified in Exhibit 6.
- ~~1.1001.101~~ **Tipping Fee** means a fee that must be paid for the disposal of a Solid Waste or other material.
- ~~1.1011.102~~ **Tires** mean discarded automotive, motor vehicle, and trailer tires, including rims, but excluding tires that have an inside diameter of 25 inches or greater.
- ~~1.1021.103~~ **Transition Period** means the period of time between the Effective Date and the Commencement Date.
- ~~1.1031.104~~ **Transition Plan** means a document describing in detail the activities that will be undertaken and the schedule that will be followed by the Contractor to ensure that the Contractor successfully provides the Contractor's Collection Services in compliance with this Agreement on and after the Commencement Date.
- ~~1.1041.105~~ **White Goods** mean large discarded appliances (e.g., refrigerators, ranges, washing machines, clothes dryers, water heaters, freezers, microwave ovens, and air conditioners) that are generated by a Customer on the Customer's Improved Property where the White Goods are collected.
- ~~1.1051.106~~ **Yard Waste** means vegetative matter resulting from yard and landscaping maintenance, including but not limited to shrub and tree trimmings, grass clippings, palm fronds, and branches. Yard Waste does not include Land Clearing Debris.

## SECTION 2: CONTRACTOR'S EXCLUSIVE FRANCHISE

### 2.1 EXCLUSIVE FRANCHISE GRANTED TO CONTRACTOR

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 City. More specifically, subject to the conditions and limitations herein, 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., at~~ Multi-Family Dwellings) where Garbage and Rubbish are collected in

Mechanical Containers; (c) Garbage, Rubbish, and Bulky Waste generated on Commercial Property; and (d) Construction and Demolition Waste generated on Residential Property or Commercial Property. The Contractor shall have the sole right to provide these Collection Services in the City. The Contractor shall have the sole responsibility for providing these Collection Services in compliance with the requirements in this Agreement.

**2.2 LIMITATIONS ON THE 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 exclusive franchise under this Agreement. Among other things, the Contractor's franchise does not include the Collection of Yard Waste generated on (a) Residential Property where Garbage and Rubbish are collected in Mechanical Containers or (b) Commercial Property. Section 21, below, identifies some of the other materials that are not subject to the Contractor's franchise.

Notwithstanding Section 2.1(c), above, the Contractor's exclusive franchise for the Collection of Garbage generated on Commercial Property does not include the Collection of Garbage or similar organic waste in any case where the Manager determines that a grocery store, restaurant, or other establishment may divert the waste to a facility where the waste will be used to create compost or other beneficial products. Requests to divert Garbage and organic waste shall be reviewed by the Manager on a case-by-case basis.

**2.3 ENFORCEMENT OF THE FRANCHISE**

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.

**SECTION 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 shall expire on September 30, 2026, unless this Agreement is terminated earlier.

**3.2 CITY'S OPTION TO RENEW THE FRANCHISE**

The Commission shall have the right to renew and extend this Agreement at the end of the initial term of this Agreement, unless the Contractor gives written notice to the City pursuant to Section 75, below, that the Contractor is not willing to renew this Agreement and such notice is delivered on or before September 11, 2025. There shall be one (1) renewal term and it shall be five (5) years. During the renewal term the City and the Contractor shall be subject to the conditions and limitations that are contained herein, unless the City and the Contractor agree otherwise. Any renewal of this Agreement must be approved by the Commission.

**SECTION 4: THE SERVICE AREA**

**4.1 DESCRIPTION OF THE SERVICE AREA**

The Service Area includes all of the land located within the incorporated area of the City. A general

map of the City is provided in Exhibit 1. A legal description of the City is contained in Exhibit 2. However, Exhibits 1 and 2 do not identify the portions of the Service Area that are located in unincorporated Broward County, as described in Section 4.3, below.

#### **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 land to the City after the Effective Date may require the Contractor to provide Collection Services in the annexed area or, in the alternative, the annexed area may be served by another Person. In either case, the Contractor shall provide its services in 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 newly annexed area is provided by another Person.

#### **4.3 SERVICE IN BROWARD COUNTY**

The Contractor shall provide Residential Collection Service at Curbside for approximately one hundred ninety (-14-90) Single Family Dwellings that are located in the unincorporated area of Broward County, unless the Administrator instructs the Contractor otherwise. The street addresses for these Single Family Dwellings are provided in Exhibit 3. The Service Area shall be deemed to include these dwellings, unless the Administrator instructs the Contractor to terminate its Collection Services to these homes.

### **SECTION 5: CONTRACTOR'S OBLIGATIONS PRIOR TO COMMENCEMENT DATE**

#### **5.1 CONTRACTOR'S TRANSITION PLAN**

The Contractor shall ensure that the Customers do not experience any delay or disruption in service when the Contractor begins to provide its Collection Services on the Commencement Date. To help accomplish this task, Contractor shall prepare and provide the Administrator with a Transition Plan in compliance with the requirements herein. At a minimum, the Transition Plan must 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 successfully on the Commencement Date and all times thereafter. The Transition Plan shall contain a detailed description of the steps the Contractor will take, and the schedule for completing 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, Mechanical Containers, Garbage Carts, and Recycling Carts 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 Mechanical Containers, Garbage Carts, and Recycling Carts to the Customers; and (c) how and when the Contractor will provide additional personnel, vehicles, and equipment 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 review and approval.

#### **5.2 DEADLINES FOR THE CONTRACTOR'S TRANSITION PLANNING**

The Contractor shall address the following performance requirements in the Transition Plan and

the Contractor shall satisfy these requirements no later than the following deadlines for transitions to Curbside Recycling, separate collection of Yard Waste and Bulky Waste, and Electric Vehicle use:

(a) Within thirty (30) days of execution of this aAgreement, Contractor shall providesubmit a plan for full implementation of EV-Curbside Collection of Curbside Garbage using Electric Vehicles. The Pplan shall show provide for full such implementation within twenty-four (24) months of execution of the-this aAgreement. On or before August 13, 2019, the Contractor shall provide the Administrator with a Transition Plan, which shall include a Collection Plan that complies with the requirements in Section 23, below.

~~(a) —~~

(b) On or before August 15, 2019, the Contractor and City shall meet and discuss the Transition Plan, the Collection Plan, and any other matters that will help ensure the successful implementation of this Agreement. Upon written notice of the implementation of Curbside Recycling, the Contractor shall have thirty (30) days to submit a transition plan that includes the purchasing and distribution of Recycling Carts, purchase and use of EVElectric Vehicles, and consumer education (consisting of provision of stickers and including a direct mail) piece.

~~(b) —~~

(c) On or before August 20, 2019, the Contractor shall provide the Administrator with purchase orders or other documentation demonstrating that all necessary Collection vehicles, equipment, Garbage Carts, and other Collection Containers have been ordered and will be delivered to the Contractor's local equipment yard no later than September 3, 2019. Upon written notice of the City's desire to collect Yard Waste and Bulky Waste separately, Contractor shall provide a transition plan within thirty (30) days with full implantation implementation no later than ninety(90) days -from notice.(90)

~~(c) — Reserved.~~

~~(d) — On or before August 20, 2019, the Contractor shall provide the Administrator with a detailed plan for the assembly and delivery of Garbage Carts and Recycling Carts required pursuant to this Agreement.~~

~~(e) — On or before August 22, 2019, the Contractor shall provide the Administrator with: (1) a copy of the standard form contract that the Contractor intends to use pursuant to Section 33.1, below; and (2) written confirmation that the Contractor has hired the District Manager.~~

~~(f) — On or August 22, 2019, the Contractor shall provide the Administrator with electronic (digital) copies of the notices, brochures, and informational materials the Contractor intends to deliver to Customers concerning the Collection Services it will provide under this Agreement. The notices, brochures, and informational materials shall be designed to satisfy the requirements in Section 35, below. The notices, brochures, and informational~~

~~materials shall be subject to the Administrator's approval and shall be delivered in compliance with the requirements in Section 35.~~

- ~~(g) On or before August 29, 2019, the Contractor shall provide the Administrator with a written safety plan covering all aspects of the Contractor's operations under this Agreement, in compliance with the requirements of Section 22, below. The Contractor also shall provide the Administrator with a Contingency Plan, pursuant to Section 37.4, below.~~
- ~~(h) On or before September 3, 2019, the Contractor shall confirm in writing to the Administrator that all of the vehicles, equipment, Garbage Carts, and other Collection Containers necessary to provide Collection Service have been delivered to the Contractor's local equipment yard.~~
- ~~(i) On or before September 3, 2019, the Contractor shall have its supervisors, drivers, and other relevant personnel familiarize themselves with the proposed Routes and schedules for providing Collection Service in the City. The supervisors, drivers, and other relevant personnel shall drive each street on each Route to ensure that the proposed Routes and schedules for Collection Services are appropriate.~~
- ~~(k) On or before September 5, 2019, the Contractor and the Administrator shall meet and discuss the status of Contractor's Transition Plan and its implementation. On or before September 5, 2019, the Contractor shall demonstrate that its computer systems are fully operational and capable of tracking complaints and requests for service in compliance with the requirements in Sections 31.1.4 and 31.1.5, below.~~
- ~~(l) On or before September 10, 2019, the Contractor shall confirm in writing to the Administrator that all of the vehicles necessary to provide Collection Service have been registered, licensed, tagged, and equipped, and are ready to perform in compliance with the requirements of this Agreement.~~
- ~~(m) On or before September 12, 2019, the Contractor shall provide the Administrator with: (1) a 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. On or before [TBD; approximately 20 days before the Commencement Date], the Collection Plan shall be updated to include this information, pursuant to Section 23.6, below.~~
- ~~(n) On or before September 17, 2019, the Contractor shall confirm in writing to the Administrator that: (1) the Contractor has delivered the City-approved notices, brochures, and informational materials to all of the Commercial Customers in compliance with this Agreement, including the deadlines in Section 35.1, below; (2) the Contractor has hired and trained all of the employees needed to provide Collection Service in compliance with the requirements in this Agreement; (3) all of the Contractor's drivers have inspected their Routes for providing Collection Service; and (4) all of the Contractor's drivers have confirmed their ability to complete their Routes on time on the Scheduled Collection Days.~~
- ~~(o) On or before September 27, 2019, the Contractor shall confirm in writing to the Administrator that it has delivered all of the Collection Containers needed to provide~~

~~Collection Service in compliance with this Agreement for: (1) Commercial Customers; (2) Residential Customers that use Mechanical Containers; and (3) Customers that receive Collection Service for Construction and Demolition Waste.~~

~~(p) On or before September 30, 2019, the Contractor shall confirm in writing to the Administrator that: (a) the Contractor has at least fifty (50) Garbage Carts and fifty (50) Recycling Carts in inventory at its local equipment yard; (b) the Garbage Carts and Recycling Carts in inventory have been provided in the sizes and numbers requested by the Administrator; and (c) the Contractor has delivered notice to all Residential Customers in compliance with the requirements in Section 35.1, below.~~

### 5.3 THE CONTRACTOR'S INITIAL SERVICES

The Contractor shall assign one of its Customer service representatives to work at the City's Public Works Department 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 two (2) weeks of operations, the Contractor may request the Administrator to waive the requirements in this Section 5.3 if the City is not experiencing an increase in the number of Legitimate Complaints it receives as a result of the Contractor's performance under this Agreement.

#### SECTION 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 the other sections of this Agreement. Subject to the conditions contained herein, the Contractor shall:

- (a) collect and transport all of the Residential Waste, Commercial Waste, and Construction and Demolition Waste generated by Customers 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 Material it collects pursuant to this Agreement to 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, and equipment 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 Contractor's sole expense, in exchange only for the payments by the City and Customers that are expressly authorized herein.

#### SECTION 7: CONTRACTOR'S SPECIFIC COLLECTION SERVICES

##### 7.1 GENERAL REQUIREMENTS FOR RESIDENTIAL COLLECTION SERVICE AT CURBSIDE

The Contractor shall provide the following services to each Customer that is entitled to receive Residential Collection Service at Curbside:

- 7.1.1 Garbage and Rubbish shall be collected at Curbside two (2) times each week.
- 7.1.2 Bulky Waste and Yard Waste shall be collected at Curbside once each week. This service shall be provided to a Customer each week on the first day when the Customer receives Collection Service for Garbage. For example, if a Customer receives Collection Service for Garbage on Mondays and Thursdays, that Customer shall receive Collection Service for Bulky Waste and Yard Waste on Mondays.

~~7.1.3~~ 7.1.3 Source Separated Recyclable Materials shall be collected at Curbside ~~once each every week on a schedule agreed upon with the City~~. This service shall be provided to a Customer on ~~the second day each week when the Customer receives Collection Service for Garbage~~ day agreed to between the City and Contractor.

7.1.4 Subject to the conditions and limitations contained herein, the Contractor shall collect all of the Garbage, Rubbish, Source Separated Recyclable Materials, Bulky Waste, and Yard Waste that is Set Out at Curbside by a Residential Curbside Customer. However, the Administrator shall grant relief from this requirement if the Administrator confirms that a Residential Customer is disposing of Solid Waste generated by a commercial business or enterprise. Further, the Contractor is not obligated by this Agreement to collect Land Clearing Debris.

## 7.2 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR GARBAGE AND RUBBISH

- 7.2.1 On and after the Commencement Date, the Contractor shall use Automated Collection Service and Garbage Carts to collect Garbage and Rubbish from Residential Curbside Customers.
- 7.2.2 The Contractor shall collect all of the Garbage and Rubbish that each Residential Curbside Customer Sets Out at Curbside in Garbage Carts. However, the Contractor is not obligated to collect Garbage or Rubbish that is placed outside of a Garbage Cart. For example, the Contractor is not required to collect Garbage or Rubbish that is placed in a Garbage Can, Plastic Bag, or other type of bag, box, or container. The Contractor also is not required to collect the contents of a Garbage Cart if the weight of the cart and its contents exceeds the maximum rated capacity of the cart (measured in pounds), as indicated on the lid of the cart.

## 7.3 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR RECYCLABLE MATERIALS

- 7.3.1 On and after the Commencement Date, the Contractor shall use Automated Collection Service and Recycling Carts to collect Source Separated Recyclable Materials from all Residential Curbside Customers.
- 7.3.2 The Contractor shall collect all of the Source Separated Recyclable Material that each Residential Curbside Customer Sets Out in Recycling Carts. The Contractor is not obligated to collect any Source Separated Recyclable Materials that are placed outside of the Customer's Recycling Carts, except for cardboard. The Contractor shall collect all of the cardboard that is Set Out at Curbside and cut or folded into pieces that are no larger than three feet (3') by three feet (3') in size.
- 7.3.3 At a minimum, the Contractor shall collect all of the Program Materials that are accepted and recycled by the Designated Facility for Recyclable Materials. Exhibit 9 identifies the Program Materials that currently are accepted at the Designated Facility. The Administrator may amend Exhibit 9 whenever: (a) the Designated Facility is changed; (b) the Designated Facility changes its list of materials it accepts for Recycling; or (c) the Administrator determines it is cost-effective and appropriate to revise the list of Program Materials. The Administrator shall provide written notice to the Contractor at least thirty (30) days before the Administrator amends Exhibit 9. The Administrator shall not add a Recyclable Material to the list of Program Materials in Exhibit 9 if the Designated Facility will not accept and process that material.
- 7.3.4 Notwithstanding anything else contained herein, the Administrator may conclude that some Residential Customers shall not receive Collection Service for Recyclable Materials. In such cases, the Administrator shall notify the Contractor that Collection Services for Program Materials shall not be provided to the Designated Customer(s) and the Contractor shall cease providing its Collection Service for Program Materials to those Customers, unless the Administrator instructs the Contractor to resume its Collection Service.

7.3.4.7.3.5 Contractor may be required to collect Program Materials at City drop-offs (such drop-off locations to be agreed to by the City and the Contractor) that can be processed at a Material Recycling Facility within six (6) miles of City Hall or a Contractor owned Material Recycling Facility within twenty (20) miles of City Hall.

~~7.3.5 In addition to the weekly Collection Service required by Section 7.1.3 and this Section 7.3, the City may require the Contractor to collect cardboard from Residential Curbside Customers on one or two (2) additional days each Operating Year. For example, the City may require the Contractor to collect cardboard one time during the week after Christmas, in addition to providing the normal Collection Service for that week. If the City elects to request this additional service, the Contractor shall be paid an additional fee, as shown in Exhibit 4. The City shall provide written notice to the Contractor at least one hundred eighty (180) days before the Contractor is required to provide this additional service.~~

#### 7.4 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR BULKY WASTE

~~7.4.1 The Contractor shall collect all of the Bulky Waste that is Set Out at Curbside by Residential Curbside Customers. There is a no limit on the size, weight, or quantity of four (4) cubic yards Bulky Waste that may be Set Out. The Contractor is required to collect, additionally, in addition to Construction and Demolition Debris, except (a) as provided in Section 7.4.2, below, and (b) the Contractor is not obligated to collect a piece of Bulky Waste that is too large or too heavy to safely load and transport in a clamshell truck. The Administrator may require the collection of Set Outs greater than four (4) cubic yards if it is determined that the property is an infrequent user of this service. Residents shall have two (2) collections of greater than four (4) cubic yards per year by calling the City's Public Works Department. The Administrator will notify the Contractor to collect these piles.~~

~~7.4.2.7.4.1~~

~~7.4.3.7.4.2 If a Residential Curbside Customer places Construction and Demolition Waste from a "do-it-yourself" project at Curbside, the Contractor shall collect the Construction and Demolition Waste as on the scheduled bulk collection day Bulky Waste. However, the Contractor is not required to collect more than three (3) cubic yards of Construction and Demolition Waste from any Curbside Customer on any Scheduled Bulk Collection Day. The three (3) cubic yard limit only applies to Construction and Demolition Waste and does not limit any other bulky waste items such as furniture, appliances, fixtures, etc. The Contractor also is not required to collect Construction and Demolition Waste that is placed at Curbside by a building contractor, repairman, or other Person working for the Customer. Such materials shall be removed from the Customer's property by the Customer or the Person that generated the waste materials. If the Contractor elects to leave any Construction and Demolition Waste at Curbside, the Contractor shall leave a Non-Collection Notice on the remaining material and shall comply with the requirements in Section 15, below. The Contractor shall promptly notify the Administrator if the Contractor believes a Curbside Customer is placing excessive amounts of Construction and Demolition Waste at Curbside and should be using a Mechanical Container for the collection of such waste. For the purposes of this Section 7.4.2, excessive means three (3) cubic yards or more on two (2) or more consecutive weeks.~~

#### 7.5 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR YARD WASTE

7.5.1 The Contractor shall collect all of the Yard Waste that is Set Out at Curbside by Residential Curbside Customers, including Yard Waste that is Set Out in Garbage Cans ~~or clear plastic or paper bags unless requirements of a designated facility change.~~ The Contractor is not required to collect more than six (6) cubic yards of Yard Waste per week for any Residential Curbside Customer.

7.5.2 The Contractor shall collect the Customer's Yard Waste, regardless of the length, width, or diameter of any single piece of Yard Waste. Notwithstanding the foregoing, the Contractor is not required to collect Land Clearing Debris, and the Contractor is not obligated to collect any single piece of Yard Waste if it is too large or too heavy to safely load and transport in a clamshell truck.

7.5.3 The Contractor shall collect any natural Christmas tree that is Set Out at Curbside.

7.5.4 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 waste materials or on the Customer's doorknob, in compliance with Section 15.2, below.

7.5.5 The Contractor may collect and combine Yard Waste and Bulky Waste in the same vehicle until such time the City determines it is in the best interest to collect these items separately at the cost stated in Attachment XXX. The change shall be implemented as described in 5.2(c).-(b)

#### 7.6 BACK DOOR SERVICE FOR RESIDENTIAL CURBSIDE CUSTOMERS

The Contractor shall provide Back Door Service to a disabled Customer if: (a) the Customer is entitled to receive Residential Curbside Collection Service; (b) the Customer has requested and the Director has approved Back Door Service; and (c) the City has given written notice instructing the Contractor to provide Back Door Service to the disabled Customer. If these criteria are satisfied, Back Door Service shall be provided at no additional cost to the City or Customer. The Customer's Garbage and Rubbish shall be collected at the Customer's side yard, back yard, or other location that is mutually acceptable to the Contractor and the Customer. However, the Contractor is not required to provide Back Door Service for the collection of Bulky Waste or Yard Waste. The Contractor shall provide Back Door Service to the Customer on the Scheduled Collection Days when Residential Collection Service would otherwise be provided to the Customer. The Administrator shall not approve Back Door Service for any Customer pursuant to this Section 7.6 unless the Administrator receives a letter from a physician or similar documentation confirming that the Customer is physically unable to use the regular Residential Collection Service that is provided at Curbside, and written confirmation from the Customer that there are no able-bodied Persons residing with the Customer. The Contractor shall provide Back Door Service to a disabled Customer in compliance with the requirements in this Section 7.6, but the Contractor is not required by this Agreement to take other extraordinary measures to accommodate such Customer (i.e., the Contractor is not required to take measures for a disabled Customer that are not taken for all Residential Curbside Customers).

#### 7.7 RESIDENTIAL COLLECTION SERVICE FOR MULTI-FAMILY DWELLINGS

7.7.1 The Administrator shall have the exclusive authority to determine whether a Residential Customer residing in a Multi-Family Dwelling must Set Out its Garbage and Rubbish at Curbside or in a Mechanical Container.

7.7.2 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.

7.7.3 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:

- (a) The Contractor shall collect all of the Customer's Garbage and Rubbish at the Customer's Premises at least two (2) times each week on Scheduled Collection Days. However, notwithstanding the foregoing, Customers using an enclosed Compactor and Roll-Off Container may receive Collection Service one (-1) time each week.
- (b) The Contractor shall provide Recycling Carts or Mechanical Containers for the Collection of the Customer's Source Separated Recyclable Materials. The Contractor shall collect all of the Source Separated Recyclable Materials that are placed into the Customer's Recycling ~~Containers~~Carts. The Contractor also shall collect all of the cardboard that is placed next to the Customer's Recycling ~~Containers~~Carts. Source Separated Recyclable Materials shall be collected at least once each week at each Multi-Family Dwelling. The Contractor agrees to collect cardboard in Mechanical Containers if the Administrator determines this is a better way to collect the material cardboard at certain multifamily properties, provided that prior to any such collection the City and the Contractor shall mutually agree upon a rate for such separate collection of cardboard.

- (c) At Multi-Family Dwellings where Garbage and Rubbish are collected with a Mechanical Container, the Contractor and the Customer shall jointly designate a location where Bulky Waste will be collected. The designated location should be
  - (a) next to the Mechanical Containers or (b) a place where the Contractor's vehicles can obtain access and, if possible, the Bulky Waste will be screened from public view. The Contractor shall collect all of the Bulky Waste that a Customer places in the designated location. There is no limit on the size, weight, or quantity of Bulky Waste that a Customer may Set Out. Bulky Waste shall be collected once each week on a Scheduled Collection Day.
- (d) The Contractor is not obligated by this Agreement to provide a separate Collection Service for Yard Waste that is generated at Multi-Family Dwellings where Mechanical Containers are used for the Collection of Garbage and Rubbish. However, the Contractor shall collect any Yard Waste or natural Christmas trees that Residential Customers place in the Mechanical Containers at their Multi-Family Dwelling.
- (e) Notwithstanding anything else contained herein, the Contractor is not required to collect:
  - (a) any piece of Bulky Waste or Yard Waste that is too large or heavy to safely load and transport in a clamshell truck; or (2) Land Clearing Debris.
- (f) At the Administrator's request, the Contractor shall provide alternate methods of collecting Bulky Waste at Multi-Family Dwellings (e.g., Roll-Off Containers) when the Administrator determines that it is appropriate to do so. The Administrator's request for such service shall be made on a case-by-case basis, after receiving the Contractor's comments about the feasibility and appropriateness of using the alternate method. The Contractor also may recommend and implement alternate methods of collecting Bulky Waste at Multi-Family Dwellings, subject to the Administrator's approval.

**7.8 COMMERCIAL COLLECTION SERVICES**

The Contractor shall provide the following Collection Services for Commercial Customers:

- 7.8.1 The Contractor shall provide Collection Service for Commercial Waste and, upon request, Source Separated Recyclable Materials. These services shall be provided at least once each week. Commercial Collection Service shall be provided at least two (2) times each week for each restaurant, grocery store, and other Customer that generates significant quantities of Garbage or other types of putrescible waste. Collection Service for Bulky Waste, and for Construction and Demolition Waste, shall be provided as needed.
- 7.8.2 The Contractor normally shall provide Commercial Collection Service with Mechanical Containers. A Garbage Cart ~~or Garbage Can~~ may be used to provide Commercial Collection Service in those cases where a Mechanical Container is too large to fit on the Customer's Premises, too large for the Customer's needs, or otherwise unsuitable. The Administrator shall have the exclusive authority to determine whether a Commercial Customer must use a Mechanical Container, or a Garbage Cart, ~~or a Garbage Can~~.
- 7.8.3 Upon the Customer's request, the Contractor shall provide Collection Service for Source Separated Recyclable Materials generated on Commercial Property. These materials may be collected in Mechanical Containers or Recycling Carts.
- 7.8.4 Garbage, Rubbish, and Source Separated Recyclable Materials shall be collected on

Scheduled Collection Days.

- 7.8.5 The Contractor shall provide Collection Service within one (-1) Operating Day if a Customer requests the Contractor to make an extra (unscheduled) pick-up to empty the Customer's Mechanical Container, ~~or Garbage Cart, or Garbage Can.~~
- 7.8.6 If a Commercial Customer requests the Contractor to collect Bulky Waste, the frequency of the Collection Service shall be determined by the Commercial Customer and the Contractor.
- 7.8.7 A Commercial Customer shall contact the Contractor and schedule Collection Service before the Customer Sets Out Bulky Waste. The Contractor shall provide such Collection Service within three (3) Days after the Contractor receives the Customer's request.
- 7.8.8 If a Customer Sets Out its Bulky Waste before the Customer schedules the Collection Service with the Contractor, the Contractor shall collect such materials as expeditiously as possible after the Contractor becomes aware that such materials have been Set Out for Collection. The Contractor's drivers shall promptly notify the Field Supervisor whenever the drivers observe Bulky Goods on a Route for Commercial Customers. If the Field Supervisor is notified about such materials, the Field Supervisor shall arrange for the Collection of such materials within three (3) Days. The Field Supervisor also shall arrange for the Collection of such materials within three (3) Days when requested to do so by the Administrator.
- 7.8.9 If a Commercial Customer Sets out Bulky Waste, the Contractor shall bill the Customer for the Collection of such ~~materials~~ materials, based on the Rates in Exhibits 5 and 6.

#### 7.9 SPECIAL COLLECTION SERVICES

The Contractor shall provide Special Collection Service for Garbage, Bulky Waste, and other materials when such services are requested by a Customer or the Administrator. Upon request, the Contractor also shall provide the Special Collection Services described in Exhibit 6. The frequency of service shall be determined by the Customer and Contractor, subject to the Administrator's approval. Any negotiated Rates for such services shall be subject to the Administrator's approval. The Administrator's approval of the Contractor's Rates for Special Collection Services, and the Administrator's approval of the frequency of such services, shall not be unreasonably withheld. All such services shall be provided in compliance with the requirements herein, including any applicable Rates in Exhibit 6.

#### 7.10 COLLECTION SERVICES FOR THE CITY

The Contractor shall provide Collection Services for the City in compliance with the requirements in Section 36, below.

#### SECTION 8: HOURS AND DAYS OF CONTRACTOR'S COLLECTION SERVICES

- 8.1 The Contractor may provide Collection Service to Residential Customers every day of the year, except Sundays and Holidays. The Contractor shall offer, and upon request shall provide, Collection Services to Commercial Customers every day of the year, except Christmas.

- 8.2 The Contractor shall not provide Residential Collection Service at Curbside before 7:00 a.m. or after 7:00 p.m. The Contractor shall not provide Residential Collection Service with Mechanical Containers before 7:00 a.m. or after 7:00 p.m.
- 8.3 The Contractor shall not provide Collection Service to Commercial Customers before 7:00 a.m. or after 7:00 p.m.
- 8.4 Notwithstanding anything else contained herein, the hours and days of Collection Service may be extended or reduced (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.

#### **SECTION 9: SCHEDULES AND ROUTES FOR COLLECTION SERVICE**

##### **9.1 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. Subject to these considerations, the Contractor shall attempt to ensure that the Contractor's Collection Plan minimizes the changes to the Collection schedules and Routes used for Residential Customers before the Commencement Date.

The Routes established under this Agreement shall be separate from the Routes the Contractor uses for the Collection of Solid Waste and Source Separated Recyclable Materials generated outside of the Service Area (e.g., in the unincorporated area of Broward County or in another municipality).

The Contractor shall submit its proposed Collection Routes and schedules to the Administrator as part of the Contractor's Collection Plan. (See Section 5.2(a) and Section 23.) The proposed Routes and schedules shall be subject to the Administrator's approval. After approval is granted, the Contractor shall provide Collection Services in accordance with the approved Routes and schedules in the Collection Plan. However, the Administrator may waive one or more of the requirements in this Section 9.1 if the Administrator concludes a waiver is in the public interest.

##### **9.2 SCHEDULES FOR TWICE WEEKLY SERVICE**

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

#### **SECTION 10: CHANGES TO COLLECTION SCHEDULES AND ROUTES**

##### **10.1 NO CHANGES WITHOUT ADMINISTRATOR'S APPROVAL**

After the Commencement Date, the Contractor shall not change an approved Route, Collection schedule, or method of providing Collection Service until the Contractor receives the Administrator's written approval for the proposed change. The Contractor shall submit a description of all proposed changes to the Administrator at least thirty (30) calendar days prior to the implementation of such changes, unless a shorter timetable is requested or approved by the Administrator.

##### **10.2 HOLIDAY SCHEDULES**

- 10.2.1 The Contractor is not required to provide Collection Service to Residential Customers on a Holiday ~~when disposal facilities are not available~~ (e.g., Christmas Day).

- 10.2.2 If a Residential Curbside Customer's Scheduled Collection Day for Garbage falls on a Holiday, the Contractor does not need to collect the Customer's Garbage until the next Scheduled Collection Day for the Collection of the Customer's Garbage. Consequently, the Customer will receive Collection Service for Garbage only one time during the week of the Holiday.
- 10.2.3 If a Residential Curbside Customer's Scheduled Collection Day for Bulky Waste, Yard Waste, or Source Separated Recyclable Materials (i.e., items that are collected once each week) falls on a Holiday, the Contractor may delay the Collection of such material until the next Scheduled Collection Day for that type of material. Consequently, the Customer will not receive Collection Service for such material during the week of the Holiday.
- 10.2.4 Notwithstanding the other provisions in this Section 10.2, the Contractor may propose and the Administrator may approve alternate schedules for the Collection of Residential Waste immediately before and after a Holiday.
- 10.2.5 If a Commercial Customer's Scheduled Collection Day for Garbage will fall on Christmas, the Contractor shall work with the Customer to identify an appropriate alternate schedule for collecting the Customer's Garbage during the week of the Holiday.

### **10.3 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 applicable requirements in Section 35, below, unless a different notice is approved by the Administrator.

### **10.4 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 schedule for Residential Collection Service or Commercial Collection Service. The Contractor shall provide this information to the Administrator in writing within two (2) hours of the event causing the delay.

### **10.5 NO DELAYS EXCUSED FOR FLUCTUATIONS IN SOLID WASTE QUANTITIES**

The quantity of Solid Waste generated in the City may fluctuate during each 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 Source Separated 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.

## **SECTION 11: ADMINISTRATOR'S AUTHORITY TO CHANGE COLLECTION SERVICES**

- 11.1 The Administrator shall have the authority to determine whether a Residential Customer should receive Collection Service at Curbside or, in the alternative, Collection Service with a Mechanical Container. In the absence of unusual circumstances, the Administrator will require the Contractor to provide Collection Service at Curbside for (a) all Single Family Dwellings and (b) Multi-Family Dwellings that cannot or should not receive Collection Service with a Mechanical Container, as determined by the Administrator.
- 11.2 If a Customer will receive Collection Service with a Mechanical Container, the Contractor and the Customer initially shall determine the size of the Mechanical Container that will be used. The

Contractor and Customer also shall determine the frequency of Collection Service, provided that the frequency complies with the minimum requirements in this Agreement (i.e., at least twice each week, unless the Administrator approves less frequent Collection Service or the Contractor is providing Collection Service for Construction and Demolition Waste).

- 11.3 For each Customer receiving Collection Service with a Mechanical Container on the Commencement Date, the Contractor shall provide a Mechanical Container that is at least as large as the Mechanical Container used by the Customer before the Commencement Date, unless the Contractor receives the Administrator's prior written approval to use a smaller size.
- 11.4 The Administrator shall have the right to increase or decrease the frequency of any Collection Service, and 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.
- 11.5 If the Contractor and a Customer cannot agree about the size of the Collection Container or the frequency of Collection Service for the Customer's Premises, 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.

#### **SECTION 12: THE CUSTOMER LIST**

- 12.1 The City shall prepare a Customer List, which identifies each Residential Property, Dwelling Unit, and Commercial Property, that is entitled to receive Collection Service from the Contractor pursuant to this Agreement. The Customer List shall be based on the City's tax roll or any other source of reliable information. No later than thirty (30) days before the Commencement Date, the Contractor shall review the Customer List and confirm to the Administrator that the list is accurate and complete. If the Contractor believes the Customer List is inaccurate or incomplete, the Contractor shall promptly notify the Administrator about any proposed additions, deletions, or other revisions to the Customer List.
- 12.2 The Contractor shall have an affirmative duty to help ensure that the Customer List is accurate at all times after the Commencement Date. The Contractor shall notify the Administrator within five (5) Operating Days if the Contractor begins to provide Collection Service to a Residential Property or Commercial Property that is not included in the Customer List. The Contractor also shall notify the Administrator within five (5) Operating Days if the Contractor identifies a Residential Property or Commercial Property that should be added to or deleted from the Customer List.
- 12.3 The Administrator shall notify the Contractor promptly after (a) a Certificate of Occupancy is issued by the City for a new Dwelling Unit or Improved Property that should be added to the Customer List and (b) the City determines it is appropriate to provide Collection Service to such Dwelling Unit or Improved Property. After receiving this notification, the Contractor shall begin to provide Collection Service to the Dwelling Unit or Improved Property within two (2) Operating Days.
- 12.4 The Administrator shall notify the Contractor if the City wants the Contractor to terminate its Collection Service to a Customer. The Contractor shall terminate its Collection Service within two (2) Operating Days after receiving the Administrator's notice. If the Customer is sharing a

Mechanical Container with other Customers, the Contractor must allocate its charges to the remaining Customers that will continue to receive Collection Service, and the Contractor shall inform the Administrator about the reallocation of charges so that the City may ensure the remaining Customers are billed appropriately.

- 12.5 The City shall update the Customer List at least once each Operating Month. The City shall adjust the Customer List to correspond with the occupancy of existing and new buildings, as well as the demolition of old buildings. A new Dwelling Unit or Improved Property shall be deemed to be occupied when a Certificate of Occupancy has been issued and the Administrator requests the Contractor to provide Collection Service to the new Dwelling Unit or Improved Property. At a minimum, the updated Customer List shall identify the changes in occupancy that occurred two (2) months before the list was updated. 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.

#### SECTION 13: PROPER COLLECTION PROCEDURES FOR CONTRACTOR

- 13.1 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 vehicular access to a road, alley, or driveway.
- 13.2 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.
- 13.3 The Contractor shall handle Collection Containers carefully and in a manner to prevent damage. Garbage Cans, Garbage Carts, Recycling Containers/Carts, and their lids shall not be tossed or thrown by the Contractor.
- 13.4 The Contractor shall provide Collection Services with as little noise and disturbance as possible.
- 13.5 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. A Customer is not required to remove Freon, coolants, or other similar materials from White Goods before the White Goods are Set Out. The Contractor is not required to remove such materials from the White Goods before the White Goods are placed in the Contractor's vehicles.

#### SECTION 14: RESTRICTIONS ON COLLECTION OF MIXED LOADS

- 14.1 During the Collection process, Garbage and Rubbish may be collected and combined together by the Contractor.
- 14.2 During the Collection process, each one of the following materials shall be handled separately by the Contractor and shall not be combined with any other type of material, without the Administrator's prior approval: Source Separated Recyclable Materials; and Construction and Demolition Waste. The Contractor shall have no obligation to separate these materials if a Customer placed them in a Collection Container with other types of Solid Waste.
- 14.3 During the Collection process, Bulky Waste, Yard Waste, and White Goods may be collected and transported together in the Contractor's Collection vehicles unless collection programs and processes

are changed as otherwise set forth in this Agreement or laws change (in which event the provisions of Section 38.6-1 shall apply). However, the Contractor shall not combine Bulky Waste, Yard Waste, or White Goods with Garbage, Rubbish, or Source Separated Recyclable Materials.

- 14.4 During the Collection process, the Contractor shall not combine Residential Waste or Commercial Waste collected in the Service Area with Solid Waste or other materials collected outside of the Service Area.
- 14.5 During the Collection process, the Contractor shall not combine Residential Waste collected in the Service Area with Commercial Waste.
- 14.6 The Contractor shall not collect Source Separated Recyclable Materials with a vehicle that is used for the Collection of Solid Waste without prior approval from Contract Administrator, which shall not be unreasonably withheld.
- 14.7 Notwithstanding the foregoing, the Administrator may waive any of the ~~restrictions~~<sup>actions</sup> in this Section 14 and thus allow the Contractor to combine different types of Solid Waste, if the Administrator determines that the waiver will be in the public interest. In such cases, the Contractor shall submit a written request to 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 petition, in his or her sole discretion, but any waiver must be in writing.

#### SECTION 15: NON-COLLECTION PROCEDURES

- 15.1 The Contractor must use all commercially reasonable measures to collect a Customer's Solid Waste and Source Separated Recyclable Materials in compliance with the requirements in this Agreement. Nonetheless, the Parties recognize that the Contractor may refuse to collect a Customer's materials in some cases, subject to the requirements herein.
- 15.2 The Contractor shall place a Non-Collection Notice on a Customer's Collection Container or doorknob if the Contractor decides that the Contractor will not collect the Customer's Solid Waste or Source Separated Recyclable Materials because the waste or materials were not Set Out in compliance with the applicable requirements in this Agreement. Unless the Contractor places a Non-Collection Notice on the Customer's Collection Container or doorknob, the Administrator may require the Contractor to return to the Customer's Premises promptly and collect the Solid Waste or Source Separated Recyclable Materials. If the Administrator notifies the Contractor before 12 p.m. (noon) on an Operating Day, the Contractor shall collect the Solid Waste or Source Separated Recyclable Materials before the end of that Operating Day. If the Administrator notifies the Contractor after 12:00 p.m. (noon), the Collection of the Solid Waste or Source Separated Recyclable Materials shall be completed before 12 p.m. (noon) on the next Operating Day.
- ~~15.3 The Contractor is responsible for determining whether a Customer's Recycling Container contains Non-Conforming Material or excessively contaminated Recyclable Materials. The Contractor may leave Non-Conforming Material and excessively contaminated Recyclable Materials in the Recycling Container, but if the Contractor does, the Contractor shall immediately place a Non-Collection Notice on the Customer's Recycling Container or doorknob, explaining why the material was not collected.~~
- 15.3 The Contractor shall use commercially reasonable efforts to provide data related to the contamination of Recyclable Material to the City including but not limited to: addresses, photos from tipped carts, and type of contamination, on a regular basis-weekly.
- 15.4 In the event a Mechanical Container is overfilled and cannot be emptied safely, the Contractor shall immediately place a Non-Collection Notice on the Customer's container or doorknob, call

the Customer, and reschedule the Collection Service. The Contractor also shall notify the Customer if the Contractor believes the Contractor should increase the frequency of Collection Service or increase the size of the Mechanical Container provided to the Customer.

At its option, the Contractor may take photographs to document the frequency and extent to which a Customer overfills its Mechanical Container. The Contractor may submit the photographs to the Customer and/or the Administrator to demonstrate that the Customer needs additional Collection Service. If the Customer repeatedly overfills its Mechanical Container, the Administrator shall require an increase in the frequency of Collection Service or an increase in the size of the Mechanical Container.

