

ATTACHMENT A

**Franchise Agreement
Between
Town of Southwest Ranches
and**

**SOLID WASTE, RECYCLABLES, AND BULK WASTE
COLLECTION AND DISPOSAL FRANCHISE AGREEMENT**



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SOLID WASTE, RECYCLABLES, AND BULK WASTE COLLECTION AND DISPOSAL FRANCHISE AGREEMENT

Town of Southwest Ranches, Florida

This Contract is made and entered into this _____ day of _____, 2017, between the Town of Southwest Ranches, a municipal corporation of the State of Florida, Broward County, Florida, hereinafter referred to as "TOWN," and _____, authorized to do business in the State of Florida, hereinafter referred to as "CONTRACTOR."

Now, therefore, in consideration of the mutual covenants, agreements and consideration contained herein, the TOWN and CONTRACTOR hereby agree as hereinafter set forth:

SECTION 1. EFFECTIVE DATE, COMMENCEMENT DATE, AND TERM

- A. Effective and Commencement Dates. The Effective Date of this Contract is the date this Contract is executed and signed by both the TOWN and CONTRACTOR. The Commencement Date is the date that Collection services required pursuant to this Contract commence, or October 1, 2017.
- B. Initial Term. The term of this Contract shall be for a five (5) year period beginning on the Commencement Date, October 1, 2017, and terminating September 30, 2022.
- C. Renewal Option. This Contract shall automatically renew for one (1) additional five (5) year period unless either party provides the other party with written notice of non-renewal at least one (1) year prior to the conclusion of the first Contract term.

SECTION 2. DEFINITIONS

For the purpose of this Solid Waste, Recyclables, and Bulk Waste Collection and Disposal Franchise Agreement, hereinafter referred to as "Contract," the definitions contained in this Section shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the "Solid Waste Ordinance" as contained in the TOWN Code shall control. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

- A. Biohazardous or Biomedical Waste means any waste that may cause disease or reasonably be suspected of harboring pathogenic organisms, including waste resulting from the operation of medical clinics, hospitals, and other facilities processing waste that may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing, and surgical gloves.
- B. Bulk Trash means those wastes that may require special handling and management including, but not limited to, furniture, White Goods, concrete, rubble, mixed roofing materials, rock, gravel and other earthen materials, equipment, wire and cable, materials resulting from home improvements and any and all household goods that are customary to ordinary housekeeping operations of a Residential Service Unit. Bulk Trash must be generated by the customer at the

- Residential Service Unit at which the Bulk Trash is placed for Collection. Bulk Trash does not include Contractor-Generated Waste or Exempt Waste.
- C. Bulk Waste means the combination of Bulk Trash and Yard Trash. Bulk Waste must be generated by the customer at the Residential Service Unit at which it is placed for Collection. Bulk Waste does not include Contractor-Generated Waste or Exempt Waste.
- D. Business(es) means all retail, professional, wholesale, agricultural, industrial facility, or any other commercial enterprises offering goods or services to the public or other businesses; any church, synagogue, mosque, or other house of worship; and any schools or other institutions.
- E. Certificate of Occupancy means a document produced by the Town certifying that a newly constructed building has been constructed in compliance with Town specifications and Florida Building Code, and is suitable for use.
- F. Collection means the process whereby Solid Waste, Recyclable Materials, or Bulk Waste is removed and transported to the facilities designated in this Contract.
- G. Commencement Date means the date Collection services pursuant to this Contract commence, or October 1, 2017.
- H. Commercial Collection Service means the Collection of Solid Waste from all Commercial Customers in the Service Area, with the method of service delivery being standard loose trash Dumpster service, Roll-off Container service, and Compactor services of all types, and the delivery of that Solid Waste to the Designated Disposal Facility. Commercial Collection Service does not include collection of Construction and Demolition Debris in Roll-off Containers.
- I. Commercial Customers means the Businesses that receive Collection services pursuant to this Contract.
- J. Compactor means any container that has a compaction mechanism, whether stationary or mobile.
- K. Construction and Demolition Debris or C&D Debris means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project.
- L. Container means any container intended for Collection.
- M. Contract means this franchise agreement, including all attachments and amendments thereto, between the TOWