

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

Meeting Date: May 1, 2019

Presenter's Name and Title: Bernard Buxton-Tetteh, Director of Public Works, on behalf of Public Works Department

Prepared By: Ralph Trapani and Kristy Gilbert

Temp. Reso. Number: 6940

Item Description: Temp. Reso. #R6940, Approving the renewal of the Amended and Restated Solid Waste and Recycling Collection Franchise Agreement with Waste Pro of Florida, Inc, for the second optional three-year renewal period, commencing May 1, 2019; Authorizing the City Manager to execute the Second Amended and Restated Solid Waste and Recycling Collection Franchise Agreement with Waste Pro of Florida; Inc. *(Public Works Director Bernard Buxton-Tetteh)*

Consent ☐ Resolution ☒ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk: Public Works kindly request execution of the agreement on the dais.

Public Notice – As required by the Sec. ____ of the City Code and/or Sec. ____, Florida Statutes, public notice for this item was provided as follows: on ____ in a ____ ad in the ____; by the posting the property on ____ and/or by sending mailed notice to property owners within ____ feet of the property on ____
(fill in all that apply)

Special Voting Requirement – As required by Sec. ____, of the City Code and/or Sec. ____, Florida Statutes, approval of this item requires a ____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☒ No ☐

REMARKS: There is an estimated reduction in revenue of approximately \$200,000 for Fiscal Year 2019 and \$489,000 for Fiscal Year 2020 to be reflected in Account No. 001-50-508-000-000-369921, entitled "Cost Avoidance Collection-Residential".

Content:

- Agenda Item Memo from the City Manager to City Commission
- Resolution TR6940
 - Exhibit A: Second Amended and Restated Franchise Agreement with Waste Pro
- Attachment(s)
 - Attachment 1: Amended and Restated Franchise Agreement



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: Vernon E. Hargray, City Manager

BY: Bernard Buxton-Tetteh, Director of Public Works

DATE: April 25, 2018

RE: Temp. Reso. No. 6940, approving renewal of the Amended and Restated Solid Waste and Recycling Collection Franchise Agreement with Waste Pro of Florida, Inc, for Solid Waste and Recycling Collection Services

RECOMMENDATION: The City Manager recommends approval of Temp. Reso. No. 6940, approving the second optional three year renewal period of the "Solid Waste and Recycling Collection Franchise Agreement" with Waste Pro of Florida, Inc., and authorizing the City Manager to execute the Second Amended and Restated Solid Waste and Recycling Collection Franchise Agreement.

ISSUE: City Commission approval is required for renewal of agreements initially approved by the City Commission.

BACKGROUND: The City of Miramar Public Works Department is responsible for management of the City's solid waste and recycling collection and disposal services.

On January 26, 2011, based on the results of a competitive bid process, the City Commission adopted Resolution No. 11-53, awarding a five-year Solid Waste and Recycling Collection Franchise Agreement to Waste Pro of Florida, Inc. ("Waste Pro") for the exclusive provision of solid waste and recycling collection services within the City of Miramar. The initial five-year term of the Franchise Agreement commenced on May 1, 2011 and was effective through April 30, 2016.

On March 2, 2016, the City Commission adopted Resolution No. 16-75, approving the first of two optional three-year renewal terms of the Franchise Agreement to Waste Pro. The renewal period of the Amended and Restated Solid Waste and Recycling Collection Franchise Agreement commenced May 1, 2016 and is effective through April 30, 2019.

The Franchise Agreement provides for allowable considerations upon completion of initial or renewal term(s). The City and Waste Pro have been negotiating in good faith and have agreed upon a mutually beneficial second amended and restated agreement with terms and conditions that are acceptable to both parties.

A summary of major considerations provided for in the Second Amended and Restated Franchise Agreement include:

1. A price adjustment of 5% for residential waste collection services based on the Consumer Price Index (CPI), Series CWUR0000SEHG02;
2. An increase in Weight Generation Factor (WGF) from 1.43. to 1.69 for disposal of residential waste;
3. Increase in rates for Commercial and Industrial services;
4. Funding for Educational Services and Community Engagement Programs;
5. Processing of Residential Recyclable material;
6. Vendor participation in the City's P-Card Program;

These considerations will not impact residential service rates; however, the collection component of commercial and industrial services will increase with varying rates of up to 10%. The City's monthly residential solid waste rate remains at \$18.75, on the lower tier for service costs in Broward County. The average monthly residential rate for curbside solid waste collection service in Broward County is \$23.64. To the extent necessary, solid waste revenue projections have been adjusted to accommodate the negotiated terms.

Waste Pro continues to be a good corporate partner and has performed satisfactorily during both the original and first renewal terms of the agreement.

To ensure the outcome of the negotiations and considerations granted are in the City's best interest, an analysis of recent municipal RFP's, as well as negotiated renewals of existing agreements was performed. The results of this market analysis verified that a renewal of the existing agreement is financially beneficial and is in the City's best interest.

The City Manager recommends renewal of the agreement for the second optional three-year renewal period upon the terms and conditions set forth in the proposed Second Amended and Restated Solid Waste and Recycling Collection Franchise Agreement.

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3/27/19
4/24/19

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, APPROVING THE RENEWAL OF THE AMENDED AND RESTATED SOLID WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENT WITH WASTE PRO OF FLORIDA, INC., FOR THE SECOND THREE YEAR RENEWAL PERIOD, COMMENCING MAY 1, 2019; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDED AND RESTATED FRANCHISE AGREEMENT WITH WASTE PRO OF FLORIDA, INC; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Public Works Department is responsible for solid waste and recycling collection services; and

WHEREAS, on January 26, 2011, the City Commission adopted Resolution No. 11-53 awarding a Franchise Agreement to Waste Pro of Florida, Inc., (“Waste Pro”) to provide exclusive solid waste and recycling collection services within the City; and

WHEREAS, on March 15, 2011, the City and Waste Pro entered into a Solid Waste and Recycling Collection Franchise Agreement (the “Franchise Agreement”), which sets forth the terms and conditions for Waste Pro’s provision of exclusive solid waste and recycling collection services within the City of Miramar; and

WHEREAS, on March 2, 2016, the City Commission adopted Resolution No. 16-75 renewing the agreement for the first of two optional three-year renewal periods; and

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WHEREAS, the renewal period of the Amended and Restated Solid Waste and Recycling Collection Franchise Agreement commenced May 1, 2016 and is effective through April 30, 2019; and

WHEREAS, City staff and Waste Pro have concluded negotiations in good faith and have tentatively agreed upon terms and conditions for the second optional three-year renewal period; and

WHEREAS, the City Manager recommends renewal of the Amended and Restated Solid Waste and Recycling Collection Franchise Agreement for the second optional three-year renewal period, commencing May 1, 2019 through April 30, 2022, and authorization to execute the Second Amended and Restated Solid Waste and Recycling Collection Franchise Agreement with Waste Pro, attached as Exhibit "A" (the "Amended Franchise Agreement"); and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to approve the second optional three-year renewal of the Amended and Restated Solid Waste and Recycling Collection Franchise Agreement with Waste Pro, commencing May 1, 2019 through April 30, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:

Section 1: The foregoing "**WHEREAS**" clauses are hereby ratified and confirmed as being true and correct and are made a specific part of this Resolution.

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Section 2: That the City Commission approves the second optional three-year renewal term of the Amended and Restated Solid Waste and Recycling Collection Franchise Agreement with Waste Pro, commencing May 1, 2019 through April 30, 2022.

Section 3: That the City Manager is authorized to execute the Second Amended and Restated Solid Waste and Recycling Collection Franchise Agreement with Waste Pro of Florida, Inc, attached as Exhibit "A", together with such non-substantial changes as are deemed necessary by the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4: That the appropriate City officials are authorized to do all things necessary and expedient to carry out the aims of this Resolution.

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Section 5: That this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, _____.

Mayor, Wayne M. Messam

Vice Mayor, Alexandra P. Davis

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this RESOLUTION as to form:

City Attorney
Weiss Serota Helfman
Cole & Bierman, P. L.

Requested by Administration

Commissioner Winston F. Barnes
Commissioner Maxwell B. Chambers
Commissioner Yvette Colbourne
Vice Mayor Alexandra P. Davis
Mayor Wayne M. Messam

Voted

EXHIBIT “A”

Second Amended and Restated

Solid Waste and Recycling

Collection Franchise Agreement

Between

THE CITY OF MIRAMAR

AND

WASTE PRO OF FLORIDA, INC.

**SECOND AMENDED AND RESTATED FRANCHISE AGREEMENT
MIRAMAR, FLORIDA**

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**SECOND AMENDED AND RESTATED FRANCHISE AGREEMENT
FOR
SOLID WASTE & RECYCLING COLLECTION**

This Second Amended and Restated Franchise Agreement (hereinafter referred to as "Agreement") is made and entered into the _____ day of _____, 2019, by and between the CITY OF MIRAMAR, a municipal corporation authorized and doing business in the State of Florida (hereinafter referred to as "CITY"), and Waste Pro of Florida, Inc. (hereinafter referred to as "CONTRACTOR").

WITNESSETH:

WHEREAS, the CITY issued RFP No. 10-07-18 for the provision of Solid Waste and Recycling Collection Services and CONTRACTOR was determined to be the Successful Proposer to the RFP; and

WHEREAS, the City and the CONTRACTOR entered into a Franchise Agreement for Solid Waste and Recycling Collection, dated May 1, 2011, (the "Original Franchise Agreement") for a five-year period, with the City's option to renew the Original Franchise Agreement, for two, three-year renewal periods thereafter; and

WHEREAS, on March 2, 2016, the City Commission adopted Resolution No. 16-75, approving the first three-year renewal of the Amended and Restated Franchise Agreement with Waste Pro of Florida, Inc. to provide Solid Waste and Recycling Collection Services; and

WHEREAS, the City desires to exercise its Second option to renew the Original Franchise Agreement for the Second three-year renewal period; and

WHEREAS, CITY and CONTRACTOR desire to enter into this Second Amended and Restated Agreement for the provision of a Solid Waste and Recycling Collection Services upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, for the mutual benefits and other consideration recited herein, the parties agree as follows:

SECTION 1: FRANCHISE

1.1 FRANCHISE

For a period of three (3) years, CITY grants CONTRACTOR the exclusive franchise and the sole obligation to operate and maintain a comprehensive Solid Waste and other refuse Collection system and service, as well as Recycling Collection systems for Residential Curbside Service Units in and for CITY, except as specifically excluded in this Agreement. This Agreement does not include Commercial Recycling of recovered materials. CONTRACTOR is authorized by CITY to enter in and upon private property, in, upon, over and across the present and future streets, alleys, bridges, easements and other public places of CITY for the purpose of collecting the Solid Waste, Recyclable Materials and other refuse of the residents, inhabitants, businesses and other entities existing within the municipal corporate limits of CITY, or as directed in conformance with the Charter and Ordinances of CITY and other applicable law.

1.2 **TERM OF FRANCHISE**

The term of the Original Franchise Agreement for Solid Waste & Recycling Collection and disposal services was for a period of five (5) consecutive years, commencing on May 1, 2011 at 12:00 A.M. and continuing through April 30, 2016 at 11:59 P.M. (the "Initial Term"), subject to renewal for two, three (3) year renewal periods. The term of this Amended and Restated Agreement shall be for a period of three (3) consecutive years commencing on May 1, 2016 at 12:00 A.M. and continuing through April 30, 2019 at 11:59 P.M. (the "First Renewal Term"), subject to renewal as provided in Section 1.5. The term of this Second Amended and Restated Agreement shall be for a period of three (3) consecutive years commencing on May 1, 2019 at 12:00 A.M. and continuing through April 30, 2022 at 11:59 P.M. (the "Second Renewal Term"), subject to renewal as provided in Section 1.5.

1.3 **EXPIRATION OF AGREEMENT PROVISIONS**

In order to provide for a smooth transition period at the expiration of the First Renewal Term of this Agreement, CITY agrees to award a new Agreement by March 1, 2019, to be effective May 1, 2019. In the event a new Agreement has not been awarded in the time frame indicated above, and renewal options are not being exercised, CONTRACTOR agrees to provide service to CITY for up to an additional one hundred and twenty (120) day period beyond the expiration of the Agreement at the then established rates, provided CITY requests said services, in writing, at such time.

1.4 **FRANCHISE FEE**

CONTRACTOR agrees to pay Franchise Fees to the CITY in return for the use of the streets, alleys, bridges, easements and other public places of CITY as reflected in the Rate Structure attached hereto as Exhibits 1 through 5, for Solid Waste, Recyclable Materials, and other refuse Collection and removal accounts served within CITY's municipal corporate limits. The aforesaid payment shall be made to CITY by:

- 1.4.1. CITY deducting the Franchise Fee from the amounts collected by CITY from the accounts served by CONTRACTOR, as provided herein, or
- 1.4.2. Collection and payment of the Franchise Fee by CONTRACTOR where CONTRACTOR performs billing and collection of payment, as provided under Sections 5.1 and 5.2.2 of this Agreement.

1.5 **OPTION TO RENEW**

After the Initial Term, the CITY exercised the option to renew this Agreement for an additional three (3) year period, and upon completion of that period, the CITY again exercised the option to renew this Agreement for a second additional three (3) year period. The CITY and CONTRACTOR hereby acknowledge and agree to the CITY's exercise of the second renewal option term for the commencing Second Renewal Term. This provision in no way limits CITY's right to terminate this Agreement for cause at any time during the Second Renewal Term or any extension thereof pursuant to Sections 8.6 and 8.7 of this Agreement.

SECTION 2: DEFINITIONS

For purposes of this Agreement, the definitions contained in this Section shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the Code of the CITY shall apply. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

- A. **Administrative Fees** shall mean fees paid by CONTRACTOR to CITY for the purpose of covering CITY's administrative costs associated with CITY performing the monitoring, billing and collection of payment for all Services subject to this franchise agreement.
- B. **Agreement** shall mean this Franchise Agreement.
- C. **Bags** shall mean non-dissolvable plastic trash bags, each with a capacity of thirty-nine (39) gallons or less.
- D. **Bio-Hazardous or Bio-Medical Waste** shall mean any waste which may cause disease or reasonably be suspected of harboring pathogenic organisms. Included are waste resulting from the operation of medical clinics, hospitals, and other facilities processing wastes that may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves.
- E. **Bulk Trash** shall mean those wastes that may require special handling and management, including but not limited to: White Goods, furniture, concrete, rubble, mixed roofing materials, rock, gravel and other earthen materials, equipment, wire and cable and other similar items including materials resulting from home improvements and any and all household goods and furniture which are customary to ordinary housekeeping operations of a Residential Service Unit. The customer at the Residential Service Unit wherein the Bulk Trash is collected must generate Bulk Trash. Bulk Trash does not include items herein defined as Contractor-Generated Waste or Exempt Waste
- F. **Bulk Waste** shall mean Bulk Trash and Bulk Yard Trash. Bulk Waste must be generated by the customer and at the Residential Service Unit wherein the Bulk Waste is collected. Bulk Waste does not include items herein defined as Contractor-Generated Waste or Exempt Waste.
- G. **Bulk Yard Trash** shall mean all types of palm fronds and Yard Trash exceeding six feet (6') in its longest dimension, exceeding twelve inches (12") in diameter and weighing forty pounds (40 lbs.) or more. Bulk Yard Trash must be a part of normal yard maintenance and be generated by the customer at the Residential Service Unit wherein the Bulk Yard Trash is collected. Bulk Yard Trash does not include items herein defined as Contractor-Generated Waste or Exempt Waste.
- H. **City Manager** shall mean the City Manager of the CITY, or the City Manager's designated representative(s).
- I. **Collection** shall mean the process in which Residential Waste, Commercial Solid Waste, Construction and Demolition Debris, or Recyclable Materials are removed and transported to the Designated Disposal Facility or Designated Recycling Facility as appropriate.
- J. **Collection Service** shall mean Residential Services and Commercial Services.
- K. **Commercial Establishment** shall mean all retail, professional, wholesale, institutional and industrial facilities and any other commercial enterprises, including Hotels and Motels and licensed recreational vehicle parks, offering goods or services to the public located in the Service Area.
- L. **Commercial Services** shall mean Commercial Solid Waste Collection Service and Roll-Off Collection Service performed in the Service Area.

- M. **Commercial Service Unit** shall mean any Commercial Establishment in the Service Area.
- N. **Commercial Solid Waste** shall mean any Garbage or Rubbish that is usual to the normal operations of a Commercial Service Unit. The customer at the Commercial Service Unit wherein the Commercial Solid Waste is collected and does not include items defined as Yard Trash, Bulk Waste, Contractor-Generated Waste or Exempt Waste must generate commercial Solid Waste.
- O. **Commercial Solid Waste Collection Service** shall mean the Collection and disposal of Commercial Solid Waste from Commercial Service Units in the Service Area that utilize Containers, Compactors or Roll Carts for the set-out and Collection of Commercial Solid Waste.
- P. **Compactor** shall mean any Container, regardless of size, which has a compaction mechanism, whether stationary or mobile. All such equipment must be clearly marked to prohibit their use for the disposal of Hazardous Waste, Bio-Hazardous, biological or Bio-Medical Waste or Sludge.
- Q. **Construction and Demolition Debris** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean 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, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. State Statute defines Construction and Demolition Debris as Special Waste that is further defined as Solid Waste.
- R. **Container** shall mean any metal or plastic container, with a capacity of one cubic yard up to and including ten cubic yards, designed or intended to be mechanically dumped into a loader-packer type garbage truck, including Compactors. All such Containers must be clearly marked in a manner so as to prohibit their use for the disposal of Hazardous Waste, Bio-Hazardous, biological, or Bio-Medical Waste or Sludge.
- S. **CONTRACTOR** shall mean the person or entity set out initially above that has entered into this Agreement to provide the services described herein for the Service Area.
- T. **Contractor-Generated Waste** shall mean Bulk Trash or Bulk Yard Trash generated by builders, building contractors, privately employed tree trimmer and tree surgeons, landscape services and lawn or yard maintenance services and nurseries.
- U. **County** shall mean Broward County, Florida.
- V. **Designated Disposal Facility** shall mean the facility designated by the CITY for the transport and delivery of Solid Waste, Bulk Waste and other materials (except for Recyclable Materials) collected by CONTRACTOR pursuant to this Agreement. CITY reserves the right to designate an alternative Designated Disposal Facility. CONTRACTOR shall be responsible for all Disposal Charges owed to the Designated Disposal Facility resulting from CONTRACTOR Collection Service.
- W. **Designated Recycling Facility** shall mean the Materials Recovery Facility or any other facility designated by the CITY for the transport and delivery of Recyclable Materials collected by CONTRACTOR pursuant to this Agreement.
- X. **Disposal Charges** shall mean the prevailing per-ton rate charged at the Designated Disposal Facility for the acceptance and disposal of Residential Waste, Commercial Solid Waste and other waste materials.
- Y. **Dwelling Unit** shall mean any individual living unit in a single family dwelling, multi-family dwelling or mixed-used dwelling within a structure or building intended for or capable of

- being utilized for residential living, other than those structures or building units included within the definition of Commercial Service Unit.
- Z. **Exempt Waste** shall mean Bio-Hazardous or Bio-Medical Waste, Hazardous Waste, Sludge, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil and tires, those wastes under the control of the Nuclear Regulatory Commission and those other materials whose size, weight, or both are in excess of that allowed for Bulk Waste as defined herein.
- AA. **Franchise Fee** shall mean the charge to CONTRACTOR for the use of present and future streets, alleys, bridges, easements and other public places of CITY.
- BB. **Garbage** shall mean all putrescible waste which generally includes but is not limited to kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials, whether attributed to residential or commercial activities.
- CC. **Garbage Can** shall mean any commonly available light gauge steel, plastic or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, and without any jagged or sharp edges, furnished with a closely fitted top or lid and handle. A Garbage Can shall be of a capacity of not less than thirty-two (32) gallons, and not greater than thirty-nine (39) gallons and, including waste materials, such Garbage Can shall not exceed fifty (50) pounds in weight.
- DD. **Hazardous Waste** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean solid waste, or a combination of solid wastes which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.
- EE. **Materials Recovery Facility ("MRF")** shall mean any facility designed, operated, and legally permitted for the purpose of receiving, sorting, processing, storing, or preparing Recyclable Materials for sale, and that meets the requirements of Section 403.7046, Florida Statutes.
- FF. **Multi-Family Service Unit** shall mean any combination of five (5) or more Dwelling Units in the Service Area utilizing a common Container or Containers for the accumulation and set-out of Residential Solid Waste.
- GG. **Neighborhood Recycling Station** shall mean those locations designated by the CITY for the Collection of Recyclable Materials, where the CONTRACTOR shall maintain sufficient Recycling Containers for residents to deposit Recyclable Materials. The CITY shall designate the number and type of containers.
- HH. **Non-Collection Notice** shall mean a form used by the CONTRACTOR to notify customers of the reason for non-Collection of materials set out by the customer for Collection by the CONTRACTOR pursuant to the Agreement, developed by the CONTRACTOR and approved by the CITY.
- II. **Ordinance** shall mean those parts of the Code of the CITY governing Solid Waste Collection, Disposal and Recycling activities within the CITY.
- JJ. **Rate Structure** shall mean the rates approved by the CITY shown in Exhibits 1 through 5 attached to this Agreement.
- KK. **Recovered Materials** means 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 the term does not include materials destined for any use

that constitutes disposal. Recovered materials as described in this subsection are not solid waste.

- LL. **Recyclable Materials** shall mean those materials which are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste. Recyclable Materials to be collected include: newsprint; old corrugated cardboard; incidental craft paper; clear, green, and brown glass containers; steel, bimetal and aluminum containers; #1 PETE, #2 HDPE and #3 PVC plastic containers; plastic coated and aseptic containers. These materials may be re-defined by the CITY from time-to-time, at the sole discretion of the CITY.
- MM. **Recycling** shall mean any process by which materials that would otherwise have been Solid Waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
- NN. **Recycling Bin** shall mean a rigid rectangular receptacle made of plastic or other suitable substance of no less than 14 gallons, provided and distributed by the CONTRACTOR, to those Residential Curbside Service Units in the Service Area.
- OO. **Recycling Cart** shall mean a Container that is made with heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the City logo, mounted on two wheels, equipped with a tight fitting hinged lid, not less than thirty (30) gallons nor more than one hundred (100) gallons in rated capacity, and designed or intended to be used for automated or semi-automated Collection Service for recycling.
- PP. **Recycling Container** shall mean a Container designated for Recyclable Materials Collection, provided and distributed by CONTRACTOR, to all Multi-Family Service Units in the Service Area.
- QQ. **Recycling Services** shall mean the Collection of Recyclable Materials by the CONTRACTOR from those Residential Service Units in the Service Area and the delivery of those Recyclable Materials to a Materials Recovery Facility or any other facility designated by the City.
- RR. **Residential Containerized Recycling Collection Service** shall mean the Collection of Recyclable Materials from Residential Containerized Service units.
- SS. **Residential Containerized Bulk Waste Collection Service** shall mean Bulk Waste Collection from Residential Containerized Service Units.
- TT. **Residential Containerized Collection Service** shall mean Residential Containerized Solid Waste Collection Service, Residential Containerized Recycling Collection Service and Residential Containerized Bulk Waste Collection Service.
- UU. **Residential Containerized Service Unit** shall mean any Residential Service Unit utilizing Container(s) or Compactor(s) for the accumulation and set-out of Residential Solid Waste.
- VV. **Residential Containerized Solid Waste Collection Service** shall mean the Collection of Residential Solid Waste from Residential Containerized Service Units located within the Service Area and the delivery of the Residential Solid Waste to the Designated Disposal Facility.
- WW. **Residential Curbside Bulk Waste Collection Service** shall mean Bulk Waste and Yard Trash Collection from Residential Curbside Service Units.
- XX. **Residential Curbside Collection Service** shall mean Residential Curbside Solid Waste Collection Service, Residential Curbside Recycling Collection Service, and Residential Curbside Bulk Waste Collection Service.
- YY. **Residential Curbside Recycling Collection Service** shall mean the Collection of Recyclable Materials from Residential Curbside Service Units, and Multi-Family Service Units not receiving containerized services, utilizing Recycling Bins, Recycling Carts, or Recycling Containers.

- ZZ. **Residential Curbside Service Unit** shall mean any Residential Service Unit, or Multi-Family Service Unit not receiving containerized services, utilizing a Roll Cart Bags, or bundles for the accumulation and set-out of Residential Solid Waste.
- AAA. **Residential Curbside Solid Waste Collection Service** shall mean the Collection of Residential Solid Waste from Residential Curbside Service Units, and Multi-Family Service Units not receiving containerized services, in the Service Area and the delivery of that Residential Solid Waste to the Disposal Facility.
- BBB. **Residential Services** shall mean Residential Curbside Collection Service and Residential Containerized Collection Service.
- CCC. **Residential Service Unit** shall mean Residential Curbside Service Units and Residential Containerized Service Units located in the Service Area.
- DDD. **Residential Solid Waste** shall mean Garbage, Yard Trash, and Rubbish resulting from the normal household activities of a Residential Service Unit. Residential Solid Waste must be generated by the customer and at the Residential Service Unit wherein the Residential Solid Waste is collected, and does not include items defined herein as Contractor-Generated Waste or Exempt Waste.
- EEE. **Residential Waste** shall mean Residential Solid Waste and Bulk Waste resulting from the normal household activities of a Residential Service Unit. Residential Waste must be generated by the customer and at the Residential Service Unit wherein the Residential Waste is collected, and does not include items defined herein as Contractor-Generated Waste or Exempt Waste.
- FFF. **Roll Cart** shall mean a Container that is made with heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the City logo, mounted on two wheels, equipped with a tight fitting hinged lid, not less than thirty (30) gallons nor more than one hundred (100) gallons in rated capacity, and designed or intended to be used for automated or semi-automated Collection Service for Garbage and Rubbish.
- GGG. **Roll-Off Collection Service** shall mean the Collection and disposal of Roll-Off Containers and Roll-Off Compactors containing materials including, but not limited to, Contractor-Generated Waste and Construction and Demolition Debris, which are not herein defined as Residential Waste or Commercial Solid Waste but are considered exclusive to the CONTRACTOR under the terms and conditions of this Agreement. All such Roll-Off Containers must be clearly marked to prohibit their use for the disposal of Hazardous Waste, Bio-Hazardous, biological or Bio-Medical Waste or Sludge.
- HHH. **Roll-Off Compactor** shall mean any Compactor with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle and transported to a disposal facility for dumping.
- III. **Roll-Off Containers** shall mean any non-Compactor storage and Collection equipment or device with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle and transported to a disposal facility for dumping.
- JJJ. **Rubbish** shall mean all refuse, accumulation of paper, excelsior, rags, wooden or paper boxes and containers, sweep-ups and all other accumulations of a nature other than Garbage and Yard Trash, resulting from the normal activities of a Residential Service Unit or Commercial Service Unit wherein the Rubbish is collected. Rubbish does not include items defined as Contractor-Generated Waste or Exempt Waste.
- KKK. **Scheduled Collection Day** shall mean any day in which Collection activities take place; residential Collection takes place Monday through Saturday, and commercial Collection takes place Monday through Sunday.
- LLL. **Service Area** shall mean the municipal limits of the CITY.
- MMM. **Sludge** shall mean the accumulated solids, residues and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids

- pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects.
- NNN. **Solid Waste** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean Sludge unregulated under the federal Clean Water Act or Clean Air Act; Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or Garbage, Rubbish, refuse, Special Waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recyclable Materials are not Solid Waste. Solid Waste shall include Residential Solid Waste, Residential Waste, and Commercial Solid Waste as defined in this Section.
- OOO. **Temporary Household Hazardous and Electronic Waste Station** shall mean those temporary locations designated or approved by the CITY for the Collection of special household items, including but not limited to: paint containers, aerosol cans, pesticides, chemicals, batteries, lead acid batteries (including automotive), fluorescent light bulbs, automotive tires, used oil, and electronic waste, etc. No Solid Waste, Recyclable Materials, Bulk Waste, Yard Debris, or Construction and Demolition Debris shall be accepted at such stations unless approved, in writing, by the City.
- PPP. **Special Waste** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean Solid Wastes that can require special handling and management, including but not limited to white goods, waste tires, used oil, lead-acid batteries, Construction and Demolition Debris, ash residue, Yard Trash and biological wastes.
- QQQ. **Yard Trash** shall mean any vegetative matter resulting from normal yard and landscaping maintenance that is not more than twelve inches (12") in diameter. Yard Trash must be generated by the customer and at the Residential Service Unit wherein the Yard Trash is collected. Yard Trash does not include items defined as Contractor-Generated Waste or Exempt Waste.
- RRR. **White Goods** shall mean discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White Goods must be generated by the customer and at the Residential Service Unit wherein the White Goods are collected.
- SSS. **Work Day** shall mean any day, Monday through Friday, excluding CITY holidays.

SECTION 3: SERVICES TO BE PROVIDED BY CONTRACTOR

CONTRACTOR shall provide all Residential Services and Commercial Services, as defined in Section 2 above, within the corporate limits of CITY, except as provided in this Agreement. Said service shall include:

3.1 RESIDENTIAL SOLID WASTE

- 3.1.1 **Residential Curbside Solid Waste Collection Service.** CONTRACTOR shall pick up solid waste and recycling for collection, twice per week, using a Roll Cart or Recycling Bin for solid waste and a Recycling Cart for recycling from each Residential Curbside Service Unit. Said items shall be placed at the curb, within five (5) feet of the street. In addition, branches, limbs and other vegetative items less than six (6) feet in its longest dimension and less than twelve inches (12") in diameter, and not easily contained in a Roll Cart, shall be picked up during the regularly scheduled bulk trash collection service day.

Christmas Trees shall be a special pick up by the CONTRACTOR to occur within a 7-day period as designated by the CITY in collaboration with CONTRACTOR. The

method of pick up by CONTRACTOR will require approval by CITY. Any collection of Christmas trees outside of the 7-day period will be collected on the regular bulk trash collection day.

A Residential Curbside Customer that uses a Roll Cart shall not use Curbside Containers or Plastic Bags to set out Garbage or Rubbish, unless the City approves such practices.

Each Curbside Container and Roll Cart shall be constructed so as to prevent intrusion by water and animals, and the expulsion of its contents; have a cover that is free from sharp edges; and not have inside structures that prevent the free discharge of the Container's contents.

A Residential Curbside Customer may place bagged Yard Trash in a Roll Cart, providing it does not extend the lid of the trash cart by more than a few inches, or neatly stack curbside for bulk trash collection.