- 15.5 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 Material, Radioactive Waste, or Biomedical Waste. In such cases, the Contractor shall place a Non-Collection Notice on the Customer's Collection Container or doorknob, take photographs of the improper waste (if possible), and immediately notify the Field Supervisor. 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. If the Contractor elects to remove the waste before the Contractor receives the Administrator's approval, the Contractor shall be solely responsible for the management and disposal of the waste, including the payment of all associated costs.
- 15.6 If a Mechanical Container is temporarily inaccessible due to factors other than the fault of the Customer (e.g., the street is blocked by a commercial vehicle), the Contractor shall promptly (i.e., within two (2) hours) notify the Customer by telephone concerning the Contractor's inability to provide Collection Service. The Contractor shall offer to provide Collection Service later the same Operating Day, whenever feasible. If it is not feasible, the Contractor shall leave a Non-Collection Notice on the Customer's container or doorknob and provide Collection Service on the next Operating Day.
- 15.7 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) Solid Waste from a business or commercial enterprise at Curbside; or (c) Solid Waste or other non-conforming Material in their Recycling Container Cart.
- 15.8 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: the issuance date; the Contractor's reason for not providing Collection Service; information advising the Customer how to correct the problem; and the telephone number to call if the Customer has any questions for the Contractor.
- 15.9 The Contractor shall use all commercially reasonable measures to collect a Customer's Solid Waste, 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 remove the Garbage from the other materials, the Contractor shall place a Non-Collection Notice on the Customer's Bulky Waste or doorknob and promptly notify the Administrator concerning the location and estimated quantity of the 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 15.2, above.
- 15.10 The Contractor shall collect Yard Waste and Construction and Demolition Waste that is placed in a

Residential Curbside Customer's Garbage Cart and Set Out at Curbside, unless (a) the weight of the material in the Garbage Cart exceeds the Cart's rated capacity (measured in pounds), as shown on the lid of the cart or (b) the size and shape of the material in the Garbage Cart precludes the Contractor from safely emptying the cart. In the event (a) or (b) occurs, the Contractor shall place a Non-Collection Notice on the Customer's Garbage Cart or doorknob.

#### **SECTION 16: 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, or Source Separated Recyclable Material (as the case may be) 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.

#### **SECTION 17: PROTECTION OF PRIVATE AND PUBLIC PROPERTY**

- 17.1 The Contractor's employees shall not trespass on private property; provided, however, the Contractor's employees may walk on a Customer's property when necessary to provide Collection Service (e.g., Back Door Service) or hang a notice (e.g., a Non-Collection Notice; notice of property damage) on the Customer's doorknob pursuant to this Agreement. At all other times, the Contractor's employees shall follow the sidewalks 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.
- 17.2 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.
- 17.3 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 (e.g., when Collecting Yard Waste with a clamshell bucket).
- 17.4 The Contractor shall promptly restore the soil 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 and restore the grade to match the surrounding area. The Contractor also shall replace any sod that was removed or killed by the Contractor's actions.
- 17.5 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, the Contractor's employee shall immediately notify the Field Supervisor and the property owner when the employee causes such damage. If the property owner is not known or readily identifiable, the driver shall leave a notice that includes the Contractor's name and telephone number.
- 17.6 The Contractor shall be responsible for all 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) on an Operating Day concerning any such claim, 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 after the Contractor receives notice that the damage occurred, unless the Contractor requests and the Administrator grants an extension of time. If the Contractor uses continuous and diligent efforts to meet the deadlines contained in this Section 17.6 but nonetheless is unable to comply, the Administrator shall grant reasonable extensions of time for the completion of the work required herein. In all cases, the public or private property shall be restored to a condition that is at least equal to the condition that existed before the damage occurred. Any disputes concerning the Contractor's obligations for the repair of property damages shall be resolved by the Administrator. If the Contractor fails to complete the repair or restoration work in compliance with the timetables and requirements specified herein, the City may perform or arrange for a third party to perform the work and then deduct the cost of the work from the City's payments to the Contractor.

- 17.7 In any case involving property damage, the Contractor may submit photographs and other relevant information to the City 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 17.
- 17.8 The Contractor shall not be liable for damages to the City's streets caused by the weight of the Contractor's trucks and equipment, except to the extent of the Contractor's negligence, wrongful action, or breach of this Agreement. The Contractor shall not be liable for damages to a Customer's driveway, access way, or pad for a Mechanical Container, if the Customer uses a Mechanical Container and the damages are caused solely by the weight of the Contractor's trucks, Mechanical Container, or equipment, except to the extent of the Contractor's negligence, wrongful action, or breach of this Agreement.

#### **SECTION 18: CONTRACTOR'S ACCESS TO STREETS AND COLLECTION CONTAINERS**

- 18.1 Except as otherwise provided herein, the Contractor shall have the right to use all of the public roadways in the City.
- 18.2 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.
- 18.3 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.
- 18.4 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.
- 18.5 The City reserves its 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.
- 18.6 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, the Contractor shall provide Collection Service to the Customer on the next Scheduled Collection Day.
- 18.7 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.

- 18.8 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 Administrator may require the Contractor and the Customer to take such actions as the Administrator deems necessary and appropriate to enable the Contractor to provide Collection Service to the Customer.

#### SECTION 19: THE CITY'S DESIGNATED FACILITIES

- 19.1 The Contractor shall deliver all of the Residential Waste, Commercial Waste, Source Separated Recyclable Materials, and Construction and Demolition Waste collected pursuant to this Agreement to Designated Facilities.
- 19.2 The Designated Facility for Garbage, Bulky Waste, Yard Waste, and Construction and Demolition Debris and Rubbish is the transfer station at the WM Deerfield Beach, 1750 SW 43 Terrace, Deerfield Beach, Florida 33442 (approximately 2.56 miles from City Hall).
- ~~19.3 The Designated Facility for Bulky Waste and Yard Waste is the Waste Connections, Inc., facility located at 1751 S.W. 43<sup>rd</sup> Street, Deerfield Beach, Florida 33442 (approximately 2.8 miles from City Hall).~~
- ~~19.419.3 The Designated Facility for Source Separated Recyclable Materials is Coastal Recycling 2281 NW 16 Street, Pompano Beach the WMHF Sun 11 facility located at 1750 S.W. 43<sup>rd</sup> Street, Deerfield Beach, Florida 33442 (approximately 2.8 miles from City Hall).~~
- ~~19.5 The Designated Facility for Construction and Demolition Waste is the Waste Connections, Inc., facility located at 1751 S.W. 43<sup>rd</sup> Street, Deerfield Beach, Florida 33442 (approximately 2.8 miles from City Hall).~~
- ~~19.6 The City shall have the right to select one or more new facilities to replace one or more of the Designated Facilities identified in this Section 19. If the new facility is within six (6) miles of the City Hall, and if no additional costs will be incurred by the Contractor with respect to the use of such new facility, no additional compensation will be provided, so long as the new facility is located within a twenty (20) mile radius of City Hall. If the City selects a new facility, the Contractor shall be paid in accordance with Section 38.10, below.~~
- ~~19.4 The Contractor recognizes that it has worked cooperatively with the Waste-to-Energy facility located at 4400 South State Road 7, Fort Lauderdale to meet the volume needs of the facility and contractual requirements of Broward County to deliver waste from time to time when Contractor determined that such delivery was commercially reasonable as determined by Contractor, when it does not place an undue burden on the Contractor's operations and Contractor shall agree to use commercially reasonable efforts to continue to do so for the length of this contract Agreement. If the City mandates delivery to the Waste-to-Energy facility they shall be, subject to the payment of the rates set forth in Exhibit [ ] for such delivery.~~
- ~~19.719.5~~ The Contractor shall not deliver any Solid Waste or Source Separated Recyclable Material collected pursuant to this Agreement to the Monarch Hill Landfill (Central Disposal Facility) located at 2600 Wiles Road, Pompano Beach, Florida 33073, unless the Contractor receives the Manager's prior written approval expressly authorizing the use of the Monarch Hill Landfill.

#### **SECTION 20: SPILLAGE AND LITTER BY CONTRACTOR**

- 20.1 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.
- 20.2 The Contractor shall immediately pick up any spillage or litter from Collection Containers that is caused by the Contractor.
- 20.3 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 the Contractor's vehicle for any reason, the Contractor shall immediately stop and pick up such material.
- 20.4 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 Contractor's vehicle for any reason, the Contractor shall immediately stop the vehicle and retrieve the litter.
- 20.5 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 17.6 shall apply to the Contractor's actions under this Section 20.5.
- 20.6 If the Administrator or a Customer notifies the Contractor before 12 p.m. (noon) on an Operating Day 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.

#### **SECTION 21: EXEMPT WASTES AND RECOVERED MATERIALS**

- 21.1 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 facility that is licensed to receive such materials. This Section 21 does not prohibit the Contractor from collecting Exempt Waste as a Special Collection Service, 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.
  - (d) Recovered Materials that are generated on Commercial Property and source separated by the generator on the generator's Commercial Property.
  - (e) Source Separated Recyclable Materials that are generated by a Commercial Customer and separated from the Solid Waste by the Commercial Customer.
  - (f) Any Recyclable Material that a Residential Customer generates and separates from their Solid Waste for Recycling, if that type of Recyclable Material is not recycled at the

Designated Facility.

- (g) Excavated fill and earthen material.
- (h) Solid Waste and by-products generated from an industrial process.
- (i) Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
- (j) Animal bedding, animal wastes, and other trash and materials resulting from farming, equestrian, or agricultural operations.
- (k) Wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts, including used oil, Tires, and lead-acid batteries.
- (l) Boats, boat motors, and boat trailers.
- (m) Disaster Debris.
- (n) Hazardous Material, Biomedical Waste, and Radioactive Waste.
- (o) Sludge.
- (p) Garbage-Food waste and other organic-biodegradable waste diverted for composting or other beneficial use by a Person that has received the Manager's prior approval pursuant to Section 2.2, above. This includes food waste programs initiated by the City or privately contracted by others.
- (q) Source Separated Recyclable Materials delivered to a public drop-off facility, which is operated by the City or approved in advance by the Administrator.
- (r) Materials and wastes similar to those listed above, when designated by the Administrator.

21.2 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.

#### SECTION 22: THE CONTRACTOR'S SAFETY PROGRAM

- 22.1 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 the requirements in OSHA and 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.
- 22.2 The Contractor shall appoint an employee who is qualified and authorized, as defined by OSHA, to supervise and enforce safety compliance.
- 22.3 The Contractor shall provide routine safety training to all of its employees, in compliance with OSHA 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.

- 22.4 The Contractor shall follow all OSHA regulations and Applicable Laws regarding personal protective equipment.
- 22.5 The Contractor's employees shall be trained and instructed to drive in a safe, defensive manner. The drivers of the Contractor's Collection vehicles shall be instructed that they shall not "text" or talk on their cellular telephones while they are driving a Collection vehicle that is moving.
- 22.6 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 as a result of the acts or omissions of the Contractor.
- 22.7 The Contractor shall update its safety plan whenever there are 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 34.5, below.

#### SECTION 23: THE CONTRACTOR'S COLLECTION PLAN

- 23.1 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 a legible map for each Route. The map must identify: (a) the Operating Days when service will be provided on each Route; (b) the starting and ending points for each Route; and (c) the type of material that will be collected on each Route on each Scheduled Collection Day. The Collection Plan shall include the information required pursuant to Section 28.6.2, below.
- 23.2 The Collection Plan shall identify each Designated Facility that will receive the materials collected by the Contractor pursuant to this Agreement.
- 23.3 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 Customer under this Agreement).
- 23.4 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.
- 23.5 An updated Collection Plan shall be submitted to the Administrator whenever the Contractor changes a Route or other component of the plan.
- 23.6 ~~At least Within~~ seven (7) days ~~before the Commencement Date~~after the submission of the plan set forth in Section 5.2(a), the Collection Plan shall be updated to include all of the information required pursuant to Section 5.2(~~am~~), above. Thereafter, the Collection Plan shall be updated whenever the Contractor adds or permanently removes vehicles or Mechanical Containers from service in the City.
- 23.7 The Collection Plan and all revisions to the plan are subject to the Administrator's prior written approval.

#### **SECTION 24: OWNERSHIP OF SOLID WASTE AND RECYCLABLE MATERIALS**

For the purposes of this Agreement, Solid Waste and Source Separated Recyclable Materials belong to the Person generating such waste and materials, until the Solid Waste and Source Separated Recyclable Materials are Set Out by that Person (i.e., the generator) and collected by the Contractor. When the Contractor collects Solid Waste and Source Separated Recyclable Materials on behalf of the City pursuant to this Agreement, title to such waste and materials shall pass to the City when the waste and materials are collected by the Contractor. Nonetheless, the Contractor shall be solely responsible and liable for the proper handling and lawful management of such waste and materials until they are delivered to and accepted by a Designated Facility. Upon acceptance, title to the waste and materials shall pass to the owner of the Designated Facility.

Notwithstanding anything else contained herein, (a) the Contractor shall not take, keep, process, alter, sell, remove, or otherwise dispose of any Solid Waste or Source Separated Recyclable Materials collected by the Contractor pursuant to this Agreement, without the prior written approval of the Administrator; (b) the generator shall at all times retain title to and liability for Hazardous Material, 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 Recyclable Materials from the Contractor.

#### **SECTION 25: COMPACTION OF RECYCLABLE MATERIALS**

The Contractor may compact Source Separated Recyclable Materials while they are on board the Contractor's vehicles, provided that the compaction process and the density of the Load does not adversely affect the marketability of the Source Separated Recyclable Materials. If the compaction process or density adversely affects the marketability of the Source Separated Recyclable Materials, as determined by the Administrator, the maximum allowable density may be reduced by the Administrator. There shall be no adjustment to the Rates if the Administrator exercises the City's right to reduce the maximum allowable density. In any vehicle used for the Collection of Program Materials, the compaction pressure in the compartment used to store glass shall not exceed fifty (50) pounds per square inch. This limit is intended to minimize the potential for breaking glass bottles and containers. This limit may be revised or eliminated by the Administrator if the Administrator concludes the limit is unduly restrictive (e.g., the City no longer collects glass for recycling).

#### **SECTION 26: SET OUT PROCEDURES FOR CUSTOMERS**

The procedures and requirements established in this Section 26 shall be followed by the Contractor's Customers on and after the Commencement Date. However, the Contractor shall collect a Customer's Solid Waste and Source Separated Recyclable Materials, even if the Customer fails to comply with one or more of the requirements in this Section 26, 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 doorknob and complies with the requirements in Section 15, above. The requirements in the City's Ordinances, including Chapter 12 (Garbage and Refuse) of the City's Ordinances, shall supplement the requirements contained herein.

##### **26.1 GENERAL PROCEDURES FOR ALL CUSTOMERS**

The following requirements and procedures shall apply to all Customers:

- 26.1.1 Garbage and other putrescible waste shall be placed in a Plastic Bag before it is placed in a Garbage Cart and Set Out for Collection.
- 26.1.2 Source Separated Recyclable Materials shall be Set Out in a Recycling ~~Container~~Cart. Source Separated Recyclable Materials shall not be placed in the same Collection

Container with Solid Waste.

- 26.1.3 Source Separated Recyclable Materials shall not be Set Out in a Plastic Bag.
- 26.1.4 A Customer shall not overfill a Collection Container; the lid on a Collection Container shall be closed securely by the Customer.
- 26.1.5 A Customer shall not place their Solid Waste in another Person's Collection Container, unless they have received prior approval to do so.
- 26.1.6 A Customer shall only Set Out for Collection the Solid Waste that the Customer generated. A Customer shall not Set Out for Collection any Solid Waste that was generated by another Person.
- 26.1.7 A Customer's Solid Waste shall be Set Out for Collection on the Premises where the Solid Waste was generated.
- 26.1.8 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.
- 26.1.9 The weight of the materials placed in a Garbage Cart or Recycling Cart by a Customer shall not exceed the cart's rated capacity (measured in pounds), as shown on the lid of the cart. Plastic Bags and biodegradable bags shall not be loaded with materials weighing more than thirty (30) pounds or the rated capacity of the bag, whichever is less.
- 26.1.10 If a Customer and the 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.
- 26.1.11 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.
- 26.1.12 Each Garbage Can, Garbage Cart, Recycling Cart, and Mechanical Container is subject to the Administrator's approval.
- 26.1.13 Each Customer shall use due care and diligence to avoid causing damage to a Collection Container or other equipment provided by the Contractor. The Contractor's Collection Containers and equipment shall not be altered by a Customer and shall only be used for their intended purpose.
- 26.1.14 Each Customer shall provide unobstructed access to their Collection Containers on the Customer's Scheduled Collection Days.
- 26.1.15 Each Customer shall not Set Out more than two (2) Garbage Carts without making financial arrangements with the Contractor in advance for the extra Garbage Carts, which arrangements shall be pursuant to the rate schedule attached hereto as Exhibit [ ]]. Customers that wish to Set Out more than two (2) Carts will be required to make additional payment to Contractor on a monthly basis. Cost for replacement Carts is addressed under Section 27.1.3.

## 26.2 SPECIFIC PROCEDURES FOR RESIDENTIAL CURBSIDE CUSTOMERS

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

- 26.2.1 Each Residential Curbside Customer shall Set Out their Garbage and Rubbish in one or more Garbage Carts, which shall be placed at Curbside. Such Customers shall not Set Out Garbage in Garbage Cans, Plastic Bags, or paper bags.
- 26.2.2 Residential Curbside Customers shall place their Yard Waste at Curbside for Collection. Leaves, twigs, and other small pieces of Yard Waste should be placed in Garbage Cans, biodegradable bags or Plastic Bags. Larger pieces of Yard Waste shall be stacked neatly in a pile at Curbside. A Residential Curbside Customer may, but is not required to, tie larger pieces of Yard Waste in a bundle. Such Customers also may Set Out their natural Christmas trees at Curbside for collection with the Customer's Yard Waste. There is no limit on the quantity of Yard Waste that may be Set Out at Curbside by a Residential Curbside Customer. However, a Customer shall not Set Out Land Clearing Debris or pieces of Yard Waste that are too heavy or too large to collect with a clamshell truck.
- 26.2.3 Residential Curbside Customers shall Set Out their Source Separated Recyclable Materials at Curbside in a Recycling Cart.
- 26.2.4 Each Residential Curbside Customer shall place their Garbage, Rubbish, Yard Waste, Bulky Waste and Source Separated Recyclable Materials at the Curbside before 7:00 a.m. on the Scheduled Collection Day for such materials.
- 26.2.5 Any carpet Set Out for Collection at Curbside shall be rolled and tied or otherwise bound.
- 26.2.6 Each Garbage Cart and Recycling Cart used by a Residential Curbside Customer shall be hot-stamped or stenciled with the City's logo.
- 26.2.7 A Residential Curbside Customer shall not Set Out any Bulky Waste or Construction and Demolition Waste that was generated by a builder, building contractor, or privately employed handyman service while such Person was working for the Customer on the Customer's Residential Property, unless the quantity of such waste is less than two (2) cubic yards. All such material in excess of two (2) cubic yards shall be removed from the Customer's property by the Person that generated the waste materials. If the Customer's contractor generates more than two (2) cubic yards of Construction and Demolition Waste, the Customer must use a Mechanical Container for the storage and Collection of such waste. A Residential Curbside Customer also shall not Set Out such materials if they were generated on any other property, even if the other property is owned by the Residential Curbside Customer. A Residential Curbside Customer may Set Out Construction and Demolition Waste pursuant to Section 7.4.2. only if the Customer generated the Construction and Demolition Waste while working on a "do-it-yourself project.
- 26.2.8 Residential Curbside Customers shall not place, mix, or commingle Garbage with Curbside piles of Bulky Waste or Yard Waste.

## 26.3 SPECIFIC PROCEDURES FOR RESIDENTIAL MECHANICAL CONTAINER CUSTOMERS

The following requirements and procedures shall apply to Residential Customers that receive Collection Service with Mechanical Containers.

26.3.1 Each Residential Customer 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 ~~m-in~~ a Recycling ~~Container-Cart~~ located on the Customer's Premises.

26.3.2 The Contractor and the Customer shall select mutually acceptable locations for the placement of the Mechanical Container(s) and Recycling ~~Container~~Cart(s) that will be used by the Customer. These locations are subject to the Administrator's approval.

26.3.3 Each Customer shall Set Out their Bulky Waste at a location designated for such material, near the Customer's Mechanical Container. A Customer shall not Set Out their Bulky Waste more than one day before the Scheduled Collection Day for the Collection of the Customer's Bulky Waste. A Customer shall not place their Bulky Waste in a location that blocks the Contractor's access to a Mechanical Container.

#### 26.4 PROCEDURES FOR COMMERCIAL CUSTOMERS

The following requirements and procedures shall apply to Commercial Customers.

26.4.1 Each Commercial Customer must have at least one 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 from the Contractor or any other Person for the Collection of 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).

26.4.2 Commercial Customers shall not place, mix, or commingle Construction and Demolition Waste with any other type of Solid Waste in a Collection Container.

26.4.3 All Collection Containers shall be placed in locations that are safely and readily accessible to the Customer and the Contractor's vehicles.

26.4.4 Each Mechanical Container shall be placed on a concrete or paved level surface. The approaches to the Mechanical Container shall be capable of supporting the weight of the Collection vehicle.

26.4.5 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 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.

### SECTION 27: COLLECTION CONTAINERS

#### 27.1 PURCHASE AND OWNERSHIP OF CONTAINERS

27.1.1 General Requirements for Garbage Carts and Recycling Carts - The City's prior franchisee purchased and distributed Garbage Carts and Recycling Carts to the Residential Curbside Customers in the Service Area. All of these Garbage Carts and

Recycling Carts are and shall remain the property of the City.

The Contractor shall purchase all of the Garbage Carts and Recycling Carts that the Contractor is required to provide pursuant to this Section 27. The Contractor shall provide carts for New Customers, and shall replace carts of Existing Customers, on an as-needed basis. The new Garbage Carts and Recycling Carts shall be stored, stockpiled, assembled, and delivered in compliance with the requirements in this Agreement. Each Garbage Cart and Recycling Cart shall be approximately sixty-four (64) gallons in capacity, unless the Administrator determines that some or all of the carts shall be a different size (i.e., approximately thirty-two (32) gallons or ninety-six (96) gallons). Upon termination or expiration of this Agreement, all Garbage Carts and Recycling 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 the City. Title to all of the carts in the Contractor's inventory for the City, and title to all of the carts delivered to the Customers, shall be transferred automatically to the City, without further action by either Party, upon the expiration or termination of this Agreement. At that time, the Contractor shall deliver any carts in its inventory to a location in the City designated by the Administrator.

27.1.2 New Garbage Carts and Recycling Carts for New Customers - The Contractor shall purchase, assemble, and deliver one (1) new Garbage Cart and one (1) new Recycling Cart to each Person that becomes a New Residential Curbside Customer on or after the Commencement Date. The Carts shall be delivered within two (2) Operating Days after the New Customer or the Administrator requests the Contractor to deliver the Carts. Each Garbage Cart and each Recycling Cart shall have a capacity of approximately sixty-four (64) gallons, unless the Administrator authorizes or requires the delivery of different sizes.

27.1.3 Garbage Carts and Recycling Carts for Existing Residential Curbside Customers - The Contractor shall purchase, assemble, and deliver: (a) new or refurbished Garbage Carts and Recycling Carts to Residential Curbside Customers whose carts were stolen, or damaged or worn beyond repair; (b) new Garbage Carts and Recycling Carts for Customers that wish to purchase an additional cart pursuant to Section 39.10, below; and (c) new or refurbished Garbage Carts for each Customer that wishes to exchange their ~~Cart~~ pursuant to Section 27.4, below. For the purposes of this Section 27.1.3, a "refurbished" cart or bin means a cart or bin that was cleaned and repaired to "like new" condition.

With regard to stolen and damaged carts, the Contractor must provide one (1) replacement Garbage Cart and one (1) replacement Recycling ~~Cart~~ to each Residential Curbside Customer. These replacements will be provided without charge to the City or the Customer.

In the event that it is determined that the Residential Curbside Customer is at fault for the loss or damage of a Cart, the Contractor may charge the resident seventy-five dollars (\$75) per ~~Cart~~ replacement. Carts in addition to the two (2) allotted Carts are addressed in Section 26.1.15.

~~The right to receive one free replacement Garbage Cart and one free replacement Recycling Cart shall be linked to each Dwelling Unit i.e., the right to receive the free replacements 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 free replacement carts 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 free replacement carts, and Smith would be entitled to receive free replacement carts at 456 Rosehill Drive.~~

~~With regard to stolen and damaged carts, the Contractor may charge a fee for providing replacement carts only if a Residential Curbside Customer already has received free replacement carts and then that Customer requests additional carts, all while living in the same Dwelling Unit. In such circumstances, the Customer shall purchase the new carts pursuant to Section 39.10, below. The fee for a new Garbage Cart or Recycling Cart shall not exceed Fifty Dollars (\$50) per cart and the fee for delivering carts shall not exceed Twenty Five Dollars (\$25) per delivery. No delivery fee shall be charged if the Customer picks up the carts at the Contractor's local office.~~

Although the Contractor must replace individual Garbage Carts and Recycling Carts that are worn beyond repair, nothing herein shall be construed to require the Contractor to replace all of the Garbage Carts and Recycling Carts used by all of the Residential 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 purchase the replacement carts.

- 27.1.4 Additional Garbage Carts and Recycling Carts for the City With regard to each shipment of carts, the Administrator shall designate: (a) the deadline for the delivery of the carts; (b) the location in the City where the carts shall be delivered; (c) the technical specifications for the carts, pursuant to Section 27.5, below; (d) the size(s) of the carts to be delivered; and (e) the number of Garbage Carts and the number of Recycling Carts to be delivered.

The Contractor shall work closely with the Administrator to ensure the Contractor has a sufficient supply of carts in its inventory at all times. If the Contractor distributes all of the carts in its inventory, but needs more to satisfy its obligations under this Agreement, the Contractor shall purchase additional Garbage Carts and Recycling Carts for the City. The Contractor shall be paid for such carts pursuant to Section 39.10, below.

- 27.1.5 Recycling Carts for Commercial Customers - The Contractor may provide Recycling Carts to some or all of its Commercial Customers. The Contractor also may provide Recycling Carts to some or all of the Residential Customers that receive Collection Service with Mechanical Containers.

- 27.1.6 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 Customer, the Contractor may charge the applicable Rates for the Collection of Residential Waste or Commercial Waste, as applicable. The Rates include the cost of leasing and using the Contractor's Mechanical Containers, except as otherwise provided in Exhibits 5 and 6. Notwithstanding the foregoing, the Contractor may negotiate and charge an appropriate fee for the use of its Compactors. 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 33.1.4, below, the term of the Contractor's lease agreements for Compactors may extend beyond the term of this Agreement.

## 27.2 MAINTENANCE AND REPAIR OF CONTAINERS

27.2.1 Garbage Carts and Recycling Carts - Each Customer shall be responsible for cleaning their Garbage Carts and Recycling Carts, if any, and keeping the carts in a sanitary condition.

The Contractor shall be responsible for repairing ~~any~~ all of the Garbage Carts and Recycling Carts used by Residential and Commercial 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 carts. The Contractor shall repair or replace such carts no later than two (2) 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.

27.2.2 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 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 28.9.2, 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 twenty-four (24) hours 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.

## 27.3 STORAGE, DISTRIBUTION AND REPLACEMENT OF CONTAINERS

27.3.1 Garbage Carts and Recycling Carts - Each Customer shall be responsible for storing their Garbage Carts and Recycling Carts, if any.

The Contractor shall be responsible for purchasing, distributing, and replacing certain Garbage Carts and Recycling Carts pursuant to this Section 27, including Sections 27.1.2

and 27.1.3, above. The Contractor shall be responsible for the storage of all carts that the Contractor purchases to satisfy its obligations under this Agreement, until the carts are delivered to Customers.

27.3.2 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.

27.33 Collection Containers Damaged by Contractor - The Contractor shall repair or replace a Customer's Collection Container within two (2) Operating Days after being notified by the Administrator or 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.

#### 27.4 EXCHANGE OF CARTS AND CONTAINERS

Subject to the conditions herein, the Garbage Carts and Recycling Carts provided by the Contractor to Residential Curbside Customers pursuant to this Agreement shall be ~~approximately sixty-four (64) gallons in size. However, the Administrator may authorize or require the Contractor to provide carts that are a different size (i.e., approximately thirty-five (35) gallons) to an individual Customer or a specific subdivision in cases where the Administrator concludes it would cause a hardship or otherwise be inappropriate to use a larger cart.~~ provide ninety-six (96), sixty-four (64), and thirty-two (32) gallon carts to meet the needs of each particular Customer. Customers that wish to place more than two (2) carts at the curb must make arrangements with the Contractor for billing for the collection of more than two (2) Garbage Carts per collection as provided in Section 26.1.15.

Subject to the conditions herein, the Contractor shall deliver a different Garbage Cart or Recycling Cart to any Customer that wishes to exchange their cart for one that is a different size. A New Residential Curbside Customer shall be allowed to exchange their Garbage Cart and/or Recycling Cart for a different size, without paying any fee, one time only, if the Customer delivers a written request for an exchange to the Contractor within ninety (90) days after the Customer receives the cart(s). In such cases, the Contractor shall deliver a different Garbage Cart and/or Recycling Cart to the New Customer within fourteen (-14) calendar days after receiving the Customer's request. If a Residential Curbside Customer fails to deliver a timely written request to the Contractor, or if the Customer already has exchanged their cart(s) before, the Contractor may charge a delivery fee for exchanging the Customer's cart and delivering it to the Customer's Premises. However, the Contractor shall not charge a delivery fee if a Residential Curbside Customer delivers their cart to the Contractor's local office. The Contractor shall exchange a Mechanical Container when requested by the City 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 request. There shall be no charge for exchanging a Mechanical Container.

#### 27.5 TECHNICAL SPECIFICATIONS FOR COLLECTION CONTAINERS

27.5.1 Garbage Carts and Recycling Carts - The Garbage Carts and Recycling 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), sixty-four (64), or thirty- ~~five-two~~ (35) 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 which shall be adorned with informative stickers or decals, as specified by the Administrator.

Each cart in each size category shall be uniform with regard to color, volumetric capacity, dimensions, finished surfaces, and hot stamping/labeling, but the color of Garbage Carts shall be different than the color of Recycling Carts. More specifically, the Garbage Carts for Single Family Dwellings shall be green, the Recycling Carts for Single Family Dwellings shall be white, and the carts for Multi-family Dwellings shall be blue.

Each 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 on its Collection Containers 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 Recycling Carts and Garbage Carts, before the Contractor orders the carts from the manufacturer.

27.5.2 Minimum Warranty for Carts - Each Garbage Cart and Recycling Cart shall be protected by a manufacturer's warranty with a duration of at least ten (10) years. The warranty shall explicitly provide that the warranty is transferable to the City and enforceable by the City, as well as the Contractor. A copy of the manufacturer's warranty shall be provided to the Administrator before the carts are ordered by the Contractor. The Contractor shall comply with the requirements in Section 10.10 of Exhibit 10.10 (Specifications for Garbage Carts and Recycling Carts) concerning warranties.

27.5.3 Minimum Specifications for Carts - The Garbage Carts and Recycling Carts provided by the Contractor pursuant to this Agreement shall, at a minimum, comply with the requirements set forth in Exhibit 10.10 (Specifications for Garbage Carts and Recycling Carts), unless the City waives a requirement in writing.

27.5.4 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 a 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. Upon request, the Contractor shall provide the Wynmoor Community with Mechanical Containers made from plastic, rather than metal.

## ~~27.6 POWER WASHING FOR CARTS~~

~~Upon the Administrator's request, the Contractor shall wash, sanitize, and deodorize each of the Garbage Carts and Recycling Carts used by Residential Customers (Residential Curbside Customers and Residential Mechanical Container Customers). At the City's option, this service shall be provided to each Residential Customer on an annual, semi-annual, or quarterly basis. The~~

~~Contractor shall be paid for this optional service in accordance with the Rates set forth in Exhibit 4, and in the manner described in Section 39.3.3 below. The City shall notify the Contractor at least one hundred eighty (180) days before the Contractor is required to provide such service. Notice shall be provided to the Contractor at least ninety (90) days before the City terminates or changes the frequency of such service.~~

## SECTION 28: CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

### 28.1 GENERAL REQUIREMENTS FOR CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

~~28.1.1~~ In general, the Contractor shall use clean, safe, well-maintained, and relatively new trucks whenever providing Collection Service pursuant to this Agreement. All of the trucks used by the Contractor to collect Solid Waste and Source Separated Recyclable Materials Curbside pursuant to this Agreement shall be fueled with compressed natural gas or electricity. Contractor and City shall establish a transition plan for use of Electric V-vehicles for curbside, automated collection upon execution of 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, low hanging limbs or electrical wires, or other obstructions preclude the use of the Contractor's normal vehicles and equipment.

~~28.1.1~~

28.1.2 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.

28.1.3 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.

28.1.4 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 twenty (20) miles per hour and at other times when necessary to prevent the Contractor's Load from blowing out of the vehicle.

28.1.5 All Collection vehicles shall be painted a uniform color. All Collection vehicles shall have painted sides, or shall have signs affixed on each side, stating "Proudly Serving the City of Coconut Creek" or alternate language approved by the Administrator.

~~28.1.6~~ Advertising shall not be allowed on the Contractor's vehicles, Collection Containers, or equipment used to provide Collection Service in the City.

28.1.7 All ~~V~~ehicles for the collection of Garbage shall be equipped with software and cameras that are capable of recording collection of each cart and Customers that did not have a cart at the curb at collection time.

28-1-628.1.8 All vehicles used for the collection of Single Source Recyclables shall have cameras and software capable of recording the collection of each cart. Customers that did not have a cart at the curb at collection time, and ~~the latest relevant technology, including~~ artificial intelligence, to identify contamination in Single Source Recyclables.

## 28.2 DEDICATED FLEET FOR CITY

The Contractor shall maintain a dedicated fleet of vehicles for the City's benefit. The 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.

## 28.3 AGE OF CONTRACTOR'S COLLECTION VEHICLES

On the Commencement Date, all of the Collection vehicles used by the Contractor under this Agreement shall be no more than five (5) years old (other than Electric Vehicles) and shall be fueled with compressed natural gas ("CNG") except for those that are required to be ~~EV~~Electric Vehicles. During the initial term of this Agreement and any renewal term, no Collection vehicles used by the Contractor under this Agreement shall be more than five (5) years old, unless it is an Electric Vehicle or is used only as a reserve vehicle. Reserve vehicles (other than Electric Vehicles) shall not be more than eight (8) years old. If a Collection vehicle is replaced during the initial term or any renewal term of this Agreement, the replacement vehicle shall be no more than five (5) years old and shall be fueled with CNG, except for replacement vehicles that are Electric Vehicles. The age of a vehicle shall be determined by using the model year of the vehicle.

## 28.4 ANCILLARY EQUIPMENT IN CONTRACTOR'S VEHICLES

28.4.1 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) functional back-up cameras. 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.

28.4.2 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.

28.4.3 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 locations shall be recorded at least once every five (5) seconds. The Contractor shall provide its GPS logs and records to the Administrator, upon request, in compliance with the requirements in Section 34.2.9, below.

## 28.5 RESERVE VEHICLES AND EQUIPMENT

28.5.1 The Contractor shall have sufficient reserve vehicles and equipment available to complete daily 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 Route(s) within the established hours of Collection.

28.5.2 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.

28.5.2 28.5.3 Reserve vehicles may be powered by compressed natural gas-CNG instead of Electricity for Curbside Collection.

## 28.6 MAINTENANCE AND CLEANING

28.6.1 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 week, unless the Administrator approves an alternate cleaning procedure or schedule. Other Collection vehicles and Mechanical Containers shall be cleaned and washed, as necessary, to minimize the potential for odors and nuisance conditions.

28.6.2 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.

28.6.3 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.

28.6.4 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 Customer or the City. However, the Contractor is not required to provide a new Mechanical Container to a Customer more than one time at any specific location during any term of this Agreement, unless the Administrator instructs the Contractor to do so.

## 28.7 IDENTIFICATION OF CONTRACTOR'S VEHICLES AND EQUIPMENT

28.7.1 The Contractor's name and telephone number shall be displayed at all times, in letters at least four (4) 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 four (4) inches high, on all four (4) sides of all vehicles used to provide Collection Services.

28.7.2 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 four (4) inches high. Upon the Administrator's request, the Contractor's vehicles also shall display information promoting the City's Solid Waste or Recycling programs. The information displayed on the Contractor's vehicles shall be subject to the approval of the Administrator and the Contractor, which approval shall not be unreasonably withheld.

- 28.7.3 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 four (4) 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. The labels must be painted or permanently affixed to the Mechanical Container and legible at all times. Where garbage and recycling Mechanical Containers are adjacent to one another, identification of the type of material to be placed in the eContainer shall take precedent over the above requirements.

#### 28.8 COMPLIANCE WITH THE LAW APPLICABLE TO VEHICLES

- 28.8.1 At all times, the Contractor and its employees shall operate and maintain all Collection vehicles and equipment in compliance with all Applicable Laws.
- 28.8.2 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.
- 28.8.3 All vehicles and equipment shall be operated in compliance with the Florida Uniform Traffic Control Law (Chapter 316, Florida Statutes) and the City's Code of Ordinances.

#### 28.9 CITY'S RIGHT TO INSPECT CONTRACTOR'S VEHICLES AND EQUIPMENT

- 28.9.1 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.
- 28.9.2 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. 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 vehicles or Collection Containers has leaked fluids or spilled Solid Waste and thereby stained soils or pavement, or created an odorous or nuisance condition.

#### 28.10 LOCAL STORAGE AND REPAIR OF CONTRACTOR'S VEHICLES

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. On the Commencement Date and all times thereafter, the Contractor's storage yard, garage, and maintenance facility must be located within a twenty-five (25) mile radius of City Hall, which is located at 4800 West Copans Road, Coconut Creek, Florida. The Contractor shall not use City property to store, wash, repair, or maintain any vehicles or equipment.

#### **28.11 SPILL CLEAN-UP MATERIALS**

Before the Commencement Date, the Contractor shall install and thereafter maintain a lockable storage unit in a designated area of the City's public works yard for the storage of absorbent materials used to contain and clean-up spills of fuel, hydraulic fluid, leachate, or other liquids from the Contractor's vehicles. Before the Commencement Date and at all times thereafter, the Contractor shall store and at all times maintain a sufficient quantity of absorbent material in the storage unit to ensure the prompt and effective clean-up of any spill involving up to fifty (50) gallons of fuel, hydraulic fluid, leachate, or other liquids released from Contractor's vehicles. Further, the storage unit shall be equipped with heavy-duty brush brooms suitable for use during a clean-up operation following a spill of fluids from the Contractor's vehicles.

The Contractor shall provide the Administrator with a key to the storage unit. If the Contractor fails to promptly respond to a spill, the City shall have the right, but not the obligation, to use the materials stored in the storage unit for the clean-up of any ~~spill~~ spill caused by the Contractor.

### **SECTION 29: CONTRACTOR'S PERSONNEL**

#### **29.1 GENERAL REQUIREMENTS**

The Contractor shall use competent, qualified, sober 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.

#### **29.2 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 residential and commercial services in a community that is comparable in size to the City. The District Manager must have the authority to make significant decisions concerning the day-to-day operation of Contractor's programs 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.

#### **29.3 FIELD SUPERVISOR**

The Contractor shall designate one or more Field Supervisors, who shall directly oversee the Collection Services provided under this Agreement. The Field Supervisor(s) must have the experience described in Section 29.2, above. The Field Supervisor(s) shall have immediate access to an automobile or truck between 6:00 a.m. and 6:00 p.m., every Operating Day, so the Field Supervisor can respond to problems and other events affecting the Contractor's performance under this Agreement. 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.

#### **29.4 EMPLOYEE CONDUCT**

The Contractor's personnel shall maintain a courteous and respectful attitude toward the public at all times. The Contractor shall instruct its employees to avoid loud or profane language during the performance of their duties under this Agreement. Contractor's employees shall not cause any disturbance, interference, or delay to any work or service rendered to the City or by the City. Contractor's employees shall not conduct themselves in a negligent, disorderly or dishonest manner.

**29.5 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 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.

**29.6 ATTIRE FOR EMPLOYEES**

Contractor's employees 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.

**29.7 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 reasonable cause only. The Administrator shall meet with the Contractor's District Manager to discuss the Administrator's concerns, before the Administrator requests the District Manager to take any action concerning any employee. 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. Notwithstanding anything to the contrary in Section 52, below, or elsewhere in this Agreement, the Contractor shall defend, save, and hold the City harmless from and against any and all legal actions or other proceedings brought by any employees so removed.

**29.8 EMPLOYEE TRAINING AND LICENSES**

29.8.1 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.

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

29.8.3 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.

**29.9 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.

**29.10 LEGAL STATUS OF CONTRACTOR'S EMPLOYEES**

The City shall have no obligation to pay or provide any employment benefits to the Contractor's

employees. A Person employed by the Contractor shall not be entitled to any rights or privileges granted by the City to the City's employees, such as pension, workers' compensation, unemployment compensation, civil service, or other employee benefits. The Contractor shall have the sole responsibility for paying any wages and providing any employment benefits to the Contractor's employees.

#### **29.11 SUBCONTRACTORS AND TEMPORARY LABOR**

To the greatest extent practicable, the Contractor shall provide all of its Collection Services within the City by using permanent employees of the Contractor. The Contractor shall minimize and, if possible, eliminate the use of temporary labor for the provision of Collection Services. No subcontractors or temporary labor shall be used to provide Collection Services without the prior approval of the Administrator, which approval shall not be unreasonably withheld. Subcontractors and temporary labor may be used to wash carts pursuant to Section 27.6 of this Agreement and for other purposes, if the subcontractors and temporary labor were expressly identified in the Contractor's proposal to the City in response to RFP No. 04-17-19-10.

#### **29.12 DRUG-FREE WORKPLACE**

The Contractor shall promote and maintain a drug-free workplace. The Contractor shall publish a statement notifying its employees that the unlawful manufacturing, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace. The statement shall specify the actions that will be taken against employees for violations of this prohibition. A copy of this statement shall be provided to each employee that will be engaged in providing services under this Agreement.

### **SECTION 30: CONTRACTOR'S LOCAL OFFICE**

- 30.1** On and after the Commencement Date, the Contractor shall maintain a local customer service and dispatch office within a twenty-five (25) mile radius of City Hall, which is located at 4800 West Copans Road, Coconut Creek, Florida. 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 12:00 p.m. (noon) on Saturday. However, the Contractor's office does not need to be open on Holidays.
- 30.2** 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 each Operating Day after the Commencement Date and as long thereafter as necessary to ensure Contractor's compliance with the requirements in this Section 30, as well as Sections 31.1.4, and 31.1.5.
- 30.3** The Contractor shall have a toll-free telephone number for calls from Customers in the City. The Contractor also shall have a separate telephone number for receiving complaints from Customers. The Contractor's telephone numbers shall be listed in the Contractor's webpage, the Contractor's invoices to customers, and the notices provided pursuant to Sections 35.1, 35.2, 35.3, 35.4, and 35.5, 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 in a "call center" located in the State of Florida. 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.
- 30.4** 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 30.4, an emergency shall mean 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 a routine Missed Collection.

- 30.5 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 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.
- 30.6 The Contractor's office shall be equipped with a two-way communication system 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.
- 30.7 A sufficient number of Garbage Carts and Recycling Carts shall be stored at the Contractor's local office to ensure that the Contractor can replace or exchange any cart that is delivered to the Contractor's office by a Customer that wishes to replace or exchange their cart pursuant to Section 27.4, above, or purchase an additional cart pursuant to Section 39.10-3, below.

## **SECTION 31: CUSTOMER RELATIONS**

### **31.1 HANDLING CUSTOMER COMPLAINTS AND REQUESTS**

- 31.1.1 The Contractor shall be responsible for receiving all complaints and requests from Customers. If the Contractor receives a complaint or request from a Customer, the Contractor shall enter the complaint or request into the Contractor's electronic tracking system pursuant to Sections 31.1.4 or 31.1.5, as applicable, and then the Contractor shall promptly initiate its response.
- 31.1.2 The District Manager or their designee shall determine initially whether a Customer's complaint is a Legitimate Complaint. If there is a dispute with the Customer or uncertainty, 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. 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, Source Separated Recyclable Materials, or Collection Containers;
  - Failure to maintain vehicles, Collection Containers, or equipment in compliance with this Agreement;
  - Damage to public or private property;
  - Failure to pick up litter;
  - Failure to obey traffic regulations; and
  - Discourteous treatment of Customers.
- 31.1.3 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 12 p.m. (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.

- 31.1.4 The Contractor must establish a real-time, web-based system for receiving and tracking all complaints. The Contractor's web page must provide the Contractor's toll-free telephone numbers for reporting complaints. The Contractor's web page also must provide a link or other means for the public and the Administrator to submit complaints to the Contractor by electronic mail (e-mail). 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 shall configure the system in a manner that allows the Administrator to: (a) access the system and monitor the complaints from the City's computers; (b) identify the locations of the Customer complaints in real time on a street map; and (c) compare current and historical complaints, by type of complaint and by location. The Contractor's system shall provide immediate notice to the Administrator when a complaint is entered into the Contractor's tracking system. However, the Administrator does not need the ability to enter or delete data in the electronic tracking system. 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 34.2.6, below. This tracking system shall be fully operational no later than the deadline set forth in Section 5.2(k), above.
- 31.1.5 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. The web-based system shall be available to all Residential Customers and Commercial Customers. The Contractor shall closely monitor such requests and shall provide immediate notice to the Administrator when a Customer submits a request to the Contractor. This tracking system shall be fully operational no later than the deadline set forth in Section 5.2(k), above.
- 31.1.6 With regard to the computer systems required pursuant to Sections 31.1.4 and 31.1.5, above, the Contractor is encouraged but not required to design its systems to enable Customers to view the current status of their complaints and requests on-line.
- 31.1.7 The Contractor shall follow the procedures set forth in this Section 31.1 whenever the Contractor receives a complaint or request for service from the City.

## **31.2 DISPUTE RESOLUTION PROCESS FOR CUSTOMERS**

- 31.2.1 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.
- 31.2.2 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.

31.2.3 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.

31.2.4 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.

## **SECTION 32: CONTRACTOR'S RELATIONSHIP WITH THE CITY**

### **32.1 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 Administrator 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.

### **32.2 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.

### **32.3 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.

### **32.4 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. 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.

### **32.5 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 and Program Materials in the Service Area. If the Administrator instructs the Contractor to collect Solid Waste and Program Materials 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 or Program Materials 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.

### SECTION 33: CONTRACTS FOR COMMERCIAL COLLECTION SERVICE

#### 33.1 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 Section 5.2(~~f~~), above, 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, except as otherwise provided in Section 27.1.6, above. for equipment such as compactors. 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; (d) the Scheduled Collection Day(s); (e) the Rates for the services that will be provided; 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 COCONUT CREEK

This contract for the collection of solid waste is regulated by the City of Coconut Creek. If you have questions or concerns regarding the terms in this contract, you may call the Contractor at (954)-327-9550 or the City's contract administrator at (954) 956-1453 for assistance.

#### COMPACTORS AND ATTACHED ROLL-OFF CONTAINERS

You may provide your own compactor and mechanical container for the collection of the solid waste you generate, if your 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. 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.

#### RATES FOR SERVICES

The City has approved standard rates for the collection of solid waste and for special services. Under this contract, you will pay the following rates for the Contractor's services. However, the City's contract administrator has the right to review and approve any charge the Contractor wishes to impose for any service. 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 1 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.

#### **33.2 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 35 prior to the Commencement Date. This presumption shall expire on June 1, 2020. 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.

#### **33.3 ADVANCE PAYMENTS FOR NEW CUSTOMERS**

At its option, the Contractor may inform a New Customer that Commercial Collection Service will not be provided to the Customer until the Contractor receives an advance payment equal to the value of the Commercial Collection Service that will be provided to the Customer for one (1) month. The Contractor is not required to provide Commercial Collection Service to a New Customer until the Contractor receives an appropriate advance payment from the Customer.

#### **33.4 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 two (2) Operating Days after the Contractor receives a request for service from a New Customer that has signed a service contract with the Contractor.

**SECTION 34: RECORD KEEPING AND REPORTING GENERAL RECORD KEEPING AND REPORTING REQUIREMENTS**

- 34.1.1 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 in Broward County for at least five (5) years following the expiration or termination of this Agreement.
- 34.1.2 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.
- 34.1.3 The Contractor shall prepare the records and logs identified in Sections 34.2.1, 34.2.2, 34.2.3, 34.2.5, 34.2.6, 34.2.7, 34.2.8, and 34.2.9 of this Agreement. The Contractor is encouraged to maintain the log identified in Section 34.2.4, but the Contractor shall not be required to do so, unless the Administrator concludes that the reporting requirements in Section 34.2.4 must be enforced to ensure the Contractor's compliance with the other provisions in this Agreement.
- 34.1.4 All of the Contractor's logs shall be maintained in an electronic database that is compatible with the City's software systems. 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 within five (5) Operating Days. The general format and content of the Contractor's logs shall be subject to the Administrator's approval.
- 34.1.5 The record keeping and reporting requirements in this Section 34 are designed to ensure that the City is well informed about the Contractor's performance under this Agreement. At the Administrator's sole discretion, the Administrator may waive one or more of the record keeping or reporting requirements contained herein, based on the Contractor's performance under this Agreement. Any such waiver shall be in writing.

**34.2 SPECIFIC RECORD KEEPING REQUIREMENTS**

- 34.2.1 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, including Residential Customers, Commercial Customers, and Customers receiving Collection Service for Construction and Demolition Waste. 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 must pay additional fees. 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 36. The Contractor shall summarize its records in a log.

- 34.2.2 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 36. 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.
- 34.2.3 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 pursuant to this Agreement, including the materials collected for the City pursuant to Section 36. 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.
- 34.2.4 Vehicle Maintenance Log - Upon request, 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.
- 34.2.5 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.
- 34.2.6 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.
- 34.2.7 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; the name of the Person that reported the event; a description of the event; the vehicle or equipment number, and/or 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.
- 34.2.8 Cart Log - The Contractor shall maintain records and a log concerning the Garbage Carts and Recycling Carts that are provided by the Contractor pursuant to this Agreement. At a minimum, the log shall identify: the number of carts provided to the Customers each Operating Month; the size and type (e.g., Recycling Cart) of each cart delivered to Customers; the identification (serial) number of each cart; the location where each cart was delivered; the number of carts in the Contractor's inventory, identified by size and type; the number of carts replaced because they were damaged beyond repair, identified by size and type; and the number of carts replaced under warranty. The log shall identify the address of each Dwelling Unit occupied by a Customer that received a cart, and the serial number of each cart that was provided to each Customer.

The log also shall identify the name and address of each Person that purchased a Garbage Cart or Recycling Cart pursuant to Section 39.10.32, below.

- 34.2.9 GPS Records - The Contractor shall maintain records and a log concerning the Global Positioning Systems ("GPS") data that is obtained from the Collection vehicles used by the Contractor to provide Collection Services under this Agreement. The Contractor shall maintain the GPS logs and records for each Collection vehicle for at least twelve (12) Operating Months after the GPS data was obtained. The records shall reflect a "ping rate" of every five (5) seconds for the GPS data. Upon the Administrator's request, the Contractor's records should be provided to the City in CSV or ASCII tabular format and shall contain columns for longitude/latitude coordinates, as well as time and date stamps. Other formats may be acceptable with the prior approval of the Administrator. Upon request, the GPS data shall be provided to the City within five (5) Operating Days; however, the Contractor shall use its best efforts to produce the data quicker if the data are needed to evaluate a Legitimate Complaint concerning the Contractor's performance under the Agreement.

### 34.3 MONTHLY REPORTS

- 34.3.1 Collection Service for Construction and Demolition Waste - The Contractor shall submit monthly reports to the Administrator concerning all of the Collection Service for Construction and Demolition Waste that was provided during the preceding Operating Month. The report shall include: (a) the date(s) when the Construction and Demolition Waste was collected; (b) the Customer's name, billing address, and telephone number; (c) the street address where the Mechanical Container for the Collection of Construction of Demolition Waste was located; (d) the size of the Mechanical Container(s) used, measured in cubic yards; (e) the amount of waste that was disposed of, as documented by scale house tickets and receipts; (f) the amounts charged to the Customer for the Collection Service provided; and (g) the amount charged to the Customer for disposal service.
- 34.3.2 Collection Service for Roll-Off Containers - The Contractor shall submit monthly reports to the Administrator concerning all of the Collection Service provided for each Compactor and Roll-Off Container during the preceding Operating Month. The report shall include: (a) the date(s) when Collection Service was provided; (b) the Customer's name, billing address, and telephone number; (c) the street address where the Compactor and/or Roll-Off Container were located; (d) the size of the Roll-Off Container; (e) the amount (tonnage) of waste that was disposed of, as documented by scale house tickets and receipts from the Designated Facility; (f) the amount charged to the Customer for the Collection Service; and (g) the amount charged to the Customer for disposal service.
- 34.3.3 Commercial Service Report - The Contractor shall submit monthly reports to the Administrator concerning additions to and changes in the Commercial Collection Service that the Contractor provided during the preceding Operating Month. The report shall identify all New Customers that began to receive service, all changes in the level of service provided to existing Customers, and all related information needed to properly bill the Customers for the services provided by the Contractor. This information shall include the date when the new Collection Service was provided or the existing Collection Service was changed. For each such Customer, the report shall provide the Customer's name, billing address, and telephone number. Where appropriate, this report may refer to, without duplicating, the information contained in the reports provided pursuant to Sections 34.3.1 and 34.3.2, above.

### 34.4 QUARTERLY REPORT

- 34.4.1 The Contractor shall submit a quarterly report<sup>044</sup> 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. 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; and (g) the total number of Garbage Carts and the total number of Recycling Carts, each broken down by size, that were delivered to Customers during the quarter.
- 34.4.2 The quarterly report shall include any information requested by the Administrator to enable the City to comply with Chapter 403, Florida Statutes, or other Applicable Laws concerning Recycling rates, Recycling goals, Solid Waste management programs, or similar matters.
- 34.4.3 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.

#### 34.5 ANNUAL REPORT

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) an updated list of all vehicles and equipment used to provide Collection Service under this Agreement; (c) an updated 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 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 28.3 herein. The first annual report shall be submitted to the City on or before December 1, 2020.

#### 34.6 ACCIDENT REPORTS

The Contractor shall notify the Administrator of any accidents involving the Contractor's employees, 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 or (b) require notification to a regulatory agency under Applicable Laws. In all such cases, notice shall be provided via electronic mail to Coconut Creek Risk Management, 4800 West Copans Road, Coconut Creek, FL 33063 and to the Administrator within six (6) hours of the accident or incident date. Upon request, a more complete written report shall be provided to the Administrator and the City's Risk Management Division within one (1) Operating Day of the accident or incident date. 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 initial notice and subsequent written reports shall include the date and time of the event, a description of 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.

**34.7 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. The Contractor shall promptly provide any information regarding the services provided by the Contractor under this Agreement, in addition to the information required explicitly by 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: (a) the Contractor's confidential personnel records; (b) the Contractor's confidential profit and loss statements; (c) trade secrets, as defined in Section 812.081 ~~(f)-(e)~~, Florida Statutes; (d) documents that are exempt from disclosure under Florida's public records laws; and (e) documents that are privileged and confidential pursuant to Florida law, including documents that contain attorney-client communications or attorney work product. The Contractor's records shall be made available for inspection in the City during normal business hours, or the records shall be submitted to the City in an electronic (digital) format, within five (5) Operating Days after the Administrator requests the records.

**34.8 PUBLIC'S RIGHT TO INSPECT CONTRACTOR'S RECORDS**

The Contractor shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. Pursuant to Section ~~1-1~~19.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the City to perform the services provided hereunder.
- (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 term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.
- (d) Upon completion of the 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.

If the Contractor fails to comply with the requirements in this Section 34.8, the City may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide

the public records to the City within a reasonable time, it may be subject to penalties under Section 11-19.140, Florida Statutes.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: BY TELEPHONE (954/973-6774) E-MAIL ([PUBLICRECORDS@COCONUTCREEK.GOV](mailto:PUBLICRECORDS@COCONUTCREEK.GOV)), OR MAIL (CITY OF COCONUT CREEK, OFFICE THE CITY CLERK, 4800 WEST COPANS ROAD, COCONUT CREEK, FLORIDA 33063).**

### **SECTION 35: PUBLIC NOTICES**

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 35. The design and content of the notices, educational materials, and promotional information shall be subject to the Administrator's prior approval. An electronic (digital) copy of each draft notice shall be submitted to the Administrator for review and approval at least three (3) weeks prior to the printing and delivery of the notice. The Contractor shall be responsible for all expenses associated with designing, printing, and delivering the notices and otherwise providing the educational services required herein. The Contractor will coordinate with the Administrator to ensure that all of the notices required herein are posted on the City's webpage, whenever feasible.

#### **35.1 NOTICE FOR COMMENCEMENT OF SERVICE**

Prior to the Commencement Date, the Contractor shall design, print, and deliver a notice to each Commercial Customer and each Residential Customer concerning the Contractor's Collection Services under this Agreement. Notice shall be provided to all Commercial Customers at least thirty (30) days before the Commencement Date. Notice shall be provided to all Residential Customers at least ten (10) days before the Commencement Date. The notice 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, and (c) include other educational and promotional information provided to the Contractor by the Administrator. The notice also may provide other relevant information concerning the Contractor's services.

#### **35.2 ANNUAL NOTICE TO CUSTOMERS**

The Contractor shall design, print, and deliver an annual notice to all Customers within the Service Area. The notice shall include the same basic information provided for the commencement of service pursuant to Section 35.1, above, but the annual notice shall be updated, as necessary. The Contractor shall provide the annual notice in October of each Operating Year, except the First Operating Year.

#### **35.3 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 annual notice pursuant to Section 35.2, above.

#### **35.4 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 that will occur after the Commencement Date. The approved notice shall be delivered to the affected Customers at least ten (10) days before the Contractor changes its Scheduled Collection Days. The Contractor also shall place the notice on the Contractor's website at least fifteen (15) days before the permanent change.

### 35.5 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. The Contractor shall publish the notice in the newspaper of general circulation that has the largest number of subscriptions in Broward County. The newspaper notice shall be published at least five (5) days before the Holiday. The Contractor also shall place the notice on the Contractor's website at least fifteen (15) days before the Holiday.

## SECTION 36: CONTRACTOR'S SERVICES FOR THE CITY

### 36.1 GENERAL REQUIREMENTS

Subject to the conditions contained herein, the Contractor shall provide Collection Services for the City, without charge, at certain City facilities and other public locations designated by the Administrator. The Contractor also shall collect litter and non-hazardous Solid Waste at illegal dump sites in the Service Area. The Contractor shall be solely responsible for all of the costs and expenses associated with these services, including the cost of Collection and disposal, and the cost of purchasing, delivering, maintaining, and using Collection Containers, except as otherwise explicitly set forth herein.

With regard to the Contractor's services for the City, the Administrator 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 Administrator 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 and Rubbish shall be collected twice each week;
- (b) Source Separated Recyclable Materials shall be collected ~~once each every other weekly, if implemented, and~~
- (c) Mechanical Containers shall be emptied by the Contractor whenever the Mechanical Containers are full.

If the Administrator notifies the Contractor before 12 p.m. (noon) on an Operating Day that a Mechanical Container used by the City is full, the Contractor shall empty the container on the same day. If the Administrator notifies the Contractor after noon, the Contractor shall empty the Mechanical Container before noon on the next Operating Day. 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

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

The Contractor shall collect the Garbage, Rubbish, Yard Waste, and Source Separated Recyclable Materials generated on any property that is owned, occupied, leased, or controlled by the City at any time during the term of this Agreement. Exhibit 11 identifies the City properties that, as of the Effective Date, shall receive Collection Service. Exhibit 11 also identifies the type and frequency of Collection Service to be provided to each City property, beginning on the Commencement Date. The Contractor's obligations under this Section 36.2 include the Collection of Garbage, Rubbish, Yard Waste, and Source Separated Recyclable Materials that are collected by the City at other locations as a result of the City's operations and then transported to the City properties identified in Exhibit 11. The Administrator may add properties to Exhibit 11, if the properties are acquired, occupied, leased, or controlled by the City after the Effective Date. The Administrator shall provide advance notice to the Contractor concerning any properties that will be added to Exhibit 11 and the Administrator shall designate a reasonable date for the commencement of the Contractor's Collection Services at such properties. The City's payments to the Contractor shall not change as a result of adding new properties to Exhibit 11.

**36.2 PUBLIC DROP-OFF LOCATION FOR RECYCLABLE MATERIALS**

The Contractor ~~shall~~ may be required to provide Collection Service for Source Separated Recyclable Materials at three (3) locations in the Service Area that will be used as public drop-off sites. One drop-off site will be located at City Hall. The Administrator shall designate the locations of the other two (2) drop-off sites. The Contractor shall collect the Source Separated Recyclable Materials at these locations at least one time each week.

**36.3 COLLECTION FOR COMMUNITY EVENTS**

Each Operating Year, the Contractor shall provide Collection Service for up to twelve (12) Community Events that are designated by the Administrator, including but not limited to the City's annual Butterfly Festival and other special events conducted by the City. The Contractor shall provide Collection Containers, including Recycling ~~Containers~~ Carts, for each of the Community Events. The Administrator shall designate the number, size, and type of containers required for each event, and the locations where the containers will be placed.

If the City requests Collection Service for more than twelve (12) events in any Operating Year, the Contractor shall provide the requested service, but the Contractor may charge the City for its services pursuant to Section 36.7, below.

