

Franchise Agreement
between
City of Port St. Lucie, Florida
and
Waste Pro of Florida, Inc.
for
the Collection of Solid Waste
and Recyclable Materials

Franchise Agreement

for the Collection of Solid Waste and Recyclable Materials

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EXHIBITS

- EXHIBIT 1 GENERAL MAP OF SERVICE AREA

- EXHIBIT 2 RATES FOR RESIDENTIAL COLLECTION SERVICES

- EXHIBIT 3 RATES FOR COMMERCIAL COLLECTION SERVICES

- EXHIBIT 4 RATES FOR SPECIAL COLLECTION SERVICES

- EXHIBIT 5 LIST OF CITY PROPERTIES RECEIVING COLLECTION SERVICE

FRANCHISE AGREEMENT

This Franchise Agreement ("Agreement") is made and entered into this ____ day of _____, 2019 by and between City of Port St. Lucie, Florida ("City"), a political subdivision of the State of Florida, and Waste Pro of Florida, Inc. ("Contractor"), a Florida corporation and a division of Waste Pro USA, Inc.

RECITALS

WHEREAS in 2006, the City issued a Request for Proposals ("RFP") for the Collection of Solid Waste and Recyclable Materials generated by the City's residents (RFP No. 20060080); and

WHEREAS, the City Council ("Council") of City of Port St. Lucie concluded that the Contractor submitted the best proposal in response to the City's RFP and then the Council awarded an exclusive franchise to the Contractor for the collection of the Residential Waste and Commercial Waste generated in the City (City Contract No. 20060080); and

WHEREAS, on June 13, 2006, the Council entered into an exclusive franchise agreement with the Contractor for the Collection of Residential Waste and Commercial Waste generated in the City (City Contract No. 20060080); and

WHEREAS, the Council finds that waiving the bid requirements in the City's Code of Ordinances, pursuant to Section 35.04 is appropriate because the Council finds that it is in the best interests of the City to do so with regard to the award of this Franchise Agreement to the Contractor; and

WHEREAS, the Council finds that the franchise granted herein properly balances (a) the Council's desire to provide excellent, environmentally-sound Collection services to the City's residents and businesses, and (b) the Council's desire to minimize and reasonably allocate the cost of such services; and

WHEREAS, the Council has the authority to enter into exclusive franchise agreements pursuant to Section 50.13(d) of the City of Port St. Lucie Code, as amended by Ordinance No. 07-79.

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

SECTION 1: DEFINITIONS

The capitalized words and phrases in this Agreement are defined in this Section 1. The definitions contained in this Section 1 shall be used when interpreting this Agreement.

1.1 Advertising means any written communication for the purpose of promoting a product or service. However, Advertising does not include the Contractor's name, telephone number, and other information provided in the manner specified in this Agreement, or any other information exempt from disclosure pursuant to Florida law.

1.2 Agreement means this Franchise Agreement between the City and the Contractor.

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

1.4 Automated Collection Service means the Collection of Recyclable Materials in a Recycling Cart, using fully automated equipment (e.g., a side-loading Collection vehicle that is manned with a driver only) or semi-automated equipment (e.g., a rear-loading Collection vehicle equipped with a hydraulic "tipper," a driver, and a crew of one or two people).

1.5 Back Door Service means the Collection of Garbage, Rubbish, and Recyclable Materials from a Residential Curbside Customer's back yard, side yard, or other location that is not Curbside.

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

1.7 Bulky Waste means a large discarded item that (a) is discarded by a Customer as a result of the Customer's normal housekeeping activities on their own Premises and (b) cannot be placed in a Garbage Can because of its size, shape or weight. Bulky Waste includes furniture, fixtures, White Goods, and large pieces of carpet. Bulky Waste does not include any Exempt Waste.

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

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

1.10 City means, depending on the context, either (a) the incorporated area contained within the boundaries of City of Port St. Lucie, Florida, or (b) the government of City of Port St. Lucie, acting through the Council or its designees.

1.11 City Customer List means the City's list of the Residential Customers in the service area that receive Collection Service from the Contractor pursuant to this Agreement. The City Customer List also includes any Residential Customers in the service area that voluntarily pay the applicable non-ad valorem special assessments and the service area fee in order to receive the same services as Residential Customers in the service area.

1.12 City Indemnified Party means the City, including its officers, Council members, agents, volunteers, and employees, while acting within the course and scope of their office or employment.

1.13 Class I Solid Waste means all non-hazardous solid waste that may be lawfully placed in a Class I Landfill for disposal, except yard trash, construction and demolition debris, white goods, tires, septage, and special waste. Class I Solid Waste does not include any type of solid waste that may not be placed in the County's Class I Landfill for disposal under federal, state or local regulations.

1.14 Class III Solid Waste means all non-hazardous solid waste that may be lawfully placed in a Class III Landfill for disposal, including construction and demolition debris, yard trash, trees, tree stumps, building materials, and packaging materials.

1.15 Collection means the process of picking up the Solid Waste and Recyclable Materials that are Set Out by a Customer and then transporting and delivering the Solid Waste and Recyclable Materials to a Designated Facility.

1.16 Collection Containers means Garbage Cans, Recycling Containers, and Mechanical Containers.

1.17 Collection Plan means the Contractor's written plan for providing Collection Services in compliance with the requirements in this Agreement, as described in Section 23, below.

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

1.19 Collection Service Cost means the Contractor's cost of billing, bill collection, administration, and bad debt for providing Residential Collection Service.

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

1.21 Commercial Collection Service means: (a) the Collection of Commercial Waste from a Commercial Customer; and (b) the Collection of Recyclable Materials from a Commercial Customer, if such service is requested by the Commercial Customer.

1.22 Commercial Customer means a Person that owns or occupies Commercial Property and receives or should receive Commercial Collection Service from the Contractor pursuant to this Agreement.

1.23 Commercial Lawn Care Company means a Person that provides lawn and garden maintenance services or landscaping services for remuneration.

1.24 Commercial Property means all real property that is located in the service area and not classified as Residential Property. Commercial Property includes: (a) property used primarily for commercial purposes, such as hotels, motels, stores, restaurants, business offices, service stations, and recreational vehicle parks; (b) property used primarily for institutional purposes, such as governmental offices, churches, hospitals, schools and not-for-profit organizations; (c) apartments, condominiums, Townhouses, and other buildings that contain four (4) or more Dwelling Units; and (d) other property that contains four (4) or more Dwelling Units, including commercially zoned property that is used primarily for residential purposes, including property used exclusively as a recreational vehicle park, as defined in Section 513.01(11), Florida Statutes, and property that is classified as "RMH-5" or "PUD" under the City's zoning regulations. Vacant land, not classified as Improved Real Property, and Industrial Property, shall be deemed Commercial Property.

1.25 Commercial Waste means Garbage and Rubbish generated on Commercial Property. Commercial Waste does not include Bulky Waste or Yard Waste.

1.26 Community Events means parades, festivals, and other civic events that are sponsored or supported by the City and designated by the Director pursuant to Section 36.3, below.

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

1.28 Construction and Demolition Waste shall have the meaning set forth in Section 403.703(6), Florida Statutes, for construction and demolition debris, except that Construction and Demolition Waste does not include Land Clearing Debris. In general, Construction and Demolition Waste means discarded materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wall board, and lumber, resulting from the construction, destruction, or renovation of a structure. Construction and Demolition Waste is considered Class III Solid Waste.

1.29 Consumer Price Index or CPI means the "Consumer Price Index - All Consumers," all items, not seasonally adjusted, for the Miami-Ft. Lauderdale area, Base Period 1982 – 84 = 100 (Series ID CUURA320SA0), as published by the U.S. Department of Labor, Bureau of Labor Statistics, or a successor agency.

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

1.31 Contractor means Waste Pro of Florida, Inc.

1.32 Contractor Customer List means the Contractor's list of the Residential Customers in the service area, and the Commercial Customers in the entire service area, that receive Collection Service from the Contractor pursuant to this Agreement.

1.33 Council means the Port St. Lucie City Council.

1.34 Curbside means a location adjacent to a road or right-of-way that abuts a Customer's property and provides access for the Contractor's Collection vehicles. If there is no public access to the Customer's property, Curbside means a location that is adjacent to a roadway where the Contractor may lawfully gain access and provide Collection Service to the Customer. In all cases, the Curbside location must be within three (3) feet of the curb or the edge of the road.

1.35 Customer means a Person that uses one or more of the Contractor's Collection Services under this Agreement. A Customer is a Commercial Customer or a Residential Customer.

1.36 Customer Lists means (a) the City Customer List and (b) the Contractor Customer List.

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

1.38 Director means the Director of the City's Department of Neighborhood Services or the Director's designee(s).

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

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

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

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

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

1.44 Electronic Equipment (E-Waste) means large electronic devices that have been discarded, including but not limited to computers, monitors, televisions, cathode ray tubes, printers, scanners, and copying machines.

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

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

1.47 First Operating Year means the period from the Commencement Date through and including September 30, 2019, unless this Agreement is terminated earlier.

1.48 Force Majeure means the following events or circumstances, but only to the extent that they delay or preclude the City or Contractor from performing any of its obligations (other than payment obligation) under this Agreement: (a) an act of God, tornado, hurricane, flood, lightning, fire, explosion (except those caused by the negligence of Contractor, its agents, and assigns), landslide, earthquake, epidemic, and extremely abnormal and inclement weather; (b) acts of a public enemy, acts of war, terrorism, insurrection, riots, civil disturbances, or national or international calamities; (c) suspension, termination, or interruption of utilities necessary to the Contractor's operations or duties under this Agreement; (d) an injunction, or a legal or equitable proceeding brought against the City or Contractor; (e) a Change in Law; and (f) any act, event, or condition, which is determined by mutual agreement of the City and the Contractor to be of the same general type as the events of Force Majeure identified in Sections 1.46 (a) through (e).

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

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

1.51 Garbage Can means any commonly available metal or heavy-duty plastic container for Solid Waste that has an enclosed bottom and sides, a hinged or removable lid or top, handles on the sides, and a capacity of approximately one-hundred (100) gallons or less. Garbage cans may or may not have wheels.

1.52 Gross Revenues means all of the fees, charges, and costs that are collected by the Contractor from any Person based on, arising from, attributable to, or in any way derived from the services the Contractor provides pursuant to this Agreement. Gross Revenues include but are not limited to the fees that are received by the Contractor from Commercial Customers and Residential Customers for the Collection of Solid Waste and Recyclable Materials, and for Tipping Fees. However, Gross Revenues do not include any sum that is collected by the Contractor to pay Franchise Fees.

1.53 Hazardous Material means a Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. Hazardous Material

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

1.54 Holiday means a day when the Contractor does not need to provide Collection Service. The only Holidays are Independence Day, Thanksgiving Day, and Christmas Day (December 25), unless the Director and the Division Manager mutually agree to designate additional days as Holidays.

1.55 Improved Property means any cleared, graded, or drained property in the City upon which a building or structure is erected and occupied or capable of being occupied (i.e., a Certificate of Occupancy has been issued) for residential, commercial, institutional or industrial use. Improved Property includes recreational vehicle park lots contained within areas designated as Mobile Home parks by the Health Department.

1.56 Indemnified Loss means all actual costs, losses, damages, expenses, and liabilities that a City Indemnified Party incurs or suffers pursuant to or in connection with, or are caused by or result from, directly or indirectly, in whole or in part, any wrongful act, error or omission, or negligence by the Contractor or any of its agents, employees, or any tier of subcontractors of the Contractor, or subcontractor to a subcontractor of the Contractor, or anyone employed by any of those Persons for whose wrongful act, error or omission, or negligence any of them may be liable, except to the extent resulting solely from the negligent acts or omissions of the City Indemnified Party, in the execution or performance of the Contractor's obligations under or incidental to this Agreement. Such costs include attorneys' fees, court costs, and expert witness fees in all trial, appellate, mediation, and bankruptcy proceedings. Such damages include any bodily injury, property damage, sickness, disease, or death. An Indemnified Loss includes any claim or cause of action arising under, resulting from, or related to: (a) any actual or alleged violation of any Applicable Law (including workers' compensation laws, environmental laws, and health and safety laws) or any common law duty; (b) any actual or alleged infringement of any intellectual rights or property of any Person; (c) any actual or alleged pollution of or damage or destruction to property, natural resources, or the environment; (d) the designation by the Contractor of any document or material as exempt from public disclosure or public records laws, or the Contractor's failure or refusal to produce such document for public review; (e) the City's decision to award this Agreement to the Contractor; and (f) defending, settling, prosecuting, investigating, or participating in (as a witness or otherwise) any proceeding that arises out of or pertains to any of the foregoing; in each case, to the greatest extent permitted by law and not otherwise prohibited, without regard to or limitation by the amount or type of benefits, damages, or compensation payable by or for the Contractor, any subcontractor of the Contractor, or any subcontractor to a subcontractor of the Contractor under any insurance policy or any Applicable Law (including employee benefits, disability benefits, and workers' compensation laws).

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

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

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

1.60 Legitimate Complaint means any complaint that is made by a Customer or the City involving a case where one or more of the applicable requirements in this Agreement were not satisfied by the Contractor pursuant to Section 31 of this Agreement. Such complaints become Legitimate Complaints when they are not sufficiently protested by the Contractor within seven (7) calendar days.

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

1.62 Manager means the City Manager (i.e., the chief executive officer) or his or her designee(s).

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

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

1.65 Mobile Home means manufactured homes, trailers, campers and recreational vehicles.

1.66 Move-Out/Eviction Pile means a placement or accumulation of Garbage and/or Solid Waste exceeding 6 cubic yards.

1.67 Multi-Family Dwelling means a building with four (4) or more Dwelling Units located under one roof. Multi-Family Dwellings include apartments, condominiums, Townhouses, mixed-use buildings, and other buildings that contain four (4) or more Dwelling Units.

1.68 New Customer means a Person that begins to receive or becomes entitled to receive Collection Service from the Contractor on or after the Commencement Date.

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

1.70 Non-Conforming Material means any material that is Set Out for Collection in a Recycling Container but is not a Recyclable Material.

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

1.72 Operating Month means each calendar month from the Commencement Date until this Agreement expires or terminates. However, the first Operating Month shall begin on the Commencement Date and the last Operating Month shall end on the day when this Agreement expires or terminates.

1.73 Operating Year means a period of twelve (12) consecutive Operating Months, beginning on October 1 and ending on September 30 of the following year. Notwithstanding the foregoing, the First Operating Year begins and ends in the manner defined in Section 1.45, above, and the last Operating Year shall end on the day when this Agreement expires or terminates.

1.74 Ordinances means the City's Code of Ordinances and any amendments thereto.

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

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

1.77 Parties means the City and the Contractor.

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

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

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

1.81 Premises means Improved Property.

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

1.83 Rates means the fees and charges approved by the City for the Contractor's Collection Services.

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

1.85 Recyclable Materials means those materials that are capable of being recycled, and that would otherwise be processed or disposed of as Solid Waste

1.86 Recyclable Materials Collection Component means the Contractor's fee for providing routine Collection Service to a Dwelling Unit for the Collection of Recyclable Materials.

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

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

1.89 Recycling Container means any container approved by the Director for the Collection of Recyclable Materials, including Recycling Carts and Mechanical Containers.

1.90 Residential Collection Service means the Collection of Residential Waste from Residential Customers. Residential Collection Service in the service area includes the Collection of Recyclable Materials.

1.91 Residential Curbside Customer means a Residential Customer that receives Collection Service at Curbside. A Residential Curbside Customer may reside in: (a) a single-family Dwelling Unit; (b) a duplex, triplex, or Mobile Home; or (c) a Multi-Family Dwelling that cannot or should not receive Collection Service with a Mechanical Container, as determined by the Director.

1.92 Residential Customer means a Person that (a) occupies Residential Property in the service area or (b) owns or manages multiple Dwelling Units that are located on one parcel of Residential Property. Residential Customers include Residential Curbside Customers including mobile home parks.

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

1.94 Residential Property means each parcel of Improved Property in the service area that is used for residential purposes and has no more than three (3) Dwelling Units on it. Residential Property includes single family residences, duplexes, triplexes, and other buildings used for residential purposes, provided such buildings do not include more than three (3) Dwelling Units. Apartment buildings, condominiums, Townhouses, Dwelling Units in mixed use buildings, cooperatives established pursuant to Chapter 719, Florida Statutes, time-share apartments, and leased residential Premises of the classes described above are Residential Property, if they contain no more than three (3) Dwelling Units. Property used exclusively as a recreational vehicle park, as defined in Section 513.01(11), Florida Statutes, shall be deemed Commercial Property.

1.95 Residential Waste means Garbage, Rubbish, Yard Waste, and Bulky Waste generated by a Residential Customer upon the Customer's Residential Property.

1.96 Residential Waste Collection Component means the Contractor's fee for providing routine Collection Service to a Dwelling Unit for the Collection of Residential Waste.

1.97 Roll-Off Container means a large metal container (i.e., typically with a capacity of 10, 20, 30 or 40 cubic yards) used for the Collection of Solid Waste or Recyclable Material, which is rolled-off of a

motor vehicle when the container is placed at a site and then rolled onto the vehicle when the container is ready to be transported to another location.

1.98 Route means the area served by one Collection vehicle on a single Operating Day when providing Collection Service. Each Route shall have a designated starting location and time, a designated sequence of streets to be followed, and a designated finish location. Under normal conditions, each Route is to be completed in the designated sequence by the designated Collection vehicle.

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

1.100 Scheduled Collection Day means an Operating Day when the Contractor is scheduled to collect a Customer's Recyclable Materials or one of the components of the Customer's Solid Waste (i.e., Garbage; Yard Waste; Bulky Waste).

1.101 Set Out means the preparation and placement of Solid Waste and Recyclable Materials for Collection at the Customer's Premises, in compliance with the requirements in this Agreement.

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

1.103 Solid Waste means Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or Garbage, Rubbish, refuse, Special Waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. Solid Waste includes Biomedical Waste, Bulky Waste, Commercial Waste, Construction and Demolition Waste, Disaster Debris, Electronic Equipment, Garbage, Hazardous Material, Land Clearing Debris, Radioactive Waste, Recyclable Materials, Residential Waste, Rubbish, Tires, White Goods, and Yard Waste.

1.104 Source Separated Materials means Recovered Materials that are separated from the Solid Waste at the location where they are generated (e.g., Residential Property or Commercial Property) and then Set Out for Collection at that location. Recyclable Materials shall not be considered Recovered Materials.

1.105 Special Collection Services mean the Collection of discarded material in response to a Customer's request, at times other than the Customer's Scheduled Collection Day for such material, or in quantities that are greater than the amounts authorized herein for Collection on the Customer's Scheduled Collection Day. Special Collection Service also includes any service requested by a Customer that is in addition to or different than the normal Collection Service provided to similar Customers.

1.106 Tipping Fee means a fee that must be paid for the disposal of a Solid Waste or other material.

1.107 Tires mean discarded automotive, motor vehicle, and trailer tires, including rims, but excluding tires that have an inside diameter of 20 inches or greater.

1.108 Townhouse shall mean an attached Dwelling Unit with primary access at grade, which is one of a series of Dwelling Units attached in a row, that are separated from each other by an unpierced wall extending from the foundation to the roof.

1.109 Transition Period means the period of time between the Effective Date and the Commencement Date.

1.110 Transition Plan means a document describing in detail the activities that will be undertaken, and the schedule that will be followed, by the Contractor to ensure that the Contractor successfully provides the Contractor's Collection Services in compliance with this Agreement on and after the Commencement Date.

1.111 Service Area Fee means the sum of: (a) the Residential Waste Collection Component for the Service Area; (b) the Recyclable Material Collection Components; (c) the Waste Disposal Component; and (d) the Yard Waste Disposal Component.

1.112 Waste Disposal Component This amount is calculated by (a) multiplying (1) the generation rate for Garbage, Rubbish, and Bulky Waste, which is estimated to be 1.29 tons per year, by (2) the Tipping Fee (expressed in dollars per ton) at the Designated Disposal Facility for Garbage, and (b) dividing the result by twelve.

1.113 White Goods mean large discarded appliances (e.g., refrigerators, ranges, washing machines, clothes dryers, water heaters, freezers, microwave ovens, and air conditioners) that are used and discarded by a Customer on the Customer's Improved Property, which is the same property where the White Goods are collected.

1.114 Yard Waste means vegetative matter resulting from yard and landscaping maintenance, including but not limited to shrub and tree trimmings, grass clippings, palm fronds, branches, and Bulky Yard Waste. Yard Waste is classified as Class III Solid Waste. Yard Waste does not include Land Clearing Debris.

1.115 Yard Waste Disposal Component. This amount is calculated by (a) multiplying (1) the Yard Waste generation rate, which is estimated to be 0.50 tons per year, by (2) the Tipping Fee at the Designated Disposal Facility for Yard Waste, and (b) dividing the result by twelve.

SECTION 2: CONTRACTOR'S EXCLUSIVE FRANCHISE

2.1 EXCLUSIVE FRANCHISE GRANTED TO CONTRACTOR

Subject to the conditions and limitations contained in this Agreement, the Contractor is hereby granted an exclusive franchise to provide Residential Collection Service and Commercial Collection Service in the City. The Contractor's franchise includes the exclusive right to collect: (a) Garbage, Rubbish, Yard Waste, Bulky Waste, and Recyclable Materials that are generated on Residential Property and collected at Curbside in the service area; (b) Garbage, Rubbish, Yard Waste, and Bulky Waste that are generated on Residential Property and collected at Curbside in the service area; (c) Garbage, Rubbish, Bulky Waste, and Recyclable Materials that are generated on Residential Property (i.e., Multi-Family Dwellings) where Garbage and Rubbish are collected in Mechanical Containers; and (d) Garbage and Rubbish generated on Commercial Property. The Contractor shall have the sole right to provide these Collection Services in the City. The Contractor shall have the sole responsibility for providing these Collection Services in compliance with the requirements in this Agreement. The Contractor shall be free to engage in work as a private hauler and to charge the public for services other than as provided in this Agreement. Such private hauling shall not be construed as falling within the terms of this Agreement.

2.2 NON-EXCLUSIVE COMMERCIAL RECYCLING

On a non-exclusive basis, the Contractor shall provide collection of Recyclable Materials to Commercial Customers requesting such services, at rates negotiated between the Contractor and Customer, which shall be comparable to those paid to Contractor by other businesses in the tri-county area. In this capacity, the Contractor is acting as a private hauler. The Contractor shall be responsible for the billing and collection of payment from Commercial Customers.

2.3 LIMITATIONS ON THE FRANCHISE

This Agreement only grants a franchise for the services and types of Solid Waste that are explicitly addressed herein. No other services or materials are subject to the Contractor's exclusive franchise under this Agreement. Among other things, the Contractor's franchise does not include the Collection of Yard Waste generated on (a) Residential Property where Garbage and Rubbish are collected in Mechanical Containers or (b) Commercial Property. Section 21, below, identifies some of the other materials that are not subject to the Contractor's franchise.

2.4 ENFORCEMENT OF THE FRANCHISE

The City shall determine, in its sole discretion, the measures the City will use to ensure that the Contractor's exclusive rights under this Agreement are not infringed upon by a third party. The City also shall determine, in its sole discretion, how and when it will implement those measures. The Contractor shall have no right to compel the City to undertake any specific action to enforce or maintain the exclusivity of the Contractor's franchise.

SECTION 3: TERM OF THIS AGREEMENT

This Agreement shall take effect and be binding upon the Parties from the Effective Date until the date when this Agreement is terminated or expires. The term of this Agreement shall begin on the Commencement Date and be in effect through September 30th, 2025 with a five (5) year option to renew through the fiscal year 2030.

SECTION 4: THE SERVICE AREA

4.1 DESCRIPTION OF THE SERVICE AREA

The service area includes all of the land located within the incorporated area of the City. A general map of the service area is provided in Exhibit 1.

4.2 ADJUSTMENTS TO THE SERVICE AREA

The boundaries of the service area may be adjusted from time to time as a result of actions by the Council or other Persons. Similarly, the boundaries of the service area may be adjusted if lands are added to or removed from the City pursuant to an annexation, interlocal agreement, or similar change after the Effective Date. In such cases, the rights of the Contractor may be revised in accordance with Section 171.062, Florida Statutes, or other Applicable Laws.

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

SECTION 5: CONTRACTOR'S OBLIGATIONS PRIOR TO COMMENCEMENT DATE

5.1 CONTRACTOR'S TRANSITION PLAN

The Contractor shall ensure that the Customers do not experience any delay or disruption in service when the Contractor begins to provide its Collection Services under this Agreement on the Commencement Date. To help accomplish this task, the Contractor shall prepare and provide the Director with a Transition Plan in compliance with the requirements herein. At a minimum, the Transition Plan must demonstrate that the Contractor will hire and train the necessary personnel, and procure and prepare the necessary vehicles and equipment, to enable the Contractor to provide its Collection Services successfully on the Commencement Date and all times thereafter. Among other things, the Transition Plan shall identify and describe: (a) the number and types of Collection vehicles and Recycling Carts the Contractor will need to have on hand before the Commencement Date; and (b) how and when the Contractor will provide additional personnel, vehicles, and equipment to serve the City if the Contractor needs additional resources on or after the Commencement Date. The Transition Plan is subject to the approval of the Director. If requested,

the Contractor shall revise the Plan within twenty (20) calendar days and resubmit the Plan for the Director's review and approval.

5.2 DEADLINES FOR THE CONTRACTOR'S TRANSITION PLANNING

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

- (a) On or before the Commencement Date, Contractor shall provide the Director with a Collection Plan that complies with the requirements in Section 23, below.
- (b) Within thirty (30) days after the Commencement Date, Contractor and City shall meet and discuss the Collection Plan and any other matters that will help ensure the successful implementation of this Agreement.
- (c) On or before the Commencement Date, the Contractor shall provide the Director with a copy of the standard form contract that the Contractor intends to use pursuant to Section 33.1, below.
- (d) On or before the Commencement Date, the Contractor shall provide the Director with electronic (digital) copies of the notices, brochures, and informational materials the Contractor intends to deliver to Customers concerning the Collection Services it will provide under this Agreement. The notices, brochures, and informational materials shall be designed to satisfy the requirements in Section 35, below. The notices, brochures, and informational materials shall be subject to the Director's approval and shall be delivered to Customers in compliance with the requirements in Section 35.
- (e) Within thirty (30) days after the Commencement Date, Contractor shall provide the Director with a written safety plan covering all aspects of the Contractor's operations under this Agreement, in compliance with the requirements of Section 22, below. The Contractor also shall provide the Director with a Contingency Plan, pursuant to Section 37.4, below.
- (f) On or before the Commencement Date, the Contractor shall demonstrate that its computer systems are fully operational and capable of tracking complaints and requests for service in compliance with the requirements in Sections 31.1.4 and 31.1.5, below.
- (g) On or before the Commencement Date, Contractor shall provide the Director with: (1) a list that shows the make, model, year, tare weight, license tag number, and identification

number for each Collection vehicle; and (2) a list that shows the identification number and capacity of each Mechanical Container that will be used by the Contractor under this Agreement. The Collection Plan shall be updated, if necessary, to include this information, pursuant to Section 23.6, below.

- (h) Within thirty (30) days after the Commencement Date, the Contractor shall confirm in writing to the Director that the Contractor has at least two hundred (200) Recycling Carts in its inventory at its local equipment yard in St. Lucie County.

SECTION 6: GENERAL SCOPE OF CONTRACTOR'S DUTIES AFTER COMMENCEMENT DATE

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

- (a) provide Residential Collection Service to the occupants of all Residential Property located in the service area;
- (b) provide Commercial Collection Service to all Commercial Property in the service area;
- (c) provide Collection Services for the City's facilities and Community Events;
- (d) collect and transport all of the Residential Waste and Commercial Waste Set Out by the Customers in the service area;
- (e) deliver all of the Solid Waste and Recyclable Materials it collects pursuant to this Agreement to the Designated Facilities;
- (f) deliver to an appropriate Designated Facility all of the Recyclable Materials the Contractor collects from the commercial businesses and Commercial Property located in the incorporated areas of the City;
- (g) comply at all times with the requirements in this Agreement and Applicable Law;

- (h) provide all labor, services, supervision, materials, equipment, insurance, and other resources necessary to accomplish the Contractor's work under this Agreement; and
- (i) perform all of its work and satisfy all of its obligations under this Agreement at Contractor's sole expense, in exchange for the payments by the City and Customers that are expressly authorized herein.

SECTION 7: CONTRACTOR'S SPECIFIC COLLECTION SERVICES

7.1 GENERAL REQUIREMENTS FOR RESIDENTIAL COLLECTION SERVICE AT CURBSIDE

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

- 7.1.1 Garbage and Rubbish shall be collected at Curbside two (2) times each week, except on Holidays, in the service area.
- 7.1.2 Recyclable Materials shall be collected at Curbside once each week in the service area. This service shall be provided to a Customer on one of the days when the Customer's Garbage is collected.
- 7.1.3 Bulky Waste and Yard Waste shall be collected at Curbside once each week, except on Holidays. A Customer's Bulky Waste shall be collected on one of the days when the Customer's Garbage is collected.
- 7.1.4 Subject to the conditions and limitations contained herein, the Contractor shall collect all of the Garbage, Rubbish, Recyclable Materials, Bulky Waste, and Yard Waste that is Set Out at Curbside by a Residential Curbside Customer. However, the Director shall grant relief from this requirement if the Director confirms that a Residential Customer is disposing of Solid Waste generated by a commercial business or enterprise. Further, the Contractor is not obligated by this Agreement to collect Land Clearing Debris.

7.2 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR GARBAGE AND RUBBISH

The Contractor shall collect all of the Garbage and Rubbish that the Customer Sets Out at Curbside in Garbage Cans and Plastic Bags. The Contractor also shall collect all of the Rubbish that the Customer Sets Out at Curbside in paper bags. There is no limit on the number of Garbage Cans, Plastic Bags, and paper bags that may be Set Out at Curbside by a Residential Curbside Customer. However, the Contractor is not required to collect any Garbage Can or bag that weighs more than fifty (50) pounds when filled.

7.3 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR RECYCLABLE MATERIALS

7.3.1 The Contractor shall use Automated Collection Service and Recycling Carts to collect Recyclable Materials from Residential Curbside Customers in the service area.

7.3.2 The Contractor shall collect all of the Recyclable Materials that the Customer Sets Out in Recycling Carts, but the Contractor is not obligated to collect any Recyclable Materials that are placed outside of the Customer’s Recycling Carts. The Contractor also is not obligated to collect the contents in a Recycling Cart if the cart and its contents exceed the maximum rated capacity (measured in pounds) of the cart, as shown on the cart’s lid.

7.3.3 The Contractor shall collect all of the Recyclable Materials that are accepted and recycled by the Designated Facility for Recyclable Materials, and any other materials that are jointly designated by the Director and the Contractor for Collection as Recyclable Materials as amended in Exhibit “A” of the Interlocal Agreement between St. Lucie County and the City of Port St. Lucie.

7.4 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR BULKY WASTE

7.4.1 The Contractor shall collect all of the Bulky Waste that is Set Out at Curbside by Residential Curbside Customers. There is no limit on the size, weight, or quantity of Bulky Waste that shall be collected, except as provided in Sections 7.4.2 and 7.4.4, or any refuse placement not in compliance with City code as amended.

7.4.2 If a Residential Curbside Customer places Construction and Demolition Waste from a “do-it-yourself” project at Curbside, the Contractor shall collect the Construction and Demolition Waste as Bulky Waste, but the Contractor is not obligated to collect more than two (2) cubic yards of Construction and Demolition Waste from a Residential Customer on any Scheduled Collection Day. The Contractor shall place a Non-Collection Notice on any material that the Contractor does not collect, in compliance with Section 15.1, below.

7.4.3 The Contractor shall notify the Director if the Contractor believes a Residential Curbside Customer is placing excessive amounts of Construction and Demolition Waste at the Curbside and should be using a Mechanical Container for the Collection

of such waste. Any amount greater than two (2) cubic yards shall be deemed excessive.

7.4.4 The Contractor shall collect Tires that are Set Out for Collection by Residential Curbside Customers. However, the Contractor is not required to collect more than four (4) Tires per month from any Residential Curbside Customer. The tires designated for pickup must have the rims removed before retrieval takes place.

7.5 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR YARD WASTE

7.5.1 The Contractor shall collect all of the Yard Waste that is Set Out at Curbside by Residential Curbside Customers. Yard Waste may be Set Out at Curbside in Garbage Cans, or stacked, or tied in a bundle, or placed in Plastic Bags. Yard Waste must be Set Out at Curbside in front of the Dwelling Unit where the Yard Waste was generated. The Contractor is not obligated to collect Yard Waste that was generated at a location other than the Customer's residence.

7.5.2 Notwithstanding anything else contained herein, the Contractor is not required to collect Land Clearing Debris.

7.5.3 If the Contractor refuses to collect any Yard Waste or Land Clearing Debris at Curbside, the Contractor must place a Non-Collection Notice on the material or on the Customer's doorknob, in compliance with Section 15.1, below.

7.5.4 If the Contractor fails to collect all of a Customer's Yard Waste on the Scheduled Collection Day, the Contractor must return and collect all of the Customer's Yard Waste within three (3) business days.

7.5.5 The Contractor will guarantee that bulk yard waste is picked up within 72 hours of non-bulk service day with adequate vehicles to handle the fluctuating volume.

7.6 RESIDENTIAL COLLECTION SERVICE AT CURBSIDE FOR EXCESS, OVERSIZED, AND EXEMPT MATERIALS

Among other things, this Agreement does not require the Contractor to collect: (a) Land Clearing Debris; (b) Construction and Demolition Waste, except as provided in Section 7.4.2; or (c) Exempt Waste. At its option, the Contractor may collect such materials as a Special Collection Service, pursuant to Section 7.10, below, if a Customer requests such service. However, if the Contractor leaves any such material at Curbside, the Contractor must leave a Non-Collection Notice and comply with the requirements in Section 15.1, below.

7.7 RESIDENTIAL BACK DOOR SERVICE

7.7.1 The Contractor shall provide Back Door Service to a disabled Customer if: (a) the Customer is entitled to receive Residential Curbside Collection Service; (b) the Customer has requested, and the Director has approved Back Door Service; and (c) the City has given written notice instructing the Contractor to provide Back Door Service to the disabled Customer. If these criteria are satisfied, Back Door Service

shall be provided at no additional cost to the City or Customer. The Customer's Garbage, Rubbish, and Recyclable Materials shall be collected at the Customer's side yard, back yard, or other location that is mutually acceptable to the Contractor and the Customer. However, the Contractor is not required to provide Back Door Service for the collection of Bulky Waste or Yard Waste. The Contractor shall provide Back Door Service to the Customer on the Scheduled Collection Days when Residential Collection Service would otherwise be provided to the Customer.

7.7.2 The Contractor shall provide Back Door Service to any Person that pays the applicable Rate (\$20.00 additional per month) for such service. Back Door Service shall be provided for Garbage, Rubbish, and Recyclable Materials in the service area. The Contractor is not obligated to provide Back Door Service for Yard Waste or Bulky Waste.

7.8 RESIDENTIAL COLLECTION SERVICE FOR MULTI-FAMILY DWELLINGS

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

7.8.2 If a Residential Customer resides in a Multi-Family Dwelling and receives Collection Service at Curbside, the Contractor shall serve that Customer in compliance with the provisions in Sections 7.1 through 7.7, above.

7.8.3 Except as provided in Section 7.8.4, below, the Contractor shall provide the following services to each Residential Customer that resides in a Multi-Family Dwelling and receives Collection Service with a Mechanical Container:

(a) The Contractor shall collect all of the Customer's Garbage and Rubbish at the Customer's Premises at least two (2) times each week.

(b) The Contractor shall provide Recycling Carts or Mechanical Containers for the Collection of the Customer's Recyclable Materials. Recycling Carts provided to Multi-Family Dwellings shall remain property of the City upon expiration or termination of this Agreement. The Contractor shall collect all of the Recyclable Materials that are placed into the Customer's Recycling Containers. The Contractor also shall collect all of the cardboard that is placed next to the Customer's Recycling Containers as a one-time courtesy. The Contractor shall notify Customers of the need to increase Collection

Service or capacity. Recyclable Materials shall be collected at least once each week at each Multi-Family Dwelling.

- (c) The Contractor is not obligated by this Agreement to provide a separate Collection Service for Bulky Waste that is generated at Multi-Family Dwellings where Mechanical Containers are used for the Collection of Garbage and Rubbish. However, the Contractor shall collect all of the Bulky Waste that Residential Customers place in the Mechanical Containers at their Multi-Family Dwelling.
- (d) The Contractor is not obligated by this Agreement to provide a separate Collection Service for Yard Waste that is generated at Multi-Family Dwellings where Mechanical Containers are used for the Collection of Garbage and Rubbish. However, the Contractor shall collect any Yard Waste or natural Christmas trees that Residential Customers place in the Mechanical Containers at their Multi-Family Dwelling.

7.8.4 The Collection of Solid Waste and Recyclable Materials at a Multi-Family Dwelling shall be subject to the requirements for Commercial Collection Service, rather than the requirements for Residential Collection Service, when the Director or Customer deems it appropriate.

7.9 COMMERCIAL COLLECTION SERVICES

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

7.9.1 The Contractor shall collect all of the Commercial Waste that is Set Out by a Commercial Customer. The Contractor shall provide Collection Service for Commercial Waste and, upon request, Recyclable Materials at least once each week for each Commercial Customer. Commercial Collection Service shall be provided at least two (2) times each week for each restaurant, grocery store, and other Customer that generates Garbage or other types of putrescible waste. Commercial Collection Service for Construction and Demolition Waste may be provided as needed.

7.9.2 The Contractor normally shall provide Commercial Collection Service with Mechanical Containers. A Garbage Can may be used to provide Commercial Collection Service in those cases where a Mechanical Container is too large to fit on the Customer's Premises, too large for the Customer's needs, or otherwise

unsuitable. The Director shall have the exclusive authority to determine whether a Commercial Customer must use a Mechanical Container, or a Garbage Can.

- 7.9.3 Upon the Customer's request, the Contractor shall provide Collection Service for Recyclable Materials generated on Commercial Property. These materials may be collected in Mechanical Containers or Recycling Carts.
- 7.9.4 Garbage, Rubbish, and Recyclable Materials shall be collected on Scheduled Collection Days.
- 7.9.5 The Contractor shall provide Collection Service within one (1) Operating Day if a Customer requests the Contractor to make an extra (unscheduled) pick-up to empty the Customer's Mechanical Container, or Garbage Can.
- 7.9.6 If a Commercial Customer requests the Contractor to collect Bulky Waste, such waste may be collected on a routine basis on a Scheduled Collection Day or on an irregular basis as a Special Collection Service, as determined by the Commercial Customer and the Contractor.
- 7.9.7 A Customer should contact the Contractor and schedule Collection Service before the Customer Sets Out Bulky Waste. The Contractor shall provide such Collection Service within three (3) Days after the Contractor receives the Customer's request.
- 7.9.8 If a Customer Sets Out its Bulky Waste before the Customer schedules the Collection Service with the Contractor, the Contractor shall collect such materials as expeditiously as possible after the Contractor becomes aware that such materials have been Set Out for Collection. The Contractor's drivers shall promptly notify the Field Supervisor whenever the drivers observe Bulky Goods on a Route for Commercial Customers. If the Field Supervisor is notified about such materials, the Field Supervisor shall arrange for the Collection of such materials within three (3) Days. The Field Supervisor also shall arrange for the Collection of such materials within three (3) Days when requested to do so by the Director.
- 7.9.9 If a Commercial Customer Sets out Bulky Waste, the Contractor shall bill the Customer for the Collection of such materials, based on the Rates in Exhibit 3.

7.10 SPECIAL COLLECTION SERVICES

The Contractor shall provide the Special Collection Services identified in Exhibit 4 when such services are requested by a Customer or the Director. The frequency of such services shall be determined by the Customer and Contractor, subject to the Director's approval.

7.11 COLLECTION SERVICES FOR THE CITY

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

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

8.1 COLLECTION SERVICE DAYS

The Contractor may provide Collection Service to Residential Customers every day of the year, except Sundays and Holidays.

8.2 COLLECTION SERVICE TIMES

The Contractor shall not provide Residential Collection Service at Curbside before 7:00 a.m. or after 8:00 p.m. The Contractor shall not provide Residential Collection Service with Mechanical Containers before 7:00 a.m. or after 8:00 p.m.

8.3 MECHANICAL CONTAINER SERVICE TIMES

Before 7:00 a.m. and after 8:00 p.m., the Contractor shall not provide Collection Service to Commercial Customers that use Mechanical Containers located within two hundred (200) feet of Residential Property. The Contractor may provide Commercial Collection Service at other locations at any reasonable time. If the City receives complaints about the noise or disturbance caused by the Contractor's Commercial Collection Service at a particular location, and such service is provided before 7:00 a.m. or after 8:00 p.m., the Director may restrict the times for the Contractor's Collection Services at that location, without increasing the Contractor's Rates.

8.4 SERVICE HOUR CHANGES

Notwithstanding anything else contained herein, the hours and days of Collection Service may be extended or reduced (a) when such change is requested by the Contractor and approved in

advance by the Director and (b) when the Director determines that such change is necessary or otherwise appropriate to protect the public health, safety, or welfare.

SECTION 9: SCHEDULES AND ROUTES FOR COLLECTION SERVICE

9.1 SCHEDULES AND ROUTES

The Contractor shall establish Routes and schedules that satisfy the requirements of this Agreement and maximize the efficiency of the Contractor's operations. Subject to these considerations, the Contractor shall attempt to ensure that the Contractor's Collection Plan minimizes the changes to the Collection schedules and Routes that were used for Residential Customers before the Commencement Date.

The Routes established under this Agreement shall be separate from the Routes the Contractor uses for the Collection of Solid Waste and Recyclable Materials generated outside of the service area (e.g., in a city or another City). The Contractor shall submit its proposed Routes and schedules to the Director as part of the Contractor's Collection Plan. (See Section 5.2(a) and Section 23). The proposed Routes and schedules shall be subject to the Director's approval. After approval is granted, the Contractor shall provide Collection Services in accordance with the approved Routes and schedules in the Collection Plan.

9.2 SCHEDULES FOR TWICE WEEKLY SERVICE

Whenever the Contractor is required to provide any Collection Service two (2) times each week pursuant to this Agreement, the Scheduled Collection Days shall be seventy-two (72) hours apart, unless the Director approves a different schedule.

9.3 MAINTAINING OF SCHEDULES

The Contractor's attention is directed to the fact that at times during the year the quantity of refuse to be disposed of is materially increased by fluctuation in the amount of garden and yard trash and the influx of visitors. This additional load will not be considered justification for the Contractor to not maintain the required collection schedules and routes.

9.4 FAILURE TO MAINTAIN SCHEDULES

If at any time during the life of the Agreement, performance satisfactory to the Directory shall not have been made, the Contractor upon notification of the Director shall increase the force, tools, and equipment as needed to perform this Agreement properly. If within twenty-four (24) hours of the Director's notification, the Contractor shall fail to take measures as needed to perform the Agreement, the City may elect to temporarily hire equipment and manpower in order to restore the level of service to an acceptable level. The City may claim reimbursement of all costs incurred hereunder from the Contractor's surety. The failure of the Director to give such notification shall

not relieve the Contractor of his obligation to perform the work at the time and in the manner specified by this Agreement

9.4 STORM RESPONSIBILITIES

In the case of a storm, the Director may grant the Contractor reasonable variants from the regular schedules and routes. The Contractor shall inform the Customers of service delays or stoppage. The Contractor shall be required to work with the City in all possible ways for the efficient and rapid cleanup of the City.

SECTION 10: CHANGES TO COLLECTION SCHEDULES AND ROUTES

10.1 NO CHANGES WITHOUT DIRECTOR'S APPROVAL

After the Commencement Date, the Contractor shall not change a residential Route, a residential Collection schedule, or the method of providing Residential Collection Service until the Contractor receives the Director's written approval for the proposed change. The Contractor shall submit a description of all proposed residential Route and schedule changes to the Director at least thirty (30) calendar days prior to the implementation of such changes, unless a shorter timetable is approved by the Director. The Contractor shall submit a description of all proposed Route and schedule changes affecting Commercial Customers at least seven (7) calendar days prior to the implementation of such changes, unless a different timetable is requested or approved by the Director.

10.2 HOLIDAY SCHEDULES

10.2.1 The Contractor is not required to provide Collection Service to Residential Customers on a Holiday.

10.2.2 If a Residential Curbside Customer's Scheduled Collection Day for Garbage falls on a Holiday (e.g., July 4; Thanksgiving; Christmas), the Contractor does not need to collect the Customer's Garbage until the next Scheduled Collection Day for the Collection of the Customer's Garbage. Consequently, the Customer will receive Collection Service for Garbage only one time during the week of the Holiday.

10.2.3 If a Residential Curbside Customer's Scheduled Collection Day for Bulky Waste, Yard Waste, or Recyclable Materials (i.e., items that are collected once each week) falls on a Holiday, the Contractor may delay the Collection of such material until the next Scheduled Collection Day for that type of material. Consequently, the Customer will not receive Collection Service for such material during the week of the Holiday.

10.2.4 Notwithstanding the other provisions in this Section 10.2, the Contractor may propose, and the Director may approve alternate schedules for the Collection of Residential Waste immediately before and after a Holiday.

10.2.5 If a Commercial Customer's Scheduled Collection Day for Garbage will fall on a Holiday, the Contractor shall work with the Customer to identify an appropriate alternate schedule for collecting the Customer's Garbage during the week of the Holiday.

10.3 PUBLIC NOTICE OF CHANGES

If the Director approves a change in the Contractor's schedules or Routes for Residential Collection Service or Commercial Collection Service, the Contractor shall provide all affected Customers with notice of the change and shall comply with the applicable requirements in Section 35, below, unless a different notice is approved by the Director.

10.4 NOTICE OF TEMPORARY DELAYS

The Contractor shall inform the Director in writing about any event (e.g., disabled trucks, accidents, or shortage of staff) that will cause delays in the Contractor's normal schedule for Residential Collection Service or Commercial Collection Service. The Contractor shall provide this information to the Director in writing within two (2) hours of the event causing the delay. The Contractor shall have and utilize an electronic notification systems to inform subscribing customers of the delays in service as amended in Section 36.10.

10.5 NO DELAYS EXCUSED FOR FLUCTUATIONS IN SOLID WASTE QUANTITIES

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

SECTION 11: DIRECTOR'S AUTHORITY TO CHANGE COLLECTION SERVICE

11.1 MECHANICAL CONTAINER SERVICE

If a Customer will receive Collection Service with a Mechanical Container, the Contractor and the Customer initially shall determine the size of the Mechanical Container that will be used. The Contractor and Customer also shall determine the frequency of Collection Service with the Mechanical Container, provided that the frequency complies with the minimum requirements in this Agreement (e.g., at least twice each week for Garbage).

11.2 SERVICE CHANGES

To protect the health, welfare, and safety of the general public, the Director shall have the right to: (a) increase or decrease the frequency of any Collection Service provided to a Commercial Customer or Residential Mechanical Container Customer; (b) change the types of Collection Containers used by any such Customer; and (c) change the size and number of the Collection Containers used by any such Customer. The size, type, and number of Collection Container(s), and the frequency of Collection Service, provided to a Customer must be sufficient to ensure that the Collection Container is not overfilled, and Solid Waste is not placed outside the Collection Container, between Scheduled Collection Days.

11.3 CUSTOMER PREFERENCE

If the Contractor and a Customer do not agree about the size, type, or number of the Collection Containers to be used by the Customer, or the frequency of Collection Service for the Customer's Premises, the Contractor or the Customer may notify the Director about their dispute. In such cases, the Director shall determine whether it is necessary to change the frequency of service, or the size, type, or number of the Collection Containers, and the Contractor shall provide its services in compliance with the Director's determination. The Customer shall pay the appropriate Rates for the Contractor's Collection Service, whether the level of service is increased or decreased.

SECTION 12: THE CUSTOMER LISTS

12.1 RESIDENTIAL LIST

The City shall prepare the City Customer List, which shall identify each Residential Customer in the service area that is entitled to receive Collection Service from the Contractor pursuant to this Agreement. The City Customer List shall be based on the City's records for the City's non-ad valorem special assessments for Solid Waste services or any other source of reliable information. The City Customer List shall be provided to the Contractor no later than the Commencement Date. No later than thirty (30) days after the Commencement Date, the Contractor shall review the City Customer List and confirm to the Director that the list is accurate and complete. If the Contractor believes the City Customer List is inaccurate or incomplete, the Contractor shall promptly notify the Director about any proposed additions, deletions, or other revisions to the City Customer List.

12.2 LIST ACCURACY

The Contractor shall have an affirmative duty to help ensure that the Customer Lists are accurate at all times after the Commencement Date. The Contractor shall notify the Director within five (5) Operating Days if the Contractor begins to provide Collection Service to a Person or Dwelling Unit that is not included in the Customer Lists. The Contractor also shall notify the Director

within five (5) Operating Days if the Contractor identifies a Person, Dwelling Unit, or business that should be added to or deleted from the Customer Lists.

12.3 CERTIFICATE OF OCCUPANCY NOTICE

The Director shall notify the Contractor promptly after (a) a Certificate of Occupancy is issued by the City for a new Dwelling Unit or Improved Property that should be added to the City Customer List and (b) the City determines it is appropriate to provide Collection Service to such Dwelling Unit or Improved Property. After receiving this notification, the Contractor shall begin to provide Residential Collection Service to the Dwelling Unit or Improved Property within two (2) Operating Days.

12.4 COLLECTION SERVICE TERMINATION

The Director shall notify the Contractor if the City wants the Contractor to terminate its Collection Service to a Customer. The Contractor shall terminate its Collection Service within two (2) Operating Days after receiving the Director's notice.

12.5 CUSTOMER LIST UPDATES

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

SECTION 13: PROPER COLLECTION PROCEDURES FOR CONTRACTOR

13.1 EMPTY CONTAINER PLACEMENT

When providing Collection Services, the Contractor shall thoroughly empty the Customer's Collection Containers and return them to the location where they were placed by the Customer. The Contractor shall not place a Collection Container in a location where the container blocks vehicular access to a road, alley, or driveway.

13.2 CONATINER LIDS

After the Contractor empties a Garbage Can that has a removable lid, the Contractor shall turn the Garbage Can upside down and place it where the Customer set it out. The Contractor shall place the lid next to the can. After the Contractor empties other types of Collection Containers that have an attached lid, the Contractor shall place the lid back on top of the Collection Container and close it securely.

13.3 CARE AND DAMAGE PREVENTION

The Contractor shall handle Collection Containers carefully and in a manner to prevent damage. Garbage Cans, Recycling Containers, and their lids shall not be tossed or thrown by the Contractor.

13.4 DISTURBANCE REDUCTION

The Contractor shall provide Collection Services with as little noise and disturbance as possible.

13.5 WHITE GOODS AND ELECTRONICS

The Contractor shall be responsible for the proper handling of any White Goods and Electronic Equipment that the Contractor collects. The Contractor shall take appropriate steps to minimize the release of Freon, coolants, and other similar materials from White Goods. A Customer is not required to remove Freon, coolants, or other similar materials from White Goods before the White Goods are Set Out; the Contractor is not required to remove such materials from the White Goods before the White Goods are placed in the Contractor's vehicles. White Goods and Electronic Equipment may be collected with Garbage, Rubbish, and other types of Solid Waste.

13.6 PROPER COLLECTION VEHICLES

The Contractor shall not collect Recyclable Materials with a vehicle that is in use for the Collection of Solid Waste.

SECTION 14: RESTRICTIONS ON COLLECTION OF MIXED LOADS

14.1 COMBINED WASTE

During the Collection process, Garbage, Rubbish, Yard Waste, and Bulky Waste may be collected and combined together by the Contractor.

14.2 RECYCLABLE COLLECTION

During the Collection process, Recyclable Materials shall be handled separately by the Contractor and shall not be combined with any other types of material in the Contractor's Collection Vehicles, without the Director's prior approval. However, the Contractor shall have no obligation

to separate these materials if a Customer placed them in a Collection Container with other types of Solid Waste.

14.3 RESIDENTIAL, COMMERCIAL, AND SOLID WASTE SEPARATION

During the Collection process, the Contractor shall not combine Residential Waste or Commercial Waste collected in the service area with Solid Waste or other materials collected outside of the service area.

14.4 COMMERCIAL AND RESIDENTIAL WASTE SEPARATION

During the Collection process, the Contractor shall not combine Commercial Waste with Residential Waste collected in the service area.

14.5 RESTRICTION WAIVER

Notwithstanding the foregoing, the Director may waive any of the restrictions in this Section 14 and thus allow the Contractor to combine different types of Solid Waste, if the Director determines that the waiver will be in the public interest. In such cases, the Contractor shall file a petition with the Director, describing the specific procedures that will be established to properly account and pay for the management of the mixed materials. The Director may grant or deny the petition, in his or her sole discretion, but any waiver must be in writing.

SECTION 15: NON-COLLECTION PROCEDURES

15.1 REASONABLE MEASURES

The Contractor must take all commercially reasonable measures to collect a Customer's Solid Waste and Recyclable Materials in compliance with the requirements in this Agreement. Nonetheless, the Parties recognize that the Contractor may refuse to collect a Customer's materials in some cases. The Contractor shall place a Non-Collection Notice on a Customer's Collection Container or non-containerized waste if the Contractor decides that the Contractor will not collect the Customer's waste because the waste was not Set Out in compliance with the applicable requirements in this Agreement. If the Contractor does not place a Non-Collection Notice on the Customer's Collection Container or waste, and fails to collect the materials, the Contractor shall be required to return to the Customer's Premises promptly and collect the waste. If the Director or a Customer informs the Contractor before 12 p.m. (noon) about the Contractor's failure to comply with the requirements in this Section 15.1, the Collection shall be completed before the end of that Operating Day. If the Director or a Customer informs the Contractor after 12:00 p.m. (noon), the Collection shall be completed before noon on the next Operating Day.

15.2 FAILURE AND RETURN

Notwithstanding anything else contained herein, if the Contractor fails to collect all of the Yard Waste that is Set Out at Curbside by a Residential Curbside Customer on the Scheduled Collection Day, the Contractor shall return to the Customer's Premises and collect all of the Yard

Waste within three (3) business days. This deadline shall apply even if the Contractor does not receive notice from the Director or a Customer concerning the Collection of the Yard Waste.

15.3 NON-CONFORMING MATERIALS

The Contractor is responsible for determining whether a Customer's Recycling Container contains Non-Conforming Material or excessively contaminated Recyclable Materials. The Contractor may leave Non-Conforming Material and excessively contaminated Recyclable Materials in the Recycling Container, but if the Contractor does, the Contractor shall immediately place a Non-Collection Notice on the container, explaining why the material was not collected.

15.4 NON-COLLECTION NOTICE

In the event a Mechanical Container is overfilled and cannot be emptied safely, the Contractor shall immediately place a Non-Collection Notice on the container, notify the Customer, and reschedule the Collection Service. In the alternative, if the Contractor receives the Customer's prior approval, the Contractor may empty the Mechanical Container and charge the Customer for a Special Collection Service. In addition, the Contractor shall notify the Customer if the Contractor believes the Contractor should increase the frequency of Collection Service or increase the size of the Mechanical Container provided to the Customer.

15.5 DANGEROUS MATERIALS

The Contractor shall not collect Solid Waste or other materials from a Customer if the Contractor believes the Solid Waste or other materials contain Hazardous Material, Radioactive Waste, or Biomedical Waste. In such cases, the Contractor shall place a Non-Collection Notice on the Collection Container, take photographs of the improper waste (if possible), and immediately notify the Field Supervisor. If the generator of such waste is unknown, the Contractor shall work with the Director to identify the generator and approve an appropriate method for the removal and disposal of the waste. If the Contractor elects to collect or remove the waste before the Contractor receives the Director's approval, the Contractor shall be solely responsible for the management and disposal of the waste, including the payment of all associated costs.

15.6 INACCESSIBLE MECHANICAL CONTAINER

If a Mechanical Container is temporarily inaccessible, the Contractor shall promptly (i.e., within two (2) hours) notify the Customer by telephone concerning the Contractor's inability to provide Collection Service. The Contractor shall offer to provide Collection Service later the same Operating Day, whenever feasible. If it is not feasible, the Contractor shall leave a Non-Collection Notice and provide Collection Service on the next Operating Day.

15.7 SET OUT REQUIREMENT FAILURE

The Contractor shall notify the Director about any Customer that routinely fails to comply with the Set Out requirements in this Agreement. For example, the Contractor shall notify the Director if a Residential Customer routinely places: (a) Garbage or Solid Waste in their Recycling

Cart; or (b) Solid Waste from a business or commercial enterprise in a Garbage Can or Mechanical Container used for the Collection of Residential Waste.

15.8 NON-COLLECTION NOTICE CONTENT

The design and content of the Non-Collection Notices shall be developed by the Contractor but shall be subject to the approval of the Director. At a minimum, the Non-Collection Notices shall contain the following information: the issuance date; the Contractor's reason for not providing Collection Service; information advising the Customer how to correct the problem; and the telephone number to call if the Customer has any questions for the Contractor.

15.9 COMMERCIALLY REASONABLE MEASURES

The Contractor shall take all commercially reasonable measures to collect a Customer's Solid Waste, even if some inappropriate material is comingled with it. For example, if a Residential Customer places Bulky Waste or Yard Trash at the Curbside, but also places a Plastic Bag filled with Garbage on top of the Bulky Waste or Yard Trash, the Contractor shall set aside the Plastic Bag and collect the other materials. However, if a Customer has comingled Garbage with Yard Waste or Bulky Waste to such an extent that it is not practicable to remove the Garbage from the other materials, the Contractor shall (a) place a Non-Collection Notice on the materials and promptly notify the Director concerning the location of the combined materials or (b) collect the combined materials and manage it as Garbage. If the Contractor fails to do (a) or (b), the Contractor shall be required to collect the pile of combined materials pursuant to Section 15.1, above.

SECTION 16: PROCEDURES FOR MISSED COLLECTIONS

Whenever the Director or a Customer informs the Contractor about a Missed Collection, the Contractor shall promptly return to the Customer's Premises and collect all of the Residential Waste, Commercial Waste, and/or Recyclable Material (as the case may be) that has been Set Out for Collection. The Contractor shall collect such materials before the end of that Operating Day if the Contractor is notified before 12 p.m. (noon). If the Contractor is notified after noon, the Collection of such materials shall be completed before noon on the next Operating Day. Notwithstanding anything else contained in this Section 16, the Contractor shall comply with the requirements in Section 7.5.4 when responding to a Missed Collection regarding Yard Waste that is Set Out at Curbside by a Residential Curbside Customer. The contractor may be required to provide the City with video surveillance/evidence of the route to validate the complaint.

SECTION 17: PROTECTION OF PRIVATE AND PUBLIC PROPERTY

17.1 PROPERTY NAVIGATION CONDUCT

The Contractor's employees shall not trespass on private property; provided, however, the Contractor's employees may walk on a Customer's property when necessary to provide Collection Service (e.g., Back Door Service) pursuant to this Agreement. At all other times, the

Contractor's employees shall follow the sidewalks for pedestrians and shall not cross a Customer's property to an adjoining property, unless the occupants or owners of both properties have given permission. The Contractor's employees shall not loiter on or meddle with any property of any other Person.

17.2 PROPERTY DAMAGE

The Contractor's employees shall not damage any public or private property, including but not limited to roads, driveways, sidewalks, utilities, trees, flowers, shrubs, grass, and Collection Containers.

17.3 NARROW AREA ETIQUETTE

The Contractor shall not damage trees in the City. Among other things, the Contractor shall not drive large vehicles on narrow streets, or drive tall vehicles under overhanging limbs, where the vehicles will break or damage the tree limbs. The Contractor also shall not damage tree trunks or roots when collecting Yard Waste or other materials (e.g., when Collecting Yard Waste with a clamshell bucket).

17.4 SOIL AND GRADE RESTORATION

The Contractor shall promptly restore the soil and grade at any location where the Contractor's Collection of Yard Waste or other material creates a depression that is six (6) inches or more below the surrounding grade (e.g., when collecting Yard Waste with a clamshell bucket). The Contractor shall fill such depressions and restore the grade to match the surrounding area. The Contractor also shall replace any sod that was removed or killed by the Contractor's actions.

17.5 ACCIDENT PROCEDURES

The Contractor shall instruct its employees concerning the proper procedures to be followed when there is an accident involving damages to public or private property. At a minimum, if the Contractor's employee causes such damage, the employee shall immediately notify the Field Supervisor and the property owner. If the property owner is not known or readily identifiable, the driver shall leave a notice that includes the Contractor's name and telephone number.

17.6 COSTS AND LIABILITIES

The Contractor shall be responsible for all costs and liabilities associated with the repair, restoration, or replacement of any property that has been damaged by the Contractor's equipment, employees, or agents, to the extent that such damage was caused by or results from the actions of the Contractor, its employees or agents. The Contractor shall promptly investigate and respond to any claim concerning property damage. If the Director or a Customer informs the Contractor before 12 p.m. (noon) concerning any such damage, the Contractor shall investigate and respond to the Director and Customer before the end of that day. If the Director or a Customer informs the Contractor after 12 p.m. (noon), the Contractor shall investigate and respond to the Director and Customer before noon on the next Operating Day. The City shall have the right, but not the obligation, to perform or arrange for a third party to perform the

repair and restoration work, and then deduct the cost of the work from the City's payments to the Contractor. If the City wishes to exercise this right, the Director must provide notice to the Contractor within one (1) Operating Day after the Director receives the Contractor's response concerning the property damage. If the Director does not provide such notice, the Contractor shall repair any damage within three (3) Operating Days after the damage occurred, unless the Contractor requests and the Director grants an extension of time. If the Contractor fails to complete the repair or restoration work in compliance with the timetable specified herein, the City may perform or arrange for a third party to perform the work and then deduct the cost of the work from the City's payments to the Contractor. In all cases, the public or private property must be restored to a condition that is at least equal to the condition that existed before the damage occurred. Any disputes concerning the Contractor's obligations for the repair of property damages shall be resolved by the Director.

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

18.1 PUBLIC ROADWAYS

Except as otherwise provided herein, the Contractor shall have the right to use all of the public roadways in the City.

18.2 SUITABLE VEHICLES

The Contractor shall use suitable vehicles and equipment (e.g., smaller trucks), as necessary, to provide Collection Service on narrow and dead-end streets, unpaved streets, private roads, and other areas where access is limited. For example, the Contractor may need to use smaller vehicles to provide Collection Service on the streets identified in Section 28.1.1, below.

18.3 TURN-AROUND ETIQUETTE

The Contractor's vehicles shall not enter or drive upon any private driveway or Improved Property, to turn around or for any other purpose, unless the Contractor has received the owner's prior written permission to do so.

18.4 TRAFFIC ETIQUETTE

The Contractor's vehicles shall not unreasonably interfere with vehicular or pedestrian traffic. The Contractor's vehicles shall not be left unattended on streets or alleys.

18.5 RIGHTS TO DENIAL OF ACCESS

The City reserves the right to deny the Contractor's vehicles access to certain streets, alleys, bridges, and roadways when the City is repairing such areas, or the City otherwise determines it is in the public's best interest to restrict access. The City shall provide the Contractor with reasonable notice of such restrictions so that the City's action does not unduly interfere with the Contractor's normal operations.

18.6 BLOCKED SERVICE ROUTES

If the Contractor cannot provide Collection Service to a Customer because a public or private street is temporarily closed to vehicular traffic, the Contractor shall return no later than the next Operating Day to provide service to the Customer. If the street is still closed at that time, the Contractor shall provide Collection Service to the Customer on the next Scheduled Collection Day.

18.7 INACCESSIBLE SERVICE ROUTE PROCEDURES

If access to a street, alley, bridge, or public or private roadway becomes impassable or if access is denied for any reason, the Contractor shall work with the Customer to determine a mutually acceptable location for the Collection of the Customer's waste. If a mutual agreement cannot be reached, the Contractor shall provide Collection Service from the nearest public roadway that is accessible by the Contractor's Collection vehicle or from a location specified by the Director.

18.8 SPECIAL SITUATIONS

If the Contractor encounters a Customer or situation (e.g., dogs; narrow streets; low-hanging electrical wires) that prevents the Contractor from gaining the access needed to provide the Collection Services required in this Agreement, and the Contractor is unable to resolve the issue with the Customer, then the Contractor shall report the problem to the Director and the Director shall resolve the problem. The Contractor and the Customer shall take such action as the Director deems necessary and appropriate to enable the Contractor to provide Collection Service to the Customer.

SECTION 19: THE CITY'S DESIGNATED FACILITIES

19.1 DELIVERY TO DESIGNATED FACILITY

The Contractor shall deliver all of the Residential Waste, Commercial Waste, and Recyclable Materials collected pursuant to this Agreement to Designated Facilities. The Contractor also shall deliver to Designated Facilities all of the Recyclable Materials that the Contractor collects from any commercial business or entity (i.e., anyone other than a resident) located in the service area. These Recyclable Materials shall be delivered to a Designated Facility.

19.2 DESIGNATED FACILITY FOR CLASS I MATERIALS

The Designated Facility for Garbage and Rubbish is St. Lucie County's Class I landfill located at 6120 Glades Cut-off Road, Fort Pierce, Florida.

19.3 DESIGNATED FACILITY FOR RECYCLABLE MATERIAL

The Designated Facility for Recyclable Materials is St. Lucie County's materials recovery facility located at 6120 Glades Cut-off Road, Fort Pierce, Florida.

19.4 DESIGNATED FACILITY FOR BULKY AND YARD WASTE

The Designated Facility for Bulky Waste and Yard Waste shall be St. Lucie County's Solid Waste management facilities located at 6120 Glades Cut-off Road, Fort Pierce, Florida.

19.5 MANAGER'S RIGHT TO FACILITY SELECTION

The Manager shall have the right to select a different Designated Facility for the Recycling or disposal of any of the materials collected by the Contractor pursuant to this Agreement. If the Manager selects a different Designated Facility to replace one or more of the facilities designated in this Section 19, the Contractor shall continue to be paid the Rates approved herein, unless the newly Designated Facility is located more than twenty (20) miles from the City's administrative offices, which are located at 121 SW Port St Lucie Blvd, Port St. Lucie, Florida 34984 . The twenty (20) mile distance shall be measured in a straight line (radius) from the City's administrative offices (i.e., not in highway miles). If the new Designated Facility is located beyond this distance, the City and the Contractor shall negotiate an appropriate adjustment in the Rates and, thereafter, the Contractor shall be paid the adjusted Rates when the Contractor delivers Solid Waste or Recyclable Materials to the new Designated Facility. The adjustment shall be limited to the amount that the Contractor's transportation costs have increased as a result of having to transport the Solid Waste or Recyclable Materials more than twenty (20) miles to the new Designated Facility. For example, if the new Designated Facility is located twenty (20) miles from the City's administrative offices, the adjustment shall be based on the incremental cost of transporting the Solid Waste an additional five (5) miles. If the City and the Contractor are unable to negotiate a mutually acceptable adjustment to the Rates within ninety (90) days of the City's notice that it has selected a new Designated Facility, the Council may terminate this Agreement after giving at least ninety (90) days' written notice to the Contractor. If the Manager instructs the Contractor to deliver Solid Waste or Recyclable Materials to a Designated Facility that is located more than twenty (20) miles from the City's administrative offices and the Manager requires such deliveries to be made before the City and the Contractor have negotiated and approved a mutually acceptable adjustment to the Rates, the City shall pay the Contractor for the additional transportation costs the Contractor incurs when delivering such materials to the new Designated Facility. The City's obligation to pay such costs only applies to the extent that the transportation costs are reasonable, fully documented by the Contractor, and limited to the amount that the Contractor's transportation costs increase as a result of having to transport Solid Waste or Recyclable Materials more than twenty (20) miles to the new Designated Facility. If the new Designated Facility is located twenty (20) miles or less from the City's administrative offices, there shall be no increase in the Rates paid by the City.

SECTION 20: SPILLAGE AND LITTER BY CONTRACTOR

20.1 NO SPILLAGE

The Contractor shall not cause or allow any Solid Waste, liquid, or other material to be spilled, released, or otherwise dispersed in the City as a result of the Contractor's activities.

20.2 SPILLAGE CLEANUP

The Contractor shall immediately pick up any spillage or litter from a Collection Container that is caused by the Contractor.

20.3 ENCLOSED VEHICLE USAGE

When hauling or transporting any material over public roads in the City, the Contractor shall use a covered or enclosed vehicle or other device to prevent the material from falling, blowing, or escaping from the vehicle. If Solid Waste or any other material escapes from or is scattered by Contractor's vehicle for any reason, Contractor shall immediately stop and pick up such material.

20.4 RELEASE OF LITTER ETIQUETTE

The Contractor's vehicles shall not release or cause litter in violation of the Florida Litter Law (Section 403.413, Florida Statutes) or the Ordinances. If litter is released or falls from the Contractor's vehicle for any reason, the Contractor shall immediately stop the vehicle and retrieve the litter.

20.5 FLUID CLEANUP

The Contractor shall immediately clean up any oil, hydraulic fluid, or other liquid that leaks or spills from the Contractor's vehicles. The Contractor also shall repair any damage associated with such leaks or spills. The Contractor shall repave the damaged area if the Director concludes such action is necessary to repair the damage caused by the Contractor. The requirements in Section 17.6 shall apply to the Contractor's actions under this Section 20.5.

20.6 NOTIFICATION OF CLEANUP

If the Director or a Customer informs the Contractor before 12 p.m. (noon) that the Contractor has caused litter, or caused a leak or spill of Solid Waste, oil, hydraulic fluid, or other liquids or materials, the Contractor shall clean up the liquids and materials before the end of that Operating Day. If the Director or a Customer informs the Contractor after noon, the Contractor shall clean up the liquid or material before noon on the next Operating Day.

SECTION 21: EXEMPT WASTES AND RECOVERED MATERIALS

21.1 EXEMPT WASTE

The following types of Exempt Waste are not subject to the Contractor's exclusive franchise under this Agreement. These Exempt Wastes may be collected by the owner or occupant of the Improved Property where the Exempt Waste is generated, or by their agent, and taken to any facility that is licensed to receive such materials. This Agreement does not prohibit the Contractor from collecting Exempt Waste as a Special Collection Service or otherwise, provided that the Contractor complies with all Applicable Law when collecting such material.

- (a) Land Clearing Debris.
- (b) Yard Waste generated by a Commercial Lawn Care Company outside of a residential property.
- (c) Construction and Demolition Waste exceeding 2 cubic yards per service.
- (d) Roofing materials generated, collected, and transported by a roofing company.
- (e) Recovered Materials that are generated on Commercial Property and by the generator on the generator's Commercial Property.
- (f) Recyclable Materials that are generated by a Commercial Customer and separated from the Customer's Solid Waste by the Commercial Customer.
- (g) Any material that a Residential Customer generates and separates from their Solid Waste for Recycling, if that type of material is not recycled at the Designated Facility.
- (h) Excavated fill and earthen material.
- (i) Solid Waste and by-products generated from an industrial process.
- (j) Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
- (k) Animal bedding, animal wastes, and other trash and materials resulting from farming, equestrian, or agricultural operations.

- (l) Wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts, including used oil, Tires (except as provided in Section 7.4.4), and lead-acid batteries.

- (m) Boats, boat motors, and boat trailers.

- (n) Disaster Debris.

- (o) Hazardous Material, Biomedical Waste, and Radioactive Waste.

- (p) Sludge.

- (q) Materials and wastes similar to those listed above, when designated by the Director.

21.2 COMMERCIAL ESTABLISHMENT RIGHTS

Nothing contained in this Agreement restricts the right of a commercial establishment to sell or convey the establishment's Recovered Materials to a properly certified Recovered Materials dealer that has satisfied the requirements in Section 403.7046, Florida Statutes.

SECTION 22: THE CONTRACTOR'S SAFETY PROGRAM

22.1 SAFETY PLAN DEVELOPMENT

The Contractor shall develop, implement and maintain a written safety plan for all of its operations under this Agreement. The safety plan shall comply with the requirements in OSHA and Applicable Laws. No later than thirty (30) days after the Commencement Date, a written copy and an electronic copy of the safety plan shall be provided to the Director for informational purposes. The City's receipt of the safety plan shall not constitute the City's approval of the plan or the City's acquiescence concerning the appropriateness of such plan. The Contractor shall comply with its safety plan at all times.

22.2 QUALIFIED PERSONNEL APPOINTMENT

The Contractor shall appoint an employee who is qualified and authorized, as defined by OSHA, to supervise and enforce safety compliance.

22.3 SAFETY TRAINING FOR EMPLOYEES

The Contractor shall provide routine safety training to all of its employees, in compliance with OSHA and all Applicable Laws. Refresher courses and supplemental training shall be provided as necessary. Documentation of the Contractor's training programs, and documentation of the successful training of each employee, shall be maintained on file and shall be provided to the Director upon request.

22.4 OSHA COMPLIANCE

The Contractor and its employees shall comply with all OSHA regulations and Applicable Laws regarding personal protective equipment when performing work under this Agreement.

22.5 DRIVER INSTRUCTION

The Contractor's employees shall be trained and instructed to drive in a safe, defensive manner. Among other things, the drivers of the Contractor's Collection vehicles shall be instructed that they shall not "text" or talk on their mobile devices while they are driving a Collection vehicle that is moving.

22.6 INJURIES

The Contractor's safety plan shall include a written procedure for the immediate removal to a hospital or a doctor's care of any employee or other Person that is injured and requires medical assistance as a result of the acts or omissions of the Contractor.

22.7 SAFETY PLAN UPDATES

The Contractor shall update its safety plan whenever there are changes in Contractor's operations. The Contractor shall deliver an updated safety plan to the Director within ten (10) days after the plan is updated.

SECTION 23: THE CONTRACTOR'S COLLECTION PLAN

23.1 COLLECTION PLAN PREPARATION

The Contractor shall prepare a Collection Plan that describes in detail how the Contractor will provide Collection Services in compliance with the requirements in this Agreement. At a minimum, the Collection Plan shall identify and describe the vehicles, equipment, personnel, Routes, and schedules the Contractor will use for each type of Collection Service. The Collection Plan shall include a legible map for each Route, which will identify: the Operating Days when Collection Service will be provided on each Route; the starting and ending points for each Route; the sequence of streets and directions to be driven on each Route; and the type of Collection Service that will be provided on each Route on each Scheduled Collection Day. The Collection Plan shall include the information required pursuant to Section 28.6.2, below.

23.2 DESIGNATED FACILITY IDENTIFICATION

The Collection Plan shall identify each Designated Facility that will receive the materials collected by the Contractor pursuant to this Agreement.

23.3 BILLING PROCEDURES

The Collection Plan shall identify the procedures that will be used by the Contractor to ensure that the City is billed appropriately for the Collection, disposal, or Recycling of Solid Waste or other materials. Among other things, the Collection Plan shall identify the procedures that will be used by the Contractor to ensure that each Designated Facility is fully informed whenever the Contractor delivers Solid Waste or other material for which the Contractor, rather than the City, must pay the applicable Tipping Fee (e.g., when Solid Waste is collected from a Person that is not a Customer under this Agreement).

23.4 SPECIFICATION SHEETS

If requested by the Director, the Collection Plan shall include the manufacturer's specification sheets for the Collection Containers provided by the Contractor under this Agreement.

23.5 COLLECTION PLAN DELIVERY TIME FRAME

The Contractor must deliver its Collection Plan to the Director on or before the Commencement Date. An updated Collection Plan shall be submitted to the Director within ten (10) days whenever the Contractor changes the plan.

23.6 COLLECTION PLAN UPDATE

The Collection Plan shall include all of the information required pursuant to Section 5.2(g), above. The Collection Plan shall be updated no later than ten (10) days after the Contractor adds or permanently removes a vehicle or Mechanical Container from service in the City.

23.7 DIRECTOR'S APPROVAL

The Collection Plan and all proposed revisions to the plan are subject to the Director's written approval.

SECTION 24: OWNERSHIP OF SOLID WASTE AND RECYCLABLE MATERIALS

24.1 SOLID WASTE

For the purposes of this Agreement, Solid Waste belongs to the Person generating such waste (i.e., the generator), until the Solid Waste is discarded by that Person. With regard to the Solid Waste collected by the Contractor under this Agreement, title to such waste shall pass to the City when the waste is collected by the Contractor. Nonetheless, the Contractor shall be solely

responsible and liable for the proper handling and lawful management of such waste until it is delivered to and accepted by a Designated Facility. Upon acceptance, title to the waste shall pass to the owner of the Designated Facility.

24.2 RECYCLABLE MATERIALS

Recyclable Materials shall belong to the generator until such materials are discarded by the generator and collected by the Contractor. When the Contractor collects Recyclable Materials on behalf of the City, title to such materials shall pass to the City when the materials are collected. Nonetheless, the Contractor shall be solely responsible and liable for the proper handling and lawful management of the Recyclable Materials until such materials are delivered to and accepted at a Designated Facility. Upon acceptance, title to the Recyclable Materials shall pass to the owner of the Designated Facility.

24.3 CONTRACTOR'S LIMITATIONS

Notwithstanding anything else contained herein, with regard to the Solid Waste and Recyclable Materials collected by the Contractor pursuant to this Agreement, the Contractor shall not take, keep, process, alter, Recycle, sell, remove, or otherwise dispose of any such material without the prior written approval of the Director.

SECTION 25: COMPACTION OF RECYCLABLE MATERIALS

The Contractor may compact Recyclable Materials while they are on board the Contractor's vehicles, provided that the compaction process and the density of the Load does not adversely affect the marketability of the Recyclable Materials. The current compaction rate of Recyclable Materials is 2000 to 2200 pounds per square inch (PSI) as established by the Designated Facility. If the compaction process or density adversely affects the marketability of the Recyclable Materials, as determined by the Director, the maximum allowable density may be reduced by the Director. There shall be no adjustment to the Rate if the Director exercises his or her right to reduce the maximum allowable density of the Contractor's Loads of Recyclable Materials.

SECTION 26: SET OUT PROCEDURES FOR CUSTOMERS

The procedures and requirements established in this Section 26 shall be followed by the Contractor's Customers on and after the Commencement Date. However, the Contractor shall collect a Customer's Solid Waste and Recyclable Materials, even if the Customer fails to comply with one or more of the requirements in this Section 26, unless (a) the Director concurs in advance that the Contractor does not need to provide Collection Service to the Customer or (b) the Contractor places a Non-Collection Notice on the Customer's Collection Container and complies with the requirements in Section 15, above. The requirements in the City's Ordinances, including Chapter 60, Section 160.83 (Solid Waste), shall supplement the requirements contained herein.

26.1 GENERAL PROCEDURES FOR ALL CUSTOMERS

The following requirements and procedures shall apply to all Customers:

- 26.1.1 Garbage and other putrescible waste shall be placed in a Plastic Bag or Garbage Can before it is Set Out for Collection.
- 26.1.2 Recyclable Materials shall be Set Out in a Recycling Container. Recyclable Materials shall not be placed in the same Collection Container with Solid Waste.
- 26.1.3 Recyclable Materials shall not be Set Out in a Plastic Bag.
- 26.1.4 A Customer shall not overfill a Collection Container; the lid (if any) on a Collection Container shall be closed securely by the Customer.
- 26.1.5 A Customer shall not place their Solid Waste in another Person's Collection Container.
- 26.1.6 A Customer shall only Set Out for Collection the Solid Waste that the Customer generated. A Customer shall not Set Out for Collection any Solid Waste that was generated by another Person.
- 26.1.7 A Customer's Solid Waste shall be Set Out for Collection on the Premises where the Solid Waste was generated.
- 26.1.8 A Customer shall not Set Out Solid Waste for Collection on property that is not owned or occupied by the Customer, unless the Customer has received the prior approval of the owner or occupant of such property.
- 26.1.9 A Customer shall not place more than fifty (50) pounds of Solid Waste in a Garbage Can. The weight of the materials placed in a Recycling Cart by a Customer shall not exceed the cart's rated capacity (measured in pounds), as shown on the lid of the cart. Plastic Bags and biodegradable bags shall not be loaded with materials weighing more than thirty (30) pounds or the rated capacity of the bag, whichever is less.

- 26.1.10 If a Customer and the Contractor cannot agree upon an appropriate location to Set Out a Collection Container or non-containerized waste, the Director shall designate the point of Collection.
- 26.1.11 When necessary to carry out the purpose and intent of this Agreement, the Director may authorize the placement of a Collection Container at a location that is not on the Customer's Premises.
- 26.1.12 Each Garbage Can, Recycling Cart, and Mechanical Container is subject to the Director's approval.

26.2 SPECIFIC PROCEDURES FOR RESIDENTIAL CURBSIDE CUSTOMERS

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

- 26.2.1 Each Residential Curbside Customer shall Set Out their Garbage and Rubbish in Garbage Cans, which shall be placed at Curbside. If the Customer's Garbage Cans are full, the Customer may Set Out their excess Garbage and Rubbish in Plastic Bags, which shall be placed next to the Garbage Cans at Curbside. There is no limit on the number of Plastic Bags and Garbage Cans that may be Set Out by Residential Curbside Customers.
- 26.2.2 Residential Curbside Customers shall place their Yard Waste at Curbside for Collection. Leaves, twigs, and other small pieces of Yard Waste should be placed in Garbage Cans, biodegradable bags, or Plastic Bags. Larger pieces of Yard Waste shall be stacked neatly in a pile at Curbside. A Residential Curbside Customer may, but is not required to, tie larger pieces of Yard Waste in a bundle. Such Customers also may Set Out their natural Christmas trees at Curbside for collection with the Customer's Yard Waste. A Residential Curbside Customer shall not Set Out Land Clearing Debris or any item of Yard Waste that is too big to safely collect and transport in a clamshell truck.
- 26.2.3 Residential Curbside Customers shall Set Out their Recyclable Materials at Curbside in a Recycling Cart.

- 26.2.4 Each Residential Curbside Customer shall place their Garbage, Rubbish, Yard Waste, Bulky Waste, and Recyclable Materials at the Curbside before 7:00 a.m. on the Scheduled Collection Day for such materials but no sooner than 6:00 p.m. the night before collection as stated in the City Ordinance Chapter 60, Section 160.83, as amended.
- 26.2.5 Any carpet Set Out for Collection at Curbside must be rolled and tied or otherwise bound.
- 26.2.6 Each Garbage Can used by a Customer shall: be constructed so as to prevent intrusion by water and animals, and the expulsion of its contents; have a lid or cover; be free from sharp edges; and not have inside structures or obstructions that prevent the free discharge of the container's contents. Each Recycling Cart used by a Residential Curbside Customer must be one of the carts provided by the Contractor and hot-stamped or stenciled with the City's logo.
- 26.2.7 A Residential Curbside Customer shall not Set Out Bulky Waste or Construction and Demolition Waste that was generated by a builder, building contractor, or privately employed handyman service while the Person was working for the Customer on the Customer's Residential Property, unless the quantity of such waste is less than two (2) cubic yards. All such wastes in excess of two (2) cubic yards must be removed from the Customer's property by the Person that generated the waste materials. If the Customer's contractor generates more than two (2) cubic yards of Bulky Waste or Construction and Demolition Waste, the Customer must use a Mechanical Container for the storage and Collection of such waste. A Residential Curbside Customer also shall not Set Out any such materials, regardless of the quantity, if the materials were generated on any other property, even if the other property is owned by the Residential Curbside Customer.
- 26.2.8 A Residential Curbside Customer may Set Out Construction and Demolition Waste pursuant to Section 7.4.2 only if the Customer generated the Construction and Demolition Waste while working on a "do-it-yourself" project and such material is no more than a total of two (2) cubic yards in size.
- 26.2.9 Residential Curbside Customers shall not place, mix, or commingle Garbage with Curbside piles of Bulky Waste or Yard Waste.

26.3 PROCEDURES FOR COMMERCIAL CUSTOMERS

The following requirements and procedures shall apply to Commercial Customers.

- 26.3.1 Each Commercial Customer must have at least one Mechanical Container or Garbage Can for the Collection of their Garbage and Rubbish. If a Commercial Customer receives Collection Service from the Contractor or any other Person for the Collection of Recyclable Materials or Recovered Materials, the Customer must have at least one container, cart, or can for the Collection of Garbage and Rubbish, and the Customer must have a separate container or cart for the Collection of Recyclable Materials or Recovered Materials.
- 26.3.2 Two (2) or more Commercial Customers may share the use of a Mechanical Container, subject to the requirements herein.
- 26.3.3 Each Commercial Customer shall place their Garbage and Rubbish in their Mechanical Container, or Garbage Can.
- 26.3.4 All Collection Containers shall be placed in locations that are safely and readily accessible to the Customer and the Contractor's vehicles.
- 26.3.5 Each Mechanical Container shall be placed on a concrete or paved level surface. The approaches to the Mechanical Container must be capable of supporting the weight of the Collection vehicle.
- 26.3.6 The Collection of Bulky Waste for a Commercial Customer is a Special Collection Service, which is subject to Section 39.10, below. A Commercial Customer shall call the Contractor and schedule a time for the Collection of their Bulky Waste, if the Commercial Customer wishes to have the Contractor collect their Bulky Waste. A Commercial Customer shall not Set Out their Bulky Waste more than one day before such materials are to be collected. A Commercial Customer shall not place their Bulky Waste in a location that blocks the Contractor's access to a Mechanical Container serving the Commercial Customer or any other Person.

SECTION 27: COLLECTION CONTAINERS

27.1 PURCHASE AND OWNERSHIP OF CONTAINERS

- 27.1.1 Garbage Cans, Plastic Bags, and Biodegradable Bags – Each Customer shall purchase and provide the Garbage Cans, Plastic Bags, and biodegradable bags, if any, that the Customer uses. Garbage Cans are and shall remain the property of the Customer.
- 27.1.2 Existing Recycling Carts – The Contractor previously purchased Recycling Carts and distributed them to the Residential Customers in the service area. All of those Recycling Carts shall become the property of the City when this Agreement expires or terminates. At that time, title to the Recycling Carts shall be transferred automatically to the City, without any further action being taken by the Parties.
- 27.1.3 New Recycling Carts for New and Existing Customers – The Contractor shall purchase all of the Recycling Carts that the Contractor is required to provide under this Agreement.

The Contractor shall purchase, assemble, and deliver one new Recycling Cart to each Person that becomes a New Residential Curbside Customer in the service area on or after the Commencement Date. The Recycling Carts shall be delivered within two (2) Operating Days after the New Customer or the Director requests the Contractor to deliver the carts. Each Recycling Cart shall have a capacity of approximately sixty-four (64) gallons, unless the Director requires the Contractor to deliver a cart that is approximately thirty-five (35) gallons. Larger ninety-six (96) gallon carts will be provided upon request but are not to exceed 400 carts per year.

During the term of this Agreement, the Contractor shall purchase, assemble, and deliver: (a) new or refurbished Recycling Carts to each Residential Curbside Customer in the service area whose Recycling Cart was stolen, or damaged or worn beyond repair; (b) new Recycling Carts for each Customer that wishes to purchase additional carts, pursuant to Section 39.9, below; and (c) new or refurbished Recycling Carts for each Customer that wishes to exchange their carts pursuant to Section 27.4, below. For the purposes of this Section 27.1.3, a “refurbished” cart means a cart that was cleaned and repaired to “like new” condition.

The Contractor may provide Recycling Carts to its Commercial Customers. The Contractor also may provide Recycling Carts to some or all of the Residential Customers that receive Collection Service with Mechanical Containers. The Contractor shall be responsible for purchasing, assembling, and delivering the Recycling Carts to all such Customers.

Recycling Carts purchased by the Contractor pursuant to this Agreement shall become the property of the City when this Agreement expires or terminates. Upon the expiration or termination of this Agreement, all Recycling Carts held in the Contractor's inventory for the City (e.g., carts that are hot-stamped or labeled with the City's name or logo) shall be delivered to and become the property of the City. Title to all such carts shall be transferred automatically to the City, without further action by either Party, upon the termination or expiration of this Agreement.

- 27.1.4 Mechanical Containers – The Contractor shall provide Mechanical Containers to any Customer that wishes to use them if the Customer has a location where the containers can be placed in compliance with the requirements in this Agreement and the Ordinances. If the Contractor provides a Mechanical Container to a Customer, the Contractor may charge the applicable Rates for the Collection of Residential Waste or Commercial Waste, as applicable. The Rates include the cost of leasing and using the Contractor's Mechanical Containers, except as otherwise provided in Exhibit 4. Notwithstanding the foregoing, the Contractor may negotiate and charge an appropriate fee for the use of its Compactors. The Contractor shall be responsible for the purchase or lease of all Mechanical Containers that the Contractor is required to provide to Customers and the City under this Agreement. Mechanical Containers purchased by the Contractor shall remain the property of the Contractor, until the containers are sold.

A Customer may own its Compactor and attached Roll-Off Container or lease a Compactor and attached Roll-Off Container from a Person other than the Contractor, if the Compactor and Roll-Off Container are compatible with and can be serviced by the Contractor's equipment. In such cases, the Compactor and attached Roll-Off Container shall remain the property of the Customer. Notwithstanding the provisions of Section 33.1, below, the term of the Contractor's lease agreements for Compactors may extend beyond the term of this Agreement.

27.2 MAINTENANCE AND REPAIR OF CONTAINERS

- 27.2.1 Garbage Cans – Each Customer shall be responsible for cleaning, maintaining, and repairing their own Garbage Cans. Garbage Cans shall be maintained in good condition and shall be free from sharp edges or other hindrances to efficient Collection Services.
- 27.2.2 Recycling Carts – Each Customer shall be responsible for cleaning their Recycling Carts, if any, and keeping the carts in a sanitary condition.

The Contractor shall be responsible for purchasing and repairing all of the Recycling Carts that the Contractor provides to Customers. The Contractor shall procure, and maintain at all times, an adequate supply of spare parts (e.g., wheels, lids) to ensure the prompt repair of these Recycling Carts. The Contractor shall repair or replace any such cart no later than two (2) Operating Days after (a) the Contractor observes that the cart is defective or (b) the Contractor is informed by a Customer or the Director that the cart needs to be repaired or replaced.

27.2.3 Mechanical Containers – The Contractor shall maintain each of its Mechanical Containers in good working order at all times to ensure continuous and efficient Collection Services. The Contractor shall procure, and maintain at all times, an adequate supply of spare parts for its Mechanical Containers. The Contractor shall maintain and repair each Mechanical Container as needed to ensure that the container is free from holes, broken hinges, broken doors or door fasteners, broken wheels, broken lids, or other defects. Mechanical Containers shall be kept painted (with the exception of containers made of plastic, aluminum, stainless steel, or other materials that do not readily accept paint), and shall be kept free from graffiti, at all times so the containers do not become a detriment to the community. Mechanical Containers shall be washed by the Contractor on a regular basis, as necessary, to minimize the potential for odors and nuisance conditions. The Contractor shall promptly replace, repair, paint, clean, wash, and otherwise maintain a Mechanical Container when requested to do so by the Director, pursuant to Section 28.9.2, below.

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

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

27.3 STORAGE, DISTRIBUTION AND REPLACEMENT OF CONTAINERS

27.3.1 Garbage Cans – Each Customer shall be responsible for storing and replacing their own Garbage Cans, if any.

- 27.3.2 Recycling Carts – Each Customer shall be responsible for storing their Recycling Carts, if any.

The Contractor shall be responsible for purchasing Recycling Carts pursuant to Section 27.1.3, above. These new carts shall be delivered by the Contractor to the Residential Customers and Commercial Customers without charge to the City or the Customer. The Contractor also shall purchase, assemble, and deliver a new Recycling Cart for each Customer that wishes to purchase an additional cart pursuant to Section 39.9, below. The Contractor shall deliver the carts to the Customer within two (2) Operating Days after the Contractor receives a request for them from the Customer or the Director.

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

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

- 27.3.4 Collection Containers Damaged by Contractor – The Contractor shall repair or replace a Customer's Collection Container within two (2) Operating Days after being informed by the Director or a Customer that the Customer's Collection Container was damaged by the Contractor. Any replacement shall be similar in style, material, quality, and capacity to the Customer's original container.

27.4 EXCHANGE OF CARTS AND CONTAINERS

Subject to the conditions herein, the Recycling Carts provided by the Contractor to Residential Curbside Customers shall be approximately sixty-four (64) gallons in size. However, the Director may require the Contractor to provide Recycling Carts that are approximately thirty-five (35) gallons in size to an individual Customer or a subdivision, in cases where the Director concludes it would cause a hardship or otherwise be inappropriate to use the larger cart. However, in cases where a larger recycling cart has been requested, the Contractor will exchange with a (96) gallon cart. The number of exchanges for (96) gallon carts shall not exceed 400 per operating year.

Subject to the conditions herein, the Contractor shall deliver a different Recycling Cart to any Customer that wishes to exchange their cart for one that is a different size. However, the Contractor shall not charge a delivery fee if a Residential Curbside Customer delivers their cart to the Contractor's local office.

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

27.5 TECHNICAL SPECIFICATIONS FOR COLLECTION CONTAINERS

27.5.1 Recycling Carts – The Recycling Carts provided by the Contractor shall comply with the size, color, and technical specifications established by the Director. In general, the carts shall: (a) have a nominal rated capacity of approximately sixty-four (64) or thirty-five (35) gallons, as applicable; (b) be hot-stamped or labeled with the City's logo, in accordance with the specifications provided by the Director; and (c) be compatible with the hydraulic lifting and dumping mechanism mounted on the Contractor's Collection vehicles. Each cart shall have a flat area on the top (outside) of the lid, which shall be at least eight (8) inches by sixteen (16) inches in size and suitable for the placement of informative stickers or decals. The Contractor's name and/or logo shall not appear on Recycling Carts.

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

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

27.5.2 Warranty for Carts –The Contractor is responsible for providing Recycling Carts to all Customers as needed for the duration and any extensions of this Agreement. The

City shall not be affected by warranty issues or concerns between the Contractor and the Recycling Cart manufacturer.

- 27.5.3 Mechanical Containers – Mechanical Containers supplied by the Contractor shall be in good condition and shall be subject to the approval of the Director. Mechanical Containers shall have attached lids, unless the Director approves a different design for a particular use or they are open top Roll-Off Containers used for the Collection of Construction and Demolition Waste. Mechanical Containers shall have solid, durable sides and bottoms. Each Mechanical Container (except open top Roll-Off Containers) shall have a heavy-duty removable plug in the bottom. The Contractor shall provide and install casters and locking devices for each Mechanical Container, upon the request of the Director or a Customer.

SECTION 28: CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

28.1 GENERAL REQUIREMENTS FOR CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

- 28.1.1 The Contractor shall purchase or lease, and maintain and repair, all of the vehicles and equipment necessary to provide Collection Service in compliance with the approved Collection schedules, and otherwise promptly and efficiently comply with the requirements in this Agreement. The Contractor's vehicles and equipment shall be compatible (in size, type, and weight) with, and appropriate for, the areas where such vehicles and equipment are used as designated by the Director. Smaller vehicles or specialty equipment shall be used in areas where narrow streets, unmaintained roads, low hanging limbs or electrical wires, or other obstructions preclude the use of the Contractor's normal vehicles and equipment.
- 28.1.2 Contractor's Collection vehicles and equipment shall be a standard product of a reputable manufacturer so that continuing service, and the supply and delivery of spare parts, may be ensured. Replacement parts do not need to be a product of the same manufacturer as the original parts.
- 28.1.3 All of Contractor's Collection vehicles shall have waterproof seals and shall be watertight to a depth sufficient to prevent the discharge or leaking of liquids that have accumulated in the vehicle's cargo area during loading and transport operations.

- 28.1.4 Each Collection vehicle shall fully enclose the Contractor's Load. Each Collection vehicle shall have a fully enclosed metal top, a tarpaulin cover, or a net cover with mesh openings not greater than one and one-half (1½) inches in size. The top, tarpaulin, or net shall be kept in good working condition and shall be free from tears and holes. The Contractor shall use the cover and shall fully enclose the Contractor's Load at all times when the vehicle's speed exceeds twenty (20) miles per hour and at other times when necessary to prevent the Contractor's Load from blowing out of the vehicle.
- 28.1.5 All Collection vehicles shall be painted a uniform color and in a uniform style. All Collection vehicles shall have painted sides, wraps, or signs on two (2) sides, stating "Proudly Serving City of Port St. Lucie" or alternate language approved by the Director.
- 28.1.6 Advertising shall not be allowed on the Contractor's vehicles, Collection Containers, or equipment used to provide Collection Service in the City.
- 28.1.7 All of the Contractor's vehicles used to collect Garbage or Recyclable Materials pursuant to this Agreement shall burn compressed natural gas as fuel. However, this requirement does not apply to smaller vehicles or specialty equipment used pursuant to Section 28.1.1, above.

28.2 DEDICATED FLEET FOR CITY

The Contractor shall maintain a dedicated fleet of vehicles for the City's benefit. The vehicles used to provide Collection Services under this Agreement shall not be used to collect Solid Waste or Recyclable Materials outside of the service area. Vehicles used outside of the service area shall not be used to provide Collection Services pursuant to this Agreement, unless the Contractor receives the Director's prior written approval for such use.

28.3 AGE OF CONTRACTOR'S COLLECTION VEHICLES

No Collection vehicle used by the Contractor under this Agreement shall be more than eight (8) years old, unless it is used only as a reserve vehicle. Reserve vehicles shall not be more than ten (10) years old. The age of a vehicle shall be calculated from the model year of the vehicle. If a Collection vehicle is replaced during the term of this Agreement, the replacement vehicle shall be new (i.e., the then current model year) and it shall be fueled with compressed natural gas. The Manager may waive one or more of the age requirements in this Section 28.3 if the Contractor demonstrates to the Manager's reasonable satisfaction that a Collection vehicle is capable of providing safe and reliable service (e.g., the vehicle recently was refurbished satisfactorily, or the vehicle has very little wear and tear).

28.4 ANCILLARY EQUIPMENT IN CONTRACTOR'S VEHICLES

- 28.4.1 All vehicles used to provide Collection Services under this Agreement shall be equipped at all times with: (a) all safety equipment required by Applicable Laws; (b) a functional fire extinguisher; (c) a shovel and broom; (d) a spill response kit; (e) a functional and audible back-up warning device; and (f) a functional back-up camera. The spill response kit shall be suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from Contractor's Collection vehicles.
- 28.4.2 All vehicles used to provide Collection Services under this Agreement shall be equipped with a two-way radio, cellular telephone, laptop or other equipment appropriate for communications between the vehicle operator, the Field Supervisor, and the Division Manager.
- 28.4.3 All of the Contractor's Collection vehicles shall be equipped with Global Positioning Systems ("GPS") that identify and record the locations of the vehicles when they are being used to provide Collection Services under this Agreement. The locations shall be recorded at least once every five (5) seconds. The Contractor shall provide its GPS logs, records, and access to the system to the Director, upon request, in compliance with the requirements in Section 34.2.9, below.
- 28.4.4 All of The Contractor's Collection vehicles shall also be equipped with a surveillance system when being used to provide Collection Services under this Agreement.

28.5 RESERVE VEHICLES AND EQUIPMENT

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

28.6 MAINTENANCE AND CLEANING

- 28.6.1 The Contractor shall keep all Collection vehicles, Mechanical Containers, and equipment cleaned and painted to present a pleasing appearance at all times. All Collection vehicles and Mechanical Containers used primarily for the Collection of Garbage shall be washed thoroughly and sanitized with a suitable disinfectant and deodorant at least once each week unless the Director approves an alternate cleaning schedule. Other Collection vehicles and Mechanical Containers shall be cleaned and washed, as necessary, to minimize the potential for odors and nuisance conditions.
- 28.6.2 The Contractor's Collection Plan must include a schedule for cleaning, painting and maintaining each Collection vehicle and Mechanical Container. At a minimum, the Contractor shall maintain each Collection vehicle and Mechanical Container in compliance with the manufacturer's recommendations.
- 28.6.3 The Contractor shall monitor, maintain, and repair its Collection vehicles and equipment to prevent fuel, lubricants, and other liquids from leaking or spilling. Oil and hydraulic systems, and waterproof seals and enclosures, on the Contractor's vehicles and equipment shall be kept in good repair at all times to prevent leaks and spills.
- 28.6.4 Upon the request of a Customer or the Director, the Contractor shall provide a new or reconditioned Mechanical Container to replace a Mechanical Container used by the Customer or the City. However, the Contractor is not required to provide a new Mechanical Container to a Customer more than one time during any Operating Year, unless the Director instructs the Contractor to do so.

28.7 IDENTIFICATION OF CONTRACTOR'S VEHICLES AND EQUIPMENT

- 28.7.1 The Contractor's name and telephone number shall be displayed at all times, in letters at least four (4) inches high, on the driver's side and the passenger's side of each of the Contractor's vehicles used to provide Collection Service. Truck identification numbers shall be displayed at all times, in letters at least four (4) inches high, on all four (4) sides of all vehicles used to provide Collection Services.
- 28.7.2 All of the Contractor's vehicles used to provide Collection Services shall display information identifying the type of material (e.g., Solid Waste or Recyclable Materials) being collected. The information shall be displayed at all times, on the driver's side and the passenger's side of the vehicle body, in letters at least four (4) inches high. Upon the Director's request, the Contractor's vehicles also shall display

information promoting the City's Solid Waste, litter removal, and Recycling programs. The information displayed on the Contractor's vehicles shall be subject to the approval of the Director and the Contractor, which approval shall not be unreasonably delayed or withheld.

- 28.7.3 The Contractor shall label each Mechanical Container with the Contractor's name and telephone number, and the identification number for the Mechanical Container. The labels shall be comprised of letters and/or numbers that are at least four (4) inches high. The labels shall be placed on at least two (2) sides of each Mechanical Container. At least one label must be readily visible when the Mechanical Container is placed at a Customer's site. The labels must be painted or permanently affixed to the Mechanical Container and legible at all times.

28.8 COMPLIANCE WITH THE LAWS APPLICABLE TO VEHICLES

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

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

- 28.9.1 The Director may inspect the Contractor's vehicles, equipment, licenses, and registrations at any reasonable time, without providing advance notice of the inspections. The City has the right, but not the obligation, to inspect each Collection vehicle each day, prior to its use in the City.
- 28.9.2 The Director has the authority to require the Contractor to immediately remove from service any Collection vehicle, Collection Container, or equipment that is leaking or spilling fluids, Solid Waste, or other materials. The Director also may require the Contractor to immediately clean, wash, paint, repair, or otherwise maintain any Collection vehicle, Collection Container, or other equipment. If the Director requests such action, the Contractor shall comply with the Director's request within one (1) Operating Day or the Contractor shall take the vehicle, container, or equipment out of service until the requested work can be completed. Further, the Director may require the Contractor to pressure spray and promptly

clean any location where one of the Contractor's vehicles or Collection Containers leaked fluids or spilled Solid Waste and thereby stained soils or pavement or created an odorous or nuisance condition.

28.10 LOCAL STORAGE AND REPAIR OF CONTRACTOR'S VEHICLES

The Contractor shall provide a storage yard, garage, and maintenance facility that enables all-weather, year-round maintenance operations for the vehicles and equipment used pursuant to this Agreement. On and after the Commencement Date, the Contractor's storage yard, garage, and maintenance facility must be located within St. Lucie County. The Contractor shall not use City property to store, wash, repair, or maintain any vehicles or equipment.

SECTION 29: CONTRACTOR'S PERSONNEL

29.1 GENERAL REQUIREMENTS

The Contractor shall use competent, qualified, sober personnel to provide the services required by this Agreement. The Contractor shall devote sufficient personnel, time, and attention to its operations under this Agreement to ensure that its performance will comply with the requirements herein.

29.2 DIVISION MANAGER

The Contractor shall appoint a Division Manager to serve as agent and liaison between its organization and the City and shall notify the City in writing of such appointments. The Division Manager shall be the Contractor's primary point of contact with the City for all technical and administrative matters pertaining to this Agreement. The Division Manager and the Field Supervisor(s) must have at least five (5) years of prior managerial experience providing residential and commercial services in a community that is comparable in size to the City. The Division Manager must have the authority to make significant decisions concerning the day-to-day operation of Contractor's programs under this Agreement. The Division Manager must have direct access to the Contractor's management for resolving problems beyond the Division Director's authority. At all times during the term of this Agreement, the Division Manager must be immediately accessible to the Manager by telephone and electronic mail. The Division Manager shall be responsible for overseeing and implementing the Contractor's performance under this Agreement.

29.3 FIELD SUPERVISOR

The Contractor shall designate two or more Field Supervisors, who shall directly oversee the Collection Services provided under this Agreement. The Field Supervisor(s) must have the experience described in Section 29.2, above. The Field Supervisor(s) shall have immediate access to an automobile or truck between 6:00 a.m. and 7:00 p.m., every Operating Day, so the Field Supervisor can respond to problems and other events affecting the Contractor's performance under this Agreement. At all times during the term of this Agreement, the Director shall be provided immediate access to the Field Supervisor(s) by telephone and electronic mail.

29.4 EMPLOYEE CONDUCT

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

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

29.5 EMPLOYEE IDENTIFICATION

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

29.6 ATTIRE FOR EMPLOYEES

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

29.7 REMOVAL OF EMPLOYEES

The Director reserves the right to disapprove and request removal of any Contractor personnel assigned to the City's work. Such disapproval or request shall be for reasonable cause only. The Director shall meet with the Contractor's Division Manager to discuss the Director's concerns before the Director requests the Division Manager to take any action concerning any employee. Notwithstanding the foregoing, the Contractor shall not be required to take any action with regard to the Contractor's personnel that would violate any Applicable Law. Notwithstanding anything to the contrary in Section 51, below, or elsewhere in this Agreement, the Contractor shall defend, save, and hold the City harmless from and against any and all legal actions or other proceedings brought by any employees so removed.

29.8 EMPLOYEE TRAINING AND LICENSES

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

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

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

29.9 CONTRACTOR’S COMPLIANCE WITH LABOR LAWS

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

29.10 LEGAL STATUS OF CONTRACTOR’S EMPLOYEES

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

29.11 SUBCONTRACTORS AND TEMPORARY LABOR

To the greatest extent practicable, the Contractor shall provide all of its Collection Services within the City by using permanent employees of the Contractor. The Contractor shall minimize and, if possible, eliminate the use of temporary labor for the provision of Collection Services. No subcontractors or temporary labor shall be used to provide Collection Services without the prior approval of the Director.

29.12 DRUG-FREE WORKPLACE

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

SECTION 30: CONTRACTOR’S LOCAL OFFICE

30.1 CUSTOMER SERVICE AND DISPATCH OFFICE

On and after the Commencement Date, the Contractor shall maintain a local customer service and dispatch office in St. Lucie County. The Contractor’s office shall be open for business at least from 8:00 a.m. to 5:00 p.m., Monday through Saturday. However, the Contractor’s office does not need to be open on Holidays. Contractor shall be required to have a manned complaint center during all hours of operation. No mechanical or electronic substitution shall be permitted, nor shall the use of an answering service be permitted in place of Contractor personnel.

30.2 PROPER STAFFING AND EQUIPMENT

The Contractor’s office shall be equipped with sufficient personnel and equipment to document and timely respond to all inquiries, issues, and Legitimate Complaints raised by the City or Customers. A responsible, experienced person shall be present and in charge of the office during all business hours. The Contractor’s office staff shall be familiar with the City and the Contractor’s obligations under this Agreement.

30.3 TOLL-FREE NUMBER

The Contractor shall have a toll-free telephone number for calls from Customers in the City. The Contractor’s telephone system shall have the capacity to receive multiple telephone calls simultaneously. All calls concerning complaints shall be answered by a Person located in the Contractor's local office. The Contractor’s telephone number shall be listed in the Contractor’s webpage and telephone directories in the City. The Contractor shall use an answering service to receive and record messages when the office is closed, or the Contractor is receiving more calls than its staff can answer.

30.4 EMERGENCY CALL PROCESS

The Contractor shall establish a process for receiving and handling emergency calls, both during and after normal operating hours. The Contractor’s process shall ensure that a Customer receives an immediate response after reporting an emergency. Such process shall be subject to the Director’s approval.

30.5 TWO-WAY COMMUNICATION SYSTEM

The Contractor’s office shall be equipped with a two-way communication system that can be used to promptly contact the Director, the Contractor’s Division Manager, the Contractor’s Field Supervisor, and all of the Contractor’s Collection vehicles.

30.6 LOCAL OFFICE RECYCLING CART STOCK

A sufficient number of Recycling Carts shall be stored at the Contractor's local office to ensure that the Contractor can replace or exchange any cart that is delivered to the Contractor’s office by a Customer that wishes to replace or exchange their cart pursuant to Section 27, above.

SECTION 31: CUSTOMER RELATIONS

31.1 HANDLING CUSTOMER COMPLAINTS AND REQUESTS

31.1.1 The Contractor shall be responsible for receiving all complaints and requests from Customers. If the Contractor receives a complaint or a request from a Customer, the Contractor shall enter the complaint or request into the Contractor’s electronic

tracking system pursuant to Sections 31.1.4 or 31.1.5, as applicable, and then the Contractor shall promptly initiate its response.

31.1.2 The Division Manager or their designee shall determine initially whether a Customer's complaint is a Legitimate Complaint. If there is a dispute with the Customer or uncertainty, the Contractor shall notify the Director and the Director shall make the final determination as to whether a Customer's complaint is a Legitimate Complaint. Legitimate Complaints include but are not limited to:

- Missed Collections;
- Failure to respond to Missed Collections in compliance with the requirements of this Agreement;
- Mishandling of Solid Waste, Recyclable Materials, or Collection Containers;
- Failure to maintain vehicles, Collection Containers, or equipment in compliance with this Agreement;
- Damage to public or private property;
- Failure to pick up litter;
- Failure to obey traffic regulations; and
- Discourteous treatment of Customers.

31.1.3 The Contractor shall take whatever steps are necessary to promptly remedy the cause of a Legitimate Complaint. If the Contractor is informed about a Legitimate Complaint before 12 p.m. (noon) on an Operating Day, the Contractor must remedy the complaint before the end of that day. If the Contractor is informed about a Legitimate Complaint after noon on an Operating Day, or at any time on a Sunday or Holiday, the Contractor must remedy the complaint before noon on the next Operating Day. The Contractor may request, and the Director shall grant additional time to remedy a Legitimate Complaint when the Contractor uses its best efforts to correct the problem but is unable to do so within the time provided herein. Failure to resolve a complaint shall result in an appropriate assessment as described in Section 44.4. Notwithstanding anything else contained herein, the Contractor must collect all of a Residential Curbside Customer's Yard Waste in compliance with the deadlines in Section 7.5.4, even if the City and Customer do not inform the Contractor about the problem.

31.1.4 The Contractor must establish a real-time, web-based system for tracking all complaints and requests. The Contractor shall enter each complaint or request into the Contractor's electronic tracking system within one hour after the Contractor receives the complaint or request; however, if complaints are received when the Contractor's local office is closed, the issue shall be entered into the electronic tracking system within two (2) hours after the office reopens on the next Operating Day. The Contractor shall configure the system in a manner that allows the Director to: (a) access the system, and monitor events from the City's computers; (b) identify the locations of the Customer complaints in real time on a street map; and (c) compare current and historical complaints, by type of complaint and by location. The Contractor's system shall provide immediate notice to the Director when a complaint is entered into the Contractor's tracking system. The format of the information collected in the electronic tracking system shall be subject to the Director's approval. With the Director's approval, the electronic tracking system may be used as the Contractor's complaint log, pursuant to Section 34.2.6, below. This tracking system shall be fully operational no later than the Commencement Date.

31.1.5 The Contractor shall establish a real-time, web-based system for receiving and tracking a Customer's request for service. The Contractor's web-based system shall be designed to enable the Director and Customers to easily submit requests for service and receive prompt responses from the Contractor. The web-based system shall be available to all Customers. The Contractor shall closely monitor such requests and shall provide initial responses no later than the next Operating Day after receiving a request from a Customer or the City. The Contractor's system shall provide immediate notice to the Director when a Customer submits a request to the Contractor. This tracking system shall be fully operational no later than the Commencement Date.

31.1.6 With regard to the computer systems required pursuant to Sections 31.1.4 and 31.1.5, above, the Contractor is encouraged but not required to design its systems to enable Customers to view the current status of their complaints and requests on-line.

31.2 DISPUTE RESOLUTION PROCESS FOR CUSTOMERS

31.2.1 The Contractor shall promptly notify the Director whenever the Director needs to resolve a dispute between a Customer and the Contractor, including but not limited to disputes concerning the proper interpretation and implementation of this

Agreement and the Ordinances. The Contractor also shall promptly notify the Director about any disputes with a Customer that the Contractor has not been able to resolve within two (2) Operating Days after receiving the Customer's complaint.

31.2.2 The Director shall notify the Contractor and the Customer in writing concerning the Director's decision about the disputed issues.

31.2.3 The Contractor and Customer shall have three (3) Operating Days to comply with the Director's decision or, in the alternative, provide the Director with a written request for a hearing before the Manager.

31.2.4 If a request is filed, the Manager shall act upon such request within thirty (30) days. The Manager shall provide the Contractor and the Customer an opportunity to present their arguments and evidence concerning the relevant issues. The Manager shall notify the Customer, the Contractor, and the Director in writing concerning the Manager's decision. The Manager may: (a) confirm, in whole or in part, the Director's findings; (b) grant relief to the Customer or the Contractor; or (c) take whatever other action the Manager deems necessary and appropriate. The Manager's decision shall be final and shall not be subject to further appeal within the City.

SECTION 32: CONTRACTOR'S RELATIONSHIP WITH THE CITY

32.1 AVAILABILITY OF CONTRACTOR'S REPRESENTATIVES

The Contractor shall cooperate with the City in every reasonable way to facilitate the successful completion of the activities contemplated under this Agreement. The Director shall have twenty-four (24) hour access to the Contractor's Division Manager and Field Supervisor via telephone and electronic mail from the City. Answering machines, pagers, or other devices that do not provide for immediate contact with the Contractor's Division Manager and Field Supervisor shall not satisfy the requirements of this Section 32.1. The Contractor's Division Manager shall meet with the Director within five (5) Operating Days after receiving a request for a meeting to discuss the Contractor's performance under this Agreement or other issues of concern to the Director.

32.2 DIRECTOR'S REVIEW OF CONTRACTOR'S PERFORMANCE

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

32.3 CITY'S RIGHT TO INSPECT CONTRACTOR'S OPERATIONS

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

32.4 CITY'S RIGHT TO APPROVE

Whenever this Agreement authorizes the City or one of its representatives (e.g., the Director) to approve a request by the Contractor, the City shall have the right to withhold its approval until the Contractor submits all of the information needed to evaluate the Contractor's request. The City shall fairly and objectively evaluate the information provided by the Contractor, as well as any other relevant facts. However, the City shall have the exclusive right to weigh the relevant facts and determine whether the approval of the Contractor's request is consistent with the requirements in this Agreement and the public interest.

32.5 THE CITY'S RIGHT TO REQUIRE PERFORMANCE

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

SECTION 33: CONTRACTS FOR COMMERCIAL COLLECTION SERVICE

33.1 CONTRACTS FOR COMMERCIAL COLLECTION SERVICE

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

The Contractor shall prepare a standard form that the Contractor shall use as its service contract with Commercial Customers. The proposed form shall be provided to the Director for approval no later than the Commencement Date, pursuant to Section 5.2(c), above, and whenever the Contractor proposes to change the form's content. The terms and conditions contained in the form shall be consistent with the requirements in this Agreement; the service contract shall not contain

any requirements or fees that are not authorized in this Agreement. The term of the service contract shall not extend beyond the term of this Agreement, except as otherwise provided in Section 27.1.4, above. The Director shall have the authority to approve the Contractor's service contract, or require additions, deletions, or changes to the language therein, including changes to the disclosure statement provided below. The Contractor's service contract shall identify: (a) the service(s) that will be provided to the Customer; (b) the size and type(s) of Collection Container(s) that will be used; (c) the frequency of Collection Service; (d) the Scheduled Collection Day(s); (e) the Rates for the services that will be provided; and (f) the total amount to be paid each month by the Customer. The service contract also shall contain the following disclosure statement, unless alternate language is approved by the Director:

REGULATION BY CITY

This contract for the collection of solid waste is regulated by City of Port St. Lucie. If you have questions or concerns regarding the terms in this contract, you may call Waste Pro at (772) 595-9390 or the City at (772) 871-5010 for assistance.

COMPACTORS AND ATTACHED ROLL-OFF CONTAINERS

You may provide your own compactor and roll-off container for the collection of the solid waste you generate, if your compactor and container are the type that can be serviced by Waste Pro's collection equipment. In the alternative, you may obtain a compactor and mechanical container from Waste Pro. In all cases, the compactor and mechanical container must be maintained in a safe, sanitary, serviceable condition by the owner of the compactor and mechanical container.

RATES FOR SERVICES

The City has approved standard rates for the collection of solid waste and for certain special services. Under this contract, you will pay the following rates for the Contractor's services. However, the City has the right to review and approve any charge the Contractor wishes to impose for any service. You may call Waste Pro or the City if you have questions about any of Waste Pro's rates.

33.2 DISCLOSURE OF FEES FOR COMMERCIAL COLLECTION SERVICE

The Contractor's service contract shall identify all of the services that the Contractor will provide to the Commercial Customer and all of the associated Rates. No fees or charges may be collected from any Commercial Customer unless such fees and charges were disclosed to that Customer before the Contractor provided its services. If a dispute arises with a Customer concerning the Contractor's Rates, the Contractor will not be entitled to payment unless the Contractor

demonstrates that it has a service contract with the Customer and the Contractor fully disclosed its Rates to the Customer prior to providing its Collection Service.

33.3 ADVANCE PAYMENTS FOR NEW CUSTOMERS

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

33.4 INITIATION OF SERVICE TO A COMMERCIAL CUSTOMER

On and after the Commencement Date, the Contractor shall provide its Collection Services to each existing Commercial Customer in the service area. Thereafter, the Contractor shall provide its Collection Services for Commercial Waste within two (2) Operating Days after the Contractor receives a request for service from a New Customer that has signed a service contract with the Contractor and paid the applicable fee to the Contractor for Collection Service.

33.5 TERMINATION OF SERVICE TO A COMMERCIAL CUSTOMER

Subject to the conditions in this Section 33.5, the Contractor may terminate Collection Service to a Commercial Customer based on the Customer's failure to pay the Contractor's bills for Collection Service. However, the Contractor shall not terminate Collection Service to a Customer unless: (a) the Contractor provides written notice to the Customer warning the Customer of the potential termination of service, at least fourteen (14) days before the Contractor terminates service; and (b) the Customer's bill is at least forty-five (45) days overdue when service is terminated. The Contractor also must provide written notice to the Director at least fourteen (14) days before service is terminated to the Customer. Upon being notified, the City shall take whatever action it deems appropriate to enforce compliance with the City's Ordinances. If Collection Service is terminated, the Contractor may remove its Collection Containers and other equipment from the Customer's Premises.

SECTION 34: RECORD KEEPING AND REPORTING

34.1 GENERAL RECORD KEEPING AND REPORTING REQUIREMENTS

34.1.1 The Contractor shall be solely responsible for keeping all of the records and documents necessary to demonstrate that Contractor has performed its duties in compliance with the requirements in this Agreement. The Contractor's records shall be accurate, well-organized and up-to-date at all times. The Contractor's records concerning its performance under this Agreement shall be kept in the Contractor's local office for three (3) years following the expiration or termination of this Agreement, or pursuant to the applicable records retention schedule contained in Florida Statute Chapter 119, whichever is longer. If there is a question concerning the applicability of Chapter 119 or the corresponding record retention

schedule, the contractor is obligated to consult the City Clerk and preserve the records accordingly

- 34.1.2 All of the Contractor's reports to the City shall be submitted in an electronic (digital) format that is compatible with the City's software (currently Microsoft). Hard copies also shall be provided, if requested by the Director or if they are expressly required herein. The format and content of the Contractor's reports are subject to the Director's approval. The reports shall be signed by the Division Manager or other duly authorized representative of the Contractor.

- 34.1.3 The Contractor shall prepare the records and logs identified in Sections 34.2.1, 34.2.2, 34.2.3, 34.2.5, 34.2.6, 34.2.7, 34.2.8, 34.2.9, and 34.2.10 of this Agreement. The Contractor is encouraged to maintain the log identified in Section 34.2.4, but the Contractor shall not be required to do so, unless the Director concludes that the reporting requirements in Section 34.2.4 must be enforced to ensure the Contractor's compliance with the other provisions in this Agreement.

- 34.1.4 All of the Contractor's logs shall be maintained in an electronic database that is compatible with the City's software systems. The database shall be available for inspection by the City at any time during normal business hours. Upon request, the information in the logs shall be provided to the Director within five (5) Operating Days. The general format and content of the Contractor's logs shall be subject to the Director's approval.

34.2 SPECIFIC RECORD KEEPING REQUIREMENTS

- 34.2.1 Collection Service Log – The Contractor shall maintain records and a log concerning all of the Collection Services the Contractor provides to each Customer in the service area, including Residential Customers, Commercial Customers, and Customers receiving Collection Service for Construction and Demolition Waste. At a minimum, the records shall identify: the name and telephone number of each Customer; the street address where each Customer receives Collection Service; the mailing address of each Customer; the Contractor's account number for each Customer; the type of service provided to each Customer; the date(s) when service was provided; the size of, and frequency of Collection for, the Mechanical Containers (if any) used by the Customer; and the Collection Services (e.g., Special Collection Services; Back Door Service), if any, for which the Customer must pay additional fees. The Contractor shall summarize its records in a log.

- 34.2.2 Solid Waste Disposal Log – The Contractor shall maintain records and a log concerning all of the Solid Waste it collects in the service area, including the materials collected for the City pursuant to Section 36. The records shall identify the amount of Solid Waste collected and the locations where the Solid Waste was taken for disposal, as documented by scale house tickets and receipts. The records shall address each Load of Solid Waste for each Collection vehicle for each Operating Day. These records shall be summarized in a log.

- 34.2.3 Recyclable Materials Log – The Contractor shall maintain records and a log concerning all of the Recyclable Materials it collects in the service area, including the materials collected for the City pursuant to Section 36 and the Recyclable Materials collected from commercial businesses in the incorporated areas of the City. The records shall identify the amount of Recyclable Materials collected and the locations where the Recyclable Materials were taken for processing, as documented by scale house tickets and receipts. The records shall address each Load of Recyclable Materials for each Collection Vehicle for each Operating Day. These records shall be summarized in a log.
- 34.2.4 Vehicle Maintenance Log – Upon request, the Contractor shall keep maintenance records and a log for each vehicle used for Collection Service. At a minimum, the log shall show: the identification number for the vehicle; the date and description of all routine maintenance activities; and the date and description of all repairs.
- 34.2.5 Non-Collection Notice Log – The Contractor shall maintain records and a log of all occasions when the Contractor issued Non-Collection Notices. The log shall include: the date when the notice was issued; the Customer's street address; and the reason for the Non-Collection Notice.
- 34.2.6 Complaint Log – The Contractor shall maintain records and a log of all complaints and requests. The log shall include: the date and time when the Contractor was notified by the City or Customer; the Customer's street address; a description of the complaint; whether the complaint was a Legitimate Complaint as stipulated in Section 31; the date and time when the complaint was resolved; and a description of how the complaint was resolved.
- 34.2.7 Request Log – The Contractor shall maintain records and a log of all requests. The log shall include: the date and time when the Contractor was notified by the City or Customer; the Customer's street address; a description of the request; whether the request was a Legitimate Request; the date and time when the request was resolved; and a description of how the request was resolved.
- 34.2.8 Property Damage Log – The Contractor shall maintain records and a log concerning all accidents and events when Contractor's employees, vehicles, or equipment caused an injury to any Person or domestic animal, or damage to any public or private property. At a minimum, the log shall include: the date and time when the event occurred; the address where the event occurred; a description of the event; the vehicle or equipment number, and/or the name of the employee involved in the event; the name and address of the Person suffering the injury or damage; a description of the injury or damage suffered; and a description of how and when the matter was resolved.
- 34.2.9 Cart Log – The Contractor shall maintain records and a log concerning the Recycling Carts that are provided by the Contractor pursuant to this Agreement. At a minimum, the log shall identify: the number of carts provided to Residential Curbside Customers each Operating Month; the size of each cart delivered to a Customer; the number of carts in the Contractor's inventory, identified by size; the

number of carts replaced because they were damaged or worn beyond repair; and the number of carts replaced under warranty. The log shall identify the address of each Customer that received a cart, and the serial number of each cart that was provided to each Customer. The log also shall identify the name and address of each Person that purchased a cart pursuant to Section 39.9, below.

- 34.2.10 GPS and Surveillance System Records – The Contractor shall maintain records and a log concerning the Global Positioning Systems (“GPS”) data and Surveillance System footage that is obtained from the Collection vehicles used by the Contractor to provide Collection Services under this Agreement. The Contractor shall maintain the GPS and Surveillance System logs and records for each Collection vehicle for at least twelve (12) Operating Months after the GPS data Surveillance System footage was obtained and pursuant to section 34.1.1 herein. The records shall reflect a “ping rate” of every five (5) seconds for the GPS data. Upon the Director’s request, the Contractor’s records shall be provided to the City in CSV or ASCII tabular format and shall contain columns for longitude/latitude coordinates, as well as time and date stamps. Other formats may be acceptable with the prior approval of the Director. Upon request, the GPS data and/or Surveillance System footage shall be provided to the City within five (5) Operating Days; however, the Contractor shall use its best efforts to produce the data quicker if the data and/or footage are needed to evaluate a Legitimate Complaint concerning the Contractor’s performance under the Agreement.

34.3 MONTHLY REPORTS

- 34.3.1 The Contractor shall submit monthly reports to the Director. The reports shall be submitted no later than the fifteenth (15th) calendar day of each Operating Month during each Operating Year, except during the First Operating Month. At a minimum, the monthly report shall contain the following information for the previous month: (a) the total quantity of each type of Residential Waste (e.g., Garbage; Bulky Waste, Yard Waste) delivered to each Designated Facility pursuant to this Agreement; (b) the total quantity of Commercial Waste delivered to the Designated Facility pursuant to this Agreement; (c) the total quantity of Construction and Demolition Waste delivered to each Designated Facility pursuant to this Agreement; (d) the total quantity of Recyclable Material delivered to each Designated Facility; (e) the amount of Solid Waste and Recyclable Material (if any) delivered to other facilities; (f) the number of Missed Collections; (g) a summary of each accident involving personal injuries or property damage; (h) the total number of Legitimate Complaints; (i) the total number of requests; (j) the total number of sixty-four (64) gallon Recycling Carts and the total number of thirty-five (35) gallon and ninety-six (96) gallon Recycling Carts that were delivered to Customers during the month.

34.3.2 The monthly report shall include any information requested by the Director to enable the City to comply with Chapter 403 and 119, Florida Statutes, or other Applicable Laws concerning Recycling rates, Recycling goals, Solid Waste management programs, or similar matters.

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

34.4 ANNUAL REPORTS

The Contractor shall submit an annual report to the Director no later than thirty (30) calendar days after the end of each Operating Year. At a minimum, the annual report shall include the following information: (a) annualized information for all items required in the monthly reports; (b) an updated list of all vehicles and equipment used to provide Collection Service under this Agreement; (c) an updated description and inventory of the equipment, facilities, manpower, and other resources available for emergency conditions; (d) a trend analysis and overall evaluation of the number and types of Legitimate Complaints received by the Contractor on a monthly and annual basis during the term of this Agreement; (e) a corrective action plan for systemic and chronic problems, if any; (f) an updated Collection Plan; (g) an updated Contingency Plan; (h) an updated Safety Plan; (i) a summary of all accidents involving personal injuries or damage to public or private property during the prior year; and (j) a list of the vehicles, if any, that will be replaced in the upcoming year to comply with the requirements in Section 28.3, above.

34.5 ACCIDENT REPORTS

The Contractor shall notify the Director of any accidents involving the Contractor's employees, vehicles, or equipment that occur while the Contractor is performing services under this Agreement and (a) result in personal injuries or damage to public or private property or (b) require notification to a regulatory agency under Applicable Laws. In all such cases, notice shall be provided via electronic mail to wastepro@cityofpsl.com and to the Director within six (6) hours of the accident. Upon request, a more complete written report shall be provided to the Director and the City's Risk Management Division within one (1) Operating Day of the accident date. If any issues are unresolved at that time, a subsequent report shall be provided to the Director within two (2) Operating Days following the ultimate disposition of the case. The initial notice and subsequent written reports shall include the date and time of the event, a description of the event, an estimate of the damages and injuries (if any) caused by the event, and a description of how the event and any associated damages and injuries were handled or will be handled.

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

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

The City shall have the right to inspect, copy, and audit, at the City's expense, all of the Contractor's records, including phone records, concerning the Contractor's services under this Agreement, except the Contractor's confidential personnel records and the Contractor's confidential profit and loss statements unless Florida law provides otherwise. The Contractor's records shall be made available for inspection in the Contractors Local Office during normal business hours, or the records shall be submitted to the City in an electronic (digital) format, within five (5) Operating Days after the Director requests the records.

34.7 PUBLIC'S RIGHT TO INSPECT CONTRACTOR'S RECORDS

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. CONTRACTOR'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to Section 119.0701, F.S.

Contractor agrees to comply with all public records laws, specifically to:

- a) Keep and maintain public records required by the City in order to perform the service;
- b) The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).

During the term of the Agreement, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement. The form of all records and reports shall be subject to the approval of the City. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.

The Contractor agrees to make available to the City, during normal business hours all books of account, reports and records relating to this Agreement. A Contractor who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes. Upon request from the City's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as

otherwise provided by law. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the contractor does not transfer the records to the City.

Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

CITY CLERK

121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984
(772) 871 5157

PRR@cityofpsl.com

34.8 INDEPENDENT AUDITS

At Contractor's expense, for the term of this Agreement, annual audits shall be made by an independent auditor agreeable to both the City and the Contractor. Such audits shall set forth a statement of gross receipts of the Contractor for services rendered under this Agreement, and a statement of the expenses incurred with sufficient detail to indicate the origin of such expenses. The first performance period to be audited for the above stated purpose shall be October 1, 2018 to September 30, 2019. Unless the Contractor so consents, this portion of the audit shall not be the basis for the adjustment of any rate set by this Agreement and is intended to be utilized by the City, acting by and through its City Manager, in monitoring and supervising the performance of the Contractor. Said annual audits shall include an audit of the actual residential refuse and yard debris disposal costs of Contractor in disposing of residential garbage and residential yard trash in performance of this Agreement. This portion of the audit shall be the basis of establishing the disposal cost rate to be charged single-family residences and apartments served as single-family residences for the year following the last day of the audit period and shall not be the basis of any upward or downward adjustment of the disposal cost rate charged during the period audited. Such adjustment in the disposal cost shall only occur if the audited amount of refuse and yard waste disposed of exceeds the previous year by 10%. Said annual audits shall also include the actual commercial disposal costs. Said audit shall also provide the following information: Total revenues collected by Contractor for collection, disposal, and revenues received disposing of recyclables. Amount

of franchise fee paid to City by Contractor and its sufficiency. Disposition of recyclable revenue pursuant to contract.

SECTION 35: PUBLIC NOTICES

The Contractor shall provide the following notices and educational services to help inform the public about the City's Solid Waste management system. The Contractor shall work closely with the City when preparing the notices, educational materials, and promotional information required pursuant to this Section 35. The design and content of the notices, educational materials, and promotional information shall be subject to the Director's prior approval. The Contractor shall be responsible for all expenses associated with designing, printing, and delivering the notices and otherwise providing the educational services required herein. The Contractor will coordinate with the Director to ensure that all of the notices required herein are posted on the Contractor's webpage.

35.1 NOTICES FOR NEW CUSTOMERS

At the Customer's request, the Contractor shall mail or deliver appropriate informational materials for each New Customer. At a minimum, the notice for New Customers shall (a) identify each of the Scheduled Collection Days for the Customer receiving the notice, (b) summarize the applicable Set Out requirements, and (c) include other educational and promotional information provided to the Contractor by the Director. The notice also may provide other relevant information concerning the Contractor's services.

35.2 NOTICES CONCERNING PERMANENT CHANGES IN COLLECTION SCHEDULES

The Contractor shall design, print, and deliver a notice to each Residential Customer and each Commercial Customer that will be affected by a permanent change in the Scheduled Collection Days that will occur after the Commencement Date. An electronic (digital) copy of the draft notice shall be submitted to the Director for review and approval at least thirty (30) days prior to the printing and delivery of the notice. The approved notice shall be delivered to the affected Customers at least five (5) days before the Contractor changes its Scheduled Collection Days. The Contractor also shall place the notice on the Contractor's website at least fifteen (15) days before the permanent change.

SECTION 36: CONTRACTOR'S SERVICES FOR THE CITY

36.1 GENERAL REQUIREMENTS

Subject to the conditions contained herein, the Contractor shall provide Collection Services for the City, without charge, at certain City facilities and other public locations designated by the Director. The Contractor also shall collect litter and non-hazardous Solid Waste at illegal dump sites on public property. The Contractor shall be solely responsible for all of the costs and expenses associated with these services, including the cost of Collection, Tipping Fees, and the cost of purchasing, delivering, maintaining, and using Collection Containers.

With regard to the Contractor's services for the City, the Director shall determine: (a) the size of the Collection Containers that shall be provided by the Contractor; (b) the frequency of Collection Service for each Collection Container; (c) the location where the Collection Container will be placed by Contractor; and (d) the types of Collection Containers to be used. The Director shall

have the right to increase or decrease the number of Collection Containers at any location, as well as the right to add new locations for the placement of Collection Containers.

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

- (a) Garbage and Rubbish shall be collected twice each week;
- (b) Recyclable Materials shall be collected once each week; and
- (c) Mechanical Containers shall be emptied by the Contractor whenever the Mechanical Containers are full.

If the Director informs the Contractor before 12 p.m. (noon) that a Mechanical Container used by the City is full, the Contractor shall empty the container on the same day. If the Director informs the Contractor after noon, the Contractor shall empty the Mechanical Container before noon on the next Operating Day. The Contractor shall increase the size of the Collection Container or the frequency of Collection Service for any Collection Container if the Director determines the current level of service is inadequate.

36.2 PROPERTY OWNED, LEASED, RENTED, AND CONTROLLED BY THE CITY

The City shall have the right to use regular commercial type trash and recycling containers with covers, or other appropriate containers which have been placed at property owned, leased, rented and/or controlled by the City for use by the public including city streets and parks. This includes service at trash receptacles along sidewalks, at bus shelters and passive park areas identified by the City for service by the Contractor. The Contractor shall service these areas as directed by the City but not less than twice per week. The Contractor agrees to assist the City by restocking pet waste bag dispensers as needed while servicing public use containers. Overflowing cans or drums will be picked up including any litter in the vicinity of the Container. The City shall be permitted to increase the number of containers at various locations, without charge, as determined by the City. The City shall be responsible for purchasing, installing, maintaining, and replacing the trash and recycling receptacles to be used. The Contractor shall promptly notify the Director if one of the City's receptacles or containers needs to be repaired or replaced. At no cost to the City, the Contractor shall provide refuse collection and recycling services to all facilities of the City of Port St. Lucie in the amount, location, and frequency designated by the Manager. The Contractor shall provide all containers and units necessary to provide said service at no cost to the City of Port St. Lucie.

36.3 COLLECTION OF SOLID WASTE AND RECYCLABLE MATERIALS AT CITY FACILITIES

The Contractor shall provide for the Collection of the Garbage, Rubbish, and Recyclable Materials generated on any property that is owned, occupied, leased, or controlled by the City at any time during the term of this Agreement. Exhibit 5 identifies the City properties that, as of the Effective Date, shall receive Collection Service. Exhibit 5 also identifies the type and frequency of Collection Service to be provided to each City property, beginning on the Commencement Date. The Contractor's obligations under this Section 36.2 include the Collection of Garbage, Rubbish, and Recyclable Materials that are collected by the City at other locations as a result of the City's operations and then transported to the City properties identified in Exhibit 5. The Director may add properties to Exhibit 5 if the properties are acquired, occupied, leased, or controlled by the City after the Effective Date. The Director shall provide advance notice to the Contractor concerning any properties that will be added to Exhibit 5 and the Director shall designate a reasonable date for the commencement of the Contractor's Collection Services at such properties.

36.4 COLLECTION SERVICES FOR COMMUNITY EVENTS

The Contractor shall provide Collection Service for all Community Events that are designated by the Director each Operating Year. The Contractor also shall provide Collection Containers, including Recycling Containers, for each of the Community Events. The Director shall designate the number, size, and types of containers required for each event, and the locations where the containers will be placed.

36.5 COLLECTION OF LITTER AND ILLEGAL DUMPING

The Contractor shall collect litter and other non-hazardous Solid Waste at illegal dump sites when such services are requested by the Director. The Contractor shall provide these services no later than the next Operating Day after receiving the Director's request. However, this Section 36.5 does not require the Contractor to collect: (a) more than five hundred (500) pounds or one hundred (100) cubic feet of litter or other non-hazardous Solid Waste at any location; (b) any single piece of litter or Solid Waste that weighs more than fifty (50) pounds; or (c) any litter or Solid Waste that is more than fifty (50) feet from the edge of the nearest road or public right-of-way.

36.6 EDUCATIONAL ACTIVITIES

The Contractor shall prepare Public Awareness Programs to inform residential and commercial customers of the requirements for the solid waste, vegetative waste and recycling collection program that shall include, but not be limited to, brochures and other materials approved by the City, as well as by distributing door hangers, stickers, flyers, or the other medium for distribution to residential and commercial customers as requested by the City. The City may work with the Contractor on any such programs and/or collateral. The City may assist the Contractor with promotion of the recycling programs. The Contractor will work with the City in the design of promotional events and educational programs and the preparation of the above-referenced promotional materials. However, the City's contribution shall be subject to budget, review, and

approval by the City. The Contractor will distribute written service information to the residential participants on a periodic basis. The Contractor further agrees to conduct presentation for schools, civic groups, homeowners' associations, and other appropriate citizens' groups, to be determined by the City. The Contractor's financial responsibility shall be limited to reimbursing the City for its commercial printing costs for printed informational materials regarding the Solid Waste and Recycling Collection Program. The Commercial Recycling customer will also be notified by the Contractor about special commercial recycling events, workshops, educational forums and symposiums, and other activities, as requested, City personnel may be available to assist the Contractor's marketing staff in expanding commercial marketing service.