Recyclable Materials shall be set out for Collection in a Recycling Bin or Recycling Cart. Cardboard shall be flattened, and placed into Recycling Bin or Cart, in a manner which allows the material to fall freely from the Recycle Cart or Bin when serviced by CONTRACTORS equipment

Each Residential Curbside Customer shall place their Roll Cart, Recycling Bin, Recycling Cart, Plastic Bag, Yard Trash, Bulk Waste, White Goods, and Electronic Equipment at the Curbside prior to 6:00 a.m. on the Scheduled Collection Day.

- 3.1.2 Residential Containerized Solid Waste Collection Service. CONTRACTOR shall provide sizes, numbers and types of Containers necessary for efficient and sanitary services based on the reasonable request of an authorized representative of Multi-Family Service Units. Service levels must meet the requirements as contained in CITY's Code of Ordinances. CONTRACTOR shall provide Containers at the approved rental rates; however, customers may own their Container(s) provided that the customer shall be completely serviced by the CONTRACTOR's equipment. Containers shall be picked up as frequently as volume demands but not less than twice per week, unless the CITY approves less frequent service. The size of Containers and frequency of pick-up shall be mutually agreed upon by the customer and the CONTRACTOR. Containers provided by CONTRACTOR shall meet accepted industry standards and be maintained by CONTRACTOR as necessary to maintain efficient and sanitary services. Containers owned by customers shall meet accepted industry standards and be maintained by the customer. CONTRACTOR shall notify customer if it is deemed necessary to increase service and notify CITY of their intention to do so. Rates shall be in accordance with attached Exhibits.

Each Residential Mechanical Container Customer shall comply with the following set-out procedures: (a) Garbage, Rubbish, and Yard Trash shall be placed in the mechanical Container located in or adjacent to their building; (b) their Recyclable Materials shall be placed in a Recycling Container located in or adjacent to their building; (c) their Bulk Waste, White Goods, and Electronic Equipment shall be placed at the location designated for the Collection of such materials on the customer's premises; and (d) their palm fronds and Christmas trees shall be placed

in the mechanical Containers or at the location designated for the Collection of such materials on the customer's premises.

The Contractor and the customer shall select mutually acceptable locations for (a) the placement of the mechanical Container and Recycling Container that will be used by the customer and serviced by the Contractor and (b) the Collection of Bulk Waste, White Goods, Electronic Equipment, palm fronds and Christmas trees. These locations are subject to the CITY's approval.

- 3.1.3 Container and Roll Cart Replacements. CONTRACTOR's employees shall take care to prevent damage to Containers and Roll Carts owned by CONTRACTOR, and Residential or Commercial Service Units by unnecessary rough treatment. However, CONTRACTOR shall replace any Container and Roll Cart owned by CONTRACTOR, Residential or Commercial Service Units damaged by CONTRACTOR, beyond normal wear and tear, at CONTRACTOR's expense, within five (5) Scheduled Collection Days at no cost or inconvenience to the customer. CONTRACTOR shall report all Container, and Roll Cart replacements to CITY.

NOTE: Section 3.2 has been purposefully left blank.

3.3 RESIDENTIAL BULK WASTE

- 3.3.1 Residential Curbside Bulk Waste Collection Service. CONTRACTOR shall pick up, 12 times per year, Bulk Waste, including Bulk Trash and Bulk Yard Trash from Residential Curbside Service Units. Bulk Waste must be generated by the customer and at the Residential Curbside Service Unit wherein the Bulk Waste is collected. Bulk Waste does not include items defined as Contractor-Generated Waste or Exempt Waste. If the customer needs additional Bulk Waste collection services, it will be provided by CONTRACTOR as an additional service at \$17.25 per cubic yard, which fee shall be collected directly by CONTRACTOR without any obligation or responsibility on the part of CITY to bill for same. Rates shall be in accordance with the attached Exhibits 1 through 5.
- 3.3.2 Residential Containerized Bulk Waste Collection Service. CONTRACTOR shall pick up Bulk Waste from Multi-Family Service Units on an on-call basis, at \$23.00 per cubic yard as established in the Rate Structure included in the attached Exhibits 1 through 5. CONTRACTOR shall be responsible for billing and collection of payment for Residential Containerized Bulk Waste Collection Service, which is considered an additional service. From the point of notification by CITY or the customer, CONTRACTOR shall remove the Bulk Waste on an agreed upon day, which shall be no later than forty-eight (48) hours after customer agrees to rates provided by CONTRACTOR, and such removal shall be accomplished during the hours set forth in subsection 4 herein.

3.4 SPECIAL RESIDENTIAL COLLECTION SERVICES

- 3.4.1 Residential Off-Street Collection Service. CONTRACTOR shall provide off-street Collection of Residential Solid Waste from Residential Curbside Service Units if all adult occupants residing therein are handicapped and if a request for off-street service has been made to and approved by the CITY in the manner required by CITY. CITY shall notify CONTRACTOR in writing of any customers requiring off-street service. No additional monies shall be due to the CONTRACTOR for the provisions of off-street service to handicapped customers. The point of Collection

for off-street service shall be the back or side yard or such other location as is mutually agreeable to the CONTRACTOR and the customer. In the event the appropriate location cannot be agreed upon, the CITY shall mediate the dispute and designate the location for Collection. CONTRACTOR shall provide off-street service on the same Scheduled Collection Day that Residential Curbside Service would otherwise be provided to the Residential Curbside Service Unit.

- 3.4.2 Household Hazardous and Electronic Waste Stations. CONTRACTOR on a monthly basis, and at no cost to the CITY shall provide an attended Collection station for the purpose of collecting special household items, including but not limited to: paint containers, aerosol cans, pesticides, chemicals, batteries, lead acid batteries (including automotive), fluorescent light bulbs, automotive tires, used oil, electronic wastes, etc. (each is a "HHW and E-Waste Collection Station"). The HHW and E-Waste Collection Stations shall be located at the CONTRACTOR's Operating Facility or such other City approved location within 6 miles of Miramar Town Center (located at 2300 Civic Center Place), unless otherwise approved in advance by the City, with the hours and duration for each HHW and E-Waste Collection Station to be approved by the CITY.

In addition to the monthly HHW and E-Waste Collection Stations provided by CONTRACTOR at no cost to the CITY, the CONTRACTOR shall provide two (2) additional HHW and E-Waste Collection Stations within the City, limits at no cost to the CITY. CONTRACTOR shall be responsible for the documentation (including documenting the amount and type of materials delivered, the number of Miramar residents participating at each station) handling, transporting, and disposal or recycling of said materials. City shall provide CONTRACTOR 45 days' notice of scheduled event(s) within City limits.

- 3.4.3 Recycled Paint – CONTRACTOR at no cost to CITY, shall provide to CITY one-thousand, one hundred and twenty-five (1,125) gallons of recycled paint annually.

3.5 PROVISION AND OWNERSHIP OF CONTAINERS

- 3.5.1 Curbside Containers. If a Residential Curbside Customer is authorized by the City to use Curbside Containers or Plastic Bags, the Residential Curbside Customer shall provide their own Curbside Containers and Plastic Bags. Curbside Containers shall remain the property of the Residential Curbside Customer.
- 3.5.2 Recycling Bins. The CITY previously purchased and distributed Recycling Bins, which shall remain the sole property of the CITY. CONTRACTOR is not required to purchase or reimburse the CITY for the Recycling Bins. CONTRACTOR shall be responsible for the purchase of all Recycling Bins that the CONTRACTOR is required to provide under this Agreement (e.g., for the replacement of damaged or stolen Recycling Bins). Recycling Bins purchased by CONTRACTOR shall be the property of CONTRACTOR until this Agreement terminates. Upon termination, the Recycling Bins shall become the property of the CITY.
- 3.5.3 Roll Carts and Recycling Carts. CONTRACTOR shall be responsible for the purchase of all Roll Carts and Recycling Carts that the CONTRACTOR is required to provide under this Agreement. Roll Carts and Recycling Carts purchased by CONTRACTOR shall be the property of the CONTRACTOR until this Agreement is

terminated. Upon termination, the Roll Carts and Recycling Carts shall become the property of the CITY.

- 3.5.4 Mechanical Containers. CONTRACTOR shall be responsible for the purchase of all mechanical Containers that the CONTRACTOR is required to provide under this Agreement. Mechanical Containers purchased by CONTRACTOR shall remain the property of the CONTRACTOR, unless 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, and in such cases the Compactor and attached Roll-Off Container shall remain the property of the customer.

3.6 MAINTENANCE AND REPAIR OF CONTAINERS

- 3.6.1 Curbside Containers. Each customer shall be responsible for cleaning, maintaining, and repairing their curbside Container, if any. Curbside Containers shall be maintained in good working order, and shall be free from sharp edges or other hindrances to efficient Collection Services.
- 3.6.2 Recycling Bins. Each Residential Curbside Customer shall be responsible for cleaning their Recycling Bin and maintaining it in a sanitary condition.
- 3.6.3 Roll Carts and Recycling Carts. Each Roll Cart and Recycling Cart shall be cleaned and kept in a sanitary condition by the customer using the cart. CONTRACTOR shall maintain each Roll Cart and Recycling Cart in good working order and appearance at all times to ensure continuous and efficient Collection Service. CONTRACTOR shall procure, and maintain at all times, an adequate supply of spare parts (e.g., wheels, lids) for the Roll Carts and Recycling Carts, or within two (2) days of receiving notice from the City or a customer of the need for repairs. CONTRACTOR shall replace, repair, paint, clean, wash, and otherwise maintain any Roll Cart or Recycling Cart within three (3) Work Days of being requested to do so by the CITY or a customer.
- 3.6.4 Mechanical Containers. CONTRACTOR shall maintain each of its mechanical Containers in good working order at all times to ensure continuous and efficient Collection Services. CONTRACTOR shall procure, and maintain at all times, an adequate supply of spare parts for its mechanical Containers. CONTRACTOR shall maintain and repair each mechanical Container so that the Container is free from holes, broken hinges, broken doors or door fasteners, broken wheels, or broken lids. Mechanical Containers shall be kept painted at all times so they do not become a detriment to the community, with the exception of Containers made of plastic, aluminum, stainless steel, or other materials that do not readily accept paint. Mechanical Containers shall be washed by the CONTRACTOR on a regular basis, as necessary, to minimize the potential for odors and nuisance conditions. CONTRACTOR shall replace, repair, paint, clean, wash, and otherwise maintain any mechanical Container within three (3) Work Days of being requested to do so by the CITY or a commercial customer.

3.7 STORAGE, DISTRIBUTION, AND REPLACEMENT OF CONTAINERS

- 3.7.1 Curbside Containers. Each customer shall be responsible for storing and replacing their own Curbside Containers, if any.

- 3.7.2 Recycling Bins. CONTRACTOR shall be responsible for the distribution of Recycling Bins. The CONTRACTOR shall distribute two (2) new Recycling Bins to a Residential Curbside customer as directed by the City within two (2) Work Days after the CITY notifies CONTRACTOR. Subject to the same conditions, the CONTRACTOR also shall distribute one new Recycling Bin to a Residential Curbside customer to replace each Recycling Bin that has been stolen or damaged beyond repair. CONTRACTOR shall be responsible for procuring, maintaining at all times, and storing an adequate supply of Recycling Bins for distribution.
- 3.7.3. Roll Carts and Recycling Carts. CONTRACTOR shall be responsible for the distribution of Roll Carts and Recycling Carts to those customers that are authorized by the CITY to use them. For such customers, CONTRACTOR shall distribute new Roll Carts or Recycling Carts, as needed, within two (2) days after the CITY notifies CONTRACTOR that (a) a customer has been added to the Customer List, (b) a customer's Roll Cart or Recycling Cart has been stolen or damaged beyond repair, or (c) additional carts are required to ensure that all of a Commercial Customer's Solid Waste and Recyclable Materials are properly containerized, without overfilling or overflowing the cart. CONTRACTOR shall be responsible for procuring, maintaining at all times, and storing an adequate supply of Roll Carts and Recycling Carts for distribution.
- 3.7.4 Mechanical Containers. Mechanical Containers supplied by CONTRACTOR shall be of equivalent or better quality than that currently in use in the City, and shall be subject to the approval of the CITY. Mechanical Containers shall have attached lids, unless the CITY approves a different design for a particular use. Mechanical Containers shall have solid, durable sides and bottoms. Each mechanical Container shall have a heavy duty removable plug in the bottom. CONTRACTOR shall provide and install casters and locking devices for a mechanical Container upon the request of a customer or the CITY.
- 3.7.5 Manufacturer Specifications. CONTRACTOR shall provide the CITY with the manufacturer's specification sheets for new Recycling Bins, Recycling Carts, Roll Carts, Compactors, Roll-Offs and mechanical Containers before CONTRACTOR orders the new Collection Containers from the manufacturer. At a minimum, the specification sheets shall address the following items, if applicable:
- Company of manufacture
 - Material of manufacture, including pre-consumer and post-consumer recycled content
 - Molding technology
 - Standards of design (e.g., American National Standards Institute)
 - UV stabilization certification
 - Load rating
 - Design standards for lid, handles, lifting, bottom, wheels, axle, and fasteners
 - Interior and exterior finish surfaces
 - Color
 - Volumetric Capacity
 - Nest ability
 - Identification and Marking
 - Manufacturer's warranty

Each Recycling Bin, Recycling Cart, and Roll Cart shall be protected by a manufacturer's warranty of at least eight (8) years duration.

3.7.6 Collection Container Labels.

CONTRACTOR shall replace the labels on its Collection Containers on an as-needed basis, subject to the CITY's approval.

3.8 **ROLL CARTS FOR RESIDENTIAL CURBSIDE CUSTOMERS**

Before the Commencement Date, CONTRACTOR shall provide a new Roll Cart to each Residential Curbside Customer, unless the CITY notifies CONTRACTOR that the customer will receive Manual Collection Service. The Roll Cart shall have nominal rated capacity between ninety (90) to one-hundred (100) gallons, unless the CITY notifies CONTRACTOR that the customer shall be given a different size Roll Cart.

After the Commencement Date, CONTRACTOR shall exchange Roll Carts with a customer when requested to do so by the CITY. In such cases, the CONTRACTOR shall provide (a) a nominal ninety-six (96) gallon Roll Cart, (b) a nominal sixty-four (64) gallon Roll Cart, or (c) two (2) nominal thirty-two (32) gallon Roll Carts. CONTRACTOR shall exchange the new Roll Carts(s) for the customer's old Roll Cart within three (3) days of receiving the request.

Except as otherwise provided herein, if a Residential Curbside Customer wishes to obtain another Roll Cart (e.g., a second thirty (30) to one-hundred (100) gallon Roll Cart), the customer shall pay an additional service fee at the price set forth in **Exhibit 1**. CONTRACTOR shall deliver the Roll Cart to the customer within three (3) days after the CITY notifies the CONTRACTOR that the additional service is required.

3.9 **COMMERCIAL SOLID WASTE**

3.9.1 Commercial Solid Waste Collection Service. CONTRACTOR shall provide Commercial Solid Waste Collection Service as deemed necessary and as determined between CONTRACTOR and the customer. However, frequency of pickup shall be no less than one (1) time per week, with the exception of those Commercial Establishments defined as restaurants by the Broward County Health Department for which the minimum service level shall be two (2) pickup times per week, with no exception for holiday(s) as set forth herein, except that Collection Service scheduled to fall on a holiday may be rescheduled as determined between the customer and the CONTRACTOR as long as the minimum frequency requirement is met. The size of the Container or Roll Cart and the frequency of Collection (meeting minimum requirements) shall be determined between the customer and the CONTRACTOR. However, size and frequency shall be sufficient to provide that no Commercial Solid Waste shall be placed outside the Container or Roll Cart. The CONTRACTOR shall provide Containers at the approved rental rates; however, customers may own their Container provided that the customer shall be completely serviced by the CONTRACTOR's equipment. CONTRACTOR shall be responsible for providing Roll Carts to those Commercial Service Units not utilizing Containers.

3.9.2 Procedures for Commercial Customers. Each Commercial Customer shall place their Garbage, Rubbish, and Yard Trash in their Container. The CITY may authorize

a Commercial Customer to set out these wastes in a Roll Cart or other Collection Container where efficiency or other circumstances justify.

Commercial Customers shall not commingle Construction and Demolition Debris with any other types of Solid Waste in a Collection Container.

3.9.3 CITY Facilities Containerized Service. The CONTRACTOR shall provide Solid Waste Collection Services to all current and future CITY-owned and/or operated facilities without charge to CITY, provided Solid Waste accumulated on said CITY-owned and/or operated facilities is placed in thirty-two (32) gallon Containers, or larger size Containers, where appropriate, which containers shall be furnished by the CONTRACTOR at no charge to the CITY. The pickup service for said facilities shall be at such intervals as may be required to properly service said facilities.

3.9.4 Roll-Off Collection Service. CONTRACTOR shall provide Roll-Off Collection Service as deemed necessary and as determined between the CONTRACTOR and the customer within three (3) Scheduled Collection Days of receipt of the request for services from the customer. The size of the Roll-Off Container and the frequency of Collection shall be determined between the customer and the CONTRACTOR. However, size and frequency shall be sufficient to provide that no waste materials shall be placed outside the Roll-Off Container or create conditions such that the weight of the materials in the Roll-Off Container is in excess of the net weight capacity of the Roll-Off Container which shall be clearly marked on each Roll-Off Container.

CONTRACTOR shall provide Roll-Off Containers and Roll-Off Collection Service at the approved rates included in the Rate Structure as shown in the attached Exhibits 1 through 5; however, customer may own their own Roll-Off Container provided that the customer shall be completely responsible for its proper maintenance. The Customer provided Roll-Off Container shall be of a type that can be serviced by the CONTRACTOR's equipment and shall have the net weight capacity approved by CONTRACTOR clearly marked on the Roll-Off Container.

All Roll-Off Containers shall be readily accessible to the CONTRACTOR's crew and vehicles.

3.9.5 Service Levels Not Designated. For service levels not designated, CONTRACTOR shall provide the level and type of service negotiated and mutually agreed upon between the CONTRACTOR and customer at the rates negotiated and mutually agreed upon between CONTRACTOR and customer. All said service levels, types and rates shall be approved by CITY. CITY shall have the right to bill for said service unless otherwise designated in this Agreement, or otherwise approved in writing by the CITY. The CITY shall have the right to delegate billing services to a third party in its sole discretion.

3.9.6 Roll-Off Collection Service for CITY Use. CONTRACTOR agrees to provide Roll-Off Collection Service, at no charge to CITY, as necessary to annually collect and dispose of Construction and Demolition Debris and other Solid Waste materials. There shall be no limit to the number of pickups completed by the CONTRACTOR on a daily, weekly or monthly basis.

In the event that CITY undertakes major construction projects, the CONTRACTOR shall continue to provide Roll-off Collection Service at no charge to the CITY. The CONTRACTOR may charge the CITY a disposal fee from a major construction project only if the disposal of construction debris from the project exceeds a total of 100 cubic yards. The disposal fee shall be charged to the CITY only for the amount of construction debris from the project that exceeds 100 cubic yards.

- 3.9.7 Community Activities. CONTRACTOR shall provide, at no cost to CITY or event sponsors, Solid Waste Collection Services to support those community events as requested by the City Manager or designee.

3.10 **DESIGNATED FACILITIES**

All Solid Waste and Residential Recyclable Materials collected pursuant to this Agreement shall be delivered to a resource recovery system disposal facility, landfill, contingency landfill or transfer station designated by the CITY. CITY shall retain ownership of all residential and commercial Solid Waste and Recyclable Materials until delivery to the Designated Disposal Facility or Designated Recycling Facility. In the event the Designated Disposal Facility or Designated Materials Recycling Facility are greater or less than twenty (20) miles from the center of CITY, CITY and CONTRACTOR shall negotiate appropriate changes in the Collection rates to reflect increased or decreased hauling and disposal costs.

3.10.1 CITY's Right to Designate Container Size and Frequency of Pick Up.

CITY reserves the right to determine the frequency of pick up and size of Containers needed at all Multi-Family Service Units and Commercial Service Units for Compactors and loose yard Containers within CITY's corporate limits. If CITY determines that a change in frequency of service or Container size is necessary, CONTRACTOR shall adjust Containers and frequency of service accordingly. Customer shall be responsible to pay for the adjusted service levels, whether increased or decreased.

3.11 **DATA GATHERING**

CONTRACTOR shall provide to CITY a monthly report, no later than the fifteenth (15th) day of each month, outlining the weight of all Residential Waste, Commercial Solid Waste, and Recyclable Materials collected for the preceding month. The monthly report shall include a list of all weight tickets associated with the Residential Services and Commercial Services provided by CONTRACTOR during the preceding month. CONTRACTOR shall maintain the weight tickets from the Designated Disposal Facility for the Residential Waste and Commercial Solid Waste delivered from CITY and the weight tickets from the Designated Recycling Facility for the Recyclable Materials delivered from CITY for review by CITY upon reasonable notice. Said data shall be reviewed at CONTRACTOR's offices for purposes of protecting proprietary information, as discussed in Section 29.4. CITY may require additional information that accommodates change-in-law, Interlocal Agreements with other governmental agencies or related service contract requirements.

3.12 **RECYCLING**

The CONTRACTOR shall provide Recycling Services to all Residential Curbside Service Units in the Service Area at no additional cost to CITY or its residents. The services to be performed by CONTRACTOR shall consist of Collection of all

Recyclable Materials and transportation to the Designated Recycling Facility. Should unanticipated events, circumstances or changes in law arise that necessitate any additions or deletions to work described in this Section, including the type of items included as Recyclable Materials, the parties shall negotiate any necessary cost changes and shall enter into an Agreement amendment covering such modifications and any compensation to be paid before undertaking any changes or revisions to such work.

- 3.12.1 Recyclable Materials to be Collected. CONTRACTOR shall collect the following Recyclable Materials: newsprint; old corrugated cardboard; incidental craft paper; clear, green and brown glass containers; steel, bimetal and aluminum containers; #1 PET, #2 HDPE #3 PVC plastic containers; plastic coated and aseptic containers. At such time as the CITY desires to add additional materials to the Recyclable Materials collected, the CITY shall submit to the CONTRACTOR an expansion proposal, and the CONTRACTOR receiving such proposal shall evaluate and consider the same in good faith. If CONTRACTOR and CITY fail to reach an agreement with respect to the terms and conditions for expansion of the services within sixty (60) days of submission of the expansion proposal by the CITY, the CONTRACTOR shall continue to perform all services as provided by Agreement for the remaining term thereof.
- 3.12.2 Contaminated Recyclable Materials. CONTRACTOR shall not be required to collect Recyclable Materials from Residential Curbside Service Units if the customer does not segregate the Recyclable Materials from Residential Solid Waste. If Recyclable Materials are contaminated through commingling with Residential Solid Waste, CONTRACTOR shall, if practical, separate the Residential Solid Waste from the Recyclable Materials. The Recyclable Materials shall then be collected and the Residential Solid Waste shall be left in the Recycling Bin, or Recycling Cart, along with a written notice of why the Residential Solid Waste is not considered a Recyclable Material. However, in the event the Recyclable Materials and Residential Solid Waste are commingled to the extent that they cannot easily be separated by CONTRACTOR, or the nature of the Residential Solid Waste renders the entire Recycling Bin, or Recycling Cart, contaminated, CONTRACTOR shall leave the Recycling Bin, or Recycling Cart, un-emptied and issue a written notice to the customer containing instructions on the proper procedures for setting out Recyclable Materials. CITY shall approve the design of said notice, and the cost of printing said notice shall be borne by CONTRACTOR. Only two consecutive notices shall be issued. However, CONTRACTOR shall not collect the Recyclable Materials until the Residential Curbside Service Unit segregates the Recyclable Materials from Residential Solid Waste. CONTRACTOR shall maintain a record of the address of any Residential Curbside Service Unit where Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, and is to be provided to CITY upon request.
- 3.12.3 Recycling Bins. The CONTRACTOR shall be responsible for the purchase, distribution and replacement of Recycling Bins to all Residential Curbside Service Units.
- A) Purchase and Distribution. CONTRACTOR shall be required to purchase and distribute new Recycling Bins to existing Residential Curbside Service Units that currently do not have Recycling Bins within one (1) month but no more than six (6)

months after the commencement date of this Agreement. CONTRACTOR shall purchase and distribute Recycling Bins to new Residential Curbside Service Units that are added to the Service Area during the term of the Agreement. The Recycling Bins to be purchased and distributed will be in accordance with the information to be provided by CITY to CONTRACTOR, or as CONTRACTOR determines utilizing actual field information and the distribution shall be completed within three (3) Work Days of receipt of the information from CITY.

- B) Replacement. CONTRACTOR shall maintain sufficient Recycling Bins to ensure that extra or replacement Recycling Bins can be provided to customers or properties in accordance with the terms and conditions of this Agreement. CONTRACTOR's employees shall take care to prevent damage to Recycling Bins by unnecessary rough treatment. However, CONTRACTOR shall replace any Recycling Bin damaged by CONTRACTOR at CONTRACTOR's expense, within three (3) Work Days at no cost or inconvenience to the customer. Upon notification to CONTRACTOR by CITY or a customer that the Residential Curbside Service Unit's Recycling Bin has been stolen or that it has been damaged beyond repair through no fault of CONTRACTOR, CONTRACTOR shall deliver a replacement Recycling Bin to such Residential Curbside Service Unit within three (3) Work Days. CONTRACTOR shall report all Recycling Bin replacements to CITY. Each Residential Curbside Service Unit shall be entitled to a one (1)-time replacement of lost, destroyed, or stolen Recycling Bins every two years during the life of the Agreement at no cost. If during the term of the Agreement, customer requests additional Recycling Bins (beyond the one (1) time replacement allowed) CONTRACTOR will, upon authorization of the CITY, deliver said Recycling Bin and notify CITY of actual delivery. CITY will reimburse CONTRACTOR for cost of any bins beyond the one-time replacement pursuant to the attached Exhibits 1 through 5.

- C) Ownership. CONTRACTOR shall own all Recycling Bins, except that the CITY shall retain ownership of all Recycling Bins in the possession of a Residential Curbside Service Unit at the end of the Agreement.

3.12.4 Residential Recycling Carts. The CONTRACTOR shall be responsible for the purchase, distribution and replacement of Recycling Carts to all Residential Curbside Service Units.

- A) Purchase and Distribution. CONTRACTOR shall be required to purchase and distribute new Recycling Carts to existing Residential Curbside Service Units that currently do not have Recycling Carts within one (1) month but no more than six (6) months after notification by the CITY within the first two years of the commencement date of this Agreement. CONTRACTOR shall purchase and distribute Recycling Carts to new Residential Curbside Service Units that are added to the Service Area during the term of the Agreement. The Recycling Carts to be purchased and distributed will be in accordance with the information to be provided by CITY to CONTRACTOR, or as CONTRACTOR determines utilizing actual field information and the distribution shall be completed within three (3) Work Days of receipt of the information from CITY.
- B) Replacement. CONTRACTOR shall maintain sufficient Recycling Carts to ensure that extra or replacement Recycling Carts can be provided to customers or

properties in accordance with the terms and conditions of this Agreement. CONTRACTOR's employees shall take care to prevent damage to Recycling Carts by unnecessary rough treatment. However, CONTRACTOR shall replace any Recycling Cart damaged by CONTRACTOR at CONTRACTOR's expense, within three (3) Work Days at no cost or inconvenience to the customer. Upon notification to CONTRACTOR by CITY or a customer that the Residential Curbside Service Unit's Recycling Bin has been stolen or that it has been damaged beyond repair through no fault of CONTRACTOR, CONTRACTOR shall deliver a replacement Recycling Cart to such Residential Curbside Service Unit within three (3) Work Days. CONTRACTOR shall report all Recycling Cart replacements to CITY. Each Residential Curbside Service Unit shall be entitled to a one (1) time replacement of lost, destroyed, or stolen Recycling Carts every four (4) years during the life of the Agreement at no cost. If during the term of the Agreement, customer requests additional Recycling Carts (beyond the one (1) time replacement allowed) CONTRACTOR will, upon authorization of the CITY, deliver said Recycling Cart and notify CITY of actual delivery. CITY will reimburse CONTRACTOR for cost of any Recycling Carts beyond the one-time replacement pursuant to the attached Exhibits 1 through 5.

- C) Ownership. CONTRACTOR shall own all Recycling Carts, except that the CITY shall retain ownership of all Recycling Carts in the possession of a Residential Curbside Service Unit at the end of the Agreement.

3.12.5 Residential Curbside Recycling Collection Service. CONTRACTOR shall provide Residential Curbside Recycling Collection Service to all Residential Curbside Service Units in the Service Area whose Recyclable Materials are properly containerized in Recycling Bins, or Recycling Carts, where Recycling Bins, or Carts, have been placed at the curb, within five feet (5') of the street, or other location agreed to by CONTRACTOR and customer that will provide safe and efficient accessibility to CONTRACTOR's Collection crew and vehicle. In certain instances, properly containerized Recyclable Materials may be placed in driveway turnout areas to avoid placing it in the traveled roadway. In the event an appropriate location cannot be agreed upon between CONTRACTOR and the customer, CITY shall mediate the dispute and designate the location for Collection. CONTRACTOR shall report monthly to CITY situations that prevent or hinder Collection on any premises. Residential Curbside Recycling Collection Service shall be provided one (1) time per week on a regularly scheduled basis with the exception of Christmas Day, as set forth herein. CONTRACTOR shall be required to provide occasional special Recycling programs for the Collection of telephone books, Christmas trees, and other items as specified by CITY. Program information including days of Collection shall be distributed to all customers as part of the annual solid waste notification. In the event a customer's normal Recycling Collection service day falls on Christmas Day, the Collection shall occur on the next regularly scheduled Recycling Collection day.

3.12.6 Residential Off-Street Recycling Collection Service. CONTRACTOR shall provide off-street Collection of Recyclable Materials from Residential Curbside Service Units if all adult occupants residing therein are handicapped and if a request for off-street service has been made to, and approved by CITY, in the manner required by CITY. CITY shall notify CONTRACTOR in writing of any customers requiring off-street service. No additional monies shall be due to CONTRACTOR for the provisions of

off-street service to handicapped customers. The point of Collection for off-street service shall be the back or side yard or such other location as is mutually agreeable to the CONTRACTOR and the customer. In the event the appropriate location cannot be agreed upon, the CITY shall mediate the dispute and designate the location for Collection. CONTRACTOR shall provide off-street service on the same Scheduled Collection Day that Residential Curbside Service would otherwise be provided to the Residential Curbside Service Unit.