**36.4 COLLECTION SERVICE FOR ILLEGAL DUMPING**

If requested by the Administrator, the Contractor shall collect litter and other non-hazardous Solid Waste, including Bulky Waste, that has been disposed of without authorization on a public right-of-way, park, or other public property. The Contractor is not obligated to collect litter or other materials from illegal dumping on private property. The Contractor shall provide its Collection Services no later than the next Operating Day after receiving the Administrator's request for such services. However, this Section 36.5 does not require the Contractor to collect: (a) more than two thousand (2,000) pounds or eight hundred (800) cubic feet of litter or other non-hazardous Solid Waste at any location; (b) any materials located more than fifty (50) feet from a public road or right-of-way; or (c) any single item that weighs more than fifty (50) pounds. The City shall be responsible for the collection and disposal of any waste material that does not comply with the specifications in (a), (b), and (c), above.

The Administrator also may request, and the Contractor shall provide, immediate Collection Service

for Bulky Waste and Yard Waste if the Administrator concludes that the waste materials pose an imminent threat to the public health, safety and welfare (e.g., due to glass or sharp objects in the Bulky Waste). However, nothing herein requires the Contractor to collect Hazardous Material; the management of such material shall be governed by Section 15.5, above.

### **36.5 EDUCATIONAL ACTIVITIES**

The City wants to enhance the City's integrated Solid Waste management programs and practices, including Recycling. The Contractor shall help the City by providing technical advice and assistance concerning these programs. The Contractor also shall help the City develop educational programs and materials to promote the City's Recycling and sustainability initiatives. Further, the Contractor shall make presentations about these topics to schools, civic groups, homeowners' associations, and other organizations when requested to do so by the Administrator, up to a maximum of twelve (12) times each Operating Year. The Contractor shall also provide Forty-Five Thousand Dollars (\$45,000) per Operating Year for Recycling programs and education in accordance with Section 40.3, below.

### **36.6 CHARGES FOR EXTRA COLLECTION SERVICES**

The Contractor shall not be paid a fee for providing its Collection Services to the City, except in the following instances:

- (a) The Contractor provides Collection Service for more than twelve (12) Community Events in one Operating Year,
- (b) The Contractor collects more than one thousand (1,000) cubic yards of Solid Waste at Community Events in one (1) Operating Year; or
- (c) The City requires the Contractor to collect litter or other Solid Waste pursuant to Section 36.5 on more than twelve (12) occasions in one (1) Operating Year.

In all such cases, the charges for the Contractor's Collection Services shall be negotiated with the City before the Contractor provides any Collection Service that would require payment pursuant to this Section 36.7. No payment from the City shall be required for any such services unless the Contractor advises the City in advance that the requested service may exceed one of the thresholds identified in (a), (b), or (c), above, and the City confirms in writing that the City wishes the Contractor to provide its Collection Service, based on the negotiated Rates. The Contractor's charges for its Collection Services shall be consistent with the Rates set forth in Exhibits 4 and 5, below, and shall not exceed the amount charged by the Contractor when providing similar services to other Persons.

## **SECTION 37: CONTRACTOR'S EMERGENCY SERVICES**

### **37.1 COLLECTION SERVICES BEFORE AND AFTER A DISASTER**

When a hurricane 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 City or Broward County; (b) the Administrator and the Contractor agree that Collection Service should be suspended due to unsafe operating conditions; or (c) Collection Service must be suspended pursuant to Applicable Law. Following a local hurricane, tornado, or other natural or manmade 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 determined by the Administrator. The Contractor shall immediately resume its Collection Services for Bulky Waste, Yard Waste, and Source Separated Recyclable Materials on the Scheduled Collection Days 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 any Person that is a member of the private sector. When the Administrator is determining whether to suspend or resume the Contractor's Collection Service, the Administrator shall 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

In the event of a local hurricane, tornado, or other natural or manmade 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

37.3.1 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.

37.3.2 If the Federal Emergency Management Agency declares that Broward County 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 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. Thereafter, the Contractor shall collect the remaining Disaster Debris, if any, that is Set Out for Collection, and the Contractor shall be paid the Rates set forth in Exhibits 4, 5, and 6 for Collection Services.

### 37.4 CONTRACTOR'S CONTINGENCY PLAN

The Contractor ~~shall develop~~submitted a Contingency Plan, which ~~shall describe~~ the Contractor's plan of action in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable, or prevents the Contractor's drivers from ~~reporting~~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 on or before the deadline set forth in Section 5.2(h).~~—The

Contingency Plan shall be updated annually, if necessary, and resubmitted to the Administrator (a) with the Contractor's annual report and (b) within five (5) Operating Days, or a reasonable amount of time, after the plan is revised and adopted by the Contractor. The Contingency Plan and all revisions to the plan are subject to the Administrator's right, but not the obligation, to review and comment.

### 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.

## SECTION 38: RATES FOR CONTRACTOR'S SERVICES

### 38.1 UNIFORM RATES FOR ALL ROUTINE COLLECTION SERVICES

The Rates in Exhibits 4, 5, and 6 are the maximum amounts that may be charged for the Collection Services provided by the Contractor pursuant to this Agreement, subject only to the adjustments that are expressly authorized herein. These Rates shall be applied uniformly to all Customers receiving Collection Services from the Contractor within the Service Area after the Commencement Date. The Contractor shall utilize the Rates in Exhibits 4, 5, and 6, and no others, when billing Customers and the City under this Agreement.

All Residential Curbside Customers shall pay the same Rates for the Collection of Residential Waste and Program Materials, regardless of the number of carts used by a Customer. The Contractor shall not charge an increased Rate or additional fee solely because a Residential Curbside Customer uses more than one Garbage Cart or Recycling Cart.

### 38.2 RATES FOR SPECIAL COLLECTION SERVICES

The Rates for some Special Collection Services have been set by the City, as shown in Exhibit 6. The Rates for other Special Collection Services, such as the collection of Land Clearing Debris, are subject to negotiation between the Customer and the Contractor. The Rates for Special Collection Services involving the use of a Mechanical Container shall not exceed the Rates shown in Exhibit 5 for comparable Commercial Collection Services. If the Customer and the Contractor disagree about the Rate for any Collection Service, the Customer may request the Administrator to resolve the dispute pursuant to Section 31.2, above.

If the Contractor provides Back Door Service to a disabled Customer pursuant to Section 7.6, the Contractor shall be paid the Rate for Residential Collection Service to a Single Family Dwelling, but the Contractor will not receive any additional Rate or fee for Back Door Collection Service.

### 38.3 CPI ADJUSTMENTS TO COLLECTION COMPONENT OF RATES

38.3.1 Subject to the conditions herein, on ~~October 1, 2025~~ and each October 1 thereafter during the term of this Agreement, the Collection Component of the Rates in Exhibits 4 and 5 shall be adjusted, upward ~~or downward~~, by the Administrator, in an amount that is equal to the percentage change in the Consumer Price Index ~~Water and Sewer Garbage and Trash~~ eCollection Services (CUSR0000SEHG) ("CPI") during the most recent twelve (12) consecutive month period beginning on April 1 and ending on March 31. ~~For example, with regard to the CPI adjustment on October 1, 2020, the relevant period will be April 1, 2019~~

~~through March 31, 2020.~~

- 38.3.2 At the City's option, the percentage change in the CPI may be obtained by consulting the website published by the U.S. Department of Labor, Bureau of Labor Statistics ([www.bls.gov/sec/](http://www.bls.gov/sec/)), Data Tools All Urban Consumers (Current Series), Tables, June 2018). In the alternative, the percentage change in the CPI shall be calculated by the Administrator using the following formula:

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

Where:

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

CPI 1 is the CPI index number for the most recent April (e.g., April 2020)

CPI 2 is the CPI index number for April in the year before CPI 1 (e.g., 2019)

- 38.3.3 Notwithstanding anything else contained herein, a single CPI adjustment to the Rates shall not exceed ~~five~~ percent (5%) and 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 the ~~five~~ percent (5%) "cap" in a year when the CPI adjustment would exceed ~~five~~ percent (5%), but for the ~~five~~ percent (5%) limitation contained herein).

- 38.3.4 Notwithstanding anything else contained herein, there will not be a CPI adjustment to increase the Rates unless the Contractor delivers a written request for a CPI adjustment to the Administrator on or before July 1 of the then current Operating Year. For example, the Contractor must request a CPI adjustment to the Rates on or before July 1, 2020 if the Contractor wants the Rates to increase on October 1, 2020 pursuant to a CPI adjustment. If the Contractor fails to make a timely request for a CPI adjustment, there shall be no CPI increase in the Rates on October 1 of the next Operating Year. Further, there shall be no "catch up" adjustment to the Rates in future years to off-set or mitigate the effect of failing to request the adjustment. The foregoing provisions in this paragraph only apply to CPI adjustments that increase the Rates.

- 38.3.5 ~~In all cases, the~~ No CPI adjustment shall occur if the CPI adjustment will reduce the Rates.

- 38.3.6 If the Administrator concludes, based on the requirements herein, that there shall be a CPI adjustment on October 1 of the next Operating Year, the Administrator shall promptly provide notice to the Contractor concerning the CPI adjustment. The Administrator also shall provide the Contractor with the Administrator's calculations concerning the amount of the CPI adjustment. The Contractor shall notify the Administrator within ten (10) Operating Days if the Contractor disagrees with the Administrator's determination or calculations.

- 38.3.7 Exhibit 12 contains sample calculations that demonstrate how the CPI adjustments will be calculated under hypothetical circumstances.

- 38.3.8 If the CPI 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.

38.3.9 The Rates in Exhibit 6 for Special Collection Services shall not be adjusted for CPI changes.

#### 38.4 RATE ADJUSTMENTS FOR CHANGES IN DISPOSAL COSTS

The Disposal Component of the Rates in Exhibits 4 and 5 shall be adjusted, upward or downward, by the Administrator whenever there is a change in the Tipping Fees charged at a Designated Facility. Changes in the Tipping Fees shall be a direct pass-through of savings or costs, as the case may be, to the Customers. The Administrator shall adjust the Disposal Component of the Rates for Customers by the same percentage as the percentage change in the Tipping Fees at the Designated Facility. Any such adjustment to the Rates shall take effect at the time when the adjusted Tipping Fees take effect. ~~For the purposes of calculating these changes, the Tipping Fees at the Designated Facilities are as follows: (a) the Tipping Fee for Garbage and Rubbish at the Wheelabrator North Broward resource recovery facility is Forty-Five Dollars and Two Cents (\$45.02) per ton; (b) the Tipping Fee for Bulky Waste at the Waste Connections, Inc. facility is Forty-Two Dollars (\$42.00) per ton; (c) the Tipping Fee for Construction and Demolition Waste at the Waste Connections, Inc. facility is Thirty-Seven Dollars (\$37.00) per ton and (d) the Tipping Fee for Yard Waste at the Waste Connections, Inc. facility is Thirty-Nine Dollars (\$39.00).~~

#### 38.5 RATE ADJUSTMENTS FOR CHANGES IN LAW

38.5.1 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 submit the Contractor's request and the Manager's recommendations to the Commission. The Manager shall place the issue on the agenda for one of the Commission's public meetings. The Contractor shall be given a reasonable opportunity at the Commission's meeting to explain the basis for its request.

38.5.2 The Commission shall fairly evaluate the Contractor's request in a timely manner and in compliance with the requirements in Section 32.4, above. The Commission shall grant, grant in part, or deny the Contractor's request. 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.

38.5.3 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 that was in effect on the Effective Date, the Commission may terminate this Agreement at any time after providing one hundred eighty (180) days' notice to the Contractor.

#### 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 an audited statement 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, and upon request, the Contractor shall provide, all of the information that is reasonably necessary for the Manager to evaluate the Contractor's petition. After receiving the requested information, the Manager shall place the Contractor's petition and the Manager's recommendations on the agenda for one of the Commission's public meetings. The Contractor shall be given a reasonable opportunity at the Commission's meeting to explain the basis for its petition.
- 38.6.2 The Commission shall grant, grant in part, or deny the Contractor's request in a timely manner. The Commission may deny the Contractor's request for any reason the Commission deems appropriate. The Commission's decision shall be final and non-appealable.
- 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 Manager shall provide advance notice and a reasonable opportunity for the Contractor to be heard by the Manager, before the  
Manager reduces the Contractor's rates. Any decision by the Manager to reduce the Contractor's Rates may be appealed to the Commission.

### **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. This Agreement does not authorize any payments for the Collection of Disaster Debris.

### **38.8 ADJUSTMENTS TO FRANCHISE FEES**

Whenever any Rate is adjusted, the Franchise Fee shall be recalculated and then paid based on the adjusted Rate. 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 Customers. The Franchise Fee component of the Rates shown in Exhibits 4 and 5 also shall

be adjusted whenever the City adjusts its Franchise Fees.

### 38.9 RATES FOR RENTAL OF COLLECTION CONTAINERS

The Contractor shall not charge or collect a rental fee for the Collection Containers it provides to the Customers, except for the rental of compactors. The Contractor shall offer Mechanical Containers that are made of steel, aluminum, or plastic to meet the needs of the eCustomer. The Contractor also shall not charge or collect a fee for maintaining or moving a Collection Container, installing locks on a Collection Container, or providing similar services, except as expressly provided in Exhibit 6.

### 38.10 RATES FOR NEW DESIGNATED FACILITIES

Pursuant to Section 19.6, above, the City shall have the right to select a new Designated Facility ("New Designated Facility") for the Recycling or disposal of any of the materials collected by the Contractor pursuant to this Agreement. If the City selects a New Designated Facility to replace one or more of the facilities identified in Section 19, ~~the Contractor shall be paid the Rates approved herein, subject to the following conditions: the City and Contractor will negotiate an appropriate rate for the additional mileage and time required for delivery.~~

~~Exhibits 4 and 5 (Schedule A) [Section 6.3, Schedule A, in the City's RFP] identify the Rates that shall be paid to the Contractor for delivering various types of Solid Waste and Source Separated Recyclable Materials to the Designated Facilities described in Sections 19.2, 19.3, 19.4, and 19.5, above. All of these Designated Facilities are located at or near the North Broward Resource Recovery Facility, which is approximately three (3) miles from City Hall (4800 West Copans Road, Coconut Creek, Florida). These same Rates shall be paid to the Contractor for delivering the City's Solid Waste and Source Separated Recyclable Materials to New Designated Facilities, provided the New Designated Facilities are located no more than six (6) miles from City Hall. If a new designated facility is owned by the Contractor or any subsidiary or business affiliate of the Contractor, there will be no cost for additional travel.~~

~~Exhibits 4 and 5 (Schedule B) [Section 6.3, Schedule B, in the City's RFP] identify the Rates that shall be paid if the New Designated Facility for Garbage and Rubbish is: (a) the Wheelabrator South Broward resource recovery facility, which is located at 4400 South State Road 7, Fort Lauderdale, Florida 33314 (approximately 13 miles from City Hall); (b) the South County Transfer Station that is owned by the Solid Waste Authority of Palm Beach County ("SWA") and located at 1901 S. W. 4th Avenue, Delray Beach 33444 (approximately 14 miles from City Hall); (c) the Southwest County Transfer Station owned by the SWA and located at 13400 South State Road 7, Delray Beach 33446 (approximately 15 miles from City Hall); or (e) any other solid waste management facility, provided the facility is located within a 17 mile radius of City Hall.~~

~~Exhibits 4 and 5 (Schedule B) [Section 6.3, Schedule B, in the City's RFP] also identify the Rates that shall be paid if a New Designated Facility for Bulky Waste, Yard Waste, Construction and Demolition Waste, or Source Separated Recyclable Materials is located between thirteen (13) and seventeen (17) miles from City Hall.~~

~~In cases where a New Designated Facility is located more than six (6) miles but less than thirteen (13) miles from City Hall, the City and the Contractor shall negotiate appropriate Rates for transporting the City's Solid Waste and/or Recyclable Materials to the New Designated Facility. In such cases, if the City instructs the Contractor to deliver Solid Waste and/or Source Separated Recyclable Materials to a Designated Facility and the City requires such deliveries to be made before the City and the Contractor have negotiated and approved a mutually acceptable adjustment to the Rates, the City shall pay the Contractor for the additional transportation costs the Contractor~~

~~incurs when delivering such materials to the Designated Facility. The City's obligation to pay such costs only applies to the extent that the transportation costs are reasonable, fully documented by the Contractor, and limited to the amount that the Contractor's transportation costs increase as a result of having to transport Solid Waste and/or Source Separated Recyclable Materials more than six miles to the new Designated Facility.~~

~~All of the distances referenced in this Section 38.10 shall be determined by the Administrator, and shall be measured in a straight line (i.e., not road miles) from City Hall.~~

## **SECTION 39: PAYMENTS TO CONTRACTOR FOR COLLECTION SERVICES**

### **39.1 GENERAL PAYMENT PROVISIONS**

Subject to the conditions and limitations contained herein, the City 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 required in this Agreement and (a) the fee is identified in Exhibits 4, 5, or 6, 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 4, 5, and 6 shall constitute full and complete compensation to the Contractor for the services provided by the Contractor under this Agreement. 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 provides under this Agreement.

### **39.2 PROHIBITIONS ON PAYMENTS FROM CUSTOMERS TO CONTRACTOR**

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 payment is explicitly authorized in this Agreement. 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 BILLING AND PAYMENT PROCEDURES**

39.3.1 The Contractor is responsible for issuing all bills and collecting all fees for the Collection Services it provides pursuant to this Agreement; however, the City will bill on the tax roll for certain routine Collection Services provided to single family residential properties. The City will place on the tax roll of Broward County the fees, costs, and charges for the routine Collection Service provided for all single family residential properties within the City's municipal boundaries, now existing and including any future annexed lands. The City and the Contractor shall take all steps necessary to ensure that all single family residential properties within the City are properly listed on the tax roll. The Contractor is responsible for all billings for Collection Services provided to new single family residential property until such property is added to the tax roll.

39.3.2 Among other things, the Contractor will bill all Residential Mechanical Container Customers and all Commercial Customers for the Collection Services they receive under this Agreement. The Contractor's bills shall include (a) the cost of providing Collection Services, (b) the cost of disposing of the Solid Waste collected by the Contractor, and (c) Franchise Fees. The City's bills for Collection Services shall be based

on the Contractor's Rates, as set forth in Exhibits 4, 5, and 6, for the services provided by the Contractor in compliance with the requirements in this Agreement. The bills also will include any charges to be paid by the Customer for the purchase of a new Garbage Cart or Recycling Cart pursuant to Section 39.10, ~~32~~, ~~27.1.3~~, and ~~26.1.15~~, below, or Special Collection Services.

~~39.3.3 If the City requests and the Contractor provides any services pursuant to Section 7.3.5 (Optional Collection of Cardboard) or Section 27.6 (Optional Washing of Carts), the Contractor shall submit its invoice for those optional services to the City by the fifth (5th) day of each Operating Month, following the month in which the Contractor's services were provided.~~

~~39.3.4~~ 39.3.3 The City's payments to the Contractor for the routine Collection Service provided to single family residential property shall be based on the amount the City receives from the Broward County Tax Collector, net of the Franchise Fee and administrative fee for single family Collections. The amounts paid to the Contractor will be distributed evenly on a monthly basis, in compliance with the requirements herein.

~~39.3.5~~ 39.3.4 Although the Administrator may instruct the Contractor to suspend or terminate the Contractor's Collection Service for Recyclable Material pursuant to Section 7.43, ~~34~~, above, the City's payments to the Contractor for the routine Collection Service provided to single family residential property shall be governed by Section 39.3.43, above, and shall not be reduced as a result of the suspension or termination of service in such cases. However, the Contractor shall not bill or collect its Rates for the Collection of Recyclable Materials at Multi-Family Dwellings in any case where the Contractor has terminated such service pursuant to Section 7.74, ~~3~~ or otherwise.

~~39.3.6~~ 39.3.5 The following fees and charges shall be deducted from the City's payments to the Contractor: (a) administrative fees charged pursuant to Section 44, below; (b) any payments that are due pursuant to Section 40, below; and (c) any other sums that the Contractor owes the City under this Agreement.

#### 39.4 PAYMENTS FOR SHARED MECHANICAL CONTAINERS AND SHOPPING CENTERS

The Contractor may prorate the charges to Customers that share a Mechanical Container; however, the charges collectively shall not be more or less than the amounts set forth in the approved Rates, unless the Administrator approves the Contractor's fees in advance, based on special circumstances. Subject to the Administrator's prior approval, the Contractor 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 Container(s) in the shopping center.

#### 39.5 TERMINATION OF COMMERCIAL SERVICE FOR DELINQUENT PAYMENTS

Subject to the conditions in this Section 39.5, 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 provide written notice to the Customer, warning the Customer of the potential termination of service, at least fourteen (14) days before the Contractor terminates service. The Contractor shall simultaneously provide the same notice to the Administrator. The Contractor shall not terminate service to the Commercial Customer until the Customer's bill is at least forty-five (45) days overdue. The Contractor shall immediately notify the Administrator if it terminates service to a Commercial Customer. If Commercial Collection Service is terminated, the Contractor may remove its

Collection Containers and other equipment from the Customer's Premises. Upon being notified of the Contractor's proposed action, the City shall take whatever action it deems appropriate to enforce the Commercial Customer's compliance with the City's Ordinances.

The Contractor shall not terminate Residential Collection Service, unless the Administrator provides his or her written approval.

**39.6 CONTRACTOR'S DUTY TO PROVIDE BILLING INFORMATION**

- 39.6.1 Upon receiving the Administrator's request, the Contractor shall provide all necessary information to the City and shall otherwise advise the City about the amount to be charged to each Customer each month for Collection Services and disposal services.
- 39.6.2 Upon receiving the Administrator's request, the Contractor shall provide the City with a copy of its invoice for the Collection Services that were provided during the prior month. The format of the Contractor's invoice shall be subject to the approval of the City. The Contractor's invoice shall identify all of the types of Residential Collection Service provided (e.g., Curbside Collection with Garbage Cmls; Collection with Mechanical Containers) to each Customer and the number of Customers that received each type of Collection Service. For the purposes of calculating the amount of the payments for Residential Collection Service, the Contractor shall use the Customer List as it existed on the first day of the Operating Month for which payment is being made.
- 39.6.3 The City shall have the right to request and obtain additional information from the Contractor concerning the Contractor's invoices. The City also has the right to contest the amounts requested in the Contractor's invoices. However, the City shall pay all undisputed amounts, except as otherwise provided herein.
- 39.6.4 Upon receiving the Administrator's request, the Contractor shall provide the City with a copy of the invoice and information concerning the amount to be charged to each Customer receiving Commercial Collection Service. The invoice and information for Commercial Collection Services shall be provided in the same manner described above for Residential Collection Services. The Contractor's submittal to the City shall identify the amount that was charged to each Customer for the Collection and disposal of the Customer's waste, based on the applicable Tipping Fees.
- 39.6.5 With the Administrator's approval, the billing information required pursuant to this section may be used by the Contractor to satisfy some of the requirements in Section 34, above, for the Contractor's reports to the City. The Contractor and Administrator shall attempt to minimize any duplicative reporting.

**39.7 CITY'S PAYMENTS FOR COLLECTION SERVICES PROVIDED TO CITY FACILITIES**

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 36 of this Agreement, except as expressly provided in Section 36.7. The City's payments (if any), pursuant to Section 36.7, will be based on the Rates set forth in Exhibit 5. 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 this Section 39.

**39.8 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 three (3) months before the City received the Contractor's notice of the error.

**39.9 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 this Section 39. 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, the County, or any other Person.

**39.10 PAYMENTS FOR GARBAGE CARTS AND RECYCLING CARTS**

39.10.1 The City and Residential Curbside Customers are not required to pay the Contractor a separate fee (i.e., in addition to the Rates in Exhibits 4 and 5) for purchasing, assembling, delivering, repairing, replacing, or otherwise providing any of the Garbage Carts or Recycling Carts that the Contractor provides to the City or Residential Curbside Customers pursuant to this Agreement, except as explicitly provided in this Section 39.10, ~~26.1.15, and 27.1.3.~~

~~39.10.2 Pursuant to Section 27.1.3, Customers may purchase additional Garbage Carts and Recycling Carts from the Contractor. If a Curbside Customer wishes to purchase an additional Garbage Cart or Recycling Cart, the Contractor may charge the Customer a fee in the amount of Fifty Dollars (\$50.00) per cart. The Contractor also may charge a fee for delivery services if the Customer requests the Contractor to deliver a Garbage Cart or Recycling Cart to the Customer's Residential Property. The delivery fee shall be Twenty Five Dollars (\$25.00) per delivery (i.e., not per cart). The Contractor shall not charge a delivery fee if the Customer picks up the Garbage Cart or Recycling Carts at the Contractor's office. If a Customer purchases a Garbage Cart or Recycling Cart from the Contractor, the Contractor shall provide the Customer's name and address or parcel number to the Administrator within five (5) Operating Days after the purchase.~~

~~39.10.3~~ 39.10.2 Notwithstanding anything else contained herein, the Contractor shall be solely responsible for providing and paying for the replacement of any Garbage Cart or Recycling Cart that was damaged beyond repair as a result of the Contractor's actions. The Contractor shall purchase and provide replacement carts at its expense.

**39.11 PAYMENTS FOR SPECIAL COLLECTION SERVICES**

The Rates for Special Collection Service shall be charged and paid in addition to the Rates for the routine Collection Services received by Customers. The Contractor shall bill the Customers and collect the applicable Rates for any Special Collection Services the Contractor provides pursuant to this Agreement. The Contractor also shall be responsible for the payment of all Tipping Fees associated with the disposal of Solid Waste collected by the Contractor when providing Special Collection Services. Notwithstanding anything else contained herein, the Contractor shall not be entitled to any compensation for a Special Collection Service unless the Customer or the City requested the service and agreed to pay the applicable Rate before the Contractor provided its service.

### 39.12 PAYMENTS LIMITED

Notwithstanding anything else contained herein, the City's obligation to pay the Contractor is limited to the availability of funds appropriated in a current fiscal period. The continuation of this Agreement into a subsequent fiscal period is subject to the appropriation of funds by the Commission, unless otherwise authorized by law. The Commission's failure to appropriate funds shall result in the termination of this Agreement, without penalty to the City, upon the last day for which funds were appropriated.

## SECTION 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, including the exclusive right to provide Residential Collection Services and Commercial Collection Services in the City. The Franchise Fees for Collection Services shall be set by the City and charged for each Customer, subject to any exceptions established by the City. As of the Commencement Date, the Contractor shall pay Franchise Fees in the amounts shown in Exhibits 4 and 5, below, plus a Twenty-Five Thousand Dollar (\$25,000) annual fee. The Franchise Fees for Residential Customers and Commercial Customers may be changed from time-to-time, as deemed appropriate by the Commission. The Franchise Fees for Residential Customers and Commercial Customers, and the annual fee, shall be increased on October 1 of each Operating Year, beginning on October 1, 2020, based on changes in the CPI. The annual CPI adjustment shall be calculated in compliance with the requirements in Section 38.3.1 and 38.3.2, above. In the First Operating Year, the annual fee (\$25,000) shall be paid during the first Operating Month. In all subsequent Operating Years, this annual fee shall be paid on or before October 15.

On or before the tenth (10th) day of each Operating Month, the Contractor shall deliver to the City a report that summarizes the Contractor's Residential Collection Services and Commercial Collection Services during the prior Operating Month and shows the amount of the Franchise Fee to be paid by the Contractor to the City. The format and content of the report shall be subject to the approval of the Manager or their designee. The report shall include, but is not limited to: the name and service address of each Commercial Customer; the account number of each Commercial Customer; the exact services provided to each Commercial Customer, including the size of each Collection Container used by the Customer and the frequency of Collection Service; the amount to be billed to each Commercial Customer; the Special Collection Services (if any) provided to each Customer; and the amount to be billed to each 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.

On or before the twentieth (20<sup>th</sup>) day of each Operating Month, the Contractor shall deliver to the City the Franchise Fees that are owed for the Contractor's activities during the prior Operating Month.

### 40.2 PAYMENTS FOR COMPETITIVE PROCUREMENT PROCESS

The City has expended substantial amounts of staff time and has incurred significant out-of-pocket costs related to the preparation and negotiation of this Agreement pursuant to a public procurement process. The City's procurement process resulted in a direct economic benefit to the Contractor (i.e., the award of this Agreement) and, therefore, the Contractor shall reimburse the City for part of the City's costs and efforts. Specifically, the City shall deduct Ten Thousand Dollars (\$10,000) per month from the City's monthly payments to the Contractor for Collection Services, beginning with the City's first payment after the Commencement Date and continuing for a total of eight (8) consecutive months. These amounts shall be deducted from the amount paid each month by the City to the Contractor for the Contractor's Collection Services.

**40.3 PAYMENTS FOR RECYCLING AND EDUCATIONAL SERVICES**

The Contractor shall pay the City in the amount of Forty-Five Thousand Dollars (\$45,000) each Operating Year to partially offset the expenses the City incurs when promoting the Contractor's Recycling Programs and other services, including the City's provision of public notices, educational services, and surveys concerning the Contractor's services. In the First Operating Year, this fee shall be deducted from the City's monthly payment to the Contractor for the Collection Services provided during the first Operating Month. In October of each subsequent Operating Year, this fee shall be deducted from the City's monthly payment to the Contractor for Collection Services.

**40.4 PAYMENTS FOR ADMINISTRATIVE COSTS**

The Contractor shall compensate the City each Operating Month for the administrative and billing services provided by the City in connection with this Agreement. The administrative fee is based solely on the Contractor's single-family collections. The fee shall be equal to two percent (2%) of the Contractor's cumulative monthly billings to single-family dwellings under this Agreement, net of the Franchise Fees (i.e., the amount billed, minus the Franchise Fee) during the prior Operating Month. The payments to the City for administrative costs shall be deducted each month from the amount to be paid by the City for the Contractor's Collection Services, beginning with the City's first payment after the Commencement Date.

**40.5 PAYMENTS FOR COMMUNITY EVENTS**

The Contractor shall provide financial support for Community Events each year. The Contractor's annual payment for such events shall be in the amount of Fifty Thousand Dollars (\$50,000). The first annual payment shall be delivered to the City on or before the fifteenth (15<sup>th</sup>) day of the first Operating Month in the First Operating Year. In subsequent Operating Years, this annual payment shall be delivered to the City on or before October 15.

**40.6 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.

**SECTION 41: RECYCLING REVENUES FOR CITY**

The City shall receive all of the revenues (if any) derived from the sale of the Curbside Source Separated Recyclable Materials that are collected by the Contractor under this Agreement. The Contractor is not authorized to keep or sell any such materials.

**SECTION 42: PAYMENT OF TIPPING FEES AND PROCESSING FEES**

Subject to the conditions and limitations contained herein, the Contractor shall pay the Tipping Fees for the disposal of all of the Solid ~~Waste~~ Waste the Contractor collects pursuant to this Agreement.

Subject to the conditions and limitations contained herein, the City shall pay the fees for processing and/or disposing of the Recyclable Materials that are collected by the Contractor and delivered to the Designated Facility for Source Separated Recyclable Materials in compliance with the requirements in this Agreement.

**SECTION 43: VERIFICATION OF PAYMENT AMOUNTS**

- 43.1 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 of any claim the City may have for additional sums payable from the Contractor.
- 43.2 At any time within the applicable statute of limitations, the City may recalculate and collect any amounts that are payable to the City under this Agreement, plus Interest.
- 43.3 At its expense, the City may inspect, copy and audit any books, records and documents of the Contractor, whether kept in an electronic (digital) format or otherwise, that are relevant to the calculation of the amounts due and payable under this Agreement.

**SECTION 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. 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. 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. However, 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 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.
- 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 after receiving the written decision of the Administrator or Manager, as applicable. If ~~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~~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 Twenty-Five Thousand Dollars (\$25,000). If the administrative charges will exceed this threshold, the procedures in Section 49 may be used, at the Contractor's option.

#### 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 44.3.5, below:

- 44.3.1 Failure to provide purchase orders or other documentation to the City by the applicable deadline in Section 5.2~~(e)~~, confirming that all necessary Collection vehicles, equipment, and Collection Containers have been ordered and will be delivered to the Contractor's local equipment yard in compliance with the schedule in Section 5.2(c). 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 35.1. For each calendar day of delay, Twenty-Five Dollars (\$25) per Customer shall be assessed against the Contractor, 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~~delivered to the Contractor's equipment yard by the deadline in Section 5.2(c). For each calendar day of delay, Four Thousand Dollars (\$4,000) shall be assessed against the Contractor.
- ~~44.3.4 Failure to deliver the necessary Mechanical Container(s) on or before the deadline in Section 5.2(c) to each Residential Customer and Commercial Customer that will use Mechanical Containers. For each calendar day of delay, Two Hundred and Fifty Dollars (\$250.00) shall be assessed against the Contractor for each Mechanical Container that was not delivered on time.~~
- ~~44.3.5 Failure to timely file any report, plan, or other document required pursuant to Sections 5.2(a), (c), (d), (e), (f), (g), (h), (i), (l), (m), (n), (o), or (p) shall result in the imposition of a One Hundred Dollar (\$100) assessment for each calendar day that a report, plan, or document is late. A separate assessment shall be imposed for each report, document, or plan.~~

#### 44.4 ADMINISTRATIVE CHARGES AFTER COMMENCEMENT DATE

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 pick up or 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. Each failure shall result in the imposition of a One Hundred Dollar (\$100) assessment. After the initial failure, if the Contractor fails to meet the deadlines contained in this Agreement, each additional Operating Day of delay shall result in the imposition of an additional assessment of Two Hundred Fifty Dollars (\$250).
- 44.4.3 Failure to complete a Route on the Scheduled Collection Day. A Route shall be considered incomplete if five (5) or more Dwelling Units or Commercial Customers on the same Route are not provided Collection Service. 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 from City's Events 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.
- 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 occurrence 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 Customer, shall result in a Fifty Dollar (\$50) assessment per occurrence per Operating Day.
- 44.4.7 Failure to resolve a Legitimate Complaint, other than a Missed Collection, within seven (7) Operating Days of receiving 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 satisfaction of the City.
- 44.4.8 Failure to timely file any report, plan, or other document required herein shall result in the imposition of a One Hundred Dollar (\$100) assessment for each Operating Day that each report, plan, or document is late.
- 44.4.9 Failure to dispose of any Residential Waste or Commercial Waste collected in the Service Area at the Designated Facility for that type of waste shall result in the imposition of an assessment equal to the current Tipping Fee at the Designated Facility times the amount (tonnage) disposed of 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 19, or delivering Source Separated Recyclable Materials to a Solid Waste disposal facility, shall result in the imposition of an assessment of Two Thousand Dollars (\$2,000) per occurrence.

- 44.4.11 Failure to correct a chronic Collection problem shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment per occurrence. Chronic means three (3) or more Legitimate Complaints at the same Premises for the same issue within a twelve (12) month period. The first assessment under this Section 44.4.11 shall be imposed for the third Legitimate Complaint at the Customer's Premises. An additional assessment in the same amount may be imposed for each Legitimate Complaint thereafter.
- 44.4.12 Failure to correct chronic equipment problems shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment. Chronic means three (3) instances of the same or similar problem with the same equipment or vehicle within a twelve(12) month period. The first assessment shall be imposed for the third problem. Additional assessments 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 per occurrence for each vehicle and each container 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 One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.16 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, 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 a Collection Container where it blocks a driveway, street, alley, or road 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, as required pursuant to Section 35, shall result in the imposition of an assessment of Twenty-Five Dollars (\$25) per Customer, but the maximum assessment shall not exceed One Thousand Dollar (\$1,000) per occurrence.

- 44.4.21 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 in compliance with the deadlines and requirements in Section 17.6, shall result in the imposition of a One Thousand Dollar (\$1,000) assessment per occurrence.
- 44.4.22 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.
- 44.4.23 Soliciting or accepting an unauthorized fee or monetary compensation from a Customer shall result in the imposition of a Five Hundred Dollar (\$500) assessment per occurrence.
- 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) for each additional Operating Day of delay.
- 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 pay the applicable Tipping Fee for Solid Waste the Contractor delivered to a Designated Facility, within forty-five (45) days after the Solid Waste was delivered to the facility, in each instance where the Contractor was obligated to pay the Tipping Fee pursuant to this Agreement, shall result in an assessment of One Thousand Dollars (\$1,000) per occurrence.
- 44.4.27 Failure to follow the procedures in the Contractor's Collection Plan for notifying a Designated Facility that the Contractor is obligated to pay the applicable Tipping Fee, in each instance where the Contractor delivered Solid Waste to the Designated Facility but failed to follow the approved procedures in the Collection Plan. Each failure shall result in an assessment of Two Hundred Dollars (\$200).
- 44.4.28 Failure to adhere to an approved Route in the Collection Plan, without receiving the Administrator's prior approval for the deviation. Each failure shall result in an assessment of Five Hundred Dollars (\$500) per occurrence.
- 44.4.29 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.
- 44.4.30 Failure to return a Collection Container to the location where the Customer placed it for Collection shall result in an assessment of Fifty Dollars (\$50) per occurrence.
- 44.4.31 Failure to provide accurate information to the City concerning the Contractor's Collection Services or the calculation of the disposal costs for such Services, shall

result in the imposition of an assessment of One Thousand Dollars (\$1,000) per occurrence.

- 44.4.32 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.
- 44.4.33 Failure to display the Contractor's name, telephone number, and identification number on a Collection vehicle or Collection Container in the manner specified herein, shall result in an assessment of One Hundred Dollars (\$100) per occurrence per Operating Day.
- 44.4.34 Failure to respond to a Customer's request for service, within the deadlines set forth in Section 31.1.1.5, shall result in the imposition of an assessment of Fifty Dollars (\$50) per occurrence.
- 44.4.35 Failure to clean up spilled liquids, including but not limited to leachate, oil, and hydraulic fluids, within the deadlines set forth in Section 20.6, shall result in the imposition of an assessment of Five Hundred Dollars (\$500) per occurrence for each Operating Day of delay.
- 44.4.36 Mixing Solid Waste or Source Separated Recyclable Materials collected in the Service Area with Solid Waste or other materials collected outside of the Service Area shall result in the imposition of an assessment of Three Thousand Dollars (\$3,000) per occurrence.
- 44.4.37 Collecting Solid Waste or Source Separated Recyclable Materials in the Service Area with a vehicle that is not part of the dedicated fleet for the City, without the prior written approval of the Administrator, shall result in the imposition of an assessment of One Thousand Dollars (\$1,000) per vehicle per Operating Day.

#### SECTION 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 Manager 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 a 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 any regulatory agency;
- (d) Failure of the Contractor to provide Routes, schedules, data, documents or reports requested by the City in compliance with this Agreement; 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 Manager shall not exercise the City's right to withhold payments under this Section 45 unless the Manager 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. The City shall not withhold more than a total of Fifty Thousand Dollars (\$50,000) from any single payment.

**SECTION 46: NO LIABILITY FOR DELAYS OR NON- PERFORMANCE DUE TO FORCE MAJEURE EVENTS**

- 46.1 If the City or 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 Contractor to correct the adverse effect of such event of Force Majeure.
- 46.2 The Contractor shall not be entitled to compensation from a Customer or the City for such period of time when the delay or non-performance occurs, but the Contractor will be entitled to pro-rata compensation after the Contractor's work has been completed. The City shall not be liable for any loss suffered by 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.

**SECTION 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 Contractor shall include but not be limited to the following:

- 47.1.1 Refusing to comply with any lawful 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 the appropriate 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 the cure period. In such circumstances, the defaulting Party shall submit its 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 Manager 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 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 47.1.16, 47.1.17, 47.1.18, 47.1.19, and 47.1.20, 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.

47.1.16 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) for all or a substantial portion of a Party's property or business; or by becoming insolvent.

47.1.17 Involuntary Bankruptcy

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

47.1.18 Public Entity Crime

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

47.1.19 Fraud

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

47.1.20 Use of Monarch Hill Landfill

The Contractor collects Solid Waste pursuant to this Agreement and then delivers such waste to the Monarch Hill Landfill for disposal, without having received the Manager's prior written approval for the use of the Monarch Hill Landfill in compliance with Section 19.7~~5~~, above.

**47.2 HABITUAL VIOLATIONS**

If the Contractor frequently, regularly, or repetitively fails to comply with its obligations and requirements under this Agreement, the City may conclude that the Contractor is a "habitual violator," regardless of whether the Contractor has corrected each individual failure of performance or paid administrative assessments for such failures of performance. In such circumstances, the Contractor shall forfeit the right to receive any further notice or grace period to cure its failures of performance, and all of the prior defaults under this Agreement shall be considered cumulative and collectively shall constitute a condition of irredeemable default. If the City concludes the Contractor is a habitual violator, the City shall issue a final warning to the Contractor, citing the grounds for the warning, and any single default by the Contractor thereafter shall be grounds for immediate termination of this Agreement. If any subsequent default occurs, the Commission may terminate this Agreement after giving written notice to the Contractor. The termination shall be effective upon the date designated by the Commission.