In the event that the Contractor will utilize social media to inform the public of events, promotions or changes in service, or the like, the Contractor agrees to timely respond to the public feedback on such social media platforms and bring to the attention of the City any potential issues or concerns. The Contractor agrees to work with the City on content for such social media posting if necessary.

36.7 LITTER CREW

To assist with collecting loose trash and debris, the Contractor shall add a litter crew consisting of two or more employees within sixty (60) days of the effective date of this Agreement. The crew shall be equipped with a minimum of two (2) disposal compartments on a golf cart or vehicle of a similar size and functionality for solid waste and recycling materials. This litter crew shall work six (6) days a week (except on Holidays as stated in this Agreement) and work under the guidance of the Public Works Department. This litter crew shall be instituted at no additional cost to the City. The Contractor also agrees to assign a supervisory-level employee (who lives in the City) to serve on the Keep Port St. Lucie Beautiful Committee to help advance litter control and recycling throughout the City.

36.8 STORM DUTIES AND DEBRIS REMOVAL

The Contractor agrees to the flat rate of \$8.00/yard for Storm Debris removal as directed by the City and will make available the fleet dedicated to the City. The Contractor shall also establish drop-off centers as directed by the Manager or designee to allow residents to drop off material in roll-off containers prior to a significant storm event. The Contractor also agrees to allow residents to bring debris to the St. Lucie County Landfill directly and charge the Contractor's account to expedite storm preparations under a declared emergency.

36.9 ANNUAL PERFORMANCE SURVEY

The Contractor will provide a statistically-valid customer satisfaction survey for each Operating Year by the end of each calendar year with the results to be shared with the Manager. The survey shall include a sampling of not less than 400 residential and commercial customers. The

Contractor shall work with the City to establish an agreed-upon format. The Contractor agrees that the City reserves the right to review and edit any content provided to the public on its behalf. The Contractor will also provide the City with an annual performance report indicating the results of the customer satisfaction survey.

36.10 CUSTOMER NOTIFICATION SERVICES

The Contractor will have in place a process to notify customers of service delays and changes using an alert notification system. The Contractor will also institute a text messaging number for customers to use to contact the Contractor for immediate updates. The Customer shall be able to subscribe to the alert notification system and obtain the text message number from the Contractor's website.

36.11 ROADKILL/DEAD ANIMAL PICKUP

The Contractor shall pick up dead birds, animals, snakes, fish, turtles, and reptiles from public rights-of-way, playgrounds, and all City-owned property within four (4) hours after notification by the Director or his designee. The Contractor shall make every effort to pick up dead animals proactively without the City having to request this service. Dogs, cats and other domesticated animals may be picked up by the Contractor if requested by the City's Animal Control Division or the Director. For the safety of the employees involved, the Contractor may request traffic assistance in the performance of this duty and the City shall provide such assistance to facilitate the work of the Contractor at no charge to the Contractor.

36.12 CITY CUSTOMER SERVICE REPRESENTATIVE

Starting no later than July 1, 2019, the Contractor shall employ, provide, and maintain a customer service representative placed within City Hall in order to more effectively and efficiently address Customer concerns on a full-time basis. The customer service representative must have access to any and all software and programs available in the Contractor's main office location. Placement of the customer service representative provided by the Contractor shall be at the discretion of the Manager.

36.13 ADDITIONAL SERVICES

- a) The Contractor shall make available to the City the quick flow CNG Fueling Station should the City have a need for CNG fuel. The price shall be fixed at the Contractor's actual cost;
- b) The Contractor shall service the City's pet waste stations twice per week and replenish with bags as needed.
- c) Required cooperation with law enforcement agencies in the investigation of criminal

- cases as directed by the Manager or designee.
- d) The Contractor will provide an E-Waste recycling program for both residential customers and commercial businesses. The Contractor will collect Electronic Equipment and fluorescent light bulbs upon request of the customer and schedule pick up for these special items. The items will be properly recycled or disposed of in an environmentally safe manner to the proper facilities at no additional charge.

SECTION 37: CONTRACTOR'S EMERGENCY SERVICES

37.1 COLLECTION OF GARBAGE AFTER A DISASTER

Following a hurricane, tornado, or other natural or manmade disaster, the Contractor shall use its best efforts to immediately collect, by any means available, all of the Garbage that is Set Out by Customers. This shall be the Contractor's primary responsibility until the Contractor is able to provide Collection Services on a routine basis, as determined by the Director. The Contractor shall use its best efforts to resume its Collection Services for Bulky Waste, Yard Waste, and Recyclable Materials on the Scheduled Collection Days as soon as possible after being directed to do so by the Director. Until the Contractor resumes normal Collection Service, the Contractor's work for the City shall be the Contractor's highest priority and it shall take priority over the Contractor's work for any Person that is a member of the private sector.

37.2 EMERGENCY VARIANCES IN ROUTES AND SCHEDULES

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

37.3 COLLECTION OF DISASTER DEBRIS

37.3.1 This Agreement does not give the Contractor the right to collect Disaster Debris. The City has negotiated a special rate with the Contractor if the City wishes to utilize the Contractor's services for the Collection of Disaster Debris; the rate is \$8.00/CY. Nothing herein shall require the City to utilize the services of Contractor, or prevent the City from hiring another Person, to collect Disaster Debris.

37.3.2 If the Federal Emergency Management Agency declares that City of Port St. Lucie is a federal disaster area, the City shall be primarily responsible for the Collection of Disaster Debris in the service area, subject to the conditions contained herein. The City may use its staff and/or any other Person to assist the City with the Collection of Disaster Debris. The City shall make a good faith effort to collect and remove the Disaster Debris generated by the federally declared disaster. The City shall have the sole authority to determine the extent of the clean-up that will be conducted by the City and its agents. When the City's tasks under this paragraph have been

completed, as determined by the Director, the Director shall notify the Contractor to resume all of its normal Collection Services. Thereafter, the Contractor shall collect the Solid Waste that is Set Out for Collection and the Contractor shall be paid the Rates set forth in Exhibits 2, 3, and 4 for Collection Services.

37.4 CONTRACTOR'S CONTINGENCY PLAN

The Contractor shall develop a Contingency Plan, which shall describe the Contractor's plan of action in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable or prevents the Contractor's drivers from reporting for work. The Contingency Plan shall describe the steps that the Contractor will take to avoid interruptions or reductions in Collection Service under such circumstances. The Contingency Plan must be submitted to the Director on or before the Commencement Date, in compliance with the schedule in Section 5.2(e). The Contingency Plan shall be updated annually, if necessary, and resubmitted to the Director (a) with the Contractor's annual report and (b) within ten (10) days after the plan is revised by the Contractor. The Contingency Plan and all revisions to the plan are subject to the Director's right, but not the obligation, to review and comment.

37.5 CITY'S EMERGENCY MANAGEMENT MEETINGS

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

SECTION 38: RATES FOR CONTRACTOR'S SERVICES

38.1 UNIFORM RATES FOR ALL COLLECTION SERVICES

The Rates in Exhibits 2, 3, and 4 are the maximum amounts that may be charged for the Collection Services provided by the Contractor pursuant to this Agreement, subject only to the adjustments that are expressly authorized herein. These Rates shall be applied uniformly to all Customers receiving Collection Services from the Contractor within the service area after the Commencement Date. The Contractor shall utilize the Rates in Exhibits 2, 3, and 4, and no others, when billing Customers and the City under this Agreement.

All Residential Curbside Customers in the service area shall pay the same Rates for the Collection of their Residential Waste, which shall include the Collection of Garbage, Rubbish, Yard Waste, Bulky Waste, and Recyclable Materials. The Rates for Residential Curbside Customers in the service area shall be charged to and paid by each such Customer, even if a Customer does not use all of the services offered to that Customer (e.g., Collection Service for Recyclable Materials).

The Rates include the Franchise Fees applicable to each Collection Service.

38.2 RATES FOR SPECIAL COLLECTION SERVICES

The Rates for some Special Collection Services have been set by the City, as shown in Exhibit 4. The Rates for Special Collection Services involving the use of a Mechanical Container shall not exceed the Rates shown in Exhibit 3 for comparable Commercial Collection Services. The Rates

for other Special Collection Services, such as the Collection of Land Clearing Debris, may be subject to negotiation between the Customer and the Contractor. If the Customer and the Contractor disagree about the Rate for any Collection Service, the Customer may request the Director to resolve the dispute pursuant to Section 31.2, above.

If the Contractor provides Back Door Service to a disabled Customer pursuant to Section 7.7.1, the Contractor shall be paid the Rate for Residential Collection Service, but the Contractor will not receive any additional Rate or fee for Back Door Service. The Rates for Back Door Collection Service provided pursuant to Section 7.7.2 shall be in addition to (i.e., not in lieu of) the standard Rate for Residential Collection Service.

38.3 RECYCLING BY COMMERCIAL CUSTOMERS

38.3.1 The City wants to promote Recycling by Commercial Customers. Accordingly, the Rates for the Collection of Recyclable Materials generated by Commercial Customers may be negotiated between the Contractor and the Commercial Customer. Such rates for Recyclable Materials shall not exceed the actual disposal costs.

38.3.2 Any Commercial Customer may request, and upon request shall receive, a free audit to determine whether the Customer can implement reasonable measures to reduce the amount of money the Customer pays for the Collection and disposal of their Solid Waste. The Contractor shall conduct the audit within thirty (30) Days after the audit is requested by the Customer. Among other things, the Contractor shall determine whether it is feasible for the Customer to: (a) implement a Recycling program to reduce the amount of Solid Waste the Customer generates; (b) reduce the frequency of Collection Service the Customer receives; (c) reduce the size of the Collection Container the Customer uses; (d) change the type of Collection Container the Customer uses; or (e) take other steps to reduce the cost of the Collection Service the Customer receives. The Contractor shall provide its conclusions and recommendations to the Customer promptly after the Contractor conducts the audit. Upon the Customer's request, the Contractor shall provide its conclusions and recommendations to the Customer in writing. The Customer shall be solely responsible for deciding whether, and the extent to which, the Customer wishes to implement the recommendations made by the Contractor. Any disputes concerning the requirements in this Section 38.3 shall be resolved by the Director.

38.3.3 At its option, the Contractor may approach any Commercial Customer using a Mechanical Container and offer to perform a free audit for the Customer in compliance with Section 38.3.3, above.

38.3.4 The Contractor has the exclusive right to provide service for Recyclable Materials only to those commercial units that use curbside collection for recycling. The Contractor does not have the exclusive right to provide recycling service to those commercial units using other recycling methods.

38.4 CPI ADJUSTMENTS TO COLLECTION COMPONENT OF RATES

38.4.1 Subject to the conditions herein, on October 1, 2019 and October 1, 2021, during the term of this Agreement, the Collection component of the Rates in Exhibits 2 and 3 may be adjusted, upward in an amount no greater than two (2) percent respectively, by the Director.

38.5 RATE ADJUSTMENTS FOR DISPOSAL COSTS

The Disposal Component of the Rates in Exhibits 2 and 3 shall be adjusted, upward or downward, by the Director, whenever the Disposal Component of the Rates is affected by a change in the Tipping Fees charged at a Designated Facility. The Director shall adjust the Disposal Component of the Rates by the same amount as the adjustment in the Tipping Fees at the Designated Facility. Any such adjustment to the Rates shall take effect at the time when the adjusted Tipping Fees take effect.

38.6 RATE ADJUSTMENTS FOR CHANGES IN LAW

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

38.6.2 The Council shall fairly evaluate the Contractor's request in a timely manner and in compliance with the requirements in Section 32.4, above. The Council's decision to grant, grant in part, or deny the Contractor's request shall be final and non-appealable.

38.6.3 If any adjustments to the Rates are approved, the adjusted Rates shall become effective upon the date designated by the Council. Adjustments (if any) to the Rates

shall be designed to compensate the Contractor for the increased costs incurred by the Contractor after the Change in Law took effect.

- 38.6.4 If a Rate adjustment is approved pursuant to this Section 38.6 and the adjustment will cause the Rate for any Collection Service to increase by an amount that is equal to or greater than twenty percent (20%) of the Rate in effect before the adjustment took effect, or cause the Rate for any Collection Service to be more than thirty percent (30%) higher than the Rate that was in effect on the Effective Date, the Council may terminate this Agreement at any time after providing one hundred eighty (180) days' notice to the Contractor.

38.7 EXTRAORDINARY RATE ADJUSTMENTS

- 38.7.1 Once each Operating Year, before April 1, the Contractor may petition the Manager for a Rate adjustment on the basis of extraordinary or unusual changes in the cost of its operations that could not reasonably be foreseen by a prudent Person. The Contractor's petition shall contain a detailed justification for the Rate adjustment. Among other things, the Contractor's petition shall include an audited statement of the Contractor's historical and current expenses, demonstrating that the Contractor has incurred an extraordinary increase in Contractor's costs due to factors beyond the Contractor's control, which have occurred through no fault or negligence of the Contractor. The audited statement shall be prepared by a certified public accountant that is licensed in the State of Florida and not an employee of the Contractor or its affiliates. At its expense, the City may audit the Contractor's records to evaluate the Contractor's request. The Manager may request, and upon request, the Contractor shall provide, all of the information that is reasonably necessary for the Manager to evaluate the Contractor's petition. After receiving the requested information, the Manager shall place the Contractor's petition and the Manager's recommendations on the agenda for one of the Council's public meetings. The Contractor shall be given a reasonable opportunity at the Council's meeting to explain the basis for its petition.
- 38.7.2 The Council shall grant, grant in part, or deny the Contractor's request in a timely manner. The Council may deny the Contractor's request for any reason the Council deems appropriate. The Council's decision shall be final and non-appealable.
- 38.7.3 If the Contractor's request is granted in whole or in part, the Council shall have the right to reduce the Contractor's Rates, if and to the extent that the factors causing the Contractor's price increase to have been ameliorated or eliminated. Every twelve (12) months after a request is granted, the Manager shall have the right to request, and the Contractor shall prepare promptly upon request, an updated audit and explanation of whether the extraordinary Rate increase should remain in effect. The Manager may reduce the Contractor's Rates to the levels that were in effect before the extraordinary Rate increase was granted, or to an appropriate

intermediate level, unless the Contractor demonstrates that the City should continue to pay the extraordinary Rate increase. The Manager shall provide advance notice and a reasonable opportunity for the Contractor to be heard, before the Manager reduces the Contractor's rates. Any decision by the Manager to reduce the Contractor's Rates may be appealed to the Council.

38.8 ADJUSTMENTS TO FRANCHISE FEE

Whenever any Rate is adjusted, the Franchise Fee shall be recalculated and then paid based on the adjusted Rate. The adjusted Rate shall include the Franchise Fee. When the adjusted Rate (including the Franchise Fee) takes effect, the Contractor may bill and collect the adjusted Rate from Customers.

38.9 RATES FOR RENTAL OF COLLECTION CONTAINERS

The Contractor shall not charge or collect a rental fee for the Collection Containers it provides to its Customers, except for the rental of Compactors. The Contractor also shall not charge or collect a fee for maintaining or moving a Collection Container, installing locks on a Collection Container, or providing similar services, except as provided in Exhibit 4.

38.10 RATES FOR MOBILE HOME PARKS

The Contractor shall provide Collection Service to Mobile Home parks and recreational vehicle parks, as defined in Section 513.01, Florida Statutes, located in the service area. On and after the Commencement Date, the owner of a Mobile Home park or recreational vehicle park may elect, at the owner's option, to receive Collection Service from the Contractor under the terms of this Agreement, including but not limited to the Rates set forth herein. In the alternative, the owner may elect to negotiate the terms and conditions of a separate agreement with the Contractor for Collection Service.

SECTION 39: PAYMENTS TO CONTRACTOR FOR COLLECTION SERVICES

39.1 GENERAL PAYMENT PROVISIONS

Subject to the conditions and limitations contained herein, the City and the Customers shall pay the Contractor for the services that the Contractor provides in compliance with the requirements in this Agreement. However, the City and the Customers shall have no obligation to pay any fee, charge, cost, or other sum to the Contractor unless such payment is explicitly required in this Agreement and (a) the fee is identified in Exhibits 2, 3, or 4, or (b) the Agreement explicitly provides that the fee shall be negotiated between the Contractor and the Customer. The Rates for Collection Services in Exhibits 2, 3, or 4 shall constitute full and complete compensation to the Contractor for the services provided by the Contractor under this Agreement. In all cases, the City shall have the sole authority to determine whether and the extent to which the Contractor is entitled to payment for services it provides under this Agreement.

39.2 PROHIBITIONS ON PAYMENTS FROM CUSTOMERS TO CONTRACTOR

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

39.3 BILLING AND PAYMENT PROCEDURES

39.3.1 The City shall be responsible for billing and collecting the service area fee for all of the Residential Curbside Customers that receive the Contractor's Collection Services in the service area. The Contractor also shall be responsible for billing and collecting all of the other fees for the services it provides pursuant to this Agreement, including but not limited to billing and collecting the Rates for providing Collection Services to Commercial Collection Services and Special Collection Services. The City shall have no obligation to pay the Contractor for any of the Collection Services provided by the Contractor to the Customers, except for Residential Collection Services provided to Residential Curbside Customers that pay the service area fee.

39.3.2 The City shall bill Residential Curbside Customers based on the Contractor's Rates, as set forth in Exhibit 2, for the services provided by the Contractor in compliance with the requirements in this Agreement. The Contractor shall bill Residential Curbside Customers for the purchase of a new Recycling Cart pursuant to Section 39.9, or Special Collection Services.

39.3.3 The City shall calculate the annual solid waste assessment to be levied upon assessed property within the City and shall bill Residential Customers on an annual basis. The Contractor shall be paid the Total Annual Charge for each assessed property within the City in four (4) quarterly installments beginning December 20, 2019. Payment for all subsequent quarters of each fiscal year shall be paid prior to the end of the month for February, May, and August. Payment for each quarter will consist of approximately one quarter of the total amount due to the Contractor for solid waste service for all assessed properties for the fiscal year. The Contractor shall not be required to invoice the City for these quarterly payments. Upon issuance of a certificate of occupancy, the Contractor shall be responsible for collecting the prorated assessment for newly constructed residential property not assessed on the current tax roll. In addition, the Contractor shall provide a separate "delinquent roll" listing those residential properties they have billed directly, which will be included in the upcoming tax roll, and any delinquent amount due for each property for service.

- 39.3.4 The Contractor may bill its Commercial Customers in advance for the services it will provide. In all cases, the Customer's bills shall be due and payable thirty (30) days after mailing. Interest shall accrue and may be charged on delinquent accounts at the same rate provided in Section 55.03, Florida Statutes. However, a Customer shall not be billed, and interest shall not be charged, for any services provided to a Customer more than one year earlier.
- 39.3.5 To the extent permitted by law, the Contractor is authorized to impose a lien against Commercial Property for which the Fees are delinquent. Any such lien shall be limited to the amount of the delinquent fee, plus interest to the date of payment. Provided, however, the Contractor must use its best efforts to collect delinquent fees by means other than the imposition of liens. Any lien for delinquent payment must be imposed no later than one year after the payment became delinquent. The Contractor agrees to hold harmless, assume the defense of, and indemnify the City and Indemnified Parties in compliance with Section 51, below, for any claims or liabilities resulting from the Contractor's actions regarding any liens.
- 39.3.6 The Contractor shall not terminate its Collection Services to any Residential Curbside Customers in the service area for non-payment of the service area fees.
- 39.3.7 The City shall pay the Contractor for Residential Collection Service provided to Residential Curbside Customers in the service area. The City's payment shall be based on the services provided in the prior Operating Quarter. Until the Rates are adjusted pursuant to Section 38, the payment shall be in the amount of Sixteen Dollars and Thirteen Cents (\$16.13) for each Dwelling Unit on the City's Customer List for the service area, as of the first day of the prior Operating Month.
- 39.3.8 The City shall deduct the following fees and charges from the City's payments to the Contractor: (a) liquidated damages assessed pursuant to Section 44, below; (b) any payments for disposal costs that are due pursuant to Section 42, below; and (d) any other sums that the Contractor owes the City under this Agreement.
- 39.3.9 Any negotiations by the Contractor for fees other than those specified shall be subject to approval by the Manager.

39.4 COLLECTION OF DELINQUENT PAYMENTS FROM CUSTOMERS

The City shall not be liable to the Contractor for any uncollected or delinquent accounts.

39.5 CONTRACTOR’S DUTY TO PROVIDE BILLING INFORMATION

Upon request, the Contractor may review the City's billing reports, as the Contractor deems necessary, to ensure that the City's bills are accurate. When the City issues its bills to the Customers, the Contractor shall have thirty (30) calendar days to notify the City of any errors or omissions in those bills. If the Contractor fails to notify the City within thirty (30) calendar days, the Contractor shall have no right to seek payment from the City or a Customer for any amount that was not properly billed to the Customer.

39.6 CITY’S PAYMENTS FOR COLLECTION SERVICES PROVIDED TO CITY FACILITIES

The Contractor shall not bill the City, and the City shall not pay the Contractor, for the services provided to the City pursuant to Section 36 of this Agreement, except as expressly provided in Section 36.3. The City’s payments (if any), pursuant to Section 36.3, will be based on the Rates set forth in Exhibit 3. The Contractor’s invoice shall identify the specific services that were provided and the applicable Rate for each service.

39.7 CITY’S UNDERPAYMENTS AND OVERPAYMENTS TO CONTRACTOR

If the City pays the Contractor in error, for whatever reason, the Contractor shall promptly notify the Director to rectify the mistake. The City shall make appropriate adjustments to the Contractor's payments under this Agreement to off-set past underpayments and overpayments resulting from any error. However, the City shall not be obligated to make any adjustments to correct for underpayments that occurred more than three (3) months before the City received the Contractor’s notice of the error.

39.8 LIMITATIONS ON CONTRACTOR'S RIGHT TO PAYMENT FROM CITY

The City shall have no obligation to pay for any of the Collection Services provided by the Contractor, except as provided in this Section 39. The Contractor shall have no right to any revenues or funds obtained by the City from any other sources, including but not limited to funds distributed to the City by the Florida Department of Environmental Protection, the City, or any other Person.

39.9 PAYMENTS FOR RECYCLING CARTS

The City and the Customers are not required to pay the Contractor for purchasing, assembling, delivering, repairing, replacing, or otherwise providing any of the Recycling Carts that the Contractor provides to the City or Customers pursuant to this Agreement, except as explicitly

provided in Sections 27.1.3, 27.3.2, or 27.4, above. If a Residential Customer wishes to increase their recycling capacity and requests an additional Recycling Cart pursuant to Section 27.1.3, the Contractor shall offer to swap the current container for a larger container up to a 96-gallon cart at no extra charge. If a Customer insists on purchasing a second cart, the Contractor may charge the Customer up to \$80 dollars but shall not charge a delivery fee.

39.10 PAYMENTS FOR SPECIAL COLLECTION SERVICES

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

SECTION 40: PAYMENTS TO THE CITY

40.1 FRANCHISE FEES

- 40.1.1 The Contractor shall pay Franchise Fees to the City in exchange for the rights and privileges granted to the Contractor pursuant to this Agreement, including the exclusive right to provide Residential Collection Services and Commercial Services in the City. The Franchise Fees for Residential Customers and Commercial Customers may be changed from time-to-time, as deemed appropriate by the Council.
- 40.1.2 There shall be a four-percent (4%) franchise fee paid to the City in monthly installments for the duration of the contract. Said franchise fee shall be based upon all revenues derived from the collection of refuse, solid waste, yard waste, white goods, residential recyclables and all other charges except for revenues received to pay the cost of disposal at the St. Lucie County landfill.
- 40.1.3 The Franchise Fees shall be payable each month in arrears, within fifteen (15) calendar days after the end of the month in which the Gross Revenues were received.
- 40.1.4 On or before the fifteenth (15th) day of each Operating Month, if requested, the Contractor shall deliver to the City a report that summarizes the Contractor's Residential Collection Services and Commercial Collection Services during the prior Operating Month, and shows the amount of the Franchise Fees to be paid by the Contractor to the City. The format and content of the report shall be subject to the approval of the City's Chief Financial Officer or their designee. The report shall include, but is not limited to: the name and service address of each Residential Customer and each Commercial Customer; the account number of each Customer; the exact services provided to each Customer; the size of each Collection Container used and the frequency of Collection Service; the amount billed to each Customer; the amount paid by each Customer; the amount billed to each Customer for Special Collection Services; the amount paid by each Customer for Special Collection

Services; and the amount received from each Customer for Tipping Fees. The report shall be submitted with an Excel spreadsheet or in another format that is compatible with the City's computer software programs. If a monthly report is provided to the City pursuant to Section 34.3.1, above, the monthly report may be used to satisfy the requirements in this Section 40.1.4.

40.1.5 Within ninety (90) days after the end of each Operating Year, the Contractor shall provide the Director with a report concerning the Franchise Fees paid to the City during the Operating Year. The report shall be prepared by an independent certified public accounting firm that is acceptable to the City. The report shall be based on the firm's review of the Contractor's records and shall be prepared in accordance with generally accepted accounting principles. The report shall identify the amount of the Franchise Fees that were paid by the Contractor during the Operating Year and the amount that was due under this Agreement.

40.2 PAYMENTS FOR PUBLIC NOTICES AND EDUCATIONAL SERVICES

The Contractor shall pay Fifteen Thousand Dollars (\$15,000) each year to the City for the sole purpose of helping the City with its Solid Waste and Recyclable educational initiatives. The yearly payments shall be delivered to the City no later than the October first (1st) of each Operating Year.

40.3 OTHER PAYMENTS

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

SECTION 41: RECYCLING REVENUES FOR CITY

41.1 DELIVERY

Pursuant to Section 19, above, all of the Recyclable Materials collected by the Contractor under this Agreement shall be delivered to a Designated Facility.

41.2 PAYMENT TYPE

In lieu of the City using its VISA procurement card for quarterly payments to the Contractor, the Contractor agrees to provide the City a check for 1.5% of the total amount due based on the certified billed roll. The payment by the Contractor is due on the same day the City makes payment to the Contractor each quarter.

41.3 PAYMENTS

The Contractor will pay a minimum of \$11,000 per month disposal avoidance rebate to the City, due and payable on the 15th of each month. The disposal avoidance rebate is based on the benchmark of 1,000 tons of recyclable materials per month. Tons more than this number, will be multiplied by the current per ton fee for disposal (tipping fee) with 50% payable to the City. The City will audit participation on an annual basis and reserves the right to increase this minimum based on increased recycling participation.

SECTION 42: PAYMENT OF TIPPING FEES

42.1 TIPPING FEES

The Contractor shall pay the Tipping Fees for the disposal of all Residential Waste, Commercial Waste, and other materials collected by the Contractor under this Agreement.

42.2 TIPPING FEE PAYMENT

On or before the tenth day of each Operating Month, the Contractor shall pay all of the Tipping Fees for the Solid Waste the Contractor delivered to the Designated Facilities during the prior Operating Month. The Contractor's payments shall be based on the Designated Facility's records concerning the total weight of the materials delivered by the Contractor during the prior Operating Month. The total amount of the Tipping Fees shall be calculated by using the applicable fees and charges approved by St. Lucie County Board of Commissioners, as amended.

42.3 COST RATES

The disposal cost rate for residential service shall be based upon the actual total cost of residential garbage and residential yard trash disposal by the Contractor. The actual total cost of residential garbage and residential garbage disposal by the Contractor from October 1, 2019 to September 30, 2020 shall be determined by audit as provided by for Section 34.6 hereof. The said disposal cost rate shall be adjusted annually to reflect the results of the annual audit pursuant to Section 34.6. The disposal costs rate for the term of this agreement shall be determined by use of this audit.