- 3.12.7 Neighborhood Recycling Station. CITY may request CONTRACTOR to set up Neighborhood Recycling Stations for the purpose of collecting Recyclable Materials, at the rates established in the Rate Structure included in the attached Exhibits 1 through 5. CITY shall designate locations and number and type of Recycling Containers for each location, and CONTRACTOR shall maintain sufficient Recycling Containers for residents to deposit Recyclable Materials. CONTRACTOR shall be responsible for the handling of Recyclable Materials and transporting of Recyclable Materials to the Designated Recycling Facility.
- 3.12.8 Non-Collection. CONTRACTOR shall not be required to collect any Recyclable Materials that are not placed in a Recycling Bin, or Recycling Cart. However, for purposes of this Section, old corrugated cardboard which has been broken down that is placed beside a Recycling Bin, and newspapers that are contained in paper bags and placed beside the Recycling Bin shall be considered as properly placed for Collection. CONTRACTOR shall collect old corrugated cardboard and newspaper that have been properly set out and have become wet due to local weather conditions. In the event of non-collection, CONTRACTOR shall affix to the Recycling Bin, or Recycling Cart, a Non-Collection Notice explaining why Collection was not made. CONTRACTOR shall maintain a record of the address of any Residential Curbside Service Unit where Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, and such notice is to be provided to CITY upon request.
- 3.12.9 Mixed Load Prohibition. During the collection process, the CONTRACTOR shall have sufficient collection vehicles to collect each waste material by type of material, and solely designate collection vehicles by route and vehicle number for the collection of each specific material type as specified in this Agreement. CONTRACTOR shall not combine Residential Curbside Solid Waste, Commercial Waste, Residential Source Separated Recyclable, Bulk Waste, Construction and Demolition Debris, or any other waste materials in the same collection vehicle at any time. During the collection process, the CONTRACTOR shall not combine the varying types of waste materials that have been properly separated for their specific collection type and correctly set-out by customer for collection. During the collection process, the CONTRACTOR shall not combine Source Separated Recyclable Materials with any other type of waste materials. However, the CONTRACTOR shall have no obligation to separate these materials if the Customer has placed them in a Collection Container together with Garbage or other types of Solid Waste.

Notwithstanding the forgoing, the City Manager may grant relief from the mixed load prohibition set forth in this Section 3.12.9, and thus allow the CONTRACTOR to combine different types of Solid Waste and Recyclable Materials, if the City Manager determines that the practice will be in the public's best interest based on an emergency, act of god or significant documented recycling cost increases. If

CONTRACTOR seeks relief from the mixed load prohibition, the CONTRACTOR shall file a petition with the City Manager, describing the emergency, act of god or significant recycling cost increases justifying the relief, and the specific procedures that will be established to properly account and pay for the management of the mixed materials. The City Manager may grant or deny the petition, in the City Manager's sole discretion.

3.13 RESIDENTIAL CONTAINERIZED RECYCLING COLLECTION SERVICE

If CITY chooses to offer Residential Containerized Recycling Collection Service to Multi-Family Dwelling Units at any time during the term of this Agreement, CONTRACTOR and CITY agree to enter into good faith negotiations to amend this Agreement to include said services. If CITY chooses to offer such services, all Recyclable Materials collected by CONTRACTOR from Multi-Family Dwelling Units shall be subject to Recycling Revenue sharing as provided in Section 5.13 and shall be collected at no cost to the CITY. For purposes of Recycling Revenue Sharing, Recyclable Materials collected by CONTRACTOR from Multi-Family Dwelling Units shall be treated in the same manner as Recyclable Materials collected from Residential Curbside Service Units under Section 3.12.

3.14 TRANSITION

CONTRACTOR shall be responsible for the provision of ALL COLLECTION Services beginning May 1, 2019. Accordingly, CONTRACTOR shall provide Collection Services as set forth in this Agreement no later than May 1, 2019.

3.14.1 RESERVED.

3.14.2 In the event of a permanent change in residential routes or schedules that will alter the day of Collection, the CONTRACTOR shall have said changes approved by the CITY and notify the affected residential customer(s), in writing or other manner as approved by the CITY, not less than forty-five (45) days prior to the change. Any temporary alteration of Collection schedules resulting from circumstances beyond the control of the CONTRACTOR, including but not limited to holidays shall be communicated to the affected customers. Such notice shall be provided in a form determined by CITY.

3.14.3 Prior to, or any time after, initiation of automated collection service with Roll Carts, CONTRACTOR shall collaborate with CITY to identify areas where trees need to be trimmed away from curbside. CONTRACTOR will trim trees in accordance with arborist standards to safely allow trucks access to curbside for automated collection services.

3.15 EDUCATION SERVICES AND COMMUNITY ENGAGEMENT PROGRAMS

Each year during the term of this Agreement, CONTRACTOR shall pay the City Fifty-Five Thousand Dollars (\$55,000) for the provision of City-wide solid waste educational materials and services.

Each year during the term of this Agreement, CONTRACTOR shall pay the City One Hundred and Twenty-Five Thousand Dollars (\$125,000) for the facilitation of Community Engagement Programs aimed at increasing the knowledge and involvement of residents, community groups, and other stakeholders in the management of solid waste issues and promotion of waste reduction strategies.

Additionally, CONTRACTOR shall attend City sponsored outreach events, as requested by the City Public Works Department, if notice of at least five (5) Work Days is provided to CONTRACTOR.

SECTION 4: HOURS OF COLLECTION

4.1 RESIDENTIAL SERVICES

Residential Services shall be made with a minimum of noise and disturbance commencing no earlier than 7:00 a.m. and terminating no later than 6:00 p.m., Monday through Saturday, with no service on Sunday. The hours and/or days of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of CITY.

4.2 COMMERCIAL SERVICES

Commercial Services shall be made with a minimum of noise and disturbance and shall be provided between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, and between the hours of 8:00 a.m. and 7:00 p.m. on Sunday. Services shall not be provided prior to 9:00 a.m. on any public or private school unless requested by said school in writing, or approved by City Manager. The receipt of a continued complaint pattern by the CITY referencing noise or disturbances that occurred during the operating hours set forth in this Section shall be prima facie evidence of "disturbances" and CONTRACTOR may adjust the Commercial Service hours at such identified locations as CITY shall direct CONTRACTOR in writing. The adjustment of such hours shall not result in a rate change for CONTRACTOR. The locations, hours and/or days of Collection may be extended due to extraordinary circumstances or non-impacting, justifiable conditions with the prior written consent of CITY, which may be withheld, altered or revoked in the CITY's sole discretion.

SECTION 5: CHARGES AND RATES

5.1 RESIDENTIAL COLLECTION SERVICES

The CITY shall be responsible for the billing and collection of payments for all Residential Service Unit accounts except additional services as set forth in Sections 3.3.1 and 3.3.2. The CITY shall initially pay the CONTRACTOR for Residential Collection Services in accordance with the Rate Structure and generation factors established in the attached Exhibits 1 through 5 and as may subsequently be adjusted pursuant to this Agreement.

5.2 COMMERCIAL SOLID WASTE COLLECTION SERVICE

5.2.1 Notification. It shall be the responsibility of the CONTRACTOR to advise the CITY of the amounts to be charged for any and all Commercial Service Units. The notification by CONTRACTOR shall be in writing and duly signed by an authorized representative of CONTRACTOR.

5.2.2 Billing. The CONTRACTOR shall be responsible for the billing and collection of payments for all Commercial Service Units. The CONTRACTOR shall pay the City one-hundred percent (100%) of all City amounts due, regardless of the amount of monies collected by CONTRACTOR for Commercial Solid Waste Collection Service

in accordance with the Rate Structure and generation factors established in the attached Exhibits 1 through 5 and as may subsequently be adjusted pursuant to this Agreement. Payment shall be due the month following the end of the billing cycle.

- 5.2.3 Overloaded Container Charge. CONTRACTOR shall charge customers whose Containers are overloaded, in a manner that prevent the lids of the Container from closing, an overloaded container charge of \$15 per yard of overloaded materials. It shall be the sole responsibility of the CONTRACTOR to provide picture evidence to the CITY prior to the imposition of any charge to the customer. Evidence shall be provided to the City Code Compliance Division and Billing Department. CONTRACTOR shall have available, during normal business hours, a representative to provide educational information such as recycling services and or container sizes to customers.

5.3 **RATE STRUCTURE**

The rates shown in the attached Exhibits 1 through 5 shall apply to all Residential Service Units and Commercial Service Units within the corporate limits of CITY, as well as any areas annexed into CITY subsequent to the commencement of this Agreement.

5.4 **COLLECTION AND REINSTATEMENT**

- 5.4.1 Collection Effort. CITY agrees to use reasonable efforts to collect accounts on a timely basis, including but not limited to the discontinuance of service, imposition of liens, and foreclosure of same, subject to the provisions of state and local laws; however, CITY shall not be held liable for any uncollected or delinquent accounts.
- 5.4.2 Records Inspection. CITY shall consider, if requested, to permit CONTRACTOR or its authorized representative to audit or inspect CITY'S records relative to the amounts billed and collected by CITY on behalf of CONTRACTOR at reasonable times and during reasonable business hours, and to furnish to CONTRACTOR an aged schedule of the garbage accounts receivable.
- 5.4.3 Suspension and Reinstatement. CITY shall have the right to coordinate with the CONTRACTOR for suspension of service to any customers, other than Curbside Residential Service Units, who are delinquent in payment for more than 60 days. Any cessation of service as a result of nonpayment or breach by a customer shall not result in a cessation of the monthly charge billed to and owed by the customer. After CONTRACTOR suspends service, a customer shall be permitted to reinstate service once the customer pays any and all delinquent charges. In conjunction with the reinstatement of service, the customer shall be assessed a reinstatement charge of \$25.00, which shall be paid to the CONTRACTOR. In addition, CONTRACTOR may assess a late fee of ten percent (10%) of the outstanding amount to accounts which remain unpaid for a period of more than 30 days from the date on which payment was due and ultimately collected, said fee to be paid by customer and retained by CITY.

5.5 **TERMS**

The CITY shall remit payment to the CONTRACTOR, on or before the 15th day of each month beginning with the 15th day of June 2019, the sum of money equal to the total monthly collections by the CITY during the previous month for and on behalf of the CONTRACTOR, less Franchise Fees, Administrative Fees, Storm Fund Fees

and Waste Reduction Fees as reflected in the Rate Structure contained in the attached Exhibits 1 through 5 and as set forth in Section 5.7.

Payment shall be made to CONTRACTOR in accordance with the Local Government Prompt Payment Act as stipulated in Part VII of Chapter 218, Florida Statutes, by check, Electronic Funds Transfer (EFT), E-Pay or P-card, or other method as determined by the CITY in its sole discretion. Contractor agrees to accept any fees or deductions from monies remitted to Contractor through such payment methods.

5.6 CHANGE IN BILLING PRACTICES

If at any time it becomes impractical for the CITY to include Solid Waste Collection billing in its utility procedure, then the CITY and CONTRACTOR will negotiate a different billing procedure. Any and all Franchise Fees, Administrative Fees, Waste Reduction Fees, and Storm Fund Fees in the amount provided by this Agreement shall be due to the CITY for all Solid Waste Collection and disposal services, whether scheduled or unscheduled and regardless of whether CONTRACTOR, CITY or a third-party bill for CONTRACTOR'S services.

5.7 FRANCHISE FEES, WASTE REDUCTION FEE, AND STORM FUND FEE

A Franchise Fee, Waste Reduction Fee, and Storm Fund Fee in the amounts provided by this Agreement shall be due to the CITY for all Solid Waste Collection and disposal services, whether scheduled or unscheduled and regardless of whether CONTRACTOR, CITY or a third party bill for CONTRACTOR'S services, provided customer payment is collected.

5.8 ADMINISTRATIVE FEES

Administrative Fees in the amount of 1.25 percent of all collection and disposal revenues collected from all sources shall be paid to CITY to compensate CITY for administrative services provided by CITY in connection with this Agreement. The aforesaid payment shall be made to CITY by CITY deducting Administrative Fees from the amounts collected by CITY from the applicable accounts served by CONTRACTOR as further set forth in Section 5.6 above.

5.9 CONTRACT MANAGER POSITION

Contractor shall provide the CITY with \$120,000.00 per year during each year of the Term of this Agreement, including any extensions and renewal options, which amount shall be increased by 5% for the First Renewal Term, with the increase effective May 1, 2016, which increase is based on the consumer price index specified in Section 5.12.1, to fund a Contract Manager Position within the CITY. The Contract Manager shall be selected and employed by the CITY in the CITY's sole discretion. Upon execution of the Second Renewal Term, based upon CPI, as set forth in Section 5.12.1, the aforementioned payment to CITY for the Contract Manager Position shall increase by 10% effective May 1, 2019.

5.10 DISPOSAL ELEMENT ADJUSTMENT

5.10.1 Residential Curbside Collection Service. The Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate" is based on the Disposal Charge per ton and the "Monthly Curbside Unit Residential Waste Generation Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as

set forth below, will result in a corresponding change in the appropriate "Monthly Curbside Unit Disposal Rate" based on the following formula:

	New Disposal Charge x Monthly Curbside Unit Residential Waste Generation Factor
Less:	Old Disposal Charge x Monthly Curbside Unit Residential Waste Generation Factor
Will Equal:	Change in the Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate."

Residential Waste Generation Factor (Bulk) = 0.44 tons/year
Residential Waste Generation Factor (Solid Waste) = 1.25 tons/year

The monthly Residential Curbside Service Unit rates shall be adjusted based on the change in the Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.2 Residential Containerized Collection Service. The Residential Containerized Collection Service "Disposal Rate" is based on the Disposal Charge per ton, the size of the Container, the frequency of Collection, and the "Weight Per Cubic Yard Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as set forth below, will result in a corresponding change in the "Disposal Rate" based on the following formula:

	(Weight Per Cubic Yard Factor/2,000 pounds) x New Disposal Charge x Container size x Frequency per week x 4.33.
Less:	(Weight Per Cubic Yard Factor/2,000 pounds) x Old Disposal Charge x Container size x Frequency per week x 4.33.
Will Equal:	The change in the Residential Containerized Collection Service "Disposal Rate" for that specific Container size and frequency of Collection per month.

Residential Weight for Solid Waste Per Cubic Yard Factor = 99.67 lbs./CY

The monthly Residential Containerized Service Unit rates shall be adjusted based on the change in the Residential Containerized Collection Service "Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.3 Commercial Solid Waste Collection Service. The Commercial Solid Waste Collection Service "Disposal Rate" is based on the Disposal Charge per ton, the frequency of Collection and the "Weight Per Cubic Yard Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as set forth below, will result in a corresponding change in the "Disposal Rate" for Commercial Collection Services as set forth in the attached Exhibits based on the following formula:

(Weight Per Cubic Yard Factor/2,000 pounds) x New Disposal Charge x Container size x Frequency per week x 4.33.

Less: (Weight Per Cubic Yard Factor/2,000 pounds) x Old Disposal Charge x Container size x Frequency per week x 4.33.

Will Equal: The change in the appropriate Commercial Solid Waste Collection Service "Disposal Rate" per month.

Commercial Weight Per Cubic Yard Factor = 97.57 lbs./CY

The monthly Commercial Service Unit rates shall be adjusted based on the change in the Commercial Solid Waste Collection Service "Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.4 Commercial and Residential Containerized Solid Waste Compactor Service. The Commercial and Residential Containerized Compactor Service "Disposal Rate" is based on the Disposal Charge per ton, the frequency of Collection and the "Compacted Weight Per Cubic Yard Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as set forth below, will result in a corresponding change in the "Disposal Rate" for Commercial and Residential Containerized Compactor Services as set forth in the attached Exhibits based on the following formula:

(“Compacted Weight Per Cubic Yard Factor/2,000 pounds) x the new Disposal Charge x the Container size x Frequency per week x 4.33.

Less: (“Compacted Weight Per Cubic Yard Factor/2,000 pounds) x the old Disposal Charge x the Container size x Frequency per week x 4.33.

Will Equal: The change in the appropriate Commercial and Residential Containerized Solid Waste Compactor Service "Disposal Rate" per month.

Compacted Weight Per Cubic Yard Factor = 292.71 lbs./CY

The monthly Commercial and Residential Containerized Compactor Service Unit rates shall be adjusted based on the change in the Commercial and Residential Containerized Compactor Service "Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.5 Documentation and Approval. In order for the CONTRACTOR to receive a disposal rate adjustment based on a change in the Disposal Charge per ton, the CONTRACTOR must provide, in a manner that is acceptable to the CITY, evidence of the change in the Disposal Charge. The CITY may request from the CONTRACTOR such further information as may be reasonably necessary. The CITY shall approve the request in accordance with the formulas above to be effective on the date of the change in the Disposal Charge at the Designated Disposal Facility.

5.11 ADJUSTMENTS TO RESIDENTIAL CURBSIDE GENERATION FACTORS

In the event of a change in law for Solid Waste or a significant change in the City's Recycling program that has the potential to materially affect the "Monthly Curbside Unit Residential Waste Generation Factor" as set forth in the attached Exhibits 1 through 5, the CITY and the CONTRACTOR agree that a generation study will be performed at the request of the CITY with the cooperation of the CONTRACTOR. The CONTRACTOR will fund the study. The CITY reserves the sole right to select

the Consultant to perform the study. The CONTRACTOR and CITY shall work together to develop the methodology that will be used to perform the waste generation study, including the selection of representative routes, and the scope, timing and duration of the study. However, the CITY shall have the sole right to approve or revise the methodology for the waste generation study. The generation study will be designed to establish an alternate "Monthly Curbside Unit Residential Waste Generation Factor". The CONTRACTOR shall cooperate fully with the CITY related to the performance and completion of the generation study.

5.12 ADJUSTMENTS TO OTHER COSTS

5.12.1 CPI Adjustments. There shall be no increase to the Collection element of rates established in the Rate Structure provided in the attached Exhibits for the initial five (5) year term of this Agreement, which expires on April 30, 2016. During the First Renewal Term, the Collection element of the rates, effective May 1, 2016, shall be in an amount equal to the collection element rates provided in the attached Exhibits for the Initial Term increased by 5%, which increase is based on the Consumer Price Index, Series CWUR0000SEHG02, entitled "Garbage and Trash Collection, U. S. City Average - Not Seasonally Adjusted," available from the United States Department of Labor, Bureau of Labor Statistics, (the "Trash CPI") adjustments during the Initial Term, capped at 5%. Upon completion of the First Renewal Term, the CITY may consider an adjustment to the collection element of the rates based on the Trash CPI. During the Second Renewal Term, effective May 1, 2019, the Collection element rates provided in the attached Exhibits for the Initial Term increased by 5% for Residential Collection Service and a median rate of 9.5% for Commercial collection service amounts, 7.8% for Multi-Family collection service amounts, and 10% for Industrial collection service amounts, which increase is based on the Consumer Price Index, Series CWUR0000SEHG02, entitled "Garbage and Trash Collection, U. S. City Average - Not Seasonally Adjusted," available from the United States Department of Labor, Bureau of Labor Statistics, (the "Trash CPI").

5.12.2 Extraordinary and Unusual Changes. In any event that there is an adverse effect on the finances of the CONTRACTOR on the basis of extraordinary and unusual changes in the costs of operation that could not be reasonably foreseen by a prudent operator and which by all reasonable expectations will continue for a period of six (6) months or more, then the CONTRACTOR may request that this Agreement be reopened to renegotiate changes causing the adverse impact to either the CITY and/or CONTRACTOR. Should the parties not reach a mutually agreeable remedy then the CITY commission may terminate negotiations and return to the terms and conditions of this Agreement. CITY is under no obligation to grant a reopening and negotiation of this Agreement.

5.12.3 Other Changes. In the event that the CITY designates a change to the Disposal Facility location, or there is a change to the Disposal Facility location resulting from a change in the law, CONTRACTOR agrees to provide a price adjustment equal to the savings or additional cost realized by CONTRACTOR.

5.12.4 Reopening Of Fees And Other Charges. In the event of unanticipated economic or other changes that have a substantial adverse impact upon the CITY's financial position or the revenues generated pursuant to this Agreement, the CITY may

request that this Agreement be reopened and the parties agree to negotiate, in good faith, changes to the various fees, rates and other charges (including but not limited to franchise fees, administrative fees, and curbside generation rates) set forth in this Agreement.

5.13 RECYCLING REVENUES

The CITY shall pay to the CONTRACTOR an amount equal to fifty percent (50%) of all sums received by the CITY as a result of the CONTRACTOR's provision of Residential Recycling Service and the resulting sale of processed Recyclable Materials. The CITY shall make payment to the CONTRACTOR within twenty (20) days of the CITY's receipt of the monies from the sale of the Recyclable Materials. CONTRACTOR shall take all steps necessary to insure that payments from the MRF Operator resulting from the sale of Recyclable Materials are paid directly to the CITY and not the CONTRACTOR. The CONTRACTOR shall maintain proper and accurate records to reflect the weight, by sort category, of the Recyclable Materials recovered each month, including copies of receipts from the Designated Recycling Facility and that portion of the CITY's Recyclable Material's sold each month.

SECTION 6: SCHEDULES AND ROUTES

6.1 SCHEDULES AND ROUTES TO CITY

One month prior to the commencement of this Agreement and no later than June 1st annually thereafter during the term of the Agreement, CONTRACTOR shall provide CITY the schedules for Residential Services and Commercial Services routes and keep such information current at all times. CONTRACTOR shall submit a proposed route and schedule to be approved by CITY prior to providing services under this Agreement. CITY reserves the right to deny CONTRACTOR's vehicles access to certain streets, alleys, bridges and public ways, inside CITY or outside CITY in route to Designated Disposal Facilities where it is in the best interest of the general public to do so due to conditions of streets and bridges. CONTRACTOR shall use best efforts to not interrupt the regular schedule and quality of service because of such street closures.

6.2 SCHEDULES AND ROUTES TO CUSTOMER

In the event of a permanent change in residential routes or schedules that will alter the day of Collection, CONTRACTOR shall have said changes approved by City Manager and notify the affected residential curbside customers in writing or other manner as approved by City Manager. Any temporary alteration of Collection schedules resulting from circumstances beyond the control of CONTRACTOR, including but not limited to holidays, shall be communicated to the affected customers. Such notice shall be provided in a form determined by CITY. Customers shall be notified of the schedules approved by CITY. Individual residential curbside route starting times and succession of pick up shall remain constant so as to promote and achieve regularity of service. Changes in Collection days for commercial customers may be requested by customer, or provided with prior notification by CONTRACTOR. It is understood that during various times throughout the year, the quantity of refuse to be disposed of is materially increased by fluctuations in the amount of Yard Trash. This additional workload will not be considered as adequate justification for failure of CONTRACTOR to maintain the required Collection schedules and routes.

6.3 HOLIDAY PICK-UP SCHEDULE

No Collections will be made on Christmas Day. Residential Trash Collections that would normally occur on Christmas Day shall be rescheduled on the next regularly scheduled Collection day. Residential Recycling Collections shall be rescheduled to coincide with the next regularly scheduled Recycling Collection day. Residential Bulk Waste collection shall be rescheduled on a regularly scheduled collection day as agreed to by CONTRACTOR and CITY so long as such collection day is within seven (7) days of Christmas Day. Commercial and Multi-family containerized customers whose collection day falls on Christmas Day, shall be notified by CONTRACTOR of an adjusted collection schedule in a manner approved by the City.

SECTION 7: EMERGENCY SERVICE PROVISIONS

7.1 EMERGENCY PREPAREDNESS

In the event of a hurricane, tornado, major storm, natural disaster, or other such event, the City may grant the CONTRACTOR a variance from regular routes and schedules. As soon as practicable after such event, the CONTRACTOR shall advise the City when it is anticipated that normal routes and schedules can be resumed. The City shall make an effort through the local news media to inform the public when regular services may be resumed. The clean-up from some events may require that the CONTRACTOR hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event all in accordance with the "Emergency Preparedness Plan" submitted by the CONTRACTOR and approved by the CITY. The CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the rates set forth in the attached Exhibit 7 provided the CONTRACTOR has first secured written authorization and approval from the CITY through the City Manager. The CONTRACTOR shall be responsible for the preparation of all documents and forms and support information required by FEMA, including all forms required to be completed or submitted pursuant to the Public Assistance Guide published by FEMA. The CONTRACTOR within the time limits established by FEMA for such filings shall submit such documents, forms and information to the CITY.

7.2 CONTRACTOR

The CONTRACTOR shall, upon request by the CITY, provide an "Emergency Preparedness Plan." If such an updated plan is requested, the CITY shall provide the CONTRACTOR with a site, or an amended site location map on which the CITY shall locate the temporary debris storage sites, site size and preferred site access.

SECTION 8: CONTRACTOR'S RELATION TO CITY

8.1 INDEPENDENT CONTRACTOR

It is expressly agreed and understood that CONTRACTOR is in all respects an independent CONTRACTOR as to the work to be performed pursuant to this Agreement. Even though in certain respects, CONTRACTOR may be required to

follow the direction of City Manager, or CITY's designated representative, CONTRACTOR is in no respect an agent, servant or employee of CITY.

8.2 SUPERVISION OF AGREEMENT PERFORMANCE

City Manager, or CITY's designated representative, is hereby designated as the public official responsible for the administration of this Agreement by CITY, and, in such capacity, charged with the overall, general supervision of CONTRACTOR's performance hereunder. CONTRACTOR shall diligently work with City Manager or CITY's designated representative to formulate and to adopt guidelines and procedures to facilitate the supervision and review of its performance by City Manager and their staff. CONTRACTOR shall not be required to comply with instructions or directions from any CITY official except City Manager or CITY's designated representative, unless such other official has been delegated in writing by City Manager to perform specified administrative functions under this Agreement.

8.3 AUDIT AND INSPECTION OF WORK RIGHTS

CITY may, at reasonable times, and for a period of up to three (3) years following the date of final performance of services by CONTRACTOR under this Agreement, audit, or cause to be audited, those books and records of CONTRACTOR which related to CONTRACTOR's performance under this Agreement. CONTRACTOR agrees to maintain all such books and records for a period of three (3) years after final payment is made under this Agreement. CITY agrees to conduct such audits at CONTRACTOR's principle place of business.

8.4 FACILITY INSPECTION RIGHTS

CITY may, at reasonable times during the term hereof, inspect CONTRACTOR's facilities and perform such inspections as CITY deems reasonably necessary to determine whether the services required to be provided by CONTRACTOR under this Agreement conform to the terms hereof and/or the terms of the solicitation documents, if applicable. CONTRACTOR shall make available to CITY all reasonable facilities and assistance to facilitate the performance of inspections by the CITY's representatives.

8.5 LIABILITY FOR DELAYS OR NON-PERFORMANCE DUE TO UNUSUAL CIRCUMSTANCES

It is expressly agreed that in no event shall CITY be liable or responsible to CONTRACTOR, or to any other person, on account of any stoppage or delay in the work to be performed pursuant to this Agreement, by injunction or other legal or equitable proceedings brought against CITY or CONTRACTOR, or on account of any delay from any cause over which CITY has no control. CONTRACTOR shall not be responsible for delays or non-performance of the terms and provisions of this Agreement where such delays or non-performance are caused by events or circumstances beyond the control of CONTRACTOR. CONTRACTOR shall not be entitled to compensation for such period of time as the delay or non-performance shall continue, but will be entitled to pro-rata compensation once said work has been completed. In the event of a strike of the employees of CONTRACTOR, or any other similar labor dispute which makes performance of this Agreement by CONTRACTOR substantially impossible, CONTRACTOR agrees that CITY shall have the right to call the bond hereinafter described within one (1) week of such action and engage another person, firm or corporation to provide necessary services with the bond proceeds applied to pay any difference between the Agreement price

in effect and the costs charged by the successor company. In the event the bond is called, CITY will first call and use the cash/surety bond posted by CONTRACTOR.

8.6 **BREACH OF AGREEMENT**

If, in the opinion of the City Manager or the authorized CITY representative, there has been a material breach of this Agreement, City Manager or designated CITY representative shall notify CONTRACTOR, in writing, specifying the basis and reason in which there has been a breach of Agreement. In the event of a breach by CONTRACTOR, CONTRACTOR shall be liable for liquidated damages as provided in this Section. Unless otherwise provided in this Section 8.6, there shall be no cure period of time to avoid the consequences of a breach.

8.6.1 Operational provisions. Failure to comply with the operational provisions of this Agreement upon notice shall result in liquidated damages due to the CITY as follows:

- (A) Spillage and Litter – Failure to clean up spilled material from loading and/or transporting in compliance with the “Florida Litter Law” or as described in this Agreement. Each failure shall result in liquidated damages due to the CITY in the amount of Two Hundred Fifty Dollars (\$250.00). Additionally, if CONTRACTOR fails to remedy the initial violation within three (3) calendar days, an additional assessment shall be imposed in the amount of One Thousand Dollars (1,000) per day until the violation is properly remedied.
- (B) Customer Complaints other than Collection Misses – Failure to resolve complaints other than Collection misses within three (3) calendar days from the day of notification shall result in liquidated damages due to the CITY in the amount of Two Hundred Fifty Dollars (\$250.00) for each occurrence.
- (C) Chronic Compliant Problems – Failure or neglect to correct chronic problems (chronic shall mean three (3) or more similar complaints at the same premises within a six (6) month period) in any category of service shall result in liquidated damages due to the CITY in the amount of One Thousand Dollars (\$1000.00) for each occurrence after the second. In the event that CONTRACTOR receives more than five (5) chronic complaint problems within a month, the CITY shall receive liquidated damages in the amount of Two Thousand Dollars (\$2000.00) per occurrence thereafter.
- (D) Chronic Equipment Problems – Failure or neglect to correct chronic equipment problems (chronic shall mean three instances of the same or similar problem within a twelve-month period) shall result in liquidated damages due to the CITY in the amount of One Thousand Dollars (\$1000.00) for each occurrence after the second.
- (E) CONTRACTOR Reports – Failure to provide the reports required by this Agreement. For each day of delay liquidated damages shall be due to the CITY in the amount of Two Hundred Fifty Dollars (\$250.00), which shall be assessed for each report. In addition, the CITY may withhold payment for services until receipt of the required reports.
- (F) Mixing Loads. If CONTRACTOR fails to adhere to the mixed load prohibition provisions set forth in Section 3.12.9 of this Agreement, CONTRACTOR shall be

responsible for liquidated damages in the amount of Two Hundred Fifty Dollars (\$250.00) per occurrence.

- (G) Container or Cart Delivery, Repair or Replacement. Failure of CONTRACTOR to deliver, repair, maintain or replace a Cart or Container within the time periods required by this Agreement shall result in liquidated damages due to the CITY in the amount of \$25 per day until the proper corrective action is taken. Additionally, if CONTRACTOR fails to remedy the initial violation within five (5) calendar days, an additional assessment shall be imposed in the amount of One Hundred Dollars (\$100.00) per day until the proper corrective action is taken.
- (H) Disposing at Non-Designated Facility – if CONTRACTOR fails to dispose of Solid Waste, Bulk Waste or Recyclable Materials at the City designated locations as required by this Agreement shall result in the imposition of a Two Thousand Dollar (\$2000.00) penalty for each instance; each instance shall mean each of collected Waste or Recyclable Materials that is not disposed of at the City designated locations as required by this Agreement.
- (I) Performance Measure - Any month in which the CONTRACTOR exceeds a combined total of fifty-five (55) missed collection reports for commercial, residential trash, residential recycling and residential bulk collections, may result in the imposition of a Two Thousand Five Hundred Dollar (\$2,500.00) penalty for the reporting month. Evaluations of such reports shall be taken from CONTRACTORS Trac-EZ work order system.

8.6.2 Non-complete daily route. If CONTRACTOR fails to complete any Solid Waste, Bulk Waste or Recyclable Materials route which results in twenty-five (25) or more customers not receiving collection service on their regularly scheduled collection day, in accordance with the schedules and routes provided for in this Agreement, CONTRACTOR may be responsible for liquidated damages in the amount of \$500 per occurrence and such damages shall accrue daily until collection has been completed.

8.6.3 Breach of other Provisions in Agreement. Failure of CONTRACTOR to comply with any other provision of this Agreement that is not described in this Section 8.6 shall result in liquidated damages due to the CITY in the amount of \$500 per day for each occurrence that is not corrected within 5 calendar days of written notice of the breach.

8.6.3 Liquidated damages not a penalty. CONTRACTOR agrees that the amount of liquidated damages assessed pursuant to this Section 8.6 is reasonable and does not constitute a penalty. The parties recognize the difficulty of proving the loss or damage suffered by the CITY due to CONTRACTOR's breach. CONTRACTOR acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of this Agreement.

8.6.4 Protest Procedure.

(A) The CONTRACTOR shall have five (5) Work Days from the date of the written notice to file a written letter of protest with the City Manager. If the protest is filed

within five (5) Work Days, the City Manager or individuals designated by the City Manager shall conduct a formal review of each properly filed protest. The determination of the City Manager or designee shall be final. If the protest is not timely filed, the City Manager shall deduct the amount of the liquidated damages due to the CITY from payment due or to become due to the CONTRACTOR.

(B) Pending resolution of the alleged breach, the CONTRACTOR shall be governed by the provisions of Section 17.

(C) Completion of the protest procedure set forth in this section shall be required prior to CONTRACTOR filing a lawsuit based upon the Breach of Agreement provisions in this Section 8.6 of the Agreement.

8.7 REMEDIES UPON BREACH

If CONTRACTOR fails to begin work at the time specified, or discontinues the prosecution of the work, or any portion thereof, or in any other way materially breaches the Agreement for any cause not excused as provided herein, and the CITY Commission makes a final determination after a public hearing that a material breach has occurred, and if CONTRACTOR or his cash/surety fails to cure such default within five (5) business days after the receipt of such notice from CITY, CITY may thereupon, by action of CITY Commission, declare the Agreement terminated and in default. Upon such declaration of cancellation or breach, CITY may, in addition to other available remedies, take over the work or any portion thereof or engage another firm to take over the work or any portion thereof. CITY shall pay CONTRACTOR for any payments due for services rendered by CONTRACTOR prior to termination of the Agreement. Such cancellation of the Agreement shall not relieve CONTRACTOR or the cash/surety of liability for failure to faithfully perform this Agreement, and, in case the expense incurred by CITY in performing or causing to be performed the work and services provided for in said Agreement shall exceed the sum which would have been payable under this Agreement, then CONTRACTOR, and the cash/surety, to the extent of its obligation, shall be liable to CITY in the amount of any such expenses in excess of the Agreement price. CITY may apply the cash bond in its possession toward its damages and it may look to the cash/surety, CONTRACTOR and any guarantor for additional damages. CONTRACTOR's cash/surety or security will not be released until such time as the term of this Agreement otherwise expires.

8.8 SURETY BOND

CITY may apply the cash/surety bond in its possession for any and all damages incurred as a direct or indirect result or failure by CONTRACTOR to properly perform its obligations under this Agreement.

SECTION 9: CUSTOMER RELATIONS

CONTRACTOR shall cooperate with CITY's authorized representatives in every reasonable way in order to facilitate the progress of the work contemplated under this Agreement. CONTRACTOR shall have, at all times, a competent and reliable representative on duty authorized to receive orders and to act on its behalf.

9.1 OFFICE HOURS

CONTRACTOR shall take all reasonable steps and do all things necessary to insure good and harmonious customer relations in the franchise area. CONTRACTOR agrees that it shall have twenty-four (24) hour telephone service via a non-toll call from CITY. CONTRACTOR's employee(s) shall staff the telephone service during

the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday, and 8:00 a.m. until 12:00 p.m. on Saturday. Staffing of the telephone service is exempt for the following holidays: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. CONTRACTOR shall maintain, in Broward County, office hours between 8:30 a.m. and 5:00 p.m. on Work Days.

9.2 MISSED COLLECTIONS

If the collection of any unit is missed during the regular route collection, CONTRACTOR shall insure that the missed collection shall be picked up on the same day if notification was received by CONTRACTOR from the CITY or customer before 12 P.M., otherwise the missed collection shall be picked up before 12 P.M. on the next scheduled collection day after such notification from CITY or customer. Any deviation from the requirements of this provision must be approved by City Manager or CITY's designated representative. If CONTRACTOR fails to comply with this provision, or any of the terms and conditions of the Agreement, CITY reserves the right to insure that the collection is made, either with its own force or an outside source, and to charge all costs, plus reasonable overhead, to CONTRACTOR. CONTRACTOR shall not be required to collect material from curbside that is non-conforming; however, in each such case, CONTRACTOR shall notify each resident by door hanger or other means, in a form approved by CITY, notifying the resident of the problem and how the customer needs to correct the problem. CONTRACTOR shall then notify CITY of the location every time a non-conforming location is noticed.

9.3 COMPLAINTS AND REPORTS OF OPERATIONS

CONTRACTOR shall perform a service of high quality and keep the number of legitimate complaints to a minimum. CONTRACTOR shall maintain a telephone listing in the name in which the company is doing business as CONTRACTOR and provide answering service for those customers needing to contact CONTRACTOR during the hours defined in Section 9.1. The CITY shall receive all complaints regarding the non-performance of the CONTRACTOR during all other hours not defined in Section 9.1. Complaints received by the CITY shall be forwarded by electronic transmission, or by phone, and such complaint shall be resolved before 12 P.M. on the next Scheduled Collection day. CONTRACTOR will maintain an accurate and up-to-date log of all complaints received and the disposition thereof. CONTRACTOR shall provide the complaint log to the CITY on a monthly basis, or upon request by CITY. CITY reserves the right to correct a complaint if the complaint is not corrected within twenty-four (24) hours of notification to CONTRACTOR.

9.4 SPILLAGE AND LITTER

CONTRACTOR shall not be responsible for cleaning up sanitary conditions around Roll Carts or Recycling Bins caused by the carelessness of the customer; however, CONTRACTOR shall clean up any Residential Solid Waste or Recyclable Materials spilled from a Roll Cart or Recycling Bin by CONTRACTOR or its employees. During transport, all Residential Waste and Recyclable Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the Residential Waste or Recyclable Materials is prevented. CONTRACTOR shall be responsible for the immediate cleanup of any spillage caused by CONTRACTOR or its employees.

CONTRACTOR shall pay all cost recovery fees associated with the cleanup of leaking, spilling and blowing of Residential Waste or Recyclable Materials onto CITY

roadways and streets. CONTRACTOR shall also pay all costs (if any) associated with resurfacing of CITY roadways and streets if damaged due to leakage or spillage of any and all solid waste.

CONTRACTOR shall coordinate with CITY to conduct a drive through route inspection of CITY roadways and streets with CITY staff prior to commencement of the Agreement. CONTRACTOR shall provide the CITY with no less than ten (10) Work Days advance notice of date on which it wishes to conduct the drive through route inspection. Upon completion of the route inspection and prior to commencement of any Services under this Agreement, CONTRACTOR shall identify in writing any damages the CONTRACTOR believes exist on CITY roadways and streets that may be associated with leaking, spilling and blowing of waste and/or recyclable materials. CONTRACTOR shall provide such written identification of existing damage to the City prior to commencement of any Services under this Agreement.

9.5 **COST RECOVERY FEE**

For valid complaints not corrected within twenty-four (24) hours after notification to CONTRACTOR by CITY, CITY may assess a fee equal to the cost incurred by CITY to correct said complaint, plus any associated administrative fees, as shown in the damage form provided in the attached Exhibit, per complaint until said complaint is corrected to the reasonable satisfaction of CITY. Prior to imposing any fee, CONTRACTOR shall have five (5) business days from the date of receipt of notice of the imposition of the fee to request that the City Manager's Office review the complaint and CONTRACTOR's actions in response to the complaint. Following a review of the CONTRACTOR's position, the City Manager's Office shall advise CONTRACTOR, in writing, as to the justification for and the amount of the fee. The City Manager's Office's decision shall be final.

SECTION 10: PAYMENT WITHHELD

In addition to express provisions elsewhere contained in this Agreement, the CITY may, after providing ten (10) days advance notice to CONTRACTOR, withhold from any payment otherwise due CONTRACTOR such amount as determined necessary to protect the CITY'S interest, or, if it so elects, may withhold all or a portion of any monthly payment or refund payment on account of:

- Unsatisfactory progress of the work not caused by condition beyond the CONTRACTOR'S control;
- Defective work not corrected;
 - CONTRACTOR'S failure to carry out instructions or orders of the CITY or its representative in accordance with the terms and conditions of this Agreement;
 - Execution of work not performed in accordance with the Agreement specifications;
 - Unsafe working conditions allowed to persist by the CONTRACTOR, after noticed by the City and Reviewed by the CONTRACTOR;
 - Failure of the CONTRACTOR to provide route schedules and other reports as required by the CITY;
- Use of any subcontractors without the CITY'S prior written approval;
- Failure to comply with specified performance standards.

When the above grounds are removed, payment shall be made within ten (10) days of proof of satisfaction for amounts withheld because of them and CITY shall never be liable for interest on any delayed or late payment. The CITY's right to withhold payments under this Section will be reasonable in light of the nature of the claim, amount of available insurance and performance bond pursuant to this Agreement.

SECTION 11: PERFORMANCE BOND

11.1 ACCOUNT

CONTRACTOR shall furnish at its own cost an irrevocable Performance Bond, in form and content approved by the CITY Attorney, for the faithful performance of this Agreement and all of its obligations arising hereunder in the amount of five-hundred thousand (\$500,000.00) dollars. Said bond shall be executed by a surety company approved by CITY and licensed to do business in the State of Florida, with a B V qualification as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company of Oldwick, New Jersey. CONTRACTOR shall furnish to CITY proof of such bond within ten (10) days after the execution of this Agreement; such proof shall include a statement that the policy or bond may not be canceled or altered without at least thirty (30) days prior notice to CITY.

11.2 NO RELIEF OF LIABILITY

Maintenance of said bond and the performance by CONTRACTOR of all of the obligations under this paragraph shall not relieve CONTRACTOR of liability under the default provisions set forth in this Agreement or from any other liability as a result of any material breach hereunder. The performance Bond may be "called" in the event of any default hereunder by CONTRACTOR. The calling of the Bond shall in no manner restrict or preclude any additional or further remedies available to CITY against CONTRACTOR for breach, default or damages hereunder.

11.3 GUARANTY

CONTRACTOR shall cause to be obtained a corporate guaranty of Waste Pro USA, Inc. ("Guarantor") for and on behalf of Waste Pro of Florida, Inc. whereby the Guarantor shall guaranty all of the obligations of CONTRACTOR under this Agreement. The form of the guaranty is attached hereto as Exhibit 6.

SECTION 12: EQUIPMENT

12.1 VEHICLES AND COLLECTION EQUIPMENT

CONTRACTOR shall provide and maintain and have available at all times the necessary amount of Collection trucks to perform the work as specified herein. During severe storms and emergencies, CONTRACTOR shall have available four (4) additional Collection trucks and six (6) thirty-yard Roll-Off Containers for use by CITY.

All CONTRACTOR and sub-contractor vehicles used to perform services as specified herein shall be equipped, at CONTRACTOR's expense, with a functioning GPS system capable of real time vehicle tracking.

12.2 EQUIPMENT IN GOOD REPAIR

CONTRACTOR shall use vehicles, one (1) per route, with vehicles being an average of three (3) years old, with no truck over seven (7) years old, and freshly painted, with bodies that are watertight to a depth of not less than eighteen inches (18"), with solid sides, using pneumatic tires. All vehicles shall be equipped with operational radio transceiver capable of communicating with CONTRACTOR's dispatch from anywhere in CITY. CONTRACTOR shall provide sufficient equipment, in proper operating condition so regular schedules and routes of Collection can be maintained. Equipment is to be maintained in a reasonable, safe, working condition. Residential Collection trucks shall be painted uniformly in color, with the name of CONTRACTOR and the number of the vehicle printed in letters not less than four inches (4") high, on each side of the vehicle, and vehicles shall be numbered and a record kept of the vehicle to which each number is assigned. No advertising shall be permitted on vehicles servicing CITY, unless approved in writing by the CITY. CONTRACTOR is required to keep Collection vehicles and Containers emptied by mechanical means cleaned and painted to present a pleasing appearance. CONTRACTOR shall submit for approval by CITY a schedule showing the frequency of the cleaning and painting of the vehicles, the age, and miles of the vehicle.

CITY shall have the right to inspect all CONTRACTOR vehicles assigned to the CITY for collection of solid waste. CONTRACTOR shall make the vehicle available for inspection upon reasonable notice from the CITY. CITY shall approve the vehicle appearance and any decals prior to installation and start date of the Agreement.

Each non-packer trash vehicle shall be equipped with a cover, which may be net with mesh not greater than one and one-half inches (1.5"), or tarpaulin, or fully enclosed metal top. Such cover shall be kept in good order and used to cover the load going to and from the Disposal Facility, or when parked, if the contents are likely to be scattered if not covered. Vehicles shall not be overloaded so as to scatter refuse, however, if refuse is scattered from CONTRACTOR's vehicle for any reasons, it shall be picked up immediately. Each vehicle shall have a fork and broom for this purpose. CONTRACTOR's vehicles are not to interfere unduly with vehicular or pedestrian traffic and vehicles are not to be left standing on streets unattended except as made necessary by loading operations, and shall move with the traffic flow.

SECTION 13: WORKING CONDITIONS

13.1 COMPLIANCE WITH STATE, FEDERAL AND LOCAL LAWS

CONTRACTOR shall comply with all applicable County, State and Federal laws relating to wages, hours and all other applicable laws relating to the employment or protection of employees, now or thereafter in effect.

13.2 FAIR LABOR STANDARDS ACT

CONTRACTOR is required and hereby agrees by execution of this Agreement to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended and changed from time to time.

SECTION 14: INSURANCE

CONTRACTOR shall furnish to CITY of Miramar, Risk Manager, Risk Management Division, 2300 Civic Center Place, Miramar, Florida 33025, certificates of insurance which indicate that insurance coverage has been obtained that meets the requirements contained in Exhibit 8 attached hereto.

SECTION 15: INDEMNIFICATION

CONTRACTOR shall indemnify, defend and hold harmless the CITY and its officials, employees and agents (collectively referred to as "Indemnities") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by this Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of CONTRACTOR or its employees, agents or subcontractors (collectively referred to as "CONTRACTOR"), regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them or (ii) the failure of CONTRACTOR to comply with any of the paragraphs herein or the failure of CONTRACTOR to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state,, in connection with the performance of this Agreement. CONTRACTOR expressly agrees to indemnify and hold harmless the Indemnities, or any of them, from and against all liabilities which may be asserted by an employee or former employee of CONTRACTOR, or any of its subcontractors, as provide above, for which CONTRACTOR's liability to such employee would otherwise be limited to payments under state Worker's Compensation or similar laws.

SECTION 16: ASSIGNMENT OF AGREEMENT

This Agreement, or any portion thereof, shall not, under any circumstances, be sublet or assigned without the express written consent of the CITY Commission. CONTRACTOR shall not sell or otherwise dispose of any assets during the term of this Agreement, which sale or disposition will in any way affect the ability of

CONTRACTOR to perform its obligations under this Agreement, without the express consent of the CITY Commission by action taken in a formal meeting of said body. For purposes of this Agreement, a stock sale of CONTRACTOR's stock in excess of fifty-one percent (51%) shall constitute a non-permitted assignment and subject CONTRACTOR to the default provisions of this Agreement.

SECTION 17: OPERATIONS DURING DISPUTE

- 17.1.1 In the event that any dispute arises between CITY and CONTRACTOR relating to the performance or compensation under this Agreement, CONTRACTOR shall continue to render service and receive justifiable compensation in full compliance with all terms and conditions of this Agreement as interpreted, in good faith, by CITY, regardless of such dispute.
- 17.2 CONTRACTOR expressly recognizes the paramount right and duty of CITY to provide adequate waste Collection and disposal services to its residents and further agrees, in consideration of the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court without first negotiating with CITY in good faith for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute may present the matter to a court of competent jurisdiction in Broward County, Florida in an appropriate suit therefore instituted by it or by CITY.
- 17.2.1 Notwithstanding the other provisions in this Section, CITY reserves the right to terminate this Agreement at any time whenever the service provided by CONTRACTOR fails to meet reasonable standards of the trade, after CITY provides written notice to CONTRACTOR pursuant to Sections 8.6 and 8.7 of this Agreement. Upon termination, CITY may call the bond and apply the cash and surety bond for the cost of service more than that charged to CITY by the firm engaged for the balance of the Agreement period.

SECTION 18: ORDINANCE

Nothing contained in any CITY ordinance hereafter adopted pertaining to the Collection of Solid Waste shall in anyway be construed to affect, change, modify or otherwise alter the duties, responsibilities, and operations of CONTRACTOR in the performance of the terms of this Agreement, unless it is agreed to in writing by both CONTRACTOR and CITY and this Agreement is amended accordingly.

SECTION 19: AMENDMENTS

Amendments in writing that are consistent with the purposes of this Agreement may be made with the mutual consent of CITY and CONTRACTOR.

SECTION 20: MODIFICATIONS TO THE CONTRACT

The CITY shall have the power to make changes in this Agreement as the result of changes in law, CITY Code or both to impose new rules and regulations on the CONTRACTOR under this Agreement relative to the scope and methods of providing Collection Services as shall from time-to-time be necessary and desirable

for the public welfare. The CITY shall give the CONTRACTOR notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection Services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations and obligations, financial or otherwise, of the CONTRACTOR.

The CITY and the CONTRACTOR understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. If there are any changes in governing law that would result in a material financial impact to either party to this Agreement, the CITY and CONTRACTOR agree to enter into good faith negotiations to remedy such impact.

The CONTRACTOR agrees that the terms and provisions of CITY Code as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Agreement and the customers of the CONTRACTOR located within the Service Area. In the event any future change in the CITY Code materially alters the obligations of the CONTRACTOR, then the Collection charges established in this Agreement shall be adjusted. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law. The CITY and CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, the CITY and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section. The CITY and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

SECTION 21: CERTIFIED FINANCIAL STATEMENT REQUIRED

A certified annual financial statement ("Annual Report") of CONTRACTOR or Waste Pro USA, Inc., shall be furnished to CITY within six (6) months of the close of CONTRACTOR's fiscal year on an annual basis throughout the term of this Agreement or any extension thereof.

SECTION 22: RIGHT TO REQUIRE PERFORMANCE

The failure of the parties at any time to require performance of any provisions hereof shall in no way affect their rights thereafter to enforce same. No waiver of any breach of any provisions hereof shall be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

SECTION 23: LAW GOVERNING

The Agreement shall be governed and enforced pursuant to the laws of the State of Florida. Venue for any litigation shall be commenced in Broward County, Florida.

SECTION 24: CONTRACTOR'S PERSONNEL

- 24.1 CONTRACTOR shall assign a qualified person or persons to be in charge of its operations within CITY, and shall give the name or names of CONTRACTOR's representatives to CITY. CONTRACTOR shall also provide information regarding the experience of CONTRACTOR's representatives.
- 24.2 CITY has the right to require that CONTRACTOR's Collection employees wear a clean uniform or shirt bearing CONTRACTOR's name.
- 24.3 Each driver shall, at all times, carry a valid Florida driver's license for the type of vehicle they are driving.
- 24.4 CONTRACTOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONTRACTOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.
- 24.5 All employees and contractors of CONTRACTOR shall be considered to be, at all times, the sole employees or contractors of CONTRACTOR under its sole direction and not an employee, contractor, or agent of CITY. CONTRACTOR shall supply competent and physically capable employees and contractors. CITY may require CONTRACTOR to remove any employee or contractor it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the services is not in the best interest of CITY.
- 24.6 The direction and supervision of refuse Collection and disposal and salvage operations shall be by competent, qualified and sober personnel, and CONTRACTOR shall devote sufficient personnel, time and attention to the direction of the operation to assure performance satisfactory to CITY. All subcontractors, subconsultants, superintendents, foremen and workmen employed by CONTRACTOR shall be careful and competent. CONTRACTOR shall also provide uniforms that are clearly identified with the company name. Employees and subcontractors of CONTRACTOR shall have and wear proper dress attire at all times. Proper dress attire shall consist of industrial style work pants, a button front shirt or T-shirt with CONTRACTOR's company name or logo and the name of the shirt bearer, and appropriate footwear.
- 24.7 All employees used by CONTRACTOR during the term of the Agreement shall be of a standing or affiliation that will permit CONTRACTOR's performance herein to be carried on harmoniously and without delay, and in no case, or in any circumstance, will such employees cause any disturbance, interference or delay to any work or service rendered to CITY or by CITY and in no case or in any circumstances will the employees conduct themselves negligently, disorderly or dishonestly in the due and proper performance of the employee's duties. CONTRACTOR shall see to it that its employees serve the public in a courteous, helpful and impartial manner. CONTRACTOR shall furnish CITY with a current roster of employees upon request.

24.8 CONTRACTOR's employees providing Residential Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. No employee shall meddle with property that does not concern him. Care should be taken to prevent damage to property, including flowers, scrubs, and other plantings. After emptying Roll Carts, Recycling Bins, or Containers, employees shall return them to the same location from which they were taken, in the proper position behind the curb or edge of pavement and anything spilled shall be picked up immediately by such employee. Any damages incurred shall be paid by CONTRACTOR.

SECTION 25: COMPLIANCE WITH LAWS AND REGULATIONS

CONTRACTOR hereby agrees to abide by and comply with all applicable Federal, State, County and CITY laws, Ordinances and regulations. CONTRACTOR and its cash/surety shall indemnify, defend and save harmless CITY, its CITY Commissioners, all its officers, representatives, agents and employees against any claim or liability arising from or based on the violation of any such laws, regulations, ordinances, orders or decrees, whether by itself or its employees. CONTRACTOR shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.

SECTION 26: SAVINGS CLAUSE

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 or the CITY, such provisions, 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 or limitation of its use.

SECTION 27: GENERAL

27.1 NO CONTINGENT FEES

CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee, agent, consultant, or lobbyist working solely for CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee, agent, consultant, or lobbyist working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the Agreement price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

27.2 NO WAIVER

No waiver by CITY of any term, covenant or condition herein contained shall be deemed to be a waiver of such term, covenant or condition or any subsequent

breach of the same or any other term, covenant or condition herein contained. The rights and remedies created by this Agreement are cumulative and are not intended to be exclusive. The use of one remedy under this Agreement shall not be taken to exclude or waive the right or use of another Agreement, and each party shall be entitled to pursue all remedies generally available under the laws of the State of Florida.

SECTION 28: LITIGATION

28.1 ATTORNEYS' FEES

In the event of any litigation between CITY and CONTRACTOR which arises out of, pertains to, or relates to this Agreement, or the breach of it, or the standard of performance required in it, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party, subject to the limits of this paragraph. Where the prevailing party is awarded compensatory damages from the non-prevailing party, the amount of attorney's fees shall not exceed the amount of compensatory damages (it being the intent that no attorney's fees shall be recoverable by a prevailing party in the absence of an award of compensatory damages, other than nominal damages). If no such compensatory damages are awarded, the prevailing party is entitled to reasonable attorney's fees for the defense against the non-prevailing party's claim, which shall not exceed the amount of the Agreement as adjusted by amendments as are binding upon the parties.

28.2 LEGAL REPRESENTATION

It is acknowledged that each party to this Agreement has had the opportunity to be represented by legal counsel in the preparation of this Agreement and, accordingly, the rule that an Agreement shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

SECTION 29: MEDIATION

Before a party may file a lawsuit or other cause of action against the other party to this Agreement resulting from a claim arising out of or relating to this Agreement, the parties must submit to non-binding mediation of said dispute. Notice of the claim or controversy must be provided by the complaining party to the other party, and mediation shall be scheduled to occur before a Circuit Court certified mediator within fifteen (15) days of said notice.

SECTION 30: MISCELLANEOUS

30.1 RECORDS

CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to services provided and fees charged pursuant to this Agreement. Upon providing reasonable notice, such books and records will be available at all reasonable times for examination and audit by CITY and its representatives, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records may be grounds for disallowance by CITY of any fees or expenses based upon such entries.

30.2 **MODIFICATION**

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

30.3 **PROPERTY DAMAGE**

CONTRACTOR shall be responsible for the repair or replacement, if repair is not adequate of any damages to public or private property during the provision of collection service and caused by the CONTRACTOR or the CONTRACTOR's representative.

30.4 **PROPRIETARY INFORMATION**

The documents, records, routing, charges, and pricing of CONTRACTOR are proprietary information and records of CONTRACTOR, and are exempt from disclosure pursuant to Section 815.045, Florida Statutes, as may be amended from time to time, unless in the sole opinion and judgment of either the City Manager or the City Attorney, such documents and records are not within said statutory exemption.

30.5 **NOTICE**

Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by facsimile transmission with certification of transmission to the receiving party, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Section. For the present, the CONTRACTOR and the CITY designate the following as the respective places for giving of notice:

As to CITY:

Vernon E. Hargray, City Manager
City of Miramar
2300 Civic Center Place
Miramar, Florida 33025
Telephone: (954) 602-3313
Facsimile: (954) 602-3588

Copy to:

Bernard Buxton-Tetteh, Public Works Director
(Contract Administrator)
City of Miramar
13900 Pembroke Road, Bldg. L
Miramar, Florida 33027
Telephone: (954) 883-6815
Facsimile: (954) 602-3551

Jamie Alan Cole, Esq.
Weiss Serota Helfman Cole & Bierman, P.L.
City Attorney
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, Florida 33301
Telephone: (954) 763-4242
Facsimile: (954) 764-7770

As to CONTRACTOR:

Russell Mackie
Waste Pro of Florida, Inc.
Regional Vice President
17302 Pines Boulevard
Pembroke Pines, Florida 33029
Telephone: (954) 967-4200
Facsimile: (954) 241-4489

Copy to:

.

Malenie Valez
Executive Paralegal
Waste Pro USA, Inc.
2101 West S.R. 434, St. 315
Longwood, Florida 32779
Telephone: (407) 869-8800
Facsimile: (407) 869-8884

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused these presents to be executed and attested to by their duly authorized officers or representatives and their official seals to be affixed hereon, the day and year first above written.

ATTEST:

CITY:

Denise A. Gibbs, City Clerk

BY: _____
Vernon E. Hargray, City Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
USE OF AND RELIANCE BY THE
CITY OF MIRAMAR ONLY:

City Attorney
Weiss Serota Helfman
Cole & Bierman, P.L.

CONTRACTOR:

WITNESSES:

BY: _____
Waste Pro of Florida, Inc.