**47.3 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 six (6) additional Operating Months if requested to do so by the City. The Contractor shall be paid for its services during said interim period at the Rates authorized under this Agreement in effect prior to issuance of the notice of termination.

Notwithstanding anything else contained herein, the City may hire an alternate Person to provide Collection Services in the City if the Contractor fails to provide Collection Service for a period of two (2) 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.

#### 47.4 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 Operating Month in which termination occurs; (d) at a minimum, the provisions of Sections 34.1, 34.7, and 52 shall survive and remain in effect for seven (7) years after 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.

#### SECTION 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.

#### SECTION 49: -DISPUTE RESOLUTION PROCESS

- 49.1 The City and 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 by following the procedures set forth herein.
- 49.2 When a dispute between the City and the Contractor is pending or threatened, the Contractor must attempt to resolve the dispute with the Administrator. If this attempt is unsuccessful, the Contractor may request the Manager to consider the disputed issue. The Contractor's written request shall be delivered to the Administrator and it shall describe the Contractor's proposed solution for resolving the dispute. The Administrator and the Manager may request, and the Contractor shall timely provide, any additional information that is reasonably necessary to evaluate the disputed issue and the Contractor's proposal. The Manager shall fully and fairly consider the Contractor's proposal in a timely manner. Upon request, the Manager shall meet with the Contractor and discuss its proposal. If the Manager rejects the Contractor's proposal in whole or in part, the Contractor may present its proposal to the Commission at a duly noticed public meeting.
- 49.3 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, in the venue provided in Section 62 of this Agreement.
- 49.4 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.

**SECTION 50: CONTRACTOR'S OBLIGATIONS PRIOR TO TERMINATION OF THIS AGREEMENT**

**50.1 CONTINUATION OF CONTRACTOR'S SERVICE**

If the City does not exercise its right to renew this Agreement or if there are no renewal options remaining, the City will attempt to award a new agreement to a Person at least six (6) months prior to the expiration of this Agreement. In the event a new agreement has not been awarded in this time frame, Contractor shall provide its Collection Services in compliance with this Agreement for up to an additional six (6) Operating Months after the expiration of this Agreement, at the then current Rates (as adjusted), if the Commission requests this service. Any extension of the Agreement pursuant to this Section 50.1 must be approved by the Commission.

**50.2 SALE OR LEASE OF CONTRACTOR'S MECHANICAL CONTAINERS**

Upon request, the Contractor shall meet with the City to determine whether the Contractor will 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. If so, the purchase price and rental fee shall be negotiated.

**50.3 SCHEDULE FOR TERMINATION OF CONTRACTOR'S SERVICE**

Prior to the termination of this Agreement, Contractor shall work with the Administrator 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 If requested, the Contractor shall provide to the Administrator and <u>the prior to expiration selected franchise hauler a Mechanical Container inventory, in a format of Agreement</u>	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 Administrator. At or before the coordination meeting, the Contractor shall provide the Administrator 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 steps 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.

**SECTION 51: LIABILITY AND DAMAGES**

**51.1 LIABILITY**

The Contractor shall be liable for all injuries and conditions to the extent that they 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. However, the Contractor's liability for managing the City's Solid Waste and Recyclable Materials shall be subject to the limitations in Section 24, above.

**51.2 CONTRIBUTION**

In the event of joint negligence on the part of the City 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, as it exists on the Effective Date, subject to the recovery limits set forth in Section 768.28, Florida Statutes, in effect on the Effective Date.

**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 except as provided for under either Party's rights to the Performance Bond or insurance proceeds, or as provided by Applicable Law.

Subject to the limitations in Sections 24(b) and (c), above, 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.

**SECTION 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 City Indemnified Party from and against any

Indemnified Loss. The obligation of the Contractor under this Section 52 is absolute and unconditional; to the extent allowed by Applicable Law or 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.

The City may employ any outside counsel 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 the Contractor's 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 it.

### **SECTION 53: THE CONTRACTOR'S INSURANCE**

The Contractor shall maintain, on a primary and non-contributory 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 claims, demands, or causes of action for injuries received or damages to people or property caused by or resulting from the Contractor's negligent acts, and errors or 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 a limit of liability not less than \$1,000,000 Each Occurrence / \$2,000,000 General Aggregate. The Contractor shall warrant its coverage will not contain any restrictive endorsement(s) excluding or limiting Contractual Liability or Cross Liability as pertains to City.

#### **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 REMEDIATION AND LEGAL LIABILITY**

The Contractor shall maintain Pollution Legal Liability and Remediation Insurance at a minimum limit of liability not less than \$5,000,000 Each Occurrence / \$5,000,000 Aggregate. The Contractor agrees the policy shall be maintained for a minimum three (3) year period following expiration of the Agreement.

#### **53.4 UMBRELLA OR EXCESS LIABILITY**

The Contractor shall maintain Umbrella or Excess Liability at a limit of liability not less than \$5,000,000 Each Occurrence/ \$5,000,000 Aggregate. The Contractor shall include each required policy herein, other than Pollution Remediation and Legal Liability and Worker's Compensation Insurance & Employers Liability, as an underlying policy on the Umbrella or Excess Liability. 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 "Following-Form" basis. This liability may be satisfied by multiple layers of Excess coverage lines.

#### 53.5 WORKER'S COMPENSATION INSURANCE & EMPLOYERS LIABILITY

The Contractor shall maintain Worker's Compensation Insurance & Employers Liability. The Contractor shall maintain Employers' Liability Limits not less than \$2,000,000 Each Accident, \$2,000,000 Disease Each Employee, and \$2,000,000 Disease Policy Limit. (NOTE: Elective exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).

#### 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 GC 2010 04 13~~ CG 2010 07 04 or GC 2010 04 13 Additional-Insured - Developers, Lessees, or Contractors, - Scheduled Person or Organization endorsement in combination with the additional endorsement of GC2037 ~~HIO OI~~ Additional Insured - Developers, Lessees, or Contractors - Completed Operations, 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 "Following-Form" basis. The Additional Insured shall read "City of Coconut Creek" for all endorsements. Upon request by the City, a copy of any endorsement issued to extend coverage to the City shall 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 agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. 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.

#### 53.8 CERTIFICATE(S) OF INSURANCE

At least fifteen (15) days before the Commencement 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. Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify requirement, when available by endorsement from the Contractor's insurer. 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 by fax 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 (No. 04-17-19-10) and this Agreement in the Certificate. The Certificate Holder shall be

identified as:

Original to:  
City of Coconut Creek Attention:  
Purchasing Analyst  
4800 West Copans Road Coconut  
Creek, Florida 33351  
Fax: (954) 973-6754

Copy to:  
City of Coconut Creek  
Attention: Contract Administrator  
4800 West Copans Road  
Coconut Creek, Florida 33351  
Fax: (954) 545-6621

The City shall have the right to withhold any payment to the Contractor until evidence of coverage, reinstated coverage, or replacement coverage is provided to the City. If the Contractor fails to maintain the insurance required herein, the City shall have the right, but not the obligation, to purchase replacement insurance to satisfy the unmet requirements, and the Contractor shall reimburse any premiums or other expenses incurred by the City.

#### **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 or audited financial statements 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 reduce the self-insured retentions, or the Contractor shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

#### **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 OTHER INSURANCE REQUIREMENTS**

All of the insurance policies required herein shall be written by a company with an A.M. Best rating of A-X or better. The insurance company shall be duly authorized and licensed to do business in the State of Florida and the policies shall be executed by agents thereof that are duly licensed as agents in Florida. 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.

#### **SECTION 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 Dollars (\$1,000,000.00). The form and content of the Performance Bond shall be substantially the same as the draft bond in Exhibit 8, and shall be subject to the approval of the City Attorney and Risk Manager. The Performance Bond shall be issued by a surety company 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 (5) 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 Deputy City Manager and Chief Financial Officer, and shall provide copies of the Performance Bond to the City Attorney and the City's Risk Manager, at the address provided in Section 75, below, at least fifteen (15) days before the Commencement Date. The Performance Bond shall be maintained in full force and effect at all times during the term of this Agreement.

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" and used if there is any uncured default or breach of this Agreement by the Contractor to the extent necessary to remedy the default and pay any actual damages, attorneys' fees, and costs incurred by the City. Calling or using 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. The City shall have the right, but not the obligation to engage another Person to provide necessary Collection Services.

#### **SECTION 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 7 and shall be subject to the approval of the City Attorney and the City's Risk Manager. The form must be executed by the Contractor's parent company (i.e., the corporate entity that is at the top of any chart showing the Contractor's corporate organization), not an intermediary between the Contractor and its parent. The corporate guarantee shall be delivered to the City's Deputy City Manager and Chief Financial Officer, and copies shall be delivered to the City Attorney and the Risk Manager, at the addresses shown in Section 74, below, at least five (5) days before the Effective Date.

#### **SECTION 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. The City shall have the right to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the City shall be null and void and shall be grounds for the City to declare a default of this Agreement.

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 and expressly assume all of the obligations, duties, and liabilities of the Contractor under this Agreement.
- 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.

#### **SECTION 57: TRANSFER OF AGREEMENT**

A transfer of this Agreement shall be effective only after approval by the City. A transfer includes 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, a series of events 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 Twenty Thousand Dollars (\$20,000.00). The Commission may grant the application for transfer, or grant the application subject to conditions, or deny the application, with or without cause, in its sole discretion. 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 City's consent to any proposed transfer is denied, 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.

#### **SECTION 58: SUBSEQUENT CITY ORDINANCES**

Nothing contained in any City ordinance adopted after the Commencement Date 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.

#### **SECTION 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**

The City shall have the power to make 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 the Contractor shall enter into good faith negotiations to modify this Agreement and the Rates, as necessary. The scope and method of providing Collection Service, as referenced herein, shall be liberally construed to include procedures, operations, and obligations of the Contractor. The Commission must approve any amendments to this Agreement and must do so by ordinance.

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 adjustments to the Rates that result from a Change in Law.

### **SECTION 60: WAIVER OF RIGHTS**

No delay or failure to exercise a right under this Agreement shall impair such right or shall 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 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 Contractor thereafter to enforce same. Nor shall waiver by the City or 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.

### **SECTION 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 Source Separated 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.

### **SECTION 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 Broward County, Florida. Venue shall lie exclusively in Broward County. In any civil, administrative, bankruptcy, or other proceeding concerning this Agreement, each Party shall pay all of their own costs, attorneys' fees and expenses, including all costs, fees, and expenses incurred in any trial, appeal, and mediation, except as otherwise provided in Section 52, above. Each Party hereby waives any award of fees or costs it might otherwise recover as the prevailing Party in such proceedings.

**SECTION 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, except as provided in Section 58.

**SECTION 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.

**SECTION 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 race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation, pregnancy, political affiliation, gender identity or expression or veteran of service member status and the Contractor shall take affirmative steps to ensure that applicants are employed and employees are treated during employment by the Contractor without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation. 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 agrees to furnish the City with a copy of its non-discrimination and equal employment opportunity policy, upon request.

**SECTION 66: AGREEMENT DOCUMENTS**

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

Exhibit I through Exhibit 12

After the Effective Date, the Agreement shall be supplemented with and shall include 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 this Agreement.

**SECTION 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, including the representations in the City's RFP (RFP No. 04-17-19-10) and the Contractor's response to the RFP. The provisions of 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 City's RFP.

#### **SECTION 68: HEADINGS**

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

#### **SECTION 69: 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~~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 ~~(2018)~~(2026).

#### **SECTION 70: 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.

#### **SECTION 71: 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.

**SECTION 72: 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, commission, percentage, gift or any other compensation contingent upon or resulting from the award or making of this Agreement.

**SECTION 73: SOVEREIGN IMMUNITY AND LIMITATIONS ON LAWSUITS AGAINST THE CITY**

Nothing in this Agreement shall constitute a waiver of the City's sovereign immunity in tort actions or any provisions 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 this Agreement.

**SECTION 74: REMEDIES NOT EXCLUSIVE**

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.

**SECTION 75: NOTICES TO PARTIES**

All notices, requests, authorizations, approvals, protests, and petitions provided for herein shall be in writing. Except as provided in Section 3.1.1, above, such documents shall be addressed as shown below and either (a) hand delivered, (b) mailed by registered or certified mail (postage prepaid), return receipt requested, or (c) sent by facsimile. 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. For the present, 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 Coconut Creek
	4800 West Copans Road
	Coconut Creek, Florida
	Telephone: 954/973-6720
	Facsimile: 954/973-6777

Copy to: City Attorney  
City of Coconut Creek  
4800 West Copans Road  
10770 West Oakland Park Blvd.  
Coconut Creek, Florida Telephone:  
954/973-6797  
Facsimile: 954/973-6790

As to Contractor: ~~Jean Pierre~~  
~~Turget Chase~~  
~~Cresto Austin~~  
~~Metcalfe~~ General  
Manager  
Republic Services of Florida, Limited  
~~Partnership~~Partnership 751 NW 31<sup>ST</sup> Avenue  
Lauderhill, Florida 333 1 1-6699  
Telephone: 954/583-1830  
Facsimile: 954-583-1067

and

Republic Services, Inc.  
General Counsel Office  
~~18500 N. Allied-~~  
~~Way 5353 E. City North~~  
Drive Phoenix, AZ 95054  
Telephone: 480-627-2714  
Facsimile: 480-627-7115

Copy to: ~~Matthew E. Morrall, Esq.~~  
~~Matthew E. Morrall, P.A. 2850-~~  
~~N. Andrews Avenue~~  
~~Fort Lauderdale, Florida 33311-2514-~~  
~~Telephone: 954/563-4005-~~  
~~Facsimile: 954-566-7754~~

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

#### SECTION 76: NO THIRD PARTY BENEFICIARIES

This Agreement only provides rights and remedies for the City and the Contractor, except and only 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 City Indemnified Parties.

#### SECTION 77: CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to the City that:

- (a) The Contractor is a limited partnership 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 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.
- (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 by the Contractor 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 or by-laws; (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) 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 compliance 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 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 compliance with this Agreement.
- (k) The Contractor and its employees do not have and agree they shall not hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with the Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

**SECTION 78: FOREIGN GIFTS AND CONTRACTS**

The Contractor must comply with any applicable disclosure requirements in Section 286.101, Florida Statutes. Pursuant to Section 286.101(7)(b), Florida Statutes: "In addition to any fine assessed under [§ 286.101(7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision must automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission [Governor and Cabinet per §14.202, Florida Statutes] for good cause."

**SECTION 79: HUMAN TRAFFICKING AFFIDAVIT**

When an agreement is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty or perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes.

<p>_____ does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled "Human Trafficking". Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.</p> <p>Name: _____</p> <p>re: _____ Date: _____</p>
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**SECTION 80: E-VERIFY REQUIREMENTS**

Effective January 1, 2021, public and private employers, contractors and subcontractors must require registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

- (a) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and

(b) All persons (including sub vendors/sub consultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Coconut Creek.

By entering into this Agreement, the Contractor becomes obligated to comply with the provisions of Section 448.095, Florida Statutes, "Employment Eligibility," as amended from time to time. This includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes as amended, and Contractor may not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to City incurred as a result of the termination of this Agreement in accordance with this Section.

**SECTION 81: SCRUTINIZED COMPANIES AND COUNTRIES OF CONCERN~~M~~ PER SECTIONS 287.135, 215.473, & 287.138, FLORIDA STATUTES**

Contractor hereby certifies that it: a) has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel; b) has not been placed on the Scrutinized Companies with Activities in Sudan List nor the Scrutinized Companies with Activities in the Iran Terrorism Sectors List (formerly the Iran Petroleum Energy Sector List); and c) has not been engaged in business operations in Cuba or Syria. If City

determines that Contractor has falsely certified facts under this paragraph, or if Contractor is found to have been placed on a list created pursuant to Section 215.473, Florida Statutes, as amended, or is engaged in a boycott of Israel after the execution of this Agreement, City will have all rights and remedies to terminate this Agreement consistent with Section 287.135, Florida Statutes, as amended. The City reserves all rights to waive certain requirements of this paragraph on a case-by-case exception basis pursuant to Section 287.135, Florida Statutes, as amended. Beginning January 1, 2024, the City must not enter into a contract that grants access to an individual's personal identifying information to any Foreign Country of Concern such as: People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, unless the Contractor provides the City with an affidavit signed by an authorized representative of the Contractor, under penalty of perjury, attesting that the Contractor does not meet any of the criteria in subparagraphs (2)(a)-(c) of Section 287.138, Florida Statutes, as may be amended. Beginning January 1, 2025, the City must not extend or renew any contract that grants access to an individual's personal identifying information unless the Contractor provides the City with an affidavit signed by an authorized representative of the Contractor, under penalty of perjury, attesting that the Contractor does not meet any of the criteria in subparagraphs (2)(a)-(c) of Section 287.138, Florida Statutes, as may be amended. Violations of this Section will result in termination of this Agreement and may result in administrative sanctions and penalties by the Office of the Attorney General of the State of Florida.

\_\_\_\_\_ is not owned by the government of a Foreign Country of Concern, is not organized under the laws of nor has its Principal Place of Business in a Foreign Country of Concern, and the government of a Foreign Country of Concern does not have a Controlling Interest in the entity.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Section 82. Environmental/Social Activism under Section 287.05701, Florida Statutes**

Pursuant to Section 287.05701, Florida Statutes, as may be amended, the City cannot give preference to a contractor based on social, political or ideological interests as defined in the statute. Contractor is also prohibited from giving preference to any of its subcontractors based on the above referenced factors. Violations of this Section will result in termination of this Agreement and may result in administrative sanctions and penalties by the Office of the Attorney General of the State of Florida.

IN WITNESS WHEREOF, the City and the Contractor 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.

CITY

ATTEST: CITY OF COCONUT CREEK,  
a Florida municipal corporation

By: \_\_\_\_\_  
Joseph J. Kavanagh, City Clerk      Sheila N. Rose, City Manager

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

\_\_\_\_\_  
Terrill C. Pyburn, City Attorney

**CERTIFICATE OF SECRETARY**  
**RELATING TO THE BID OR PROPOSAL TO**  
**PROVIDE COLLECTION OF SOLID WASTE**  
**AND RECYCLABLE MATERIALS FOR**  
**THE CITY OF COCONUT CREEK IN THE**  
**STATE OF FLORIDA**

The ~~undersigned~~ undersigned Secretary for **REPUBLIC SERVICES OF FLORIDA GP, INC.**, a Delaware corporation, the general partner (the "General Partner") or **REPUBLIC SERVICES OF FLORIDA, LIMITED PARTNERSHIP**, a Delaware limited partnership (the "Partnership") hereby ~~certifies~~ certifies that the following is a true and correct copy of the resolution ~~which~~ which was duly adopted by written consent or the General Partner on ~~February 24, 2016~~, that such resolution has not been rescinded, amended or modified in any ~~respect~~ respect, and is in full force and effect on the date hereof hereof.

**RESOLVED**, that (i) any individual at the time holding the position of General Manager or ~~Area~~ Director, Finance, and each of them hereby is, appointed as an Authorized Agent, to act in the name and on behalf of the General Partner, in its capacity as the General Partner or the Partnership, and to include the execution or related documents, in connection with the day-to-day business ~~activity~~ activity of the Partnership, and further, that (ii) in addition to the General Manager or Area Director, Finance, any individual at the time holding the position or Area Director, Business ~~Development~~ Development, Area Director, Operations, or Market Vice President, and each of them hereby is, appointed as an Authorized Agent to execute any bid and proposal, and if awarded, any related contract for services to be performed by the ~~Partnership~~ Partnership and any bond required by such bid, proposal or contract, all in accordance with the existing Levels of Authority and other relevant policies and procedures.

I ~~further~~ further certify that JEAN-PIERRE TURGOT Austin Metcalf holds the title of General Manager and in such capacity has full authority to act in the name and on behalf of the Partnership as set forth in the foregoing resolution.

WITNESSES:

Witness 1:

\_\_\_\_\_

\_\_\_\_\_ [Witness print/type name] [Print Name]

Witness 2:

\_\_\_\_\_

\_\_\_\_\_ [Witness print/type name]

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, ~~2026~~ 2024, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, a Florida \_\_\_\_\_, who by execution hereof certifies that (s)he is authorized to execute this Agreement.

Notary Public, State of \_\_\_\_\_ (Signature \_\_\_\_\_ of Notary Taking Acknowledgment)

(NOTARY SEAL)

Name of Notary Typed, Printed or Stamped \_\_\_\_\_

personally known to me or

has produced identification: Identification \_\_\_\_\_