SECTION 43: VERIFICATION OF PAYMENT AMOUNTS

43.1 PAYMENT ACCEPTANCE

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

43.2 CITY RECALCULATIONS

At any time within the applicable statute of limitations, the City may recalculate and collect any amounts that are payable to the City under this Agreement, plus Interest.

43.3 CITY'S RIGHT TO INSPECT AND AUDIT

At its expense, the City may inspect, copy and audit any books, records and documents of the Contractor, whether kept in an electronic (digital) format or otherwise, that are relevant to the calculation of the amounts due and payable under this Agreement.

SECTION 44: ADMINISTRATIVE CHARGES

44.1 BASIS FOR ADMINISTRATIVE CHARGES

The City and Contractor acknowledge and agree that it is difficult or impossible to accurately determine the amount of damages that would or might be incurred by the City due to those failures or circumstances described in this Section 44 and for which the Contractor would otherwise be liable. Accordingly, the Contractor and the City have established the terms and amounts of the administrative charges set forth herein, and the parties agree that the administrative charges are reasonable under the circumstances. Assessments resulting from administrative charges as outlined by this Section 44 shall be subject to changes based on the CPI adjustments pursuant to Section 38.4.

44.2 PROCEDURE FOR ASSESSING ADMINISTRATIVE CHARGES

44.2.1 The Director shall notify the Contractor in writing of Legitimate Complaints that may result in administrative charges as outlined throughout Section 44.

44.2.2 After receiving the written notice, the Contractor shall have seven (7) calendar days to file a written letter of protest with the Director.

44.2.3 If a protest is timely filed, the Director shall review the issues and provide a written decision to the Contractor as soon as the matter is thoroughly examined. The Director's decision shall be final and non-appealable, except as provided in Section 44.2.6.

44.2.4 If a protest or petition is not timely filed by the Contractor, or if the Director concludes that administrative charges should be assessed, the charge will be deducted from the subsequent payment to the Contractor.

44.2.5 The procedures in this Section 44 shall be used in lieu of the procedures in Section 49 when resolving disputes concerning administrative charges, unless the administrative charges assessed in one month will exceed Thirty Thousand Dollars (\$30,000). If the administrative charges will exceed this threshold, the procedures in Section 49 may be used, at the Contractor's option.

44.3 ADMINISTRATIVE CHARGES BEFORE COMMENCEMENT DATE

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

44.3.1 Failure to timely file any report, plan, or other document required pursuant to Section 5.2 shall result in the imposition of a One Hundred Dollar (\$100) assessment for each calendar day that a report, plan, or document is late. A separate assessment shall be imposed for each report, document, or plan.

44.4 ADMINISTRATIVE CHARGES AFTER COMMENCEMENT DATE

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

44.4.1 Failure to pick up or clean up Solid Waste, litter, or other material in compliance with the requirements in this Agreement, within the deadlines set forth herein, after receiving oral notification by the Director or a Customer. Each failure shall result in the imposition of a One Hundred Fifty Dollar (\$150) assessment per event.

44.4.2 Failure to collect the Garbage, Rubbish, Yard Waste, or Recyclable Material that was properly Set Out for Collection by a Customer on the Scheduled Collection Day and within the complaint resolution timelines stipulated in Section 31.1.3. Each failure shall result in the imposition of a One Hundred Dollar (\$100) assessment. After the initial failure, if the Contractor fails to meet the deadlines contained in this Agreement, each additional Operating Day of delay shall result in the imposition of an additional assessment of Two Hundred Fifty Dollars (\$250).

44.4.3 Failure to collect all of the Yard Waste that was properly Set Out for Collection by a Residential Curbside Customer on the Scheduled Collection Day, and if the Contractor also fails to collect such waste within 72 hours after the Scheduled Collection Day; each failure shall result in the imposition of a Two Hundred Dollar (\$200) assessment per event per Customer. Each additional Operating Day of delay shall result in the imposition of an additional assessment of Two Hundred Dollars (\$200) per event per Customer.

- 44.4.4 Failure to complete a Route on the Scheduled Collection Day. A Route shall be considered incomplete if five (5) or more Dwelling Units or Commercial Customers on the same Route are not provided Collection Service. Each failure shall result in an assessment of One Thousand Dollars (\$1,000) per Route, per Operating Day. This assessment shall be used in lieu of Section 44.4.2 in cases involving incomplete Routes.
- 44.4.5 Mixing Recyclable Materials with Solid Waste or mixing any other materials that are required to be collected separately, shall result in the imposition of a Five Hundred Dollar (\$500) assessment per occurrence. Mixing Solid Waste or Recyclable Materials collected in the service area with Solid Waste or other materials collected outside of the service area shall result in the imposition of an assessment of Three Thousand Dollars (\$3,000) per occurrence.
- 44.4.6 Failure to maintain a Collection vehicle or equipment in a clean and sanitary manner within the deadlines set forth herein, after receiving oral notification from the Director, shall result in the imposition of an assessment of One Hundred Dollars (\$100) per occurrence per Operating Day.
- 44.4.7 Failure to initiate contact with a customer who has a Legitimate Complaint within the time frame specified in Section 31.1.3, after receiving oral notification from the Director or Customer, shall result in a Fifty Dollar (\$50) assessment per occurrence per Operating Day.
- 44.4.8 Monthly complaints as a percentage of total services delivered: 0.00046 to 0.00085 complaints per number of services shall result in the imposition of a Five-Hundred Dollar (\$500) assessment for that month. More than 0.00085 complaints per month shall result in the imposition of a One-Thousand Dollar (\$1,000) assessment for that month.
- 44.4.9 Failure to properly document requests and complaints in the electronic tracking system as identified in Section 31 shall result in the imposition of a One-Hundred Dollar (\$100) assessment per occurrence.

- 44.4.10 Failure to resolve a Legitimate Complaint, other than a Missed Collection, within seven (7) Operating Days of receiving oral notification from a Customer or the Director, shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment per Operating Day until such complaint is resolved to the satisfaction of the City.
- 44.4.11 Failure to timely file any report, plan, or other document required herein shall result in the imposition of a One Hundred Dollar (\$100) assessment for each Operating Day that each report, plan, or document is late.
- 44.4.12 Failure to dispose of any Residential Waste or Commercial Waste collected in the service area at the Designated Facility shall result in the imposition of an assessment equal to the current Tipping Fee at the Designated Facility times the amount (tonnage) disposed of at the non-Designated Facility. If the tonnage is unknown, the assessment shall be Two Thousand Dollars (\$2,000) per occurrence.
- 44.4.13 Failure to deliver Recyclable Materials to a Designated Facility for such materials pursuant to Section 19, or delivering Recyclable Materials to a facility for disposal, shall result in the imposition of an assessment of Two Thousand Dollars (\$2,000) per occurrence.
- 44.4.14 Failure to correct a chronic Collection problem shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment per occurrence. Chronic means three (3) or more Legitimate Complaints at the same Premises for the same issue within a twelve (12) month period. The first assessment under this Section 44.4.14 shall be imposed for the third Legitimate Complaint at the Customer's Premises. An additional assessment in the same amount may be imposed for each Legitimate Complaint thereafter.
- 44.4.15 Failure to correct a chronic equipment problem shall result in the imposition of a Two Hundred Fifty Dollar (\$250) assessment. Chronic means three (3) instances of the same or similar problem with the same equipment or vehicle within a twelve (12) month period. The first assessment shall be imposed for the third problem. An additional assessment shall be imposed for each problem thereafter.
- 44.4.16 Failure to properly and legibly label a Collection Vehicle or Collection Container in the manner required herein, within five (5) Operating Days after receiving notice from the Director, shall result in the imposition of a One Hundred Dollar (\$100)

assessment each Operating Day for each vehicle and each container not properly labeled.

- 44.4.17 Failure to have a vehicle operator properly licensed, or failure of the operator to carry his license while on duty, shall result in a One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.18 Failure to maintain office hours in the manner specified in this Agreement shall result in a One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.19 Failure to replace or repair a damaged Collection Container, or failure to replace a stolen Collection Container, or failure to exchange a Collection Container, within the deadlines specified in this Agreement, shall result in a One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.20 If the Contractor notifies the Director that a complaint has been resolved, when the complaint has not been resolved, there shall be a Two Hundred Dollar (\$200) assessment per occurrence.
- 44.4.21 Collecting Solid Waste or Recyclable Materials at times that are outside of the hours specified in this Agreement, without prior approval of the Director, shall result in a One Hundred Dollar (\$100) assessment per occurrence per vehicle.
- 44.4.22 Leaving a Collection Container where it blocks a driveway, street, alley, or road shall result in the imposition of a One Hundred Dollar (\$100) assessment per occurrence.
- 44.4.23 Failure to provide timely notices and educational materials, as required pursuant to Section 35, shall result in the imposition of an assessment of Twenty-Five Dollars (\$25) per Customer per occurrence, but the maximum assessment shall not exceed One Thousand Dollar (\$1,000) per occurrence.
- 44.4.24 Failure to report and repair damage to public or private roadways, including but not limited to damage resulting from spills of oil, hydraulic fluids, or other liquids, within the deadlines in Section 17.6, shall result in the imposition of a One Thousand Dollar (\$1,000) assessment per occurrence. Failure to clean up spilled liquids, including but

not limited to leachate, oil, and hydraulic fluids, within the deadlines set forth in Section 20.6, shall result in the imposition of an assessment of Five Hundred Dollars (\$500) per occurrence for each Operating Day of delay.

- 44.4.25 Failure to repair damage to a Customer's property within the deadlines set forth in this Agreement, after receiving notice from the Customer or Director, shall result in the imposition of an assessment of Two Hundred Fifty Dollars (\$250) per occurrence per Operating Day.
- 44.4.26 Soliciting or accepting an unauthorized fee or monetary compensation from a Customer shall result in the imposition of a Five Hundred Dollar (\$500) assessment per occurrence.
- 44.4.27 Failure to respond to the Director by 5:00 p.m. on the first Operating Day following a telephone call, voice message, facsimile transmission, or electronic message requesting a response from the Division Manager, shall result in the imposition of an assessment of One Hundred Dollars (\$100), which shall be increased by another One Hundred Dollars (\$100) for each additional Operating Day of delay.
- 44.4.28 Failure to comply with the deadlines and requirements in Section 50 concerning the Contractor's obligations prior to the termination of this Agreement, shall result in the imposition of an assessment of Two Thousand Dollars (\$2,000) per Operating Day per occurrence.
- 44.4.29 Failure to follow an approved Route in the Collection Plan, without receiving the Director's prior approval for the deviation. Each failure shall result in an assessment of Five Hundred Dollars (\$500) per occurrence.
- 44.4.30 Failure to cover or enclose Solid Waste and Recyclable Materials in the Contractor's Collection vehicles, as required herein, shall result in an assessment of Two Hundred Fifty Dollars (\$250) per occurrence.
- 44.4.31 Failure to return a Collection Container to the location where the Customer placed it for Collection shall result in an assessment of Fifty Dollars (\$50) per occurrence.

- 44.4.32 Failure to provide accurate information to the City concerning the Contractor's Collection Services or the calculation of the disposal costs for such Services, shall result in the imposition of an assessment of One Thousand Dollars (\$1,000) per occurrence.
- 44.4.33 Failure to close the gate on an enclosure for a Mechanical Container or failing to close the lid on a Mechanical Container or failing to lock all of the locks on a Commercial Customer's Mechanical Container, shall result in an imposition of an assessment of One Hundred Dollars (\$100) per occurrence.
- 44.4.34 Failure to display the Contractor's name, telephone number, and identification number on a Collection vehicle or Collection Container in the manner specified herein, shall result in an assessment of One Hundred Dollars (\$100) per occurrence per Operating Day.
- 44.4.35 Failure to respond to a Customer's request for service, within the deadline set forth in Section 31.1.5, shall result in the imposition of an assessment of Fifty Dollars (\$50) per occurrence.
- 44.4.36 Collecting Solid Waste or Recyclable Materials in the service area with a vehicle that is not part of the dedicated fleet for the City, without the prior written approval of the Director, shall result in the imposition of an assessment of One Thousand Dollars (\$1,000) per vehicle per Operating Day.

SECTION 45: PAYMENTS WITHHELD FROM CONTRACTOR

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

- (a) The Contractor's failure to carry out lawful instructions or orders from the Director, when required by this Agreement;
- (b) Failure of the Contractor to make payments to a subcontractor, which results in a claim against the City;

- (c) Unsafe working conditions allowed to persist by the Contractor, after receiving notice from the City or any regulatory agency;
- (d) Failure of the Contractor to provide Routes, schedules, data, documents or reports requested by the City in compliance with this Agreement.

If the foregoing problems are corrected, payment shall be made to the Contractor for the amounts withheld, but the City shall not be liable to the Contractor for Interest on any delayed payment. The Manager shall not exercise the City's right to withhold payments under this Section 45 unless the Manager concludes that such action is reasonable and necessary to make the City whole in light of the Contractor's repeated problems or persistent failure to perform in compliance with the requirements herein.

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

46.1 INABILITY TO PERFORM

If the City or Contractor is unable to perform or is delayed in the performance of any obligations under this Agreement by reason of any event of Force Majeure, such inability or delay shall be excused for any time during which compliance is prevented by such event and during such period thereafter as may be reasonably necessary for the City or Contractor to correct the adverse effect of such event of Force Majeure.

46.2 COMPENSATION ENTITLEMENTS

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

46.3 LABOR ISSUES

Labor disputes, labor shortages, changing economic conditions, and the economic hardship of the Contractor shall not be considered an event of Force Majeure.

46.4 NOTICE OF FORCE MAJEURE EVENT

To be entitled to the benefit of this Section 46, a Party claiming an event of Force Majeure shall give prompt written notice to the other Party, specifying in detail the event of Force Majeure, and shall diligently proceed to correct the adverse effect of any Force Majeure. The Parties agree that, as to this Section 46, time is of the essence.

SECTION 47: BREACH AND TERMINATION OF AGREEMENT

47.1 TERMINATION BY EITHER PARTY FOR CAUSE

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

- 47.1.1 Refusing to comply with any lawful order of the Director.
- 47.1.2 Failing to begin work within the time specified in this Agreement.
- 47.1.3 Discontinuing operations without prior authorization from the Director.
- 47.1.4 Failing to resume work that has been suspended within a reasonable time, not to exceed two (2) Operating Days, after being notified to do so.
- 47.1.5 Failing to obey any Applicable Law.
- 47.1.6 Soliciting or accepting any Rates, charges or fees from Customers for the Collection, disposal, or processing of Solid Waste or Recyclable Materials collected within the service area, except when such actions are explicitly authorized herein.
- 47.1.7 Failing to deliver Residential Waste, Commercial Waste, or Recyclable Materials collected in the service area to the appropriate Designated Facility.
- 47.1.8 Failing to pay, or circumventing the payment of, any Tipping Fee that the Contractor is obligated to pay to a Designated Facility pursuant to this Agreement.
- 47.1.9 Failing to comply with the procedures in the Contractor's Collection Plan.

- 47.1.10 Failing to obtain or continuously maintain insurance policies in the manner required herein.
- 47.1.11 Failing to pay, when due, any sums owed to a subcontractor for services or materials provided pursuant to this Agreement.
- 47.1.12 Failing to provide or continuously maintain the Performance Bond required pursuant to Section 53.
- 47.1.13 A representation or warranty provided by the Contractor in this Agreement is or becomes inaccurate in any material respect.

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

Notwithstanding anything else contained herein, each of the events described in Sections 47.1.14, 47.1.15, 47.1.16, and 47.1.17, below, shall constitute an event of default for which there shall be no opportunity to cure. For such events, termination shall be effective three (3) calendar days after the non-defaulting Party gives notice to the defaulting Party or at such other time designated by the non-defaulting Party.

- 47.1.14 Voluntary Bankruptcy

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

47.1.15 Involuntary Bankruptcy

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

47.1.16 Public Entity Crime

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

47.1.17 Fraud

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

47.2 HABITUAL VIOLATIONS

If the Contractor frequently, regularly, or repetitively fails to comply with its obligations and requirements under this Agreement, the City may conclude that the Contractor is a "habitual violator," regardless of whether the Contractor has corrected each individual failure of performance or paid administrative assessments for such failures of performance. In such circumstances, the Contractor shall forfeit the right to receive any further notice or grace period to cure its failures of performance, and all of the prior defaults under this Agreement shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The City has determined that habitual violations are those administrative charges that cumulatively amount to \$100,000 or more over a 12-month period. If the City concludes the Contractor is a habitual violator, the City shall issue a final warning to the Contractor, citing the grounds for the warning, and any single default by the Contractor thereafter shall be grounds for immediate termination of this Agreement. If any subsequent default occurs, the Council may terminate this

Agreement after giving written notice to the Contractor. The termination shall be effective upon the date designated by the Council.

47.3 INTERIM OPERATIONS

In the event that this Agreement is terminated before the end of any term, the Contractor shall continue its operations for an interim period of up to six (6) additional Operating Months if requested to do so by the City. The Contractor shall be paid for its services during said interim period at the Rates authorized under this Agreement in effect prior to issuance of the notice of termination.

Notwithstanding anything else contained herein, the City may hire an alternate Person to provide Collection Services in the City if the Contractor fails to provide Collection Service for a period of two (2) consecutive Operating Days. The City's interim service provider shall continue to provide Collection Service until the Contractor demonstrates to the City's satisfaction that the Contractor is able to resume work in compliance with the requirements in this Agreement. However, if the Contractor is unable for any reason to resume performance within thirty (30) calendar days, the City may terminate this Agreement, effective as of the date designated by the City. The Contractor shall reimburse the City for any and all reasonable costs incurred by the City related to or arising from the use of an alternate Person to provide Collection Service.

47.4 EFFECT OF TERMINATION

If this Agreement is terminated pursuant to the provisions of this Section 47, neither the City nor the Contractor shall have any further duty, right, liability, or obligation under this Agreement, except that: (a) a Party will not be relieved from liability for a breach of a warranty, obligation, or representation under this Agreement that occurred before the effective date of the termination; (b) the City shall pay all amounts owed to the Contractor, and the Contractor shall pay all amounts owed to the City, pursuant to this Agreement, through the date of the termination; (c) the Contractor shall deliver to the City all reports concerning the Contractor's activities through the end of the Operating Month in which termination occurs; (d) at a minimum, the provisions of Sections 34.1, 34.6, and 51 shall survive and remain in effect for seven (7) years after the expiration or termination of this Agreement; and (e) any term, condition, covenant, or obligation which requires performance by a Party subsequent to the termination of this Agreement shall remain enforceable against such Party subsequent to such termination.

SECTION 48: OPERATIONS DURING DISPUTE

If a dispute arises between the City, the Contractor, or any other Person concerning the Contractor's performance, rights, or compensation under this Agreement, the Contractor shall continue to perform

its duties in strict compliance with the requirements of this Agreement, regardless of the pending dispute.

SECTION 49: DISPUTE RESOLUTION PROCESS

49.1 COOPERATION

The City and Contractor agree to cooperate and act in good faith at all times when dealing with each other. If a dispute arises between the Parties, the Parties shall attempt to resolve their differences quickly and informally. If they are unable to do so, they shall seek relief by following the procedures set forth below in section **49.2**. All claims, disputes and controversies arising out of or related to the performance, interpretation, application or enforcement of this Agreement, including but not limited to claims for payment and claims for breach of this Agreement, shall be referred to non-binding mediation before initiation of any adjudicative action or proceeding, at law or in equity, unless it shall be unreasonable to do so or an emergency situation or necessity dictates otherwise. All applicable statutes of limitations and defenses based on the passage of time shall be tolled while the mediation process is pending. The parties will take all reasonable measures necessary to effectuate such tolling.

49.2 NON-BINDING MEDIATION

Except for termination for cause as specified below in section 49.4, all claims, disputes and controversies arising out of or related to the performance, interpretation, application or enforcement of this Agreement, including but not limited to claims for payment and claims for breach of this Agreement, shall be referred to non-binding mediation before initiation of any adjudicative action or proceeding, at law or in equity, unless it shall be unreasonable to do so or an emergency situation or necessity dictates otherwise. All applicable statutes of limitations and defenses based on the passage of time shall be tolled while the mediation process is pending. The parties will take all reasonable measures necessary to effectuate such tolling.

49.3 MEDIATION PROCESS

The Contractor and City agree to participate fully in the mediation process and conscientiously attempt to resolve their dispute. Except as provided below, each party shall bear its own expenses in connection with the mediation. Both parties shall pay equally for the services of the mediator. The mediation shall take place in the of City of Port St. Lucie, Florida. To the extent allowed by law, the results of the mediation process and any testimony, evidence, or argument introduced in the mediation process shall not be admissible as evidence in any subsequent proceeding concerning the disputed issue.

49.4 LITIGATION UPON TERMINATION

If either party terminates this Agreement for cause, the terminating party shall have the right, in its sole discretion, to proceed directly with litigation of any claims or disputes relating to the termination for cause and may include other claims and disputes unrelated to the termination and shall not be required to submit such claims or disputes to the mediation.

49.5 LITIGATION COSTS

In any litigation concerning this Agreement, the parties shall pay their own costs, attorneys’ fees, and expenses, including the costs, fees, and expenses incurred in any trial, appeal, and mediation, if any, concerning the issue(s) in dispute.

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

50.1 CONTINUATION OF CONTRACTOR’S SERVICE

The City will attempt to award a new franchise agreement with a new franchise hauler at least six (6) months prior to the expiration of this Agreement. In the event a new franchise agreement has not been awarded in this timeframe, the Contractor shall provide its Collection Services in compliance with this Agreement for up to an additional six (6) Operating Months after the expiration of this Agreement, at the then current Rates, if the Council requests this service. Any extension of the Agreement pursuant to this Section 50.1 must be approved by the Council.

50.2 SALE OR LEASE OF CONTRACTOR’S MECHANICAL CONTAINERS

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

50.3 SCHEDULE FOR TERMINATION OF CONTRACTOR’S SERVICE

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

180 calendar days prior to expiration of Agreement	If requested, the Contractor shall provide to the Director and the selected franchise hauler a Mechanical Container inventory, in a format acceptable to the City, that includes each container’s location (street address), capacity, identification number, and Collection frequency. Thereafter, the
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	Contractor shall not replace or exchange any Contractor-owned Mechanical Container listed in the inventory, without the Director's approval.
150 calendar days prior to expiration of Agreement	The Contractor shall attend a coordination meeting with the selected franchise hauler and the Director. At or before the coordination meeting, the Contractor shall provide the Director with a list of Contractor-owned containers that may be purchased by the City or the selected franchise hauler.
120 calendar days prior to expiration of Agreement	The Contractor shall work with the selected franchise hauler to develop a mutually agreeable schedule for the removal of Contractor-owned Collection Containers and placement of the selected franchise hauler's containers.
30 calendar days prior to expiration of Agreement	The Contractor shall begin to implement the schedule in cooperation with the selected franchise hauler. The Contractor shall take all steps necessary to ensure there is no interruption in the Collection Service provided to Customers.

50.4 CITY'S RIGHT TO PROCURE NEW SERVICES

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

SECTION 51: DAMAGES, LIABILITY, AND INDEMNIFICATION

51.1 LIABILITY

The Contractor shall be liable for all injuries and conditions that are caused by or result from the Contractor's actions, including but not limited to the Contractor's failure to perform in accordance with the terms of this Agreement.

51.2 NO PERSONAL LIABILITY

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

51.3 DAMAGES

The measure of damages to be paid by the Contractor to the City or by the City to the Contractor, due to any failure by the Contractor or the City to meet any of its obligations under this Agreement, shall be the actual damages incurred by the City or the Contractor. Neither Party shall have any liability under this Agreement for consequential, delay, special, indirect, or punitive damages.

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

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

51.4 CONTRIBUTION

In the event of joint negligence on the part of the City and the Contractor, all losses and costs shall be apportioned in accordance with the provisions of Section 768.31, Florida Statutes, the Uniform Contribution Among Tortfeasors Act, as it exists on the Effective Date, subject to the recovery limits set forth in Section 768.28, Florida Statutes, in effect on the Effective Date.

51.5 CONTRACTOR'S INDEMNIFICATION OF CITY

The City shall not be liable for damage claims from injury to persons or property from any cause relating in any way to the Contractor's performance contemplated under during the term of this Agreement or any extension thereof. The Contractor agrees to indemnify, defend, hold harmless and, if requested by the City, defend from and against any Indemnified Loss: the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the Contractor, its agents, laborers, vendors, or other personnel and/or entity acting under the Contractor's control in connection with the terms of this Agreement and, to that extent, the Contractor shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the City in defense of such claims and losses including appeals.

The aforesaid hold-harmless Agreement by the Contractor shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the actions of the Contractor or any agent laborers, or any employee or volunteer of the Contractor, regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. The Contractor shall be held responsible for any

and every violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by the Contractor during the performance of this Agreement. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on this Agreement. The Contractor shall secure all permits, fees, licenses, and inspections necessary for the execution of this Agreement.

Nothing contained in this Agreement shall be deemed or otherwise interpreted as waiving the City's sovereign immunity protections existing under the laws of the State of Florida or extending or increasing the limits of liability as set forth in Section 768.28 of Florida Statutes.

The obligation of the Contractor under this Section 51.5 is absolute and unconditional; to the extent allowed by Applicable Law or not otherwise prohibited, it is not conditioned in any way on any attempt by a City Indemnified Party to collect from an insurer any amount under a liability insurance policy, and is not subject to any set-off, defense, deduction, or counterclaim that the Contractor might have against the City Indemnified Party.

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

SECTION 52: CONTRACTOR'S INSURANCE

The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its sovereign immunity pursuant to Section 768.28, Florida Statutes, under its self-

insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy, or otherwise protect the interests of the City of Port St. Lucie as specified in this Contract.

52.1 WORKERS' COMPENSATION INSURANCE & EMPLOYER'S LIABILITY

The Contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement shall be provided. Coverage shall apply on a primary basis. Should scope of work performed by Contractor qualify its employee for benefits under Federal Workers' Compensation Statute (example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

52.2 COMMERCIAL GENERAL LIABILITY INSURANCE

The Contractor shall agree to maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

52.3 ADDITIONAL INSURED

An Additional Insured endorsement **must** be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary. A per project aggregate limit endorsement should be attached. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability, said Certificate(s) and policies shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability policy and Business Auto policy. The name for the Additional Insured endorsement issued by the insurer shall read "**City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents for the Solid Waste Franchise Agreement Project shall be listed as additionally insured.**". The Policy shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. All independent contractors and subcontractors utilized in this project shall furnish a Certificate of Insurance to the City in accordance with the same requirements set forth herein.

52.4 AUTOMOBILE LIABILITY INSURANCE

The Contractor shall agree to maintain Commercial Automobile Liability, including a broadened Transportation Pollution Endorsement or a separate Transportation Pollution Policy, at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Contractor does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary basis.

52.5 WAIVER OF SUBROGATION

The Contractor shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such a Contract on a pre-loss basis.

52.6 DEDUCTIBLES

All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the bidder's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all independent contractors and/or subcontractors comply with the same insurance requirements referenced above.

The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form," the City shall be endorsed as an "Additional Insured."

The City, by and through its Risk Management Department, reserves the right, but not obligation, to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A:VII or better.

A failure on the part of the contractor to execute the contract and/or punctually deliver the required insurance, and other documentation may be cause for annulment of the award.

SECTION 53: PERFORMANCE BOND

Payment & Performance Bonds: The Contractor shall furnish an acceptable recorded Performance and Payment Bond complying with the statutory requirements set forth in Section 255.05, Florida Statutes, in the amount of twenty-five (25%) percent of the annual Contract price. A fully authorized Surety, licensed by the State of Florida shall execute the Performance and Payment Bond. The Performance and Payment Bond shall remain in full force and effect a minimum of one (1) year after the work has been completed and final acceptance of the work is issued by the City.