John J. Jennings, CEO

Print Name

Print Name

ATTEST:

Exhibit No. 1 - Residential Roll-Out Cart Container Curbside Service

Rates effective May 1, 2019

**Residential Roll-out Container Service with Inclusion of Residential Recycling Service at
No Cost to the City including Back-door Collection with 12 Bulk Pick-up per year**

Monthly charge per dwelling unit	\$18.75
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Optional Neighborhood Recycling Station Per Month, Per Location	\$450.00
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Optional Monthly Special Materials Station	\$7,500.00
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Replacement Residential Trash Roll-out Cart

Sizes:

96 Gallons	\$58.22 per container
64 Gallons	\$53.16 per container
32 Gallons	\$48.09 per container

Replacement - Residential Recycling Bin/Cart

Per Bin	\$5.32 per container
96 Gallons	\$60.75 per cart
64 Gallons	\$55.69 per cart
32 Gallons	\$50.63 per cart

Additional Monthly Cost for Curbside Trash Cart(s)

96 Gallon Cart	\$14.82 Monthly cost for each additional 96 gallon cart
64 Gallon Cart	\$11.79 Monthly cost for each additional 64 gallon cart
32 Gallon Cart	\$8.87 Monthly cost for each additional 32 gallon cart

Exhibit No. 2 - Multi-Family Container Services (Monthly Charges)

Rates effective May 1, 2019

Container ! Size ↓	1x / wk	2x / wk	3x / wk	4x / wk	5x / wk	6x / wk	7x / wk
1 Cubic Yard	\$116.63	\$222.61	\$328.62	\$434.30	\$540.62	\$646.63	\$752.63
2 Cubic Yard	\$217.27	\$413.51	\$610.00	\$804.73	\$999.76	\$1,195.97	\$1,379.67
3 Cubic Yard	\$286.19	\$544.00	\$803.02	\$1,061.82	\$1,321.05	\$1,577.14	\$1,828.31
4 Cubic Yard	\$353.05	\$675.86	\$998.69	\$1,321.13	\$1,641.36	\$1,962.69	\$2,265.87
6 Cubic Yard	\$490.69	\$940.10	\$1,390.72	\$1,841.36	\$3,290.77	\$2,741.41	\$3,190.84
8 Cubic Yard	\$626.65	\$1,215.10	\$1,823.85	\$2,431.38	\$3,046.19	\$3,646.48	\$4,255.22

The following charges are in addition to Monthly Service charge:

Container Size ↓	Monthly Maintenance Fee
1 Yard	\$8.10
2 Yard	\$10.80
3 Yard	\$13.50
4 Yard	\$16.20
6 Yard	\$18.90
8 Yard	\$21.60

Re-Instatement Fee \$25.00

Optional services:

Lock Service (per month) \$10.00

Roll-out to Truck Monthly

Charge (1x week)

Short (<20 feet) \$4.20

Long (>20 feet) \$7.80

Casters (monthly) \$16.80

Roll-out and Caster Fees (charges are per month, one roll-out per week, multiple roll-outs per week shall be the number of roll-outs multiple by the total monthly cost):

Exhibit No. 3 - Commercial Container Service (Monthly Charges)

Rates effective May 1, 2019

Container Size ↓	1x wk	2x wk	3x wk	4x wk	5x wk	6x wk	7x wk
<u>1 Cubic Yard</u>	\$117.30	\$235.70	\$348.73	\$469.18	\$586.45	\$703.76	\$821.06
<u>2 Cubic Yard</u>	\$242.88	\$458.46	\$677.64	\$893.09	\$1,109.23	\$1,326.55	\$1,530.11
<u>3 Cubic Yard</u>	\$318.19	\$605.40	\$893.80	\$1,181.00	\$1,468.21	\$1,753.69	\$2,032.99
<u>4 Cubic Yard</u>	\$391.61	\$747.94	\$1,105.52	\$1,463.09	\$1,817.66	\$2,172.51	\$2,518.76
<u>6 Cubic Yard</u>	\$543.44	\$1,040.49	\$1,537.55	\$2,034.61	\$2,531.67	\$3,028.73	\$3,525.81
<u>8 Cubic Yard</u>	\$692.36	\$1,342.64	\$2,014.56	\$2,685.27	\$3,357.20	\$4,029.12	\$4,701.02

The following charges are in addition to Monthly Service charge:

Container Size ↓	Monthly Maintenance Fee
1 Yard	\$8.10
2 Yard	\$10.80
3 Yard	\$13.50
4 Yard	\$16.20
6 Yard	\$18.90
8 Yard	\$21.60

Re-Instatement Fee \$25.00

Optional services:

Lock Service (per month) \$10.00

Roll-out to Truck Monthly

Charge (1x week)	
Short (<20 feet)	\$4.20
Long (>20 feet)	\$7.80

Casters (monthly) \$16.80

Commercial Curbside Cart Collection Service

96 Gallon Cart \$27.96 per month

Additional Commercial Curbside Cart Collection Service

\$23.07 Monthly cost for each additional 96 gallon cart

Roll-out and Caster Fees (charges are per month, one roll-out per week, multiple roll-outs per week shall be the number of roll-outs multiple by the total monthly cost):

Exhibit No. 4A - Commercial Compactor Service (Monthly Charges)							
	New Rate Effective May 1, 2019						
Compactor Size ↓	1x wk	2x wk	3x wk	4x wk	5x wk	6x wk	7x wk
1 Cubic Yard	\$168.19	\$336.42	504.53	672.99	840.88	1009.07	1177.25
2 Cubic Yard	\$345.98	\$651.08	\$965.00	\$1,266.95	\$1,573.71	\$1,881.65	\$2,170.07
3 Cubic Yard	\$453.01	\$861.38	\$1,270.92	\$1,679.26	\$2,087.63	\$2,490.83	\$2,889.95
4 Cubic Yard	\$556.79	\$1,063.34	\$1,571.16	\$2,078.95	\$2,577.83	\$3,079.85	\$3,577.84
6 Cubic Yard	\$772.10	\$1,477.49	\$2,182.91	\$2,888.33	\$3,593.75	\$4,299.17	\$5,004.65
8 Cubic Yard	\$983.54	\$1,905.98	\$2,859.68	\$3,811.97	\$4,765.56	\$5,719.18	\$6,672.72

Exhibit 4B - Commercial Roll-Off Compactor Service (charges are per pull)						
	New Rate Effective May 1, 2019					
<u>Container Size →</u>	10 CY	15 CY	20 CY	30 CY	35 CY	40 CY
Haul Rate	\$272.11	\$285.85	\$299.55	\$313.25	\$320.12	\$326.95
Disposal	TBD	TBD	TBD	TBD	TBD	TBD
<u>TBD</u>	Is the Cost of Disposal of materials based on its weight.					

Exhibit No. 5 Pull Services (charges are per pull)

New Rate Effective May 1, 2019

<u>Container Size →</u>	10 CY	15 CY	20 CY	30 CY	40 CY
Pick-up & Haul:	\$231.05	\$244.75	\$258.45	\$272.15	\$285.85
Disposal:	TBD	TBD	TBD	TBD	TBD
<u>TBD</u> Is the Cost of Disposal of materials based on its weight.					
Pull Service Delivery:					
<u>Container Size →</u>	10 CY	15 CY	20 CY	30 CY	40 CY
	\$135.50	\$135.50	\$135.50	\$135.50	\$135.50
Pull Service Maintenance less than (<) 30 days (charges are per day)					
<u>Container Size →</u>	10 CY	15 CY	20 CY	30 CY	40 CY
	\$3.90	\$3.90	\$3.90	\$3.90	\$3.90
Pull Service Maintenance Greater than (>) 30 days (charges are per day)					
<u>Container Size →</u>	10 CY	15 CY	20 CY	30 CY	40 CY
	\$3.90	\$3.90	\$3.90	\$3.90	\$3.90
<u>Construction and Demolition (C&D) (charges are per pull)</u>					
New Rate Effective May 1, 2019					
<u>Container Size →</u>	10 CY	15 CY	20 CY	30 CY	40 CY
Pick-up and Haul	\$241.62	\$260.19	\$278.69	\$303.34	\$318.93
Disposal:	TBD	TBD	TBD	TBD	TBD
<u>TBD</u> Is the Cost of Disposal of materials based on its weight.					

Amended and Restated

Solid Waste and Recycling

Collection Franchise Agreement

Between

THE CITY OF MIRAMAR

AND

WASTE PRO OF FLORIDA, INC.

AMENDED AND RESTATED FRANCHISE AGREEMENT MIRAMAR, FLORIDA

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**AMENDED AND RESTATED FRANCHISE AGREEMENT
FOR
SOLID WASTE & RECYCLING COLLECTION**

This Amended and Restated Franchise Agreement (hereinafter referred to as "Agreement") is made and entered into the _____ day of _____, 2016, by and between the CITY OF MIRAMAR, a municipal corporation authorized and doing business in the State of Florida (hereinafter referred to as "CITY"), and Waste Pro of Florida, Inc. (hereinafter referred to as "CONTRACTOR").

WITNESSETH:

WHEREAS, the CITY issued RFP No. 10-07-18 for the provision of Solid Waste and Recycling Collection Services and CONTRACTOR was determined to be the Successful Proposer to the RFP; and

WHEREAS, the City and the CONTRACTOR entered into a Franchise Agreement for Solid Waste and Recycling Collection, dated May 1, 2011, (the "Original Franchise Agreement") for a five year period, with the City's option to renew the Original Franchise Agreement, for two, three year renewal periods thereafter; and

WHEREAS, the City desires to exercise its option to renew the Original Franchise Agreement for the first three-year renewal period; and

WHEREAS, CITY and CONTRACTOR desire to enter into this Amended and Restated Agreement for the provision of a Solid Waste and Recycling Collection Services upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, for the mutual benefits and other consideration recited herein, the parties agree as follows:

SECTION 1: FRANCHISE

1.1 FRANCHISE

For a period of three (3) years, CITY grants CONTRACTOR the exclusive franchise and the sole obligation to operate and maintain a comprehensive Solid Waste and other refuse Collection system and service, as well as Recycling Collection systems for Residential Curbside Service Units in and for CITY, except as specifically excluded in this Agreement. This Agreement does not include Commercial Recycling of recovered materials. CONTRACTOR is authorized by CITY to enter in and upon private property, in, upon, over and across the present and future streets, alleys, bridges, easements and other public places of CITY for the purpose of collecting the Solid Waste, Recyclable Materials and other refuse of the residents, inhabitants, businesses and other entities existing within the municipal corporate limits of CITY, or as directed in conformance with the Charter and Ordinances of CITY and other applicable law.

1.2 TERM OF FRANCHISE

The term of the Original Franchise Agreement for Solid Waste & Recycling Collection and disposal services was for a period of five (5) consecutive years, commencing on May 1, 2011 at 12:00 A.M. and continuing through April 30, 2016 at 11:59 P.M. (the "Initial Term"), subject to renewal for two, three (3) year renewal periods. The term of this Amended and Restated Agreement shall be for a period of three (3) consecutive years commencing on May 1, 2016 at 12:00 A.M. and continuing through April 30, 2019 at 11:59 P.M. (the "First Renewal Term"), subject to renewal as provided in Section 1.5.

1.3 EXPIRATION OF AGREEMENT PROVISIONS

In order to provide for a smooth transition period at the expiration of the First Renewal Term of this Agreement, CITY agrees to award a new Agreement by March 1, 2019, to be effective May 1, 2019. In the event a new Agreement has not been awarded in the time frame indicated above, and renewal options are not being exercised, CONTRACTOR agrees to provide service to CITY for up to an additional one hundred and twenty (120) day period beyond the expiration of the Agreement at the then established rates, provided CITY requests said services, in writing, at such time.

1.4 FRANCHISE FEE

CONTRACTOR agrees to pay Franchise Fees to the CITY in return for the use of the streets, alleys, bridges, easements and other public places of CITY as reflected in the Rate Structure attached hereto as Exhibits 1 through 5, for Solid Waste, Recyclable Materials, and other refuse Collection and removal accounts served within CITY's municipal corporate limits. The aforesaid payment shall be made to CITY by:

- 1.4.1. CITY deducting the Franchise Fee from the amounts collected by CITY from the accounts served by CONTRACTOR, as provided herein, or
- 1.4.2. Collection and payment of the Franchise Fee by CONTRACTOR where CONTRACTOR performs billing and collection of payment, as provided under Sections 5.1 and 5.2.2 of this Agreement.

1.5 OPTION TO RENEW

After the Initial Term, the CITY exercised the option to renew this Agreement for an additional three (3) year period, and upon completion of that period, the CITY shall again have the option to renew for an additional three (3) year period. The CITY and CONTRACTOR hereby acknowledge and agree to the CITY's exercise of the first renewal option term for the commencing First Renewal Term. The parties may extend this Agreement by mutual consent, in writing, for an additional three (3) year period prior to the expiration of the First Renewal Term on May 1, 2019. This provision in no way limits CITY's right to terminate this Agreement for cause at any time during the First Renewal Term or any extension thereof pursuant to Sections 8.6 and 8.7 of this Agreement.

SECTION 2: DEFINITIONS

For purposes of this Agreement, the definitions contained in this Section shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the Code of the CITY shall apply. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

- A. **Administrative Fees** shall mean fees paid by CONTRACTOR to CITY for the purpose of covering CITY's administrative costs associated with CITY performing the monitoring, billing and collection of payment for all Services subject to this franchise agreement.
- B. **Agreement** shall mean this Franchise Agreement.
- C. **Bags** shall mean non-dissolvable plastic trash bags, each with a capacity of thirty-nine (39) gallons or less.
- D. **Bio-Hazardous or Bio-Medical Waste** shall mean any waste which may cause disease or reasonably be suspected of harboring pathogenic organisms. Included are waste resulting from the operation of medical clinics, hospitals, and other facilities processing wastes that may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves.
- E. **Bulk Trash** shall mean those wastes that may require special handling and management, including but not limited to: White Goods, furniture, concrete, rubble, mixed roofing materials, rock, gravel and other earthen materials, equipment, wire and cable and other similar items including materials resulting from home improvements and any and all household goods and furniture which are customary to ordinary housekeeping operations of a Residential Service Unit. The customer at the Residential Service Unit wherein the Bulk Trash is collected must generate Bulk Trash. Bulk Trash does not include items herein defined as Contractor-Generated Waste or Exempt Waste.
- F. **Bulk Waste** shall mean Bulk Trash and Bulk Yard Trash. Bulk Waste must be generated by the customer and at the Residential Service Unit wherein the Bulk Waste is collected. Bulk Waste does not include items herein defined as Contractor-Generated Waste or Exempt Waste.
- G. **Bulk Yard Trash** shall mean all types of palm fronds and Yard Trash exceeding six feet (6') in its longest dimension, exceeding twelve inches (12") in diameter and weighing forty pounds (40 lbs.) or more. Bulk Yard Trash must be a part of normal yard maintenance and be generated by the customer at the Residential Service Unit wherein the Bulk Yard Trash is collected. Bulk Yard Trash does not include items herein defined as Contractor-Generated Waste or Exempt Waste.
- H. **City Manager** shall mean the City Manager of the CITY, or the City Manager's designated representative(s).
- I. **Collection** shall mean the process in which Residential Waste, Commercial Solid Waste, Construction and Demolition Debris, or Recyclable Materials are removed and transported to the Designated Disposal Facility or Designated Recycling Facility as appropriate.
- J. **Collection Service** shall mean Residential Services and Commercial Services.
- K. **Commercial Establishment** shall mean all retail, professional, wholesale, institutional and industrial facilities and any other commercial enterprises, including Hotels and Motels and licensed recreational vehicle parks, offering goods or services to the public located in the Service Area.

- L. **Commercial Services** shall mean Commercial Solid Waste Collection Service and Roll-Off Collection Service performed in the Service Area.
- M. **Commercial Service Unit** shall mean any Commercial Establishment in the Service Area.
- N. **Commercial Solid Waste** shall mean any Garbage or Rubbish that is usual to the normal operations of a Commercial Service Unit. The customer at the Commercial Service Unit wherein the Commercial Solid Waste is collected and does not include items defined as Yard Trash, Bulk Waste, Contractor-Generated Waste or Exempt Waste must generate commercial Solid Waste.
- O. **Commercial Solid Waste Collection Service** shall mean the Collection and disposal of Commercial Solid Waste from Commercial Service Units in the Service Area that utilize Containers, Compactors or Roll Carts for the set-out and Collection of Commercial Solid Waste.
- P. **Compactor** shall mean any Container, regardless of size, which has a compaction mechanism, whether stationary or mobile. All such equipment must be clearly marked to prohibit their use for the disposal of Hazardous Waste, Bio-Hazardous, biological or Bio-Medical Waste or Sludge.
- Q. **Construction and Demolition Debris** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean 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, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. State Statute defines Construction and Demolition Debris as Special Waste that is further defined as Solid Waste.
- R. **Container** shall mean any metal or plastic container, with a capacity of one cubic yard up to and including ten cubic yards, designed or intended to be mechanically dumped into a loader-packer type garbage truck, including Compactors. All such Containers must be clearly marked in a manner so as to prohibit their use for the disposal of Hazardous Waste, Bio-Hazardous, biological, or Bio-Medical Waste or Sludge.
- S. **CONTRACTOR** shall mean the person or entity set out initially above that has entered into this Agreement to provide the services described herein for the Service Area.
- T. **Contractor-Generated Waste** shall mean Bulk Trash or Bulk Yard Trash generated by builders, building contractors, privately employed tree trimmer and tree surgeons, landscape services and lawn or yard maintenance services and nurseries.
- U. **County** shall mean Broward County, Florida.
- V. **Designated Disposal Facility** shall mean the facility designated by the CITY for the transport and delivery of Solid Waste, Bulk Waste and other materials (except for Recyclable Materials) collected by CONTRACTOR pursuant to this Agreement. CITY reserves the right to designate an alternative Designated Disposal Facility. CONTRACTOR shall be responsible for all Disposal Charges owed to the Designated Disposal Facility resulting from CONTRACTOR Collection Service.
- W. **Designated Recycling Facility** shall mean the Materials Recovery Facility designated by the CITY for the transport and delivery of Recyclable Materials collected by CONTRACTOR pursuant to this Agreement. CITY reserves the right to designate an alternative designated Materials Recovery Facility.

- X. **Disposal Charges** shall mean the prevailing per-ton rate charged at the Designated Disposal Facility for the acceptance and disposal of Residential Waste, Commercial Solid Waste and other waste materials.
- Y. **Dwelling Unit** shall mean any individual living unit in a single family dwelling, multi-family dwelling or mixed-used dwelling within a structure or building intended for or capable of being utilized for residential living, other than those structures or building units included within the definition of Commercial Service Unit.
- Z. **Exempt Waste** shall mean Bio-Hazardous or Bio-Medical Waste, Hazardous Waste, Sludge, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil and tires, those wastes under the control of the Nuclear Regulatory Commission and those other materials whose size, weight, or both are in excess of that allowed for Bulk Waste as defined herein.
- AA. **Franchise Fee** shall mean the charge to CONTRACTOR for the use of present and future streets, alleys, bridges, easements and other public places of CITY.
- BB. **Garbage** shall mean all putrescible waste which generally includes but is not limited to kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials, whether attributed to residential or commercial activities.
- CC. **Garbage Can** shall mean any commonly available light gauge steel, plastic or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, and without any jagged or sharp edges, furnished with a closely fitted top or lid and handle. A Garbage Can shall be of a capacity of not less than thirty-two (32) gallons, and not greater than thirty-nine (39) gallons and, including waste materials, such Garbage Can shall not exceed fifty (50) pounds in weight.
- DD. **Hazardous Waste** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean solid waste, or a combination of solid wastes which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.
- EE. **Materials Recovery Facility ("MRF")** shall mean any facility designed, operated, and legally permitted for the purpose of receiving, sorting, processing, storing, or preparing Recyclable Materials for sale, and that meets the requirements of Section 403.7046, Florida Statutes.
- FF. **Multi-Family Service Unit** shall mean any combination of five (5) or more Dwelling Units in the Service Area utilizing a common Container or Containers for the accumulation and set-out of Residential Solid Waste.
- GG. **Neighborhood Recycling Station** shall mean those locations designated by the CITY for the Collection of Recyclable Materials, where the CONTRACTOR shall maintain sufficient Recycling Containers for residents to deposit Recyclable Materials. The CITY shall designate the number and type of containers.
- HH. **Non-Collection Notice** shall mean a form used by the CONTRACTOR to notify customers of the reason for non-Collection of materials set out by the customer for Collection by the CONTRACTOR pursuant to the Agreement, developed by the CONTRACTOR and approved by the CITY.
- II. **Ordinance** shall mean those parts of the Code of the CITY governing Solid Waste Collection, Disposal and Recycling activities within the CITY.
- JJ. **Rate Structure** shall mean the rates approved by the CITY shown in Exhibits 1 through 5 attached to this Agreement.

- KK. **Recovered Materials** means 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 the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.
- LL. **Recyclable Materials** shall mean those materials which are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste. Recyclable Materials to be collected include: newsprint; old corrugated cardboard; incidental craft paper; clear, green, and brown glass containers; steel, bimetal and aluminum containers; #1 PETE, #2 HDPE and #3 PVC plastic containers; plastic coated and aseptic containers. These materials may be re-defined by the CITY from time-to-time, at the sole discretion of the CITY.
- MM. **Recycling** shall mean any process by which materials that would otherwise have been Solid Waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
- NN. **Recycling Bin** shall mean a rigid rectangular receptacle made of plastic or other suitable substance of no less than 14 gallons, provided and distributed by the CONTRACTOR, to those Residential Curbside Service Units in the Service Area.
- OO. **Recycling Cart** shall mean a Container that is made with heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the City logo, mounted on two wheels, equipped with a tight fitting hinged lid, not less than thirty (30) gallons nor more than one hundred (100) gallons in rated capacity, and designed or intended to be used for automated or semi-automated Collection Service for recycling.
- PP. **Recycling Container** shall mean a Container designated for Recyclable Materials Collection, provided and distributed by CONTRACTOR, to all Multi-Family Service Units in the Service Area.
- QQ. **Recycling Services** shall mean the Collection of Recyclable Materials by the CONTRACTOR from those Residential Service Units in the Service Area and the delivery of those Recyclable Materials to a Materials Recovery Facility.
- RR. **Residential Containerized Recycling Collection Service** shall mean the Collection of Recyclable Materials from Residential Containerized Service units.
- SS. **Residential Containerized Bulk Waste Collection Service** shall mean Bulk Waste Collection from Residential Containerized Service Units.
- TT. **Residential Containerized Collection Service** shall mean Residential Containerized Solid Waste Collection Service, Residential Containerized Recycling Collection Service and Residential Containerized Bulk Waste Collection Service.
- UU. **Residential Containerized Service Unit** shall mean any Residential Service Unit utilizing Container(s) or Compactor(s) for the accumulation and set-out of Residential Solid Waste.
- VV. **Residential Containerized Solid Waste Collection Service** shall mean the Collection of Residential Solid Waste from Residential Containerized Service Units located within the Service Area and the delivery of the Residential Solid Waste to the Designated Disposal Facility.
- WW. **Residential Curbside Bulk Waste Collection Service** shall mean Bulk Waste and Yard Trash Collection from Residential Curbside Service Units.
- XX. **Residential Curbside Collection Service** shall mean Residential Curbside Solid Waste Collection Service, Residential Curbside Recycling Collection Service, and Residential Curbside Bulk Waste Collection Service.

- YY. **Residential Curbside Recycling Collection Service** shall mean the Collection of Recyclable Materials from Residential Curbside Service Units, and Multi-Family Service Units not receiving containerized services, utilizing Recycling Bins, Recycling Carts, or Recycling Containers.
- ZZ. **Residential Curbside Service Unit** shall mean any Residential Service Unit, or Multi-Family Service Unit not receiving containerized services, utilizing a Roll Cart Bags, or bundles for the accumulation and set-out of Residential Solid Waste.
- AAA. **Residential Curbside Solid Waste Collection Service** shall mean the Collection of Residential Solid Waste from Residential Curbside Service Units, and Multi-Family Service Units not receiving containerized services, in the Service Area and the delivery of that Residential Solid Waste to the Disposal Facility.
- BBB. **Residential Services** shall mean Residential Curbside Collection Service and Residential Containerized Collection Service.
- CCC. **Residential Service Unit** shall mean Residential Curbside Service Units and Residential Containerized Service Units located in the Service Area.
- DDD. **Residential Solid Waste** shall mean Garbage, Yard Trash, and Rubbish resulting from the normal household activities of a Residential Service Unit. Residential Solid Waste must be generated by the customer and at the Residential Service Unit wherein the Residential Solid Waste is collected, and does not include items defined herein as Contractor-Generated Waste or Exempt Waste.
- EEE. **Residential Waste** shall mean Residential Solid Waste and Bulk Waste resulting from the normal household activities of a Residential Service Unit. Residential Waste must be generated by the customer and at the Residential Service Unit wherein the Residential Waste is collected, and does not include items defined herein as Contractor-Generated Waste or Exempt Waste.
- FFF. **Roll Cart** shall mean a Container that is made with heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the City logo, mounted on two wheels, equipped with a tight fitting hinged lid, not less than thirty (30) gallons nor more than one hundred (100) gallons in rated capacity, and designed or intended to be used for automated or semi-automated Collection Service for Garbage and Rubbish.
- GGG. **Roll-Off Collection Service** shall mean the Collection and disposal of Roll-Off Containers and Roll-Off Compactors containing materials including, but not limited to, Contractor-Generated Waste and Construction and Demolition Debris, which are not herein defined as Residential Waste or Commercial Solid Waste but are considered exclusive to the CONTRACTOR under the terms and conditions of this Agreement. All such Roll-Off Containers must be clearly marked to prohibit their use for the disposal of Hazardous Waste, Bio-Hazardous, biological or Bio-Medical Waste or Sludge.
- HHH. **Roll-Off Compactor** shall mean any Compactor with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle and transported to a disposal facility for dumping.
- III. **Roll-Off Containers** shall mean any non-Compactor storage and Collection equipment or device with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle and transported to a disposal facility for dumping.
- JJJ. **Rubbish** shall mean all refuse, accumulation of paper, excelsior, rags, wooden or paper boxes and containers, sweep-ups and all other accumulations of a nature other than Garbage and Yard Trash, resulting from the normal activities of a Residential Service Unit or Commercial Service Unit wherein the Rubbish is collected. Rubbish does not include items defined as Contractor-Generated Waste or Exempt Waste.
- KKK. **Scheduled Collection Day** shall mean any day in which Collection activities take place; residential Collection takes place Monday through Saturday, and commercial Collection takes place Monday through Sunday.

- LLL. **Service Area** shall mean the municipal limits of the CITY.
- MMM. **Sludge** shall mean the accumulated solids, residues and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects.
- NNN. **Solid Waste** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean Sludge unregulated under the federal Clean Water Act or Clean Air Act; Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or Garbage, Rubbish, refuse, Special Waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recyclable Materials are not Solid Waste. Solid Waste shall include Residential Solid Waste, Residential Waste, and Commercial Solid Waste as defined in this Section.
- OOO. **Temporary Household Hazardous and Electronic Waste Station** shall mean those temporary locations designated or approved by the CITY for the Collection of special household items, including but not limited to: paint containers, aerosol cans, pesticides, chemicals, batteries, lead acid batteries (including automotive), fluorescent light bulbs, automotive tires, used oil, and electronic waste, etc. No Solid Waste, Recyclable Materials, Bulk Waste, Yard Debris, or Construction and Demolition Debris shall be accepted at such stations.
- PPP. **Special Waste** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean Solid Wastes that can require special handling and management, including but not limited to white goods, waste tires, used oil, lead-acid batteries, Construction and Demolition Debris, ash residue, Yard Trash and biological wastes.
- QQQ. **Yard Trash** shall mean any vegetative matter resulting from normal yard and landscaping maintenance that is not more than twelve inches (12") in diameter. Yard Trash must be generated by the customer and at the Residential Service Unit wherein the Yard Trash is collected. Yard Trash does not include items defined as Contractor-Generated Waste or Exempt Waste.
- RRR. **White Goods** shall mean discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White Goods must be generated by the customer and at the Residential Service Unit wherein the White Goods are collected.
- SSS. **Work Day** shall mean any day, Monday through Friday, excluding CITY holidays.

SECTION 3: SERVICES TO BE PROVIDED BY CONTRACTOR

CONTRACTOR shall provide all Residential Services and Commercial Services, as defined in Section 2 above, within the corporate limits of CITY, except as provided in this Agreement. Said service shall include:

3.1 RESIDENTIAL SOLID WASTE

- 3.1.1 **Residential Curbside Solid Waste Collection Service.** CONTRACTOR shall pick up solid waste and recycling for collection, twice per week, using a Roll Cart or Recycling Bin for solid waste and a Recycling Cart for recycling from each Residential Curbside Service Unit. Said items shall be placed at the curb, within five (5) feet of the street. In addition, branches, limbs and other vegetative items less than six (6) feet in its longest dimension and less than twelve inches (12") in diameter, and not easily contained in a Roll Cart, shall be picked up during the regularly scheduled bulk trash collection service day.

Christmas Trees shall be a special pick up by the CONTRACTOR to occur within a 7 day period as designated by the CITY in collaboration with CONTRACTOR. The method of pick up by CONTRACTOR will require approval by CITY. Any collection of Christmas trees outside of the 7 day period will be collected on the regular bulk trash collection day.

A Residential Curbside Customer that uses a Roll Cart shall not use Curbside Containers or Plastic Bags to set out Garbage or Rubbish, unless the City approves such practices.

Each Curbside Container and Roll Cart shall be constructed so as to prevent intrusion by water and animals, and the expulsion of its contents; have a cover that is free from sharp edges; and not have inside structures that prevent the free discharge of the Container's contents.

A Residential Curbside Customer is required to place Yard Trash in a Roll Cart or neatly stack Yard Trash for bulk trash collection. Leaves, twigs, and similar small materials shall be set-out in a Roll-Cart or in bags for bulk trash collection.

Recyclable Materials shall be set out for Collection in a Recycling Bin or Recycling Cart. Cardboard shall be flattened, cut to a maximum size of 3 feet by 3 feet, and placed in or next to a Recycling Bin.

Each Residential Curbside Customer shall place their Curbside Container, Roll Cart, Recycling Bin, Recycling Cart, Plastic Bag, Yard Trash, Bulk Waste, White Goods, and Electronic Equipment at the Curbside prior to 6:00 a.m. on the Scheduled Collection Day.

- 3.1.2 Residential Containerized Solid Waste Collection Service. CONTRACTOR shall provide sizes, numbers and types of Containers necessary for efficient and sanitary services based on the reasonable request of an authorized representative of Multi-Family Service Units. Service levels must meet the requirements as contained in CITY's Code of Ordinances. CONTRACTOR shall provide Containers at the approved rental rates; however, customers may own their Container(s) provided that the customer shall be completely serviced by the CONTRACTOR's equipment. Containers shall be picked up as frequently as volume demands but not less than twice per week, unless the CITY approves less frequent service. The size of Containers and frequency of pick-up shall be mutually agreed upon by the customer and the CONTRACTOR. Containers provided by CONTRACTOR shall meet accepted industry standards and be maintained by CONTRACTOR as necessary to maintain efficient and sanitary services. Containers owned by customers shall meet accepted industry standards and be maintained by the customer. CONTRACTOR shall notify customer if it is deemed necessary to increase service and notify CITY of their intention to do so. Rates shall be in accordance with attached Exhibits.

Each Residential Mechanical Container Customer shall comply with the following set-out procedures: (a) Garbage, Rubbish, and Yard Trash shall be placed in the mechanical Container located in or adjacent to their building; (b) their Recyclable Materials shall be placed in a Recycling Container located in or adjacent to their

building; (c) their Bulk Waste, White Goods, and Electronic Equipment shall be placed at the location designated for the Collection of such materials on the customer's premises; and (d) their palm fronds and Christmas trees shall be placed in the mechanical Containers or at the location designated for the Collection of such materials on the customer's premises.

The Contractor and the customer shall select mutually acceptable locations for (a) the placement of the mechanical Container and Recycling Container that will be used by the customer and serviced by the Contractor and (b) the Collection of Bulk Waste, White Goods, Electronic Equipment, palm fronds and Christmas trees. These locations are subject to the CITY's approval.

- 3.1.3 Container and Roll Cart Replacements. CONTRACTOR's employees shall take care to prevent damage to Containers and Roll Carts owned by CONTRACTOR, and Residential or Commercial Service Units by unnecessary rough treatment. However, CONTRACTOR shall replace any Container and Roll Cart owned by CONTRACTOR, Residential or Commercial Service Units damaged by CONTRACTOR, beyond normal wear and tear, at CONTRACTOR's expense, within five (5) Scheduled Collection Days at no cost or inconvenience to the customer. CONTRACTOR shall report all Container, and Roll Cart replacements to CITY.

NOTE: Section 3.2 has been purposefully left blank.

3.3 RESIDENTIAL BULK WASTE

- 3.3.1 Residential Curbside Bulk Waste Collection Service. CONTRACTOR shall pick up, 12 times per year, Bulk Waste, including Bulk Trash and Bulk Yard Trash from Residential Curbside Service Units. Bulk Waste must be generated by the customer and at the Residential Curbside Service Unit wherein the Bulk Waste is collected. Bulk Waste does not include items defined as Contractor-Generated Waste or Exempt Waste. If the customer needs additional Bulk Waste, it will be provided by CONTRACTOR as an additional service at an amount to be negotiated between CONTRACTOR and customer on an individual job basis, which fee shall be collected directly by CONTRACTOR without any obligation or responsibility on the part of CITY to bill for same. Rates shall be in accordance with the attached Exhibits 1 through 5.

A Residential Curbside Customer may set out up to four (4) tires for Collection at Curbside each month.

- 3.3.2 Residential Containerized Bulk Waste Collection Service. CONTRACTOR shall pick up Bulk Waste from Multi-Family Service Units on an on-call basis, at the rates established in the Rate Structure included in the attached Exhibits 1 through 5. CONTRACTOR shall be responsible for billing and collection of payment for Residential Containerized Bulk Waste Collection Service, which is considered an additional service. From the point of notification by CITY or the customer, CONTRACTOR shall remove the Bulk Waste on an agreed upon day, which shall be no later than forty-eight (48) hours after customer agrees to rates provided by CONTRACTOR, and such removal shall be accomplished during the hours set forth in subsection 4 herein.

- 3.3.3 Pre-Collection Route Tour. On the day of Bulk Waste Collection, the Contractor's Field Supervisor shall tour the collection route ahead of the collection truck(s) with a City Community Standards Officer to identify compliance of Residential Units. Those units determined to be in non-compliance shall be left a Notice explaining why Collection was not, or was only partially, made.

3.4 SPECIAL RESIDENTIAL COLLECTION SERVICES

- 3.4.1 Residential Off-Street Collection Service. CONTRACTOR shall provide off-street Collection of Residential Solid Waste from Residential Curbside Service Units if all adult occupants residing therein are handicapped and if a request for off-street service has been made to and approved by the CITY in the manner required by CITY. CITY shall notify CONTRACTOR in writing of any customers requiring off-street service. No additional monies shall be due to the CONTRACTOR for the provisions of off-street service to handicapped customers. The point of Collection for off-street service shall be the back or side yard or such other location as is mutually agreeable to the CONTRACTOR and the customer. In the event the appropriate location cannot be agreed upon, the CITY shall mediate the dispute and designate the location for Collection. CONTRACTOR shall provide off-street service on the same Scheduled Collection Day that Residential Curbside Service would otherwise be provided to the Residential Curbside Service Unit.

- 3.4.2 Household Hazardous and Electronic Waste Stations. CONTRACTOR on a monthly basis, and at no cost to the CITY shall provide an attended Collection station for the purpose of collecting special household items, including but not limited to: paint containers, aerosol cans, pesticides, chemicals, batteries, lead acid batteries (including automotive), fluorescent light bulbs, automotive tires, used oil, electronic wastes, etc. (each is a "HHW and E-Waste Collection Station"). The HHW and E-Waste Collection Stations shall be located at the CONTRACTOR's Operating Facility or such other City approved location within 6 miles of Miramar Town Center (located at 2300 Civic Center Place), unless otherwise approved in advance by the City, with the hours and duration for each HHW and E-Waste Collection Station to be approved by the CITY.

In addition to the monthly HHW and E-Waste Collection Stations provided by CONTRACTOR at no cost to the CITY, the CITY may request CONTRACTOR to provide additional HHW and E-Waste Collection Stations within the City, which provided by CONTRACTOR at no Collection cost to the CITY. The CITY shall only be responsible for paying the documented disposal costs incurred by the CONTRACTOR for such stations, and the total payment due from the CITY shall not exceed \$7,500 per City requested additional HHW and E-Waste Collection Station provided by CONTRACTOR within the City. CONTRACTOR shall be responsible for the documentation (including documenting the amount of materials delivered, the number of Miramar residents participating at each station, and the Contractor's incurred disposal costs) handling, transporting, and disposal or recycling of said materials.

- 3.4.3 Recycled Paint – CONTRACTOR at no cost to CITY, shall provide to CITY recycled paint in an amount equal to the amount of gallons of paint dropped off by City of Miramar residents at the monthly HHW and E-Waste Collection Stations, provided however that CONTRACTOR's obligation to provide such recycled paint to the City shall not exceed 500 gallons of recycled paint per year.

3.5 PROVISION AND OWNERSHIP OF CONTAINERS

- 3.5.1 Curbside Containers. If a Residential Curbside Customer is authorized by the City to use Curbside Containers or Plastic Bags, the Residential Curbside Customer shall provide their own Curbside Containers and Plastic Bags. Curbside Containers shall remain the property of the Residential Curbside Customer.
- 3.5.2 Recycling Bins. The CITY previously purchased and distributed Recycling Bins, which shall remain the sole property of the CITY. CONTRACTOR is not required to purchase or reimburse the CITY for the Recycling Bins. CONTRACTOR shall be responsible for the purchase of all Recycling Bins that the CONTRACTOR is required to provide under this Agreement (e.g., for the replacement of damaged or stolen Recycling Bins). Recycling Bins purchased by CONTRACTOR shall be the property of CONTRACTOR until this Agreement terminates. Upon termination, the Recycling Bins shall become the property of the CITY.
- 3.5.3 Roll Carts and Recycling Carts. CONTRACTOR shall be responsible for the purchase of all Roll Carts and Recycling Carts that the CONTRACTOR is required to provide under this Agreement. Roll Carts and Recycling Carts purchased by CONTRACTOR shall be the property of the CONTRACTOR until this Agreement is terminated. Upon termination, the Roll Carts and Recycling Carts shall become the property of the CITY.
- 3.5.4 Mechanical Containers. CONTRACTOR shall be responsible for the purchase of all mechanical Containers that the CONTRACTOR is required to provide under this Agreement. Mechanical Containers purchased by CONTRACTOR shall remain the property of the CONTRACTOR, unless 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, and in such cases the Compactor and attached Roll-Off Container shall remain the property of the customer.

3.6 MAINTENANCE AND REPAIR OF CONTAINERS

- 3.6.1 Curbside Containers. Each customer shall be responsible for cleaning, maintaining, and repairing their curbside Container, if any. Curbside Containers shall be maintained in good working order, and shall be free from sharp edges or other hindrances to efficient Collection Services.
- 3.6.2 Recycling Bins. Each Residential Curbside Customer shall be responsible for cleaning their Recycling Bin and maintaining it in a sanitary condition.
- 3.6.3 Roll Carts and Recycling Carts. Each Roll Cart and Recycling Cart shall be cleaned and kept in a sanitary condition by the customer using the cart. CONTRACTOR shall maintain each Roll Cart and Recycling Cart in good working order and appearance at all times to ensure continuous and efficient Collection Service. CONTRACTOR shall procure, and maintain at all times, an adequate supply of spare parts (e.g., wheels, lids) for the Roll Carts and Recycling Carts, or within two (2) days of receiving notice from the City or a customer of the need for repairs. CONTRACTOR shall replace, repair, paint, clean, wash, and otherwise maintain any Roll Cart or Recycling Cart within three (3) Work Days of being requested to do so by the CITY or a customer.

- 3.6.4 Mechanical Containers. CONTRACTOR shall maintain each of its mechanical Containers in good working order at all times to ensure continuous and efficient Collection Services. CONTRACTOR shall procure, and maintain at all times, an adequate supply of spare parts for its mechanical Containers. CONTRACTOR shall maintain and repair each mechanical Container so that the Container is free from holes, broken hinges, broken doors or door fasteners, broken wheels, or broken lids. Mechanical Containers shall be kept painted at all times so they do not become a detriment to the community, with the exception of Containers made of plastic, aluminum, stainless steel, or other materials that do not readily accept paint. Mechanical Containers shall be washed by the CONTRACTOR on a regular basis, as necessary, to minimize the potential for odors and nuisance conditions. CONTRACTOR shall replace, repair, paint, clean, wash, and otherwise maintain any mechanical Container within three (3) Work Days of being requested to do so by the CITY or a commercial customer.

3.7 STORAGE, DISTRIBUTION, AND REPLACEMENT OF CONTAINERS

- 3.7.1 Curbside Containers. Each customer shall be responsible for storing and replacing their own Curbside Containers, if any.
- 3.7.2 Recycling Bins. CONTRACTOR shall be responsible for the distribution of Recycling Bins. The CONTRACTOR shall distribute two (2) new Recycling Bins to a Residential Curbside customer as directed by the City within two (2) Work Days after the CITY notifies CONTRACTOR. Subject to the same conditions, the CONTRACTOR also shall distribute one new Recycling Bin to a Residential Curbside customer to replace each Recycling Bin that has been stolen or damaged beyond repair. CONTRACTOR shall be responsible for procuring, maintaining at all times, and storing an adequate supply of Recycling Bins for distribution.
- 3.7.3. Roll Carts and Recycling Carts. CONTRACTOR shall be responsible for the distribution of Roll Carts and Recycling Carts to those customers that are authorized by the CITY to use them. For such customers, CONTRACTOR shall distribute new Roll Carts or Recycling Carts, as needed, within two (2) days after the CITY notifies CONTRACTOR that (a) a customer has been added to the Customer List, (b) a customer's Roll Cart or Recycling Cart has been stolen or damaged beyond repair, or (c) additional carts are required to ensure that all of a Commercial Customer's Solid Waste and Recyclable Materials are properly containerized, without overfilling or overflowing the cart. CONTRACTOR shall be responsible for procuring, maintaining at all times, and storing an adequate supply of Roll Carts and Recycling Carts for distribution.
- 3.7.4 Mechanical Containers. Mechanical Containers supplied by CONTRACTOR shall be of equivalent or better quality than that currently in use in the City, and shall be subject to the approval of the CITY. Mechanical Containers shall have attached lids, unless the CITY approves a different design for a particular use. Mechanical Containers shall have solid, durable sides and bottoms. Each mechanical Container shall have a heavy duty removable plug in the bottom. CONTRACTOR shall provide and install casters and locking devices for a mechanical Container upon the request of a customer or the CITY.

3.7.5 Manufacturer Specifications.

CONTRACTOR shall provide the CITY with the manufacturer's specification sheets for new Recycling Bins, Recycling Carts, Roll Carts, Compactors, Roll-Offs and mechanical Containers before CONTRACTOR orders the new Collection Containers from the manufacturer. At a minimum, the specification sheets shall address the following items, if applicable:

- Company of manufacture
- Material of manufacture, including pre-consumer and post-consumer recycled content
- Molding technology
- Standards of design (e.g., American National Standards Institute)
- UV stabilization certification
- Load rating
- Design standards for lid, handles, lifting, bottom, wheels, axle, and fasteners
- Interior and exterior finish surfaces
- Color
- Volumetric Capacity
- Nestability
- Identification and Marking
- Manufacturer's warranty

Each Recycling Bin, Recycling Cart, and Roll Cart shall be protected by a manufacturer's warranty of at least eight (8) years duration.

3.7.6 Collection Container Labels.

CONTRACTOR shall replace the labels on its Collection Containers on an as-needed basis, subject to the CITY's approval.

3.8 ROLL CARTS FOR RESIDENTIAL CURBSIDE CUSTOMERS

Before the Commencement Date, CONTRACTOR shall provide a new Roll Cart to each Residential Curbside Customer, unless the CITY notifies CONTRACTOR that the customer will receive Manual Collection Service. The Roll Cart shall have nominal rated capacity between ninety (90) to one-hundred (100) gallons, unless the CITY notifies CONTRACTOR that the customer shall be given a different size Roll Cart.

After the Commencement Date, CONTRACTOR shall exchange Roll Carts with a customer when requested to do so by the CITY. In such cases, the CONTRACTOR shall provide (a) a nominal ninety-six (96) gallon Roll Cart, (b) a nominal sixty-four (64) gallon Roll Cart, or (c) two (2) nominal thirty-two (32) gallon Roll Carts. CONTRACTOR shall exchange the new Roll Cart(s) for the customer's old Roll Cart within three (3) days of receiving the request.

Except as otherwise provided herein, if a Residential Curbside Customer wishes to obtain another Roll Cart (e.g., a second thirty (30) to one-hundred (100) gallon Roll Cart), the customer shall pay an additional service fee at the price set forth in **Exhibit 1**. CONTRACTOR shall deliver the Roll Cart to the customer within three (3) days after the CITY notifies the CONTRACTOR that the additional service is required.

3.9 COMMERCIAL SOLID WASTE

3.9.1 Commercial Solid Waste Collection Service. CONTRACTOR shall provide Commercial Solid Waste Collection Service as deemed necessary and as determined between CONTRACTOR and the customer. However, frequency of pickup shall be no less than one (1) time per week, with the exception of those Commercial Establishments defined as restaurants by the Broward County Health Department for which the minimum service level shall be two (2) pickup times per week, with no exception for holiday(s) as set forth herein, except that Collection Service scheduled to fall on a holiday may be rescheduled as determined between the customer and the CONTRACTOR as long as the minimum frequency requirement is met. The size of the Container or Roll Cart and the frequency of Collection (meeting minimum requirements) shall be determined between the customer and the CONTRACTOR. However, size and frequency shall be sufficient to provide that no Commercial Solid Waste shall be placed outside the Container or Roll Cart. The CONTRACTOR shall provide Containers at the approved rental rates; however, customers may own their Container provided that the customer shall be completely serviced by the CONTRACTOR's equipment. CONTRACTOR shall be responsible for providing Roll Carts to those Commercial Service Units not utilizing Containers.

3.9.2 Procedures for Commercial Customers. Each Commercial Customer shall place their Garbage, Rubbish, and Yard Trash in their Container. The CITY may authorize a Commercial Customer to set out these wastes in a Roll Cart or other Collection Container where efficiency or other circumstances justify.

Commercial Customers shall not commingle Construction and Demolition Debris with any other types of Solid Waste in a Collection Container.

3.9.3 CITY Facilities Containerized Service. The CONTRACTOR shall provide Solid Waste Collection Services to all current and future CITY-owned and/or operated facilities without charge to CITY, provided Solid Waste accumulated on said CITY-owned and/or operated facilities is placed in thirty-two (32) gallon Containers, or larger size Containers, where appropriate, which containers shall be furnished by the CONTRACTOR at no charge to the CITY. The pickup service for said facilities shall be at such intervals as may be required to properly service said facilities.

3.9.4 Roll-Off Collection Service. CONTRACTOR shall provide Roll-Off Collection Service as deemed necessary and as determined between the CONTRACTOR and the customer within three (3) Scheduled Collection Days of receipt of the request for services from the customer. The size of the Roll-Off Container and the frequency of Collection shall be determined between the customer and the CONTRACTOR. However, size and frequency shall be sufficient to provide that no waste materials shall be placed outside the Roll-Off Container, or create conditions such that the weight of the materials in the Roll-Off Container is in excess of the net weight capacity of the Roll-Off Container which shall be clearly marked on each Roll-Off Container.

CONTRACTOR shall provide Roll-Off Containers and Roll-Off Collection Service at the approved rates included in the Rate Structure as shown in the attached Exhibits 1 through 5; however, customer may own their own Roll-Off Container provided that the customer shall be completely responsible for its proper

maintenance. The Customer provided Roll-Off Container shall be of a type that can be serviced by the CONTRACTOR's equipment and shall have the net weight capacity approved by CONTRACTOR clearly marked on the Roll-Off Container.

All Roll-Off Containers shall be readily accessible to the CONTRACTOR's crew and vehicles.

- 3.9.5 Service Levels Not Designated. For service levels not designated, CONTRACTOR shall provide the level and type of service negotiated and mutually agreed upon between the CONTRACTOR and customer at the rates negotiated and mutually agreed upon between CONTRACTOR and customer. All said service levels, types and rates shall be approved by CITY. CITY shall have the right to bill for said service unless otherwise designated in this Agreement, or otherwise approved in writing by the CITY. The CITY shall have the right to delegate billing services to a third party in its sole discretion.

- 3.9.6 Roll-Off Collection Service for CITY Use. CONTRACTOR agrees to provide Roll-Off Collection Service, at no charge to CITY, as necessary to annually collect and dispose of Construction and Demolition Debris and other Solid Waste materials. There shall be no limit to the number of pickups completed by the CONTRACTOR on a daily, weekly or monthly basis.

In the event that CITY undertakes major construction projects, the CONTRACTOR shall continue to provide Roll-off Collection Service at no charge to the CITY. The CONTRACTOR may charge the CITY a disposal fee from a major construction project only if the disposal of construction debris from the project exceeds a total of 100 cubic yards. The disposal fee shall be charged to the CITY only for the amount of construction debris from the project that exceeds 100 cubic yards.

- 3.9.7 Community Activities. CONTRACTOR shall provide, at no cost to CITY or event sponsors, Solid Waste Collection Services to support those community events as requested by the City Manager or designee.

3.10 DESIGNATED FACILITIES

All Solid Waste and Residential Recyclable Materials collected pursuant to this Agreement shall be delivered to a resource recovery system disposal facility, landfill, contingency landfill or transfer station designated by the CITY. CITY shall retain ownership of all residential and commercial Solid Waste and Recyclable Materials until delivery to the Designated Disposal Facility or Designated Recycling Facility. In the event the Designated Disposal Facility or Designated Materials Recycling Facility are greater or less than twenty (20) miles from the center of CITY, CITY and CONTRACTOR shall negotiate appropriate changes in the Collection rates to reflect increased or decreased hauling and disposal costs.

- 3.10.1 CITY's Right to Designate Container Size and Frequency of Pick Up. CITY reserves the right to determine the frequency of pick up and size of Containers needed at all Multi-Family Service Units and Commercial Service Units for Compactors and loose yard Containers within CITY's corporate limits. If CITY determines that a change in frequency of service or Container size is necessary, CONTRACTOR shall adjust Containers and frequency of service accordingly.

Customer shall be responsible to pay for the adjusted service levels, whether increased or decreased.

3.11 DATA GATHERING

CONTRACTOR shall provide to CITY a monthly report, no later than the fifteenth (15th) day of each month, outlining the weight of all Residential Waste, Commercial Solid Waste, and Recyclable Materials collected for the preceding month. The monthly report shall include a list of all weight tickets associated with the Residential Services and Commercial Services provided by CONTRACTOR during the preceding month. CONTRACTOR shall maintain the weight tickets from the Designated Disposal Facility for the Residential Waste and Commercial Solid Waste delivered from CITY and the weight tickets from the Designated Recycling Facility for the Recyclable Materials delivered from CITY for review by CITY upon reasonable notice. Said data shall be reviewed at CONTRACTOR's offices for purposes of protecting proprietary information, as discussed in Section 29.4. CITY may require additional information that accommodates change-in-law, Interlocal Agreements with other governmental agencies or related service contract requirements.

3.12 RECYCLING

The CONTRACTOR shall provide Recycling Services to all Residential Curbside Service Units in the Service Area at no additional cost to CITY or its residents. The services to be performed by CONTRACTOR shall consist of Collection of all Recyclable Materials and transportation to the Designated Recycling Facility. Should unanticipated events, circumstances or changes in law arise that necessitate any additions or deletions to work described in this Section, including the type of items included as Recyclable Materials, the parties shall negotiate any necessary cost changes and shall enter into an Agreement amendment covering such modifications and any compensation to be paid before undertaking any changes or revisions to such work.

3.12.1 Recyclable Materials to be Collected. CONTRACTOR shall collect the following Recyclable Materials: newsprint; old corrugated cardboard; incidental craft paper; clear, green and brown glass containers; steel, bimetal and aluminum containers; #1 PET, #2 HDPE #3 PVC plastic containers; plastic coated and aseptic containers. At such time as the CITY desires to add additional materials to the Recyclable Materials collected, the CITY shall submit to the CONTRACTOR an expansion proposal, and the CONTRACTOR receiving such proposal shall evaluate and consider the same in good faith. If CONTRACTOR and CITY fail to reach an agreement with respect to the terms and conditions for expansion of the services within sixty (60) days of submission of the expansion proposal by the CITY, the CONTRACTOR shall continue to perform all services as provided by Agreement for the remaining term thereof.

3.12.2 Contaminated Recyclable Materials. CONTRACTOR shall not be required to collect Recyclable Materials from Residential Curbside Service Units if the customer does not segregate the Recyclable Materials from Residential Solid Waste. If Recyclable Materials are contaminated through commingling with Residential Solid Waste, CONTRACTOR shall, if practical, separate the Residential Solid Waste from the Recyclable Materials. The Recyclable Materials shall then be collected and the Residential Solid Waste shall be left in the

Recycling Bin, or Recycling Cart, along with a written notice of why the Residential Solid Waste is not considered a Recyclable Material. However, in the event the Recyclable Materials and Residential Solid Waste are commingled to the extent that they cannot easily be separated by CONTRACTOR, or the nature of the Residential Solid Waste renders the entire Recycling Bin, or Recycling Cart, contaminated, CONTRACTOR shall leave the Recycling Bin, or Recycling Cart, un-emptied and issue a written notice to the customer containing instructions on the proper procedures for setting out Recyclable Materials. CITY shall approve the design of said notice, and the cost of printing said notice shall be borne by CONTRACTOR. Only two consecutive notices shall be issued. However, CONTRACTOR shall not collect the Recyclable Materials until the Residential Curbside Service Unit segregates the Recyclable Materials from Residential Solid Waste. CONTRACTOR shall maintain a record of the address of any Residential Curbside Service Unit where Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, and is to be provided to CITY upon request.

3.12.3 Recycling Bins. The CONTRACTOR shall be responsible for the purchase, distribution and replacement of Recycling Bins to all Residential Curbside Service Units.

- A) **Purchase and Distribution.** CONTRACTOR shall be required to purchase and distribute new Recycling Bins to existing Residential Curbside Service Units that currently do not have Recycling Bins within one (1) month but no more than six (6) months after the commencement date of this Agreement. CONTRACTOR shall purchase and distribute Recycling Bins to new Residential Curbside Service Units that are added to the Service Area during the term of the Agreement. The Recycling Bins to be purchased and distributed will be in accordance with the information to be provided by CITY to CONTRACTOR, or as CONTRACTOR determines utilizing actual field information and the distribution shall be completed within three (3) Work Days of receipt of the information from CITY.
- B) **Replacement.** CONTRACTOR shall maintain sufficient Recycling Bins to ensure that extra or replacement Recycling Bins can be provided to customers or properties in accordance with the terms and conditions of this Agreement. CONTRACTOR's employees shall take care to prevent damage to Recycling Bins by unnecessary rough treatment. However, CONTRACTOR shall replace any Recycling Bin damaged by CONTRACTOR at CONTRACTOR's expense, within three (3) Work Days at no cost or inconvenience to the customer. Upon notification to CONTRACTOR by CITY or a customer that the Residential Curbside Service Unit's Recycling Bin has been stolen or that it has been damaged beyond repair through no fault of CONTRACTOR, CONTRACTOR shall deliver a replacement Recycling Bin to such Residential Curbside Service Unit within three (3) Work Days. CONTRACTOR shall report all Recycling Bin replacements to CITY. Each Residential Curbside Service Unit shall be entitled to a one (1)-time replacement of lost, destroyed, or stolen Recycling Bins every two years during the life of the Agreement at no cost. If during the term of the Agreement, customer requests additional Recycling Bins (beyond the one (1) time replacement allowed) CONTRACTOR will, upon authorization of the CITY, deliver said Recycling Bin and notify CITY of actual delivery. CITY will reimburse CONTRACTOR for cost of any

bins beyond the one time replacement pursuant to the attached Exhibits 1 through 5.

- C) Ownership. CONTRACTOR shall own all Recycling Bins, except that the CITY shall retain ownership of all Recycling Bins in the possession of a Residential Curbside Service Unit at the end of the Agreement.

3.12.4 Residential Recycling Carts. The CONTRACTOR shall be responsible for the purchase, distribution and replacement of Recycling Carts to all Residential Curbside Service Units.

- A) Purchase and Distribution. CONTRACTOR shall be required to purchase and distribute new Recycling Carts to existing Residential Curbside Service Units that currently do not have Recycling Carts within one (1) month but no more than six (6) months after notification by the CITY within the first two years of the commencement date of this Agreement. CONTRACTOR shall purchase and distribute Recycling Carts to new Residential Curbside Service Units that are added to the Service Area during the term of the Agreement. The Recycling Carts to be purchased and distributed will be in accordance with the information to be provided by CITY to CONTRACTOR, or as CONTRACTOR determines utilizing actual field information and the distribution shall be completed within three (3) Work Days of receipt of the information from CITY.
- B) Replacement. CONTRACTOR shall maintain sufficient Recycling Carts to ensure that extra or replacement Recycling Carts can be provided to customers or properties in accordance with the terms and conditions of this Agreement. CONTRACTOR's employees shall take care to prevent damage to Recycling Carts by unnecessary rough treatment. However, CONTRACTOR shall replace any Recycling Cart damaged by CONTRACTOR at CONTRACTOR's expense, within three (3) Work Days at no cost or inconvenience to the customer. Upon notification to CONTRACTOR by CITY or a customer that the Residential Curbside Service Unit's Recycling Bin has been stolen or that it has been damaged beyond repair through no fault of CONTRACTOR, CONTRACTOR shall deliver a replacement Recycling Cart to such Residential Curbside Service Unit within three (3) Work Days. CONTRACTOR shall report all Recycling Cart replacements to CITY. Each Residential Curbside Service Unit shall be entitled to a one (1) time replacement of lost, destroyed, or stolen Recycling Carts every four (4) years during the life of the Agreement at no cost. If during the term of the Agreement, customer requests additional Recycling Carts (beyond the one (1) time replacement allowed) CONTRACTOR will, upon authorization of the CITY, deliver said Recycling Cart and notify CITY of actual delivery. CITY will reimburse CONTRACTOR for cost of any Recycling Carts beyond the one time replacement pursuant to the attached Exhibits 1 through 5.
- C) Ownership. CONTRACTOR shall own all Recycling Carts, except that the CITY shall retain ownership of all Recycling Carts in the possession of a Residential Curbside Service Unit at the end of the Agreement.

- 3.12.5 Residential Curbside Recycling Collection Service. CONTRACTOR shall provide Residential Curbside Recycling Collection Service to all Residential Curbside Service Units in the Service Area whose Recyclable Materials are properly containerized in Recycling Bins, or Recycling Carts, where Recycling Bins, or Carts, have been placed at the curb, within five feet (5') of the street, or other location agreed to by CONTRACTOR and customer that will provide safe and efficient accessibility to CONTRACTOR's Collection crew and vehicle. In certain instances, properly containerized Recyclable Materials may be placed in driveway turnout areas to avoid placing it in the traveled roadway. In the event an appropriate location cannot be agreed upon between CONTRACTOR and the customer, CITY shall mediate the dispute and designate the location for Collection. CONTRACTOR shall report monthly to CITY situations that prevent or hinder Collection on any premises. Residential Curbside Recycling Collection Service shall be provided one (1) time per week on a regularly scheduled basis with the exception of Christmas Day, as set forth herein. CONTRACTOR shall be required to provide occasional special Recycling programs for the Collection of telephone books, Christmas trees, and other items as specified by CITY. Program information including days of Collection shall be distributed to all customers as part of the annual solid waste notification. In the event a customer's normal Recycling Collection service day falls on Christmas Day, the Collection shall occur on the next regularly scheduled Recycling Collection day.
- 3.12.6 Residential Off-Street Recycling Collection Service. CONTRACTOR shall provide off-street Collection of Recyclable Materials from Residential Curbside Service Units if all adult occupants residing therein are handicapped and if a request for off-street service has been made to, and approved by CITY, in the manner required by CITY. CITY shall notify CONTRACTOR in writing of any customers requiring off-street service. No additional monies shall be due to CONTRACTOR for the provisions of off-street service to handicapped customers. The point of Collection for off-street service shall be the back or side yard or such other location as is mutually agreeable to the CONTRACTOR and the customer. In the event the appropriate location cannot be agreed upon, the CITY shall mediate the dispute and designate the location for Collection. CONTRACTOR shall provide off-street service on the same Scheduled Collection Day that Residential Curbside Service would otherwise be provided to the Residential Curbside Service Unit.
- 3.12.7 Neighborhood Recycling Station. CITY may request CONTRACTOR to set up Neighborhood Recycling Stations for the purpose of collecting Recyclable Materials, at the rates established in the Rate Structure included in the attached Exhibits 1 through 5. CITY shall designate locations and number and type of Recycling Containers for each location, and CONTRACTOR shall maintain sufficient Recycling Containers for residents to deposit Recyclable Materials. CONTRACTOR shall be responsible for the handling of Recyclable Materials and transporting of Recyclable Materials to the Designated Recycling Facility.
- 3.12.8 Non-Collection. CONTRACTOR shall not be required to collect any Recyclable Materials that are not placed in a Recycling Bin, or Recycling Cart. However, for purposes of this Section, old corrugated cardboard which has been broken down that is placed beside a Recycling Bin, and newspapers that are contained in paper bags and placed beside the Recycling Bin shall be considered as properly placed for Collection. CONTRACTOR shall collect old corrugated cardboard and

newspaper that have been properly set out and have become wet due to local weather conditions. In the event of non-collection, CONTRACTOR shall affix to the Recycling Bin, or Recycling Cart, a Non-Collection Notice explaining why Collection was not made. CONTRACTOR shall maintain a record of the address of any Residential Curbside Service Unit where Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, and such notice is to be provided to CITY upon request.

- 3.12.9 **Mixed Load Prohibition.** During the collection process, the CONTRACTOR shall have sufficient collection vehicles to collect each waste material by type of material, and solely designate collection vehicles by route and vehicle number for the collection of each specific material type as specified in this Agreement. CONTRACTOR shall not combine Residential Curbside Solid Waste, Commercial Waste, Residential Source Separated Recyclable, Bulk Waste, Construction and Demolition Debris, or any other waste materials in the same collection vehicle at any time. During the collection process, the CONTRACTOR shall not combine the varying types of waste materials that have been properly separated for their specific collection type and correctly set-out by customer for collection. During the collection process, the CONTRACTOR shall not combine Source Separated Recyclable Materials with any other type of waste materials. However, the CONTRACTOR shall have no obligation to separate these materials if the Customer has placed them in a Collection Container together with Garbage or other types of Solid Waste.

Notwithstanding the forgoing, the City Manager may grant relief from the mixed load prohibition set forth in this Section 3.12.9, and thus allow the CONTRACTOR to combine different types of Solid Waste and Recyclable Materials, if the City Manager determines that the practice will be in the public's best interest based on an emergency, act of god or significant documented recycling cost increases. If CONTRACTOR seeks relief from the mixed load prohibition, the CONTRACTOR shall file a petition with the City Manager, describing the emergency, act of god or significant recycling cost increases justifying the relief, and the specific procedures that will be established to properly account and pay for the management of the mixed materials. The City Manager may grant or deny the petition, in the City Manager's sole discretion.

3.13 RESIDENTIAL CONTAINERIZED RECYCLING COLLECTION SERVICE

If CITY chooses to offer Residential Containerized Recycling Collection Service to Multi-Family Dwelling Units at any time during the term of this Agreement, CONTRACTOR and CITY agree to enter into good faith negotiations to amend this Agreement to include said services. If CITY chooses to offer such services, all Recyclable Materials collected by CONTRACTOR from Multi-Family Dwelling Units shall be subject to Recycling Revenue sharing as provided in Section 5.13 and shall be collected at no cost to the CITY. For purposes of Recycling Revenue Sharing, Recyclable Materials collected by CONTRACTOR from Multi-Family Dwelling Units shall be treated in the same manner as Recyclable Materials collected from Residential Curbside Service Units under Section 3.12.

3.14 TRANSITION

CONTRACTOR shall be responsible for the provision of ALL COLLECTION Services beginning May 1, 2016. Accordingly, CONTRACTOR shall provide Collection Services as set forth in this Agreement no later than May 1, 2016.

3.14.1 ROUTES AND SCHEDULES.

No later than June 1, 2016 and annually thereafter during the term of this Agreement, the CONTRACTOR shall provide the City Manager the schedules for all Collection Service routes and keep such information current at all times. No later than November 30, 2016 and annually thereafter during the term of this Agreement, the CONTRACTOR shall annually supply all customers with printed information, in a form determined by CITY, regarding amounts and types of waste to be Collected, complaint procedures, rates, telephone number, mailing address, office hours and days of Collection. The CITY may, for the first year of the Agreement, extend the June 1, 2016 date for providing Collection Service route information to a date mutually agreed upon by the CITY and the CONTRACTOR. All such notices shall comply with legal advertisement requirements as provided by state law.

3.14.2 In the event of a permanent change in residential routes or schedules that will alter the day of Collection, the CONTRACTOR shall have said changes approved by the CITY and notify the affected residential customer(s), in writing or other manner as approved by the CITY, not less than two (2) weeks prior to the change. Any temporary alteration of Collection schedules resulting from circumstances beyond the control of the CONTRACTOR, including but not limited to holidays shall be communicated to the affected customers. Such notice shall be provided in a form determined by CITY.

3.14.3 Prior to initiation of automated collection service with Roll Carts, CONTRACTOR shall collaborate with CITY to identify areas where trees need to be trimmed away from curbside. CONTRACTOR will trim trees in accordance with arborist standards to safely allow trucks access to curbside for automated collection services.

3.15 EDUCATION SERVICES

Each year during the term of this Agreement, CONTRACTOR shall pay the City Thirty-Five Thousand Dollars (\$35,000) for the provision of City-wide educational services. Additionally, CONTRACTOR shall attend City sponsored outreach events, as requested by the City Public Works Department, provided that advance notice of at least five (5) Work Days is provided to CONTRACTOR.

SECTION 4: HOURS OF COLLECTION

4.1 RESIDENTIAL SERVICES

Residential Services shall be made with a minimum of noise and disturbance commencing no earlier than 7:00 a.m. and terminating no later than 6:00 p.m., Monday through Saturday, with no service on Sunday. The hours and/or days of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of CITY.

4.2 COMMERCIAL SERVICES

Commercial Services shall be made with a minimum of noise and disturbance and shall be provided between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, and between the hours of 8:00 a.m. and 7:00 p.m. on Sunday. Services shall not be provided prior to 9:00 a.m. on any public or private school unless requested by said school in writing, or approved by City Manager. The receipt of a continued complaint pattern by the CITY referencing noise or disturbances that occurred during the operating hours set forth in this Section shall be prima facie evidence of "disturbances" and CONTRACTOR may adjust the Commercial Service hours at such identified locations as CITY shall direct CONTRACTOR in writing. The adjustment of such hours shall not result in a rate change for CONTRACTOR. The locations, hours and/or days of Collection may be extended due to extraordinary circumstances or non-impacting, justifiable conditions with the prior written consent of CITY, which may be withheld, altered or revoked in the CITY's sole discretion.

SECTION 5: CHARGES AND RATES

5.1 RESIDENTIAL COLLECTION SERVICES

The CITY shall be responsible for the billing and collection of payments for all Residential Service Unit accounts except additional services as set forth in Sections 3.3.1 and 3.3.2. The CITY shall initially pay the CONTRACTOR for Residential Collection Services in accordance with the Rate Structure and generation factors established in the attached Exhibits 1 through 5 and as may subsequently be adjusted pursuant to this Agreement.

5.2 COMMERCIAL SOLID WASTE COLLECTION SERVICE

- 5.2.1 **Notification.** It shall be the responsibility of the CONTRACTOR to advise the CITY of the amounts to be charged for any and all Commercial Service Units. The notification by CONTRACTOR shall be in writing and duly signed by an authorized representative of CONTRACTOR.
- 5.2.2 **Billing.** The CITY shall be responsible for the billing and collection of payments for all Commercial Service Units except those services set forth in Section 3.9.4 where CONTRACTOR is required to directly bill customers and collect payments. The CITY shall initially pay the CONTRACTOR for Commercial Solid Waste Collection Service in accordance with the Rate Structure and generation factors established in the attached Exhibits 1 through 5 and as may subsequently be adjusted pursuant to this Agreement.
- 5.2.3 **Overloaded Container Charge.** CONTRACTOR shall charge customers whose Containers are overloaded, in a manner that prevent the lids of the Container from closing, an overloaded container charge of \$15 per yard of overloaded materials. It shall be the sole responsibility of the CONTRACTOR to provide picture evidence to the CITY prior to the imposition of any charge to the customer. Evidence shall be provided to the City Code Compliance Division and Billing Department. CONTRACTOR shall have available, during normal business hours, a representative to provide educational information such as recycling services and or container sizes to customers.

5.3 RATE STRUCTURE

The rates shown in the attached Exhibits 1 through 5 shall apply to all Residential Service Units and Commercial Service Units within the corporate limits of CITY, as well as any areas annexed into CITY subsequent to the commencement of this Agreement.

5.4 COLLECTION AND REINSTATEMENT

5.4.1 Collection Effort. CITY agrees to use reasonable efforts to collect accounts on a timely basis, including but not limited to the discontinuance of service, imposition of liens, and foreclosure of same, subject to the provisions of state and local laws; however, CITY shall not be held liable for any uncollected or delinquent accounts.

5.4.2 Records Inspection. CITY shall consider, if requested, to permit CONTRACTOR or its authorized representative to audit or inspect CITY'S records relative to the amounts billed and collected by CITY on behalf of CONTRACTOR at reasonable times and during reasonable business hours, and to furnish to CONTRACTOR an aged schedule of the garbage accounts receivable.

5.4.3 Suspension and Reinstatement. CITY shall have the right to coordinate with the CONTRACTOR for suspension of service to any customers, other than Curbside Residential Service Units, who are delinquent in payment for more than 60 days. Any cessation of service as a result of nonpayment or breach by a customer shall not result in a cessation of the monthly charge billed to and owed by the customer. After CONTRACTOR suspends service, a customer shall be permitted to reinstate service once the customer pays any and all delinquent charges. In conjunction with the reinstatement of service, the customer shall be assessed a reinstatement charge of \$25.00, which shall be paid to the CONTRACTOR. In addition, CONTRACTOR may assess a late fee of ten percent (10%) of the outstanding amount to accounts which remain unpaid for a period of more than 30 days from the date on which payment was due and ultimately collected, said fee to be paid by customer and retained by CITY.

5.5 TERMS

The CITY shall remit payment to the CONTRACTOR, on or before the 15th day of each month beginning with the 15th day of June 2016, the sum of money equal to the total monthly collections by the CITY during the previous month for and on behalf of the CONTRACTOR, less Franchise Fees, Administrative Fees, Storm Fund Fees and Waste Reduction Fees as reflected in the Rate Structure contained in the attached Exhibits 1 through 5 and as set forth in Section 5.7.

5.6 CHANGE IN BILLING PRACTICES

If at any time it becomes impractical for the CITY to include Solid Waste Collection billing in its utility procedure, then the CITY and CONTRACTOR will negotiate a different billing procedure. A Franchise Fee, Administrative Fee, Waste Reduction Fee, and Storm Fund Fee in the amount provided by this Agreement shall be due to the CITY for all Solid Waste Collection and disposal services, whether scheduled or unscheduled and regardless of whether CONTRACTOR, CITY or a third party bill for CONTRACTOR'S services, provided customer payment is collected.

5.7 FRANCHISE FEES, WASTE REDUCTION FEE, AND STORM FUND FEE

A Franchise Fee, Waste Reduction Fee, and Storm Fund Fee in the amounts provided by this Agreement shall be due to the CITY for all Solid Waste Collection and disposal services, whether scheduled or unscheduled and regardless of whether CONTRACTOR, CITY or a third party bill for CONTRACTOR'S services, provided customer payment is collected.

5.8 ADMINISTRATIVE FEES

Administrative Fees in the amount of 1.25 percent of all collection and disposal revenues collected from all sources shall be paid to CITY to compensate CITY for administrative services provided by CITY in connection with this Agreement. The aforesaid payment shall be made to CITY by CITY deducting Administrative Fees from the amounts collected by CITY from the applicable accounts served by CONTRACTOR as further set forth in Section 5.6 above.

5.9 CONTRACT MANAGER POSITION

Contractor shall provide the CITY with \$120,000.00 per year during each year of the Term of this Agreement, including any extensions and renewal options, which amount shall be increased by 5% for the First Renewal Term, with the increase effective May 1, 2016, which increase is based on the consumer price index specified in Section 5.12.1, to fund a Contract Manager Position within the CITY. The Contract Manager shall be selected and employed by the CITY in the CITY's sole discretion. If the Second Renewal Term is exercised and the CITY and CONTRACTOR agree upon any increase for the Second Renewal Term based upon CPI, as set forth in Section 5.12.1, the aforementioned payment to CITY for the Contract Manager Position shall increase by the same percentage.

5.10 DISPOSAL ELEMENT ADJUSTMENT

5.10.1 Residential Curbside Collection Service. The Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate" is based on the Disposal Charge per ton and the "Monthly Curbside Unit Residential Waste Generation Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as set forth below, will result in a corresponding change in the appropriate "Monthly Curbside Unit Disposal Rate" based on the following formula:

	New Disposal Charge x Monthly Curbside Unit Residential Waste Generation Factor
Less:	Old Disposal Charge x Monthly Curbside Unit Residential Waste Generation Factor
Will Equal:	Change in the Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate."

Residential Waste Generation Factor (Bulk) = 0.3 tons/year
Residential Waste Generation Factor (Solid Waste) = 1.13 tons/year

The monthly Residential Curbside Service Unit rates shall be adjusted based on the change in the Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.2 Residential Containerized Collection Service. The Residential Containerized Collection Service "Disposal Rate" is based on the Disposal Charge per ton, the size of the Container, the frequency of Collection, and the "Weight Per Cubic Yard Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as set forth below, will result in a corresponding change in the "Disposal Rate" based on the following formula:

(Weight Per Cubic Yard Factor/2,000 pounds) x New Disposal Charge x Container size x Frequency per week x 4.33.
Less: (Weight Per Cubic Yard Factor/2,000 pounds) x Old Disposal Charge x Container size x Frequency per week x 4.33.
Will Equal: The change in the Residential Containerized Collection Service "Disposal Rate" for that specific Container size and frequency of Collection per month.

Residential Weight for Solid Waste Per Cubic Yard Factor = 99.67 lbs/CY

The monthly Residential Containerized Service Unit rates shall be adjusted based on the change in the Residential Containerized Collection Service "Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.3 Commercial Solid Waste Collection Service. The Commercial Solid Waste Collection Service "Disposal Rate" is based on the Disposal Charge per ton, the frequency of Collection and the "Weight Per Cubic Yard Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as set forth below, will result in a corresponding change in the "Disposal Rate" for Commercial Collection Services as set forth in the attached Exhibits based on the following formula:

(Weight Per Cubic Yard Factor/2,000 pounds) x New Disposal Charge x Container size x Frequency per week x 4.33.
Less: (Weight Per Cubic Yard Factor/2,000 pounds) x Old Disposal Charge x Container size x Frequency per week x 4.33.
Will Equal: The change in the appropriate Commercial Solid Waste Collection Service "Disposal Rate" per month.

Commercial Weight Per Cubic Yard Factor = 97.57 lbs/CY

The monthly Commercial Service Unit rates shall be adjusted based on the change in the Commercial Solid Waste Collection Service "Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.4 Commercial and Residential Containerized Solid Waste Compactor Service. The Commercial and Residential Containerized Compactor Service "Disposal Rate" is based on the Disposal Charge per ton, the frequency of Collection and the "Compacted Weight Per Cubic Yard Factor" set forth in the attached Exhibits. Any approved change in the per ton Disposal Charges, as set forth below, will result in a corresponding change in the "Disposal Rate" for Commercial and Residential Containerized Compactor Services as set forth in the attached Exhibits based on the following formula:

("Compacted Weight Per Cubic Yard Factor/2,000 pounds) x the
 new Disposal Charge x the Container size x Frequency per week
 x 4.33.
 Less: ("Compacted Weight Per Cubic Yard Factor/2,000 pounds) x the
 old Disposal Charge x the Container size x Frequency per week x
 4.33.
 Will Equal: The change in the appropriate Commercial and Residential
 Containerized Solid Waste Compactor Service "Disposal Rate"
 per month.

Compacted Weight Per Cubic Yard Factor = 292.71 lbs/CY

The monthly Commercial and Residential Containerized Compactor Service Unit rates shall be adjusted based on the change in the Commercial and Residential Containerized Compactor Service "Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 5.10.5 Documentation and Approval. In order for the CONTRACTOR to receive a disposal rate adjustment based on a change in the Disposal Charge per ton, the CONTRACTOR must provide, in a manner that is acceptable to the CITY, evidence of the change in the Disposal Charge. The CITY may request from the CONTRACTOR such further information as may be reasonably necessary. The CITY shall approve the request in accordance with the formulas above to be effective on the date of the change in the Disposal Charge at the Designated Disposal Facility.

5.11 ADJUSTMENTS TO RESIDENTIAL CURBSIDE GENERATION FACTORS

In the event of a change in law for Solid Waste or a significant change in the City's Recycling program that has the potential to materially affect the "Monthly Curbside Unit Residential Waste Generation Factor" as set forth in the attached Exhibits 1 through 5, the CITY and the CONTRACTOR agree that a generation study will be performed at the request of the CITY with the cooperation of the CONTRACTOR. The CONTRACTOR will fund the study. The CITY reserves the sole right to select the Consultant to perform the study. The CONTRACTOR and CITY shall work together to develop the methodology that will be used to perform the waste generation study, including the selection of representative routes, and the scope, timing and duration of the study. However, the CITY shall have the sole right to approve or revise the methodology for the waste generation study. The generation study will be designed to establish an alternate "Monthly Curbside Unit Residential Waste Generation Factor". The CONTRACTOR shall cooperate fully with the CITY related to the performance and completion of the generation study.

5.12 ADJUSTMENTS TO OTHER COSTS

- 5.12.1 CPI Adjustments. There shall be no increase to the Collection element of rates established in the Rate Structure provided in the attached Exhibits for the initial five (5) year term of this Agreement, which expires on April 30, 2016. During the First Renewal Term, the Collection element of the rates, effective May 1, 2016, shall be in an amount equal to the collection element rates provided in the attached Exhibits for the Initial Term increased by 5%, which increase is based on the Consumer Price Index, Series CWUR0000SEHG02, entitled "Garbage and Trash Collection,

U. S. City Average - Not Seasonally Adjusted," available from the United States Department of Labor, Bureau of Labor Statistics, (the "Trash CPI") adjustments during the Initial Term, capped at 5%. Upon completion of the First Renewal Term, the CITY may consider an adjustment to the collection element of the rates based on the Trash CPI.

- 5.12.2 Extraordinary and Unusual Changes. In any event that there is an adverse effect on the finances of the CONTRACTOR on the basis of extraordinary and unusual changes in the costs of operation that could not be reasonably foreseen by a prudent operator and which by all reasonable expectations will continue for a period of six (6) months or more, then the CONTRACTOR may request that this Agreement be reopened to renegotiate changes causing the adverse impact to either the CITY and/or CONTRACTOR. Should the parties not reach a mutually agreeable remedy then the CITY commission may terminate negotiations and return to the terms and conditions of this Agreement. CITY is under no obligation to grant a reopening and negotiation of this Agreement.
- 5.12.3 Other Changes. In the event that the CITY designates a change to the Disposal Facility location, or there is a change to the Disposal Facility location resulting from a change in the law, CONTRACTOR agrees to provide a price adjustment equal to the savings or additional cost realized by CONTRACTOR.
- 5.12.4 Reopening Of Fees And Other Charges. In the event of unanticipated economic or other changes that have a substantial adverse impact upon the CITY's financial position or the revenues generated pursuant to this Agreement, the CITY may request that this Agreement be reopened and the parties agree to negotiate, in good faith, changes to the various fees, rates and other charges (including but not limited to franchise fees, administrative fees, and curbside generation rates) set forth in this Agreement.

5.13 RECYCLING REVENUES

The CITY shall pay to the CONTRACTOR an amount equal to fifty percent (50%) of all sums received by the CITY as a result of the CONTRACTOR's provision of Residential Recycling Service and the resulting sale of processed Recyclable Materials. The CITY shall make payment to the CONTRACTOR within twenty (20) days of the CITY's receipt of the monies from the sale of the Recyclable Materials. CONTRACTOR shall take all steps necessary to insure that payments from the MRF Operator resulting from the sale of Recyclable Materials are paid directly to the CITY and not the CONTRACTOR. The CONTRACTOR shall maintain proper and accurate records to reflect the weight, by sort category, of the Recyclable Materials recovered each month, including copies of receipts from the Designated Recycling Facility and that portion of the CITY's Recyclable Material's sold each month.

SECTION 6: SCHEDULES AND ROUTES

6.1 SCHEDULES AND ROUTES TO CITY

One month prior to the commencement of this Agreement and no later than June 1st annually thereafter during the term of the Agreement, CONTRACTOR shall provide CITY the schedules for Residential Services and Commercial Services routes and keep such information current at all times. CONTRACTOR shall submit a proposed route and schedule to be approved by CITY prior to providing services under this Agreement. CITY reserves the right to deny CONTRACTOR's vehicles access to certain streets, alleys, bridges and public ways, inside CITY or outside CITY in route to Designated Disposal Facilities where it is in the best interest of the general public to do so due to conditions of streets and bridges. CONTRACTOR shall use best efforts to not interrupt the regular schedule and quality of service because of such street closures.

6.2 SCHEDULES AND ROUTES TO CUSTOMER

One month prior to the commencement of this Agreement and no later than November 30th annually thereafter during the term of this Agreement, CONTRACTOR shall annually supply all customers with printed information, in a form determined by CITY, regarding amounts and types of waste to be collected, complaint procedures, rates, telephone number(s), mailing address(es), office hours and days of Collection. All such notices shall comply with legal advertisement requirements as provided by state law. In the event of a permanent change in residential routes or schedules that will alter the day of Collection, CONTRACTOR shall have said changes approved by City Manager and notify the affected residential curbside customers in writing or other manner as approved by City Manager. Any temporary alteration of Collection schedules resulting from circumstances beyond the control of CONTRACTOR, including but not limited to holidays, shall be communicated to the affected customers. Such notice shall be provided in a form determined by CITY. Customers shall be notified by CONTRACTOR of the schedules approved by CITY. Individual residential curbside route starting times and succession of pick up shall remain constant so as to promote and achieve regularity of service. Changes in Collection days for commercial customers may be requested by customer, or provided with prior notification by CONTRACTOR. It is understood that during various times throughout the year, the quantity of refuse to be disposed of is materially increased by fluctuations in the amount of Yard Trash. This additional workload will not be considered as adequate justification for failure of CONTRACTOR to maintain the required Collection schedules and routes.

6.3 HOLIDAY PICK-UP SCHEDULE

Collection will not be made on Christmas Day. Collections that would normally occur on Christmas Day shall be rescheduled on the next regularly scheduled Collection day. Recycling Collections shall be rescheduled to coincide with the next regularly scheduled Recycling Collection day. Residential Bulk Waste collection shall be rescheduled on a regularly scheduled collection day as agreed to by CONTRACTOR and CITY so long as such collection day is within seven (7) days of Christmas Day.

SECTION 7: EMERGENCY SERVICE PROVISIONS

- 7.1 In the event of a hurricane, tornado, major storm, natural disaster, or other such event, the City may grant the CONTRACTOR a variance from regular routes and schedules. As soon as practicable after such event, the CONTRACTOR shall advise the City when it is anticipated that normal routes and schedules can be resumed. The City shall make an effort through the local news media to inform the public when regular services may be resumed. The clean-up from some events may require that the CONTRACTOR hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event all in accordance with the "Emergency Preparedness Plan" submitted by the CONTRACTOR and approved by the CITY. The CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the rates set forth in the attached Exhibit 7 provided the CONTRACTOR has first secured written authorization and approval from the CITY through the City Manager. The CONTRACTOR shall be responsible for the preparation of all documents and forms and support information required by FEMA, including all forms required to be completed or submitted pursuant to the Public Assistance Guide published by FEMA. The CONTRACTOR within the time limits established by FEMA for such filings shall submit such documents, forms and information to the CITY.
- 7.2 The CONTRACTOR shall, upon request by the CITY, provide an "Emergency Preparedness Plan." If such an updated plan is requested, the CITY shall provide the CONTRACTOR with a site, or an amended site location map on which the CITY shall locate the temporary waste storage sites, site size and preferred site access.

SECTION 8: CONTRACTOR'S RELATION TO CITY

8.1 INDEPENDENT CONTRACTOR

It is expressly agreed and understood that CONTRACTOR is in all respects an independent CONTRACTOR as to the work to be performed pursuant to this Agreement. Even though in certain respects, CONTRACTOR may be required to follow the direction of City Manager, or CITY's designated representative, CONTRACTOR is in no respect an agent, servant or employee of CITY.

8.2 SUPERVISION OF AGREEMENT PERFORMANCE

City Manager, or CITY's designated representative, is hereby designated as the public official responsible for the administration of this Agreement by CITY, and, in such capacity, charged with the overall, general supervision of CONTRACTOR's performance hereunder. CONTRACTOR shall diligently work with City Manager or CITY's designated representative to formulate and to adopt guidelines and procedures to facilitate the supervision and review of its performance by City Manager and their staff. CONTRACTOR shall not be required to comply with instructions or directions from any CITY official except City Manager or CITY's designated representative, unless such other official has been delegated in writing by City Manager to perform specified administrative functions under this Agreement.

8.3 AUDIT AND INSPECTION OF WORK RIGHTS

CITY may, at reasonable times, and for a period of up to three (3) years following the date of final performance of services by CONTRACTOR under this Agreement, audit, or cause to be audited, those books and records of CONTRACTOR which related to CONTRACTOR's performance under this Agreement. CONTRACTOR agrees to maintain all such books and records for a period of three (3) years after final payment is made under this Agreement. CITY agrees to conduct such audits at CONTRACTOR's principle place of business.

8.4 FACILITY INSPECTION RIGHTS

CITY may, at reasonable times during the term hereof, inspect CONTRACTOR's facilities and perform such inspections as CITY deems reasonably necessary to determine whether the services required to be provided by CONTRACTOR under this Agreement conform to the terms hereof and/or the terms of the solicitation documents, if applicable. CONTRACTOR shall make available to CITY all reasonable facilities and assistance to facilitate the performance of inspections by the CITY's representatives.

8.5 LIABILITY FOR DELAYS OR NON-PERFORMANCE DUE TO UNUSUAL CIRCUMSTANCES

It is expressly agreed that in no event shall CITY be liable or responsible to CONTRACTOR, or to any other person, on account of any stoppage or delay in the work to be performed pursuant to this Agreement, by injunction or other legal or equitable proceedings brought against CITY or CONTRACTOR, or on account of any delay from any cause over which CITY has no control. CONTRACTOR shall not be responsible for delays or non-performance of the terms and provisions of this Agreement where such delays or non-performance are caused by events or circumstances beyond the control of CONTRACTOR. CONTRACTOR shall not be entitled to compensation for such period of time as the delay or non-performance shall continue, but will be entitled to pro-rata compensation once said work has been completed. In the event of a strike of the employees of CONTRACTOR, or any other similar labor dispute which makes performance of this Agreement by CONTRACTOR substantially impossible, CONTRACTOR agrees that CITY shall have the right to call the bond hereinafter described within one (1) week of such action and engage another person, firm or corporation to provide necessary services with the bond proceeds applied to pay any difference between the Agreement price in effect and the costs charged by the successor company. In the event the bond is called, CITY will first call and use the cash/surety bond posted by CONTRACTOR.

8.6 BREACH OF AGREEMENT

If, in the opinion of the City Manager or the authorized CITY representative, there has been a material breach of this Agreement, City Manager or designated CITY representative shall notify CONTRACTOR, in writing, specifying the basis and reason in which there has been a breach of Agreement. In the event of a breach by CONTRACTOR, CONTRACTOR shall be liable for liquidated damages as provided in this Section. Unless otherwise provided in this Section 8.6, there shall be no cure period of time to avoid the consequences of a breach.

8.6.1 Operational provisions. Failure to comply with the operational provisions of this Agreement upon notice shall result in liquidated damages due to the CITY as follows:

(A) Spillage and Litter – Failure to clean up spilled material from loading and/or transporting in compliance with the "Florida Litter Law" or as described in this Agreement. Each failure shall result in liquidated damages due to the CITY in the amount of Two Hundred Fifty Dollars (\$250.00). Additionally, if CONTRACTOR fails to remedy the initial violation within three (3) calendar days, an additional assessment shall be imposed in the amount of One Thousand Dollars (1,000) per day until the violation is properly remedied.

(B) Customer Complaints other than Collection Misses – Failure to resolve complaints other than Collection misses within three (3) calendar days from the day of notification shall result in liquidated damages due to the CITY in the amount of Two Hundred Fifty Dollars (\$250.00) for each occurrence.

(C) Chronic Compliant Problems – Failure or neglect to correct chronic problems (chronic shall mean three (3) or more similar complaints at the same premises within a six (6) month period) in any category of service shall result in liquidated damages due to the CITY in the amount of One Thousand Dollars (\$1000.00) for each occurrence after the second. In the event that CONTRACTOR receives more than five (5) chronic complaint problems within a month, the CITY shall receive liquidated damages in the amount of Two Thousand Dollars (\$2000.00) per occurrence thereafter.

(D) Chronic Equipment Problems – Failure or neglect to correct chronic equipment problems (chronic shall mean three instances of the same or similar problem within a twelve month period) shall result in liquidated damages due to the CITY in the amount of One Thousand Dollars (\$1000.00) for each occurrence after the second.

(E) CONTRACTOR Reports – Failure to provide the reports required by this Agreement. For each day of delay liquidated damages shall be due to the CITY in the amount of Two Hundred Fifty Dollars (\$250.00), which shall be assessed for each report. In addition, the CITY may withhold payment for services until receipt of the required reports.

(F) Mixing Loads. If CONTRACTOR fails to adhere to the mixed load prohibition provisions set forth in Section 3.12.9 of this Agreement, CONTRACTOR shall be responsible for liquidated damages in the amount of Two Hundred Fifty Dollars (\$250.00) per occurrence.

(G) Container or Cart Delivery, Repair or Replacement. Failure of CONTRACTOR to deliver, repair, maintain or replace a Cart or Container within the time periods required by this Agreement shall result in liquidated damages due to the CITY in the amount of \$25 per day until the proper corrective action is taken. Additionally, if CONTRACTOR fails to remedy the initial violation within five (5) calendar days, an additional assessment shall be imposed in the amount of One Hundred Dollars (\$100.00) per day until the proper corrective action is taken.

(H) Disposing at Non-Designated Facility – if CONTRACTOR fails to dispose of Solid Waste, Bulk Waste or Recyclable Materials at the City designated locations as required by this Agreement shall result in the imposition of a Two Thousand Dollar (\$2000.00) penalty for each instance; each instance shall mean each of collected Waste or Recyclable Materials that is not disposed of at the City designated locations as required by this Agreement.

8.6.2 Non-collection. If CONTRACTOR fails to collect any Solid Waste, Bulk Waste or Recyclable Materials in accordance with the schedules and routes provided for in this Agreement, CONTRACTOR shall be responsible for liquidated damages in the amount of \$10 per service unit for the first day of non-collection (failure to collect by 7pm on a scheduled collection day), and \$25 per service unit, per day for each calendar day of non-collection thereafter, and such damages shall accrue daily until proper collection.

8.6.3 Breach of other Provisions in Agreement. Failure of CONTRACTOR to comply with any other provision of this Agreement that is not described in this Section 8.6 shall result in liquidated damages due to the CITY in the amount of \$500 per day for each occurrence that is not corrected within 5 calendar days of written notice of the breach.

8.6.3 Liquidated damages not a penalty. CONTRACTOR agrees that the amount of liquidated damages assessed pursuant to this Section 8.6 is reasonable and does not constitute a penalty. The parties recognize the difficulty of proving the loss or damage suffered by the CITY due to CONTRACTOR's breach. CONTRACTOR acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of this Agreement.

8.6.4 Protest Procedure.

(A) The CONTRACTOR shall have five (5) Work Days from the date of the written notice to file a written letter of protest with the City Manager. If the protest is filed within five (5) Work Days, the City Manager or individuals designated by the City Manager shall conduct a formal review of each properly filed protest. The determination of the City Manager or designee shall be final. If the protest is not timely filed, the City Manager shall deduct the amount of the liquidated damages due to the CITY from payment due or to become due to the CONTRACTOR.

(B) Pending resolution of the alleged breach, the CONTRACTOR shall be governed by the provisions of Section 17.

(C) Completion of the protest procedure set forth in this section shall be required prior to CONTRACTOR filing a lawsuit based upon the Breach of Agreement provisions in this Section 8.6 of the Agreement.

8.7 ADDITIONAL REMEDIES UPON BREACH

If CONTRACTOR fails to begin work at the time specified, or discontinues the prosecution of the work, or any portion thereof, or in any other way materially breaches the Agreement for any cause not excused as provided herein, and the CITY Commission makes a final determination after a public hearing that a material breach has occurred, and if CONTRACTOR or his cash/surety fails to cure such default within five (5) business days after the receipt of such notice from CITY, CITY may thereupon, by action of CITY Commission, declare the Agreement

terminated and in default. Upon such declaration of cancellation or breach, CITY may, in addition to other available remedies, take over the work or any portion thereof or engage another firm to take over the work or any portion thereof. CITY shall pay CONTRACTOR for any payments due for services rendered by CONTRACTOR prior to termination of the Agreement. Such cancellation of the Agreement shall not relieve CONTRACTOR or the cash/surety of liability for failure to faithfully perform this Agreement, and, in case the expense incurred by CITY in performing or causing to be performed the work and services provided for in said Agreement shall exceed the sum which would have been payable under this Agreement, then CONTRACTOR, and the cash/surety, to the extent of its obligation, shall be liable to CITY in the amount of any such expenses in excess of the Agreement price. CITY may apply the cash bond in its possession toward its damages and it may look to the cash/surety, CONTRACTOR and any guarantor for additional damages. CONTRACTOR's cash/surety or security will not be released until such time as the term of this Agreement otherwise expires.