Should the Surety become irresponsible during the time the Contract is in force, the City may require additional and sufficient sureties and the Contractor shall furnish same to the satisfaction of the City within ten (10) days after written notice to do so. In default thereof, the Contract may be suspended as herein provided.

SECTION 54: ASSIGNMENT OF AGREEMENT

54.1 WRITTEN CONSENT

No assignment of this Agreement or any right or responsibility occurring under this Agreement,

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

54.2 PROPOSED ASSIGNMENT DENIAL

In the event that the Council's consent to any proposed assignment is denied, Contractor shall continue to provide all of the services required herein for the remainder of the term.

54.3 PROPOSED ASSIGNMENT APPROVAL

If any assignment is approved by the Council, the assignee shall fully and expressly assume all of the obligations, duties, and liabilities of the Contractor under this Agreement.

54.4 ASSIGNMENT REQUIREMENTES

The requirements of this Section 54 shall include, but not be limited to cases where the Contractor hires a subcontractor to undertake any of the Contractor's obligations to provide Collection Services under this Agreement.

SECTION 55: TRANSFER OF AGREEMENT

A transfer of this Agreement shall be effective only after approval by the City. A transfer includes a one-time event that results in a transfer of twenty-five percent (25%) or more of the ownership or controlling interests of the Contractor, a series of events that result in a cumulative change of fifty percent (50%) or more of the ownership or controlling interests of the Contractor, and any other event that results in a material change in the ownership or control of the Contractor, whether accomplished by a sale of assets or other means. Any transaction that results in the Contractor or its assets being purchased by or merged with another Person shall constitute a transfer of this Agreement, which is subject to the Council's approval. An application to transfer this Agreement shall be submitted jointly by the proposed transferor and transferee and shall contain the same type of information about the transferee that was provided by the Contractor before the City granted this franchise. At a minimum, the proposed transferee shall (a) verify in writing that it will comply with all of the requirements in this Agreement and (b) demonstrate that it has the financial resources, expertise, personnel, equipment and other capabilities necessary to do so. The application shall be accompanied by a non-refundable application fee in the amount of Twenty Thousand Dollars (\$20,000.00). The Council may grant the application for transfer, or grant the application subject to conditions, or deny the application, with or without cause, in its sole discretion. Among other things, the Council's approval may be subject to conditions requiring an increase in the amount of the Performance Bond, an increase in the levels and types of insurance coverage, and other safeguards designed to ensure that the City's work will be completed in compliance with the requirements in this Agreement. In the event that the Council's consent to any proposed transfer is

denied, Contractor shall continue to provide all of the services required herein for the remainder of the term of this Agreement.

Notwithstanding the other provisions in Section 54 and Section 55 of this Agreement, the City shall cooperate with the Contractor in the event that a strike, lockout, or similar labor dispute results in the Contractor's use of a subcontractor to provide the Collection Services required under this Agreement. In such circumstances, the provisions of Section 54 and Section 55 shall be waived by the City for a period not to exceed ninety (90) days.

SECTION 56: SUBSEQUENT CITY ORDINANCES

If a City ordinance adopted after the Commencement Date materially changes or modifies the duties, responsibilities, or operations of the Contractor under this Agreement, the Contractor and the City shall work together in good faith to amend this Agreement accordingly.

SECTION 57: AMENDMENTS TO THE AGREEMENT

57.1 GENERAL REQUIREMENTS

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

57.2 CITY'S POWER TO AMEND AGREEMENT

The City shall have the power to make changes in this Agreement relative to the scope and method of providing Collection Service, when the City deems it necessary and desirable for the public welfare. The Director shall give the Contractor notice of any proposed change and an opportunity to be heard concerning any relevant matters. In all cases involving changes to this Agreement, the City and Contractor shall enter into good faith negotiations to modify this Agreement and the Rates, as necessary. The scope and method of providing Collection Service, as referenced herein, shall be liberally construed to include procedures, operations, and obligations of the Contractor. The Council must approve any amendments to this Agreement, unless explicitly provided otherwise herein.

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

57.3 AMENDMENTS DUE TO CHANGES IN LAW

The City and the Contractor understand and agree that changes in the Applicable Laws may require amendments to some of the conditions or obligations of this Agreement. In the event any future change in any Applicable Law materially alters the obligations of the Contractor or the

City, then the provisions and Rates in this Agreement may need to be modified. The City and Contractor agree to enter into good faith negotiations regarding amendments to this Agreement, which may be required in order to implement changes for the public welfare or due to a Change in Law. Section 38.6, above, shall govern any adjustments to the Rates that result from a Change in Law.

SECTION 58: WAIVER OF RIGHTS

No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the City or Contractor at any time to require performance by the other Party of any term in this Agreement shall in no way affect the right of the City or Contractor thereafter to enforce same. Nor shall waiver by the City or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the Party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

SECTION 59: WAIVER OF FLOW CONTROL CLAIMS

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

SECTION 60: GOVERNING LAW, VENUE AND ATTORNEYS FEES

The laws of the State of Florida shall govern the rights, obligations, duties and liabilities of the Parties to this Agreement and shall govern the interpretation of this Agreement. Any and all legal or equitable actions necessary to enforce this Agreement shall be held and maintained solely in the state and federal courts in and for St. Lucie County, Florida. In any legal or other proceeding to interpret, apply, or enforce the terms of this Agreement, each Party shall pay its own legal fees and all associated costs, except as otherwise provided in Section 51, above.

SECTION 61: COMPLIANCE WITH LAWS AND REGULATIONS

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

SECTION 62: PERMITS AND LICENSES

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

SECTION 63: EQUAL OPPORTUNITY EMPLOYMENT

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

SECTION 64: AGREEMENT DOCUMENTS

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

Exhibit 1 through Exhibit 5

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

Performance Bonds and Insurance Certificates

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

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

SECTION 65: ALL PRIOR AGREEMENTS SUPERSEDED

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

On the Commencement Date, the City's "Exclusive Franchise Agreement for the Collection of Solid Waste and Recyclable Material" (dated May 12, 2009), as amended, and the City's "Exclusive Franchise Agreement for Commercial Waste" (dated April 17, 2012), as amended, shall terminate automatically, without any further action by the Parties, and thereafter shall have no force or effect. However, the termination of these two (2) agreements shall not terminate any rights, remedies, claims, or causes of action that accrued thereunder before the termination.

SECTION 66: HEADINGS

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

SECTION 67: CONSTRUCTION OF AGREEMENT

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

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

Date-- i.e., Florida Statutes (2018).

SECTION 68: SURVIVABILITY

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

SECTION 69: SEVERABILITY

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

SECTION 70: FAIR DEALING

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

SECTION 71: SOVEREIGN IMMUNITY AND LIMITATIONS ON LAWSUITS AGAINST THE CITY

Nothing in this Agreement shall constitute a waiver of the City's sovereign immunity in tort actions or a waiver of any provision in Section 768.28, Florida Statutes. Nothing in this Agreement shall constitute the City's consent to be sued by any third party in any matter arising out of or related to this Agreement.

SECTION 72: REMEDIES NOT EXCLUSIVE

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

SECTION 73: NOTICES TO PARTIES

All notices, requests, authorizations, approvals, protests, and petitions provided for herein shall be in writing. Except as provided in Section 31.1, above, such documents shall be addressed as shown below and either (a) hand delivered, (b) mailed by registered or certified mail (postage prepaid), return receipt requested, or (c) sent by facsimile. The documents shall be deemed to have been duly delivered when personally delivered, or when transmitted by telecopier (facsimile) and receipt is confirmed by telephone, or when delivered by U.S. Mail or courier service, as shown by the return receipt. For the present, the Contractor and the City designate the following as the appropriate people and places for delivering notices and other documents:

As to City:

City Manager

City of Port St. Lucie

121 SW Port St. Lucie Blvd

Port St. Lucie, Florida 34984

Telephone: (772) 871-5163

Facsimile: (772) 871-5248

Copy to:

City Attorney's Office

City of Port St. Lucie

121 SW Port St. Lucie Blvd

Port St. Lucie, Florida 34984

Telephone: (772) 871-5294

Facsimile: (772) 344-4298

As to Contractor: Darlene McLaughlin, Division Manager
Russell Mackie, Regional Vice-President
Waste Pro of Florida, Inc.
4100 Selvitz Road
Ft. Pierce, Florida 34981
Telephone: (772) 595-9390
Facsimile: (772) 464-6690

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

SECTION 74: NO THIRD-PARTY BENEFICIARIES

This Agreement only provides rights and remedies for the City and the Contractor, except to the extent that Section 51.5 provides limited rights for City Indemnified Parties. Notwithstanding anything else contained herein, this Agreement does not provide any rights or remedies for any other Person. There are no third-party beneficiaries under this Agreement, except City Indemnified Parties.

SECTION 75: CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to the City that:

- (a) The Contractor is a corporation existing in good standing under the laws of the state of its formation, is in good standing under the laws of the State of Florida and is duly

qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.

- (b) The Contractor has the requisite power, authority, and legal right to enter into and perform its obligations under this Agreement and possesses all orders, permits, consents, licenses, approvals, franchises, certificates, registrations, and other authorizations from third parties and governmental authorities that are necessary to conduct its current business and to satisfy its duties and obligations under this Agreement.
- (c) This Agreement has been duly executed and delivered by the Contractor and, as of the Effective Date, constitutes a legal, valid, and binding obligation of the Contractor, enforceable by the City against the Contractor in accordance with its terms, except to the extent its enforceability is limited by the application of general principles of equity and by bankruptcy, insolvency, moratorium, debtor relief, and similar laws of general application affecting the enforcement of creditor rights and debtor obligations.
- (d) The execution, delivery, and performance of this Agreement by the Contractor: (1) have been duly authorized; (2) do not require the approval of any governmental officer or body, other than those permits or approvals contemplated to be obtained by the Contractor after the Effective Date; (3) have been duly authorized by all requisite action of the Contractor, and no other proceedings on the part of the Contractor, its officers, partners, or Directors are necessary to authorize this Agreement or to perform the duties and obligations of the Contractor contemplated by it; (4) will not violate any law applicable to the Contractor or its property or any provisions of the Contractor's articles of incorporation or by-laws; (5) do not constitute a default under or result in the creation of, any lien, charge, encumbrance, or security interest upon any assets of the Contractor under any agreement or instrument to which the Contractor is a Party or by which the Contractor or its assets may be bound or affected in any manner that prohibits or otherwise adversely affects the Contractor's ability to perform its obligations under this Agreement; and (6) do not and will not violate any copyrights, patents, or other intellectual or proprietary rights of any Person.
- (e) There is no action, suit, or proceeding, at law or in equity, before or by any court or governmental authority pending against the Contractor, in which an unfavorable decision, ruling, or finding would materially and adversely affect the performance by the Contractor of its obligations under this Agreement, or that in any way would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Contractor or any of its affiliates in connection with this Agreement.

- (f) The Contractor did not engage, directly or indirectly, in any collusion, bribery, deception, or fraud in connection with its efforts to procure the work awarded under this Agreement.
- (g) None of the agents, members, managers, partners, officers, directors, employees, or executives of the Contractor, or any affiliate that is active in the management of the Contractor, has been convicted of a public entity crime, as defined in Section 287.133(g), Florida Statutes.
- (h) The personnel employed by the Contractor have the proper skill, licenses, training, background, knowledge, experience, authorizations, integrity, and character necessary to perform the Contractor's obligations in compliance with this Agreement.
- (i) No City employee received or will receive, directly or indirectly, any benefit, interest, or profit out of the procurement process that resulted in the award of this Agreement or in connection with this Agreement or the services to be provided pursuant to this Agreement, and no City employee has or will have any direct or indirect financial interest in the award of this Agreement or any of the services to be provided pursuant to this Agreement.
- (j) The Contractor acknowledges that Section 287.135, Florida Statutes, prohibits agencies from contracting with a company for goods or services of \$1,000,000 or more, if the company is on the Scrutinized Companies with Activities in the Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy List, or the other lists identified therein. The Contractor certifies, represents, and warrants to the City that the Contractor is not on any of those lists. The Contractor acknowledges and agrees that, pursuant to Section 287.135, Florida Statutes, the City may terminate this Agreement and civil penalties may be assessed against the Contractor, if the Contractor is found to have submitted a false certification,

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

CITY OF PORT ST. LUCIE FLORIDA

CONTRACTOR

By: _____
City Authorized Agent

By: _____
Authorized Agent of Waste Pro

State of: _____

County of: _____

Before me personally appeared: _____

(Please print)

Please check one:

Personally known _____

Produced Identification: _____

(Type of identification)

and known to me to be the person described in and who executed the foregoing instrument and acknowledged to and before me that _____ executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 2019.

Notary Signature

Notary Public State of _____ at Large.

My Commission Expires _____.

(seal)

STATE OF FLORIDA)
) SS:
CITY OF ST. LUCIE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____ of Waste Pro of Florida, Inc., a _____ corporation authorized to do business in the State of Florida, and he/she acknowledged and executed the foregoing Franchise Agreement as the proper official of Waste Pro of Florida, Inc., for the uses and purposes mentioned in it and affixed the official seal of the company, and confirmed that the instrument is the act and deed of that company. 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 in the State and City aforesaid on this _____ day of _____, 2019.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT 1

General Map of Service Area

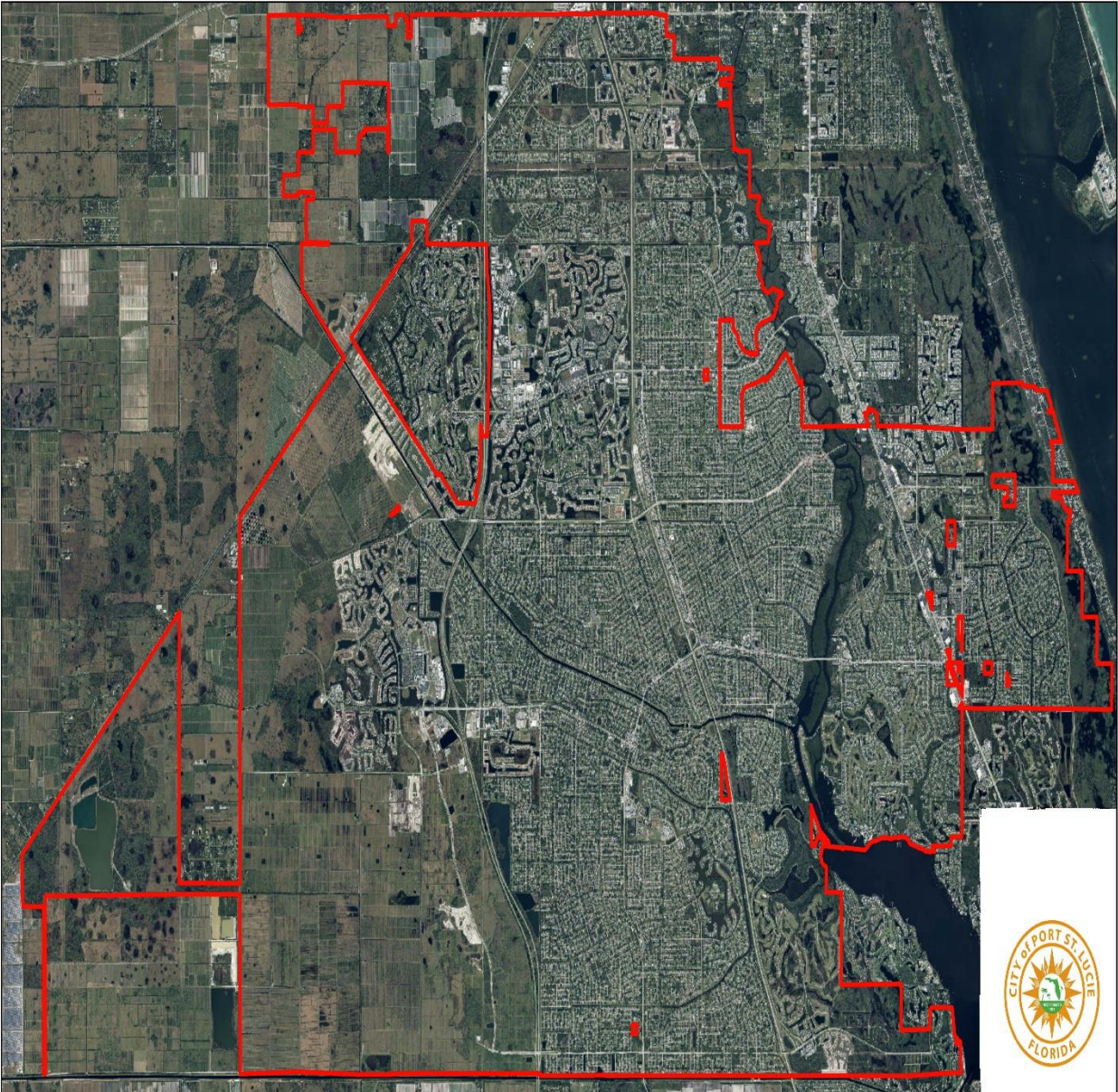


EXHIBIT 2
Rates for Residential Collection Services

1. Monthly Rates for Residential Customers in Service Area

Refuse Collection	\$9.37
Yard Trash Collection	\$3.41
Recyclable Collection	\$2.50
Garbage Disposal Cost	\$3.83
Yard Waste Disposal Cost	\$1.08
Total Monthly Charge	\$20.19

2. Monthly Rates for Back Door Service

Back Door Service in Service Area = \$ 20.00 additional per Dwelling Unit.

Notes:

1. The Rates for Residential Collection Services do not include the cost of Special Collection Services, such as Back Door Service. Any Person wishing to obtain Back Door Service shall pay the applicable Rate for Residential Collection Service, plus the applicable Rate for Back Door Service, pursuant to Section 7.7.2 of the Agreement. No fee is required for Back Door Service that is provided to Customers pursuant to Section 7.7.1 of the Agreement.
2. On October 1, **2019** and **2021**, the Collection Component of the Rates for the Collection of Solid Waste and the Collection Component of the Rates for the Collection of Recyclable Materials may be adjusted in accordance with Section 38.4 of the Agreement, based on changes in the Consumer Price Index (CPI).
3. The Disposal Component of the Rates for Residential Collection Services may be adjusted whenever the Tipping Fees are adjusted at the Designated Facility. The City anticipates that on October 1, 2019 the Designated Facility will (a) increase the Tipping Fee for Garbage and other types of Class I Waste to \$49.00 per Ton and (b) increase the Tipping Fee for Yard Waste to \$30.00 per Ton. If and when these increases occur, the Waste Disposal Component for Garbage, Rubbish, and Bulky Waste will be increased to **\$5.27** per month and the Yard Waste Disposal Component shall be increased to **\$1.25** per month.

4. The Rates for Residential Collection Services include Franchise Fees. These Rates shall be adjusted whenever the Franchise Fees are adjusted.

5. From the Effective Date through September 30, 2019 the Collection Component of the monthly rate for Residential Customers shall be **\$16.13** per month. On October 1, 2019, the Collection component of the monthly Rates for Residential Customers in the Service Area shall be adjusted. For these Customers, the Collection component for Garbage, Rubbish, Yard Waste, and Bulky Waste shall be decreased to **\$15.59** per month.

EXHIBIT 3

Rates for Commercial Collection Services

The following Rates for Commercial Collection Services include the provision of all labor, equipment, and other services related to the collection and disposal of all materials, as described in the Franchise Agreement. Rates include all costs, including Franchise Fees.

1. Collection Service with Mechanical Containers

On the Commencement Date, the Rate for Collection Service with Mechanical Containers will be \$6.70 per cubic yard, which includes the cost of Collection and disposal. On July 1, 2019, the Rate for Commercial Collection Service with Mechanical Containers shall increase to \$7.74 per cubic yard. The following table identifies the Rates that will be paid by Customers. These Rates are for monthly service (i.e., 4.33 weeks per month). The Rates are based on the assumption that one cubic yard of Garbage and other types of Class I Waste weighs eighty (80) pounds.

2 Cubic Yard Containers	
1x/Week	\$58.02
2x/Week	\$116.04
3x/Week	\$174.07
4x/Week	\$232.09
5x/Week	\$290.11
6x/Week	\$348.13
4 Cubic Yard Containers	
1x/Week	\$116.04
2x/Week	\$232.09
3x/Week	\$345.53
4x/Week	\$464.18
5x/Week	\$580.22
6x/Week	\$696.26
6 Cubic Yard Containers	
1x/Week	\$174.07
2x/Week	\$345.53
3x/Week	\$522.20
4x/Week	\$696.26
5x/Week	\$870.33
6x/Week	\$1,044.40
8 Cubic Yard Containers	

1x/Week	\$232.09
2x/Week	\$464.18
3x/Week	\$696.26
4x/Week	\$928.35
5x/Week	\$1,160.44
6x/Week	\$1,392.53

2. **Rates for Extra Pick-Up**

The following Rates may be charged when the Contractor is requested to provide an extra pick-up (i.e., collect the Customer's Solid Waste more often than is regularly scheduled) for a Customer that uses a Mechanical Container:

2 Yard Mechanical Container	\$25.00
4 Yard Mechanical Container	\$40.00
6 Yard Mechanical Container	\$50.00
8 Yard Mechanical Container	\$60.00

3. **Collection Service with Compactors/Open-Top Containers – Solid Waste**

	Total Rate
10 Yard	\$211.98
15 Yard	\$218.46
20 Yard	\$224.12
30 Yard	\$244.46
35 Yard	\$250.22
40 Yard	\$255.56
45 Yard	N/A

4. **Collection Service with Roll-Off Containers**

Disposal Component: Based on weight at disposal facility

5. **Frontload Monthly Maintenance Fees**

2 Yard	\$16.36
4 Yard	\$19.63
6 Yard	\$24.00
8 Yard	\$27.56

6. **Optional Collection Service for Bulky Waste**

Price per cubic yard

\$ 12.00 per cubic yard

EXHIBIT 4

Rates for Special Collection Services

Rolling out Mechanical Container (and returning it to original location)	\$35.00
Opening (and closing) doors or gates	No Charge
Locks	\$5.00
Unlocking and locking	No Charge
Supplying (and retrofitting) locking mechanism	No Charge
Adding wheels to or changing wheels on Mechanical Container	No Charge
Adding lids to or changing lids	No Charge
Moving container or Roll-Off location per Customer request	\$100.00
Changing container size	No Charge
Special Collection Service (e.g., unscheduled collections) for Solid Waste, including Bulky Waste	The Rate in Exhibit 3 for comparable Commercial Collection Service
Disposal of hazardous waste in Collection Container	Actual cost, but subject to Director's approval
Purchase and assembly of a New Recycling Cart pursuant to Section 39.9 of the Agreement	\$80.00
Delivery of a purchased Recycling Cart, pursuant to Section 39.9 of the Agreement	No Charge
Back Door Service for Residential Curbside Customers	\$20.00 additional monthly

Notes:

1. The Rates for Special Collection Services will not be adjusted for changes in the CPI, as provided in Section 38.4.9 of the Agreement.

EXHIBIT 5

LIST OF CITY PROPERTIES RECEIVING COLLECTION SERVICE

A. LOCATIONS OF CITY PROPERTY FOR COLLECTION OF SOLID WASTE

<u>Site Name</u>	<u>Site Address</u>	<u>Svc Frequency</u>
Animal Control	1118 SW Biltmore St.	Weekly
Animal Control	1118 SW Biltmore St.	Weekly
Botanical Gardens-City Of PSL	2410 SE Westmoreland Blvd.	2 times per week
Canal Park	Oakridge Dr.	Weekly
Charles Ray Park	5626 NW Manville Dr.	Weekly
City Hall	181 SW Port St Lucie Blvd, Bldgs. A AND B	3 times per week
City Hall	181 SW Port St Lucie Blvd, Bldgs. A AND B	Weekly
City Hall	181 SW Port St Lucie Blvd, Bldgs. A AND B	3 times per week
City of Port Saint Lucie	9221 SE Civic Center Pl.	3 times per week
City of Port Saint Lucie Utilities	7599 LTC Pkwy.	Weekly
City of Port St Lucie	12525 Range Line Rd.	Weekly
City of Port St Lucie	12525 Range Line Rd.	Weekly
City of Port St Lucie	2266 SW Best St.	Weekly
City of Port St Lucie	2708 Se South Blackwell Dr.	On-Call
City of Port St Lucie	9801 SW Discovery Way	Weekly
City of Port St. Lucie	121 SW Port St. Lucie Blvd, Building Department	Weekly
City of Port St. Lucie Golf Course	2601 SE Morningside Blvd.	3 times per week
City of Port St. Lucie Utilities	900 SE Ogden Ln.	On-Call
City of Port St. Lucie Utilities	900 SE Ogden Ln.	2 times per week
Community Center	2195 SE Airoso Blvd.	4 times per week
Jaycee Park	1301 SW Bayshore Blvd.	2 times per week
Lyngate Park	1302 Lyngate Dr.	3 times per week
Lyngate Park	1302 Lyngate Dr.	3 times per week
McChesney Park	1585 SW Cashmere Blvd.	2 times per week
McChesney Park	1585 SW Cashmere Blvd.	2 times per week
Minsky Gym	750 SW Darwin Blvd.	2 times per week
Oak Hammock Park	1982 SW Villanova Rd.	Weekly
Parks and Recreation	3200 SE Southbend Blvd.	2 times per week
Police Administration Bldg. C	121 SW Port St Lucie Blvd.	3 times per week
PSL Water Treatment Plant	10700 Glades Cut Off Rd.	Weekly
Public Works	450 SW Thornhill Dr.	Weekly

Public Works	450 SW Thornhill Dr.	Weekly
Public Works	450 SW Thornhill Dr.	2 times per week
Rivergate Park	2200 SE Veterans Memorial Pkwy.	2 times per week
Rotary Park	2101 SE Tiffany Ave.	Weekly
Rotary Park	2101 SE Tiffany Ave.	Weekly
Sandhill Crane Park	2355 SE Scenic Park Dr.	On-Call
Sandhill Crane Park	2355 SE Scenic Park Dr.	Weekly
Sandhill Crane Park	2355 SE Scenic Park Dr.	2 times per week
Sandhill Crane Park	2355 SE Scenic Park Dr.	2 times per week
Sportsman Park	295 NW Prima Vista Blvd.	2 times per week
Sportsman Park	295 NW Prima Vista Blvd.	2 times per week
Sportsman Park	295 NW Prima Vista Blvd.	3 times per week
Sportsman West Park	346 SW Prima Vista Blvd.	3 times per week
Swan Park	700 SW Carmelite St.	2 times per week
Utilities West Port	3721 SW Darwin Blvd.	6 times per week
Utilities West Port	3721 SW Darwin Blvd.	6 times per week
Whispering Pines	750 SW Darwin Blvd.	2 times per week
Whispering Pines	750 SW Darwin Blvd.	2 times per week

**B. LOCATIONS OF CITY PROPERTY FOR
COLLECTION OF RECYCLABLE MATERIALS**

<u>Site Name</u>	<u>Site Address</u>	<u>Number of Containers</u>	<u>Service Frequency</u>
City of Port Saint Lucie	9221 Civic Center Pl.	4	Weekly
City of Port Saint Lucie	9221 Civic Center Pl.	12	Weekly
City of Port Saint Lucie	9221 Civic Center Pl.	1	Weekly
City of Port Saint Lucie	1133 SW South Macedo Blvd.	1	Weekly
Community Garden	2600 SE Waterview Dr.	1	On-Call
Nation Basketball Training	751 NW Enterprise Dr. # 104	1	Weekly
PSL Library	2950 SW Rosser Blvd.	2	Weekly
PSL Library	2950 SW Rosser Blvd.	1	Weekly
Winterlakes Park	5241 NW Jannebo St.	5	Weekly
Woodland Trails Park	1485 SW Calmar Ave.	4	Weekly
Woodland Trails Park	1485 SW Calmar Ave.	2	Weekly