8.8 SURETY BOND

CITY may apply the cash/surety bond in its possession for any and all damages incurred as a direct or indirect result or failure by CONTRACTOR to properly perform its obligations under this Agreement.

SECTION 9: CUSTOMER RELATIONS

CONTRACTOR shall cooperate with CITY's authorized representatives in every reasonable way in order to facilitate the progress of the work contemplated under this Agreement. CONTRACTOR shall have, at all times, a competent and reliable representative on duty authorized to receive orders and to act on its behalf.

9.1 OFFICE HOURS

CONTRACTOR shall take all reasonable steps and do all things necessary to insure good and harmonious customer relations in the franchise area. CONTRACTOR agrees that it shall have twenty-four (24) hour telephone service via a non-toll call from CITY. CONTRACTOR's employee(s) shall staff the telephone service during the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday, and 8:00 a.m. until 12:00 p.m. on Saturday. Staffing of the telephone service is exempt for the following holidays: New Years Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. CONTRACTOR shall maintain, in Broward County, office hours between 8:30 a.m. and 5:00 p.m. on Work Days.

9.2 MISSED COLLECTIONS

If the collection of any unit is missed during the regular route collection, CONTRACTOR shall insure that the missed collection shall be picked up on the same day if notification was received by CONTRACTOR from the CITY or customer before 12 P.M., otherwise the missed collection shall be picked up before 12 P.M. on the next scheduled collection day after such notification from CITY or customer. Any deviation from the requirements of this provision must be approved by City Manager or CITY's designated representative. If CONTRACTOR fails to comply with this provision, or any of the terms and conditions of the Agreement, CITY reserves the right to insure that the collection is made, either with its own force or an outside source, and to charge all costs, plus reasonable overhead, to CONTRACTOR. CONTRACTOR shall not be required to collect material from

curbside that is non-conforming; however, in each such case, CONTRACTOR shall notify each resident by door hanger or other means, in a form approved by CITY, notifying the resident of the problem and how the customer needs to correct the problem. CONTRACTOR shall then notify CITY of the location every time a non-conforming location is noticed.

9.3 COMPLAINTS AND REPORTS OF OPERATIONS

CONTRACTOR shall perform a service of high quality and keep the number of legitimate complaints to a minimum. CONTRACTOR shall maintain a telephone listing in the name in which the company is doing business as CONTRACTOR and provide answering service for those customers needing to contact CONTRACTOR during the hours defined in Section 9.1. The CITY shall receive all complaints regarding the non-performance of the CONTRACTOR during all other hours not defined in Section 9.1. Complaints received by the CITY shall be forwarded by electronic transmission, or by phone, and such complaint shall be resolved before 12 P.M. on the next Scheduled Collection day. CONTRACTOR will maintain an accurate and up-to-date log of all complaints received and the disposition thereof. CONTRACTOR shall provide the complaint log to the CITY on a monthly basis, or upon request by CITY. CITY reserves the right to correct a complaint if the complaint is not corrected within twenty-four (24) hours of notification to CONTRACTOR.

9.4 SPILLAGE AND LITTER

CONTRACTOR shall not be responsible for cleaning up sanitary conditions around Roll Carts or Recycling Bins caused by the carelessness of the customer; however, CONTRACTOR shall clean up any Residential Solid Waste or Recyclable Materials spilled from a Roll Cart or Recycling Bin by CONTRACTOR or its employees. During transport, all Residential Waste and Recyclable Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the Residential Waste or Recyclable Materials is prevented. CONTRACTOR shall be responsible for the immediate cleanup of any spillage caused by CONTRACTOR or its employees.

CONTRACTOR shall pay all cost recovery fees associated with the cleanup of leaking, spilling and blowing of Residential Waste or Recyclable Materials onto CITY roadways and streets. CONTRACTOR shall also pay all costs (if any) associated with resurfacing of CITY roadways and streets if damaged due to leakage or spillage of any and all solid waste.

CONTRACTOR shall coordinate with CITY to conduct a drive through route inspection of CITY roadways and streets with CITY staff prior to commencement of the Agreement. CONTRACTOR shall provide the CITY with no less than ten (10) Work Days advance notice of date on which it wishes to conduct the drive through route inspection. Upon completion of the route inspection and prior to commencement of any Services under this Agreement, CONTRACTOR shall identify in writing any damages the CONTRACTOR believes exist on CITY roadways and streets that may be associated with leaking, spilling and blowing of waste and/or recyclable materials. CONTRACTOR shall provide such written identification of existing damage to the City prior to commencement of any Services under this Agreement.

9.5 COST RECOVERY FEE

For valid complaints not corrected within twenty-four (24) hours after notification to CONTRACTOR by CITY, CITY may assess a fee equal to the cost incurred by CITY to correct said complaint, plus any associated administrative fees, as shown in the damage form provided in the attached Exhibit, per complaint until said complaint is corrected to the reasonable satisfaction of CITY. Prior to imposing any fee, CONTRACTOR shall have five (5) business days from the date of receipt of notice of the imposition of the fee to request that the City Manager's Office review the complaint and CONTRACTOR's actions in response to the complaint. Following a review of the CONTRACTOR's position, the City Manager's Office shall advise CONTRACTOR, in writing, as to the justification for and the amount of the fee. The City Manager's Office's decision shall be final.

SECTION 10: PAYMENT WITHHELD

In addition to express provisions elsewhere contained in this Agreement, the CITY may, after providing ten (10) days advance notice to CONTRACTOR, withhold from any payment otherwise due CONTRACTOR such amount as determined necessary to protect the CITY'S interest, or, if it so elects, may withhold all or a portion of any monthly payment or refund payment on account of:

- Unsatisfactory progress of the work not caused by condition beyond the CONTRACTOR'S control;
- Defective work not corrected;
- CONTRACTOR'S failure to carry out instructions or orders of the CITY or its representative in accordance with the terms and conditions of this Agreement;
- Execution of work not performed in accordance with the Agreement specifications;
- Unsafe working conditions allowed to persist by the CONTRACTOR, after noticed by the City and Reviewed by the CONTRACTOR;
- Failure of the CONTRACTOR to provide route schedules and other reports as required by the CITY;
- Use of any subcontractors without the CITY'S prior written approval;
- Failure to comply with specified performance standards.

When the above grounds are removed, payment shall be made within ten (10) days of proof of satisfaction for amounts withheld because of them and CITY shall never be liable for interest on any delayed or late payment. The CITY's right to withhold payments under this Section will be reasonable in light of the nature of the claim, amount of available insurance and performance bond pursuant to this Agreement.

SECTION 11: PERFORMANCE BOND

11.1 ACCOUNT

CONTRACTOR shall furnish at its own cost an irrevocable Performance Bond, in form and content approved by the CITY Attorney, for the faithful performance of this Agreement and all of its obligations arising hereunder in the amount of five-hundred thousand (\$500,000.00) dollars. Said bond shall be executed by a surety company approved by CITY and licensed to do business in the State of Florida, with a B V qualification as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company of Oldwick, New Jersey. CONTRACTOR shall furnish to CITY proof of such bond

within ten (10) days after the execution of this Agreement; such proof shall include a statement that the policy or bond may not be canceled or altered without at least thirty (30) days prior notice to CITY.

11.2 NO RELIEF OF LIABILITY

Maintenance of said bond and the performance by CONTRACTOR of all of the obligations under this paragraph shall not relieve CONTRACTOR of liability under the default provisions set forth in this Agreement or from any other liability as a result of any material breach hereunder. The performance Bond may be "called" in the event of any default hereunder by CONTRACTOR. The calling of the Bond shall in no manner restrict or preclude any additional or further remedies available to CITY against CONTRACTOR for breach, default or damages hereunder.

11.3 GUARANTY

CONTRACTOR shall cause to be obtained a corporate guaranty of Waste Pro USA, Inc. ("Guarantor") for and on behalf of Waste Pro of Florida, Inc. whereby the Guarantor shall guaranty all of the obligations of CONTRACTOR under this Agreement. The form of the guaranty is attached hereto as Exhibit 6.

SECTION 12: EQUIPMENT

12.1 VEHICLES AND COLLECTION EQUIPMENT

CONTRACTOR shall provide and maintain and have available at all times the necessary amount of Collection trucks to perform the work as specified herein. During severe storms and emergencies, CONTRACTOR shall have available four (4) additional Collection trucks and six (6) thirty yard Roll-Off Containers for use by CITY.

All CONTRACTOR and sub-contractor vehicles used to perform services as specified herein shall be equipped, at CONTRACTOR's expense, with a functioning GPS system capable of real time vehicle tracking.

12.2 EQUIPMENT IN GOOD REPAIR

CONTRACTOR shall use vehicles, one (1) per route, with vehicles being an average of three (3) years old, with no truck over seven (7) years old, and freshly painted, with bodies that are watertight to a depth of not less than eighteen inches (18"), with solid sides, using pneumatic tires. All vehicles shall be equipped with operational radio transceiver capable of communicating with CONTRACTOR's dispatch from anywhere in CITY. CONTRACTOR shall provide sufficient equipment, in proper operating condition so regular schedules and routes of Collection can be maintained. Equipment is to be maintained in a reasonable, safe, working condition. Residential Collection trucks shall be painted uniformly in color, with the name of CONTRACTOR and the number of the vehicle printed in letters not less than four inches (4") high, on each side of the vehicle, and vehicles shall be numbered and a record kept of the vehicle to which each number is assigned. No advertising shall be permitted on vehicles servicing CITY. CONTRACTOR is required to keep Collection vehicles and Containers emptied by mechanical means cleaned and painted to present a pleasing appearance. CONTRACTOR shall submit for approval by CITY a schedule showing the frequency of the cleaning and painting of the vehicles, the age, and miles of the vehicle.

CITY shall have the right to inspect all CONTRACTOR vehicles assigned to the CITY for collection of solid waste. CONTRACTOR shall make the vehicle available for inspection upon reasonable notice from the CITY. CITY shall approve the vehicle appearance and any decals prior to installation and start date of the Agreement.

Each non-packer trash vehicle shall be equipped with a cover, which may be net with mesh not greater than one and one-half inches (1.5"), or tarpaulin, or fully enclosed metal top. Such cover shall be kept in good order and used to cover the load going to and from the Disposal Facility, or when parked, if the contents are likely to be scattered if not covered. Vehicles shall not be overloaded so as to scatter refuse, however, if refuse is scattered from CONTRACTOR's vehicle for any reasons, it shall be picked up immediately. Each vehicle shall have a fork and broom for this purpose. CONTRACTOR's vehicles are not to interfere unduly with vehicular or pedestrian traffic and vehicles are not to be left standing on streets unattended except as made necessary by loading operations, and shall move with the traffic flow.

SECTION 13: WORKING CONDITIONS

13.1 COMPLIANCE WITH STATE, FEDERAL AND LOCAL LAWS

CONTRACTOR shall comply with all applicable County, State and Federal laws relating to wages, hours and all other applicable laws relating to the employment or protection of employees, now or thereafter in effect.

13.2 FAIR LABOR STANDARDS ACT

CONTRACTOR is required and hereby agrees by execution of this Agreement to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended and changed from time to time.

SECTION 14: INSURANCE

CONTRACTOR shall furnish to CITY of Miramar, Risk Manager, Risk Management Division, 2300 Civic Center Place, Miramar, Florida 33025, certificates of insurance which indicate that insurance coverage has been obtained that meets the requirements contained in Exhibit 8 attached hereto.

SECTION 15: INDEMNIFICATION

CONTRACTOR shall indemnify, defend and hold harmless the CITY and its officials, employees and agents (collectively referred to as "Indemnities") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by this Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of CONTRACTOR or its employees, agents or subcontractors (collectively referred to

as "CONTRACTOR"), regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them or (ii) the failure of CONTRACTOR to comply with any of the paragraphs herein or the failure of CONTRACTOR to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state,, in connection with the performance of this Agreement. CONTRACTOR expressly agrees to indemnify and hold harmless the Indemnities, or any of them, from and against all liabilities which may be asserted by an employee or former employee of CONTRACTOR, or any of its subcontractors, as provide above, for which CONTRACTOR's liability to such employee would otherwise be limited to payments under state Worker's Compensation or similar laws.

SECTION 16: ASSIGNMENT OF AGREEMENT

This Agreement, or any portion thereof, shall not, under any circumstances, be sublet or assigned without the express written consent of the CITY Commission. CONTRACTOR shall not sell or otherwise dispose of any assets during the term of this Agreement, which sale or disposition will in any way affect the ability of CONTRACTOR to perform its obligations under this Agreement, without the express consent of the CITY Commission by action taken in a formal meeting of said body. For purposes of this Agreement, a stock sale of CONTRACTOR's stock in excess of fifty-one percent (51%) shall constitute a non-permitted assignment and subject CONTRACTOR to the default provisions of this Agreement.

SECTION 17: OPERATIONS DURING DISPUTE

- 17.1 In the event that any dispute arises between CITY and CONTRACTOR relating to the performance or compensation under this Agreement, CONTRACTOR shall continue to render service and receive justifiable compensation in full compliance with all terms and conditions of this Agreement as interpreted, in good faith, by CITY, regardless of such dispute.
- 17.2 CONTRACTOR expressly recognizes the paramount right and duty of CITY to provide adequate waste Collection and disposal services to its residents and further agrees, in consideration of the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court without first negotiating with CITY in good faith for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute may present the matter to a court of competent jurisdiction in Broward County, Florida in an appropriate suit therefore instituted by it or by CITY.
- 17.3 Notwithstanding the other provisions in this Section, CITY reserves the right to terminate this Agreement at any time whenever the service provided by CONTRACTOR fails to meet reasonable standards of the trade, after CITY provides written notice to CONTRACTOR pursuant to Sections 8.6 and 8.7 of this Agreement. Upon termination, CITY may call the bond and apply the cash and surety bond for the cost of service in excess of that charged to CITY by the firm engaged for the balance of the Agreement period.

SECTION 18: ORDINANCE

Nothing contained in any CITY ordinance hereafter adopted pertaining to the Collection of Solid Waste shall in anyway be construed to affect, change, modify or otherwise alter the duties, responsibilities, and operations of CONTRACTOR in the performance of the terms of this Agreement, unless it is agreed to in writing by both CONTRACTOR and CITY and this Agreement is amended accordingly.

SECTION 19: AMENDMENTS

Amendments in writing that are consistent with the purposes of this Agreement may be made with the mutual consent of CITY and CONTRACTOR.

SECTION 20: MODIFICATIONS TO THE CONTRACT

The CITY shall have the power to make changes in this Agreement as the result of changes in law, CITY Code or both to impose new rules and regulations on the CONTRACTOR under this Agreement relative to the scope and methods of providing Collection Services as shall from time-to-time be necessary and desirable for the public welfare. The CITY shall give the CONTRACTOR notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection Services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations and obligations, financial or otherwise, of the CONTRACTOR.

The CITY and the CONTRACTOR understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. If there are any changes in governing law that would result in a material financial impact to either party to this Agreement, the CITY and CONTRACTOR agree to enter into good faith negotiations to remedy such impact.

The CONTRACTOR agrees that the terms and provisions of CITY Code as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Agreement and the customers of the CONTRACTOR located within the Service Area. In the event any future change in the CITY Code materially alters the obligations of the CONTRACTOR, then the Collection charges established in this Agreement shall be adjusted. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law. The CITY and CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, the CITY and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section. The CITY and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

SECTION 21: CERTIFIED FINANCIAL STATEMENT REQUIRED

A certified annual financial statement ("Annual Report") of CONTRACTOR or Waste Pro USA, Inc., shall be furnished to CITY within six (6) months of the close of CONTRACTOR's fiscal year on an annual basis throughout the term of this Agreement or any extension thereof.

SECTION 22: RIGHT TO REQUIRE PERFORMANCE

The failure of the parties at any time to require performance of any provisions hereof shall in no way affect their rights thereafter to enforce same. No waiver of any breach of any provisions hereof shall be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

SECTION 23: LAW GOVERNING

The Agreement shall be governed and enforced pursuant to the laws of the State of Florida. Venue for any litigation shall be commenced in Broward County, Florida.

SECTION 24: CONTRACTOR'S PERSONNEL

- 24.1 CONTRACTOR shall assign a qualified person or persons to be in charge of its operations within CITY, and shall give the name or names of CONTRACTOR's representatives to CITY. CONTRACTOR shall also provide information regarding the experience of CONTRACTOR's representatives.
- 24.2 CITY has the right to require that CONTRACTOR's Collection employees wear a clean uniform or shirt bearing CONTRACTOR's name.
- 24.3 Each driver shall, at all times, carry a valid Florida driver's license for the type of vehicle they are driving.
- 24.4 CONTRACTOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONTRACTOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.
- 24.5 All employees and contractors of CONTRACTOR shall be considered to be, at all times, the sole employees or contractors of CONTRACTOR under its sole direction and not an employee, contractor, or agent of CITY. CONTRACTOR shall supply competent and physically capable employees and contractors. CITY may require CONTRACTOR to remove any employee or contractor it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the services is not in the best interest of CITY.

24.6 The direction and supervision of refuse Collection and disposal and salvage operations shall be by competent, qualified and sober personnel, and CONTRACTOR shall devote sufficient personnel, time and attention to the direction of the operation to assure performance satisfactory to CITY. All subcontractors, subconsultants, superintendents, foremen and workmen employed by CONTRACTOR shall be careful and competent. CONTRACTOR shall also provide uniforms that are clearly identified with the company name. Employees and subcontractors of CONTRACTOR shall have and wear proper dress attire at all times. Proper dress attire shall consist of industrial style work pants, a button front shirt or T-shirt with CONTRACTOR's company name or logo and the name of the shirt bearer, and appropriate footwear.

24.7 All employees used by CONTRACTOR during the term of the Agreement shall be of a standing or affiliation that will permit CONTRACTOR's performance herein to be carried on harmoniously and without delay, and in no case, or in any circumstance, will such employees cause any disturbance, interference or delay to any work or service rendered to CITY or by CITY and in no case or in any circumstances will the employees conduct themselves negligently, disorderly or dishonestly in the due and proper performance of the employee's duties. CONTRACTOR shall see to it that its employees serve the public in a courteous, helpful and impartial manner. CONTRACTOR shall furnish CITY with a current roster of employees upon request.

24.8 CONTRACTOR's employees providing Residential Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. No employee shall meddle with property that does not concern him. Care should be taken to prevent damage to property, including flowers, scrubs, and other plantings. After emptying Roll Carts, Recycling Bins, or Containers, employees shall return them to the same location from which they were taken, in the proper position behind the curb or edge of pavement and anything spilled shall be picked up immediately by such employee. Any damages incurred shall be paid by CONTRACTOR.

SECTION 25: COMPLIANCE WITH LAWS AND REGULATIONS

CONTRACTOR hereby agrees to abide by and comply with all applicable Federal, State, County and CITY laws, Ordinances and regulations. CONTRACTOR and its cash/surety shall indemnify, defend and save harmless CITY, its CITY Commissioners, all its officers, representatives, agents and employees against any claim or liability arising from or based on the violation of any such laws, regulations, ordinances, orders or decrees, whether by itself or its employees. CONTRACTOR shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.

SECTION 26: SAVINGS CLAUSE

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 or the CITY, such provisions, 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 or limitation of its use.

SECTION 27: GENERAL

27.1 NO CONTINGENT FEES

CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee, agent, consultant, or lobbyist working solely for CONTRACTOR to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee, agent, consultant, or lobbyist working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the Agreement price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

27.2 NO WAIVER

No waiver by CITY of any term, covenant or condition herein contained shall be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The rights and remedies created by this Agreement are cumulative, and are not intended to be exclusive. The use of one remedy under this Agreement shall not be taken to exclude or waive the right or use of another Agreement, and each party shall be entitled to pursue all remedies generally available under the laws of the State of Florida.

SECTION 28: LITIGATION

28.1 ATTORNEYS' FEES

In the event of any litigation between CITY and CONTRACTOR which arises out of, pertains to, or relates to this Agreement, or the breach of it, or the standard of performance required in it, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party, subject to the limits of this paragraph. Where the prevailing party is awarded compensatory damages from the non-prevailing party, the amount of attorney's fees shall not exceed the amount of compensatory damages (it being the intent that no attorney's fees shall be recoverable by a prevailing party in the absence of an award of compensatory damages, other than nominal damages). If no such compensatory damages are awarded, the prevailing party is entitled to reasonable attorney's fees for the defense against the non-prevailing party's claim, which shall not exceed the amount of the Agreement as adjusted by amendments as are binding upon the parties.

28.2 LEGAL REPRESENTATION

It is acknowledged that each party to this Agreement has had the opportunity to be represented by legal counsel in the preparation of this Agreement and, accordingly, the rule that an Agreement shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

SECTION 29: MEDIATION

Before a party may file a lawsuit or other cause of action against the other party to this Agreement resulting from a claim arising out of or relating to this Agreement, the parties must submit to non-binding mediation of said dispute. Notice of the claim or controversy must be provided by the complaining party to the other party, and mediation shall be scheduled to occur before a Circuit Court certified mediator within fifteen (15) days of said notice.

SECTION 30: MISCELLANEOUS

30.1 RECORDS

CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to services provided and fees charged pursuant to this Agreement. Upon providing reasonable notice, such books and records will be available at all reasonable times for examination and audit by CITY and its representatives, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records may be grounds for disallowance by CITY of any fees or expenses based upon such entries.

30.2 MODIFICATION

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

30.3 PROPERTY DAMAGE

CONTRACTOR shall be responsible for the repair or replacement, if repair is not adequate of any damages to public or private property during the provision of collection service and caused by the CONTRACTOR or the CONTRACTOR's representative.

30.4 PROPRIETARY INFORMATION

The documents, records, routing, charges, and pricing of CONTRACTOR are proprietary information and records of CONTRACTOR, and are exempt from disclosure pursuant to Section 815.045, Florida Statutes, as may be amended from time to time, unless in the sole opinion and judgment of either the City Manager or the City Attorney, such documents and records are not within said statutory exemption.

30.5 **NOTICE**

Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by facsimile transmission with certification of transmission to the receiving party, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Section. For the present, the CONTRACTOR and the CITY designate the following as the respective places for giving of notice:

As to CITY:

Kathleen Woods-Richardson, City Manager
City of Miramar
2300 Civic Center Place
Miramar, Florida 33025
Telephone: (954) 602-3313
Facsimile: (954) 602-3588

Copy to:

Thomas Good, Public Works Director
(Contract Administrator)
City of Miramar
13900 Pembroke Road, Bldg L
Miramar, Florida 33027
Telephone: (954) 883-6815
Facsimile: (954) 602-3551

Jamie Alan Cole, Esq.
Weiss Serota Helfman Cole & Bierman, P.L.
City Attorney
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, Florida 33301
Telephone: (954) 763-4242
Facsimile: (954) 764-7770

As to CONTRACTOR:

Russell Mackie
Waste Pro of Florida, Inc.
Regional Vice President
17302 Pines Boulevard
Pembroke Pines, Florida 33029
Telephone: (954) 967-4200
Facsimile: (954) 241-4489

Copy to:

Jeanie Dubinski, Esq.
General Counsel
Waste Pro USA, Inc.
2101 West S.R. 434, St. 315
Longwood, Florida 32779
Telephone: (407) 869-8800
Facsimile: (407) 869-8884

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused these presents to be executed and attested to by their duly authorized officers or representatives and their official seals to be affixed hereon, the day and year first above written.

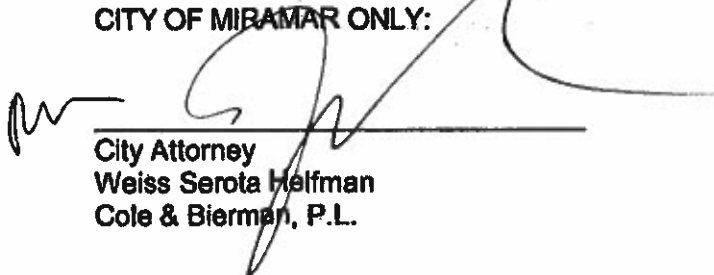
ATTEST:

CITY:


Denise A. Gibbs, City Clerk

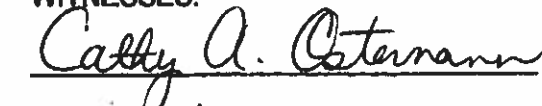


BY: Kathleen Woods-Richardson, City Manager


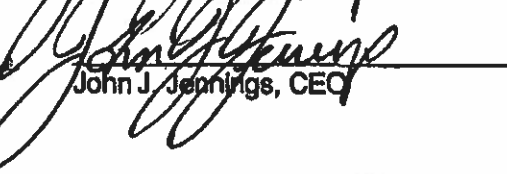
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
USE OF AND RELIANCE BY THE
CITY OF MIRAMAR ONLY:


City Attorney
Weiss Serota Helfman
Cole & Bierman, P.L.

CONTRACTOR:

WITNESSES:

BY: 
Waste Pro of Florida, Inc.

John J. Jennings, CEO

Print Name
Cathy A. Ostermann


Print Name

ATTEST:


Robert J. Hyres, Secretary
Christopher Ciccio

STATE OF FLORIDA)
COUNTY OF Seminole) SS:

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared John J. Jennings as CEO of Waste Pro of Florida, Inc., an organization authorized to do business in the State of Florida, and acknowledged executed the foregoing Agreement as the proper official of Waste Pro of Florida the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 8 day of March, 2016.



Malenie Velez
NOTARY PUBLIC
State of Florida at Large

My commission expires:



CERTIFICATE OF LIABILITY INSURANCE

WASTPRO-01 PARKERNATHCO

DATE (MM/DD/YYYY)
12/17/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Insurance Services of Georgia, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 37230-5191	CONTACT NAME: Willis Certificate Center	
	PHONE (A/C, No, Ext): (877) 945-7378 FAX (A/C, No): (888) 467-2378	
INSURED Waste Pro USA, Inc. and its subsidiaries 2101 W State Road 434 Longwood, FL 32779	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Liberty Mutual Fire Insurance Company	23035
	INSURER B: Lexington Insurance Company	19437
	INSURER C: Liberty Mutual Insurance Company	23043
	INSURER D: NAS - North American Specialty Insurance Company	29874
INSURER E: AIG Specialty Insurance Company	26883	
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X	X	TB2-621-093780-105	11/22/2015	11/22/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 20,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	X	AS2-621-093780-095	11/22/2015	11/22/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			018423515	11/22/2015	11/22/2018	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WA5-62D-093780-045	11/22/2015	11/22/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Excess Liability			EXS 2000067 02	11/22/2015	11/22/2016	25,000,000 XS 5,000,000
E	Pollution Liability			PLC 23063207	01/01/2016	01/01/2017	See Attached

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Miramar is an Additional Insured as required by contract under Automobile and General Liability. Waiver of Subrogation applies in favor of Certificate Holder for General Liability, Automobile and Workers' Compensation, as permitted by law.

CERTIFICATE HOLDER**CANCELLATION**

The City of Miramar 2300 Civic Center Place Miramar, FL 33025	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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Additional Named Insureds for Waste Pro USA, Inc. include the following:

Waste Pro of Alabama, Inc.

Waste Pro of Florida, Inc.

Waste Pro of Georgia, Inc.

Waste Pro of Louisiana, Inc.

Waste Pro of Mississippi, Inc.

Waste Pro of Tennessee, Inc.

Waste Pro of North Carolina, Inc.

Waste Pro of South Carolina, Inc.

Applewhite Recycling LLC

American Recycling of Georgia LLC

American Recycling of Alabama LLC

Delta Sanitation LLC

Talley Disposal LLC

RXND LLC dba Green Key Environmental Solutions

ADDITIONAL COVERAGE SCHEDULE

COVERAGE	LIMITS
POLICY TYPE: Contractor's Pollution Liability CARRIER: AIG Specialty Insurance Company POLICY TERM: 01/01/2016 ~ 01/01/2017 POLICY NUMBER: PLC 23063207	Pollution Liability - \$25,000,000 Limit \$250,000 Deductible Storage Tank Liability- \$1,000,000 Limit
POLICY TYPE: Excess Workers Compensation and Employers Liability - FL CARRIER: Liberty Mutual Insurance Company POLICY TERM: 11/22/2015 ~ 11/22/2016 POLICY NUMBER: EW5-62N-093780-055	WC - Per Statute E.L. \$1,000,000 Each Accident E.L. \$1,000,000 Disease - Policy Limit E.L. \$1,000,000 Disease - Each Employee



City of Miramar
An Equal Opportunity Employer

Mayor

Wayne M. Messam

Vice Mayor

Darline B. Riggs

City Commission

Winston F. Barnes

Maxwell B. Chambers

Yvette Colbourne

"We're at
the Center of Everything"

Public Works Department
13900 Pembroke Road
Miramar, Florida 33027

Phone (954) 883-6815
FAX (954) 602-3750

VIA FEDERAL EXPRESS

March 3, 2016

Russell Mackie
Regional Vice President
Waste Pro of Florida, Inc.
17302 Pines Boulevard
Pembroke Pines, FL 33029

RE: Amended and Restated Franchise Agreement for Solid Waste and Recycling Collection and Disposal between the City of Miramar and Waste Pro of Florida, Inc.

Dear Mr. Mackie:

I am pleased to inform you that the City of Miramar City Commission at its regular meeting on Wednesday, March 2, 2016, approved the first three (3) year renewal of the Amended and Restated Franchise Agreement with Waste Pro of Florida, Inc., to provide Solid Waste and Recycling Collection Services.

Attached, please find two (2) original agreements for execution by your office. Kindly execute the agreements by signing on the pages indicated, as well as completion of the Notary Public page attached to each agreement. Please return the two (2) originals to my office, within five (5) business days of receipt. Upon receiving the City will complete final execution and a copy returned to your office.

I would also like to commend Waste Pro on their commitment to negotiate a good faith renewal agreement. The City looks forward to a continued long standing committed relationship as Waste Pro continues to provide solid waste collection and recycling services to the residents and business establishments in Miramar.

Should you have any questions, please feel free to contact my office at 954-883-6815.

Sincerely,

Thomas Good
Director of Public Works

Attachments

Cc: Contract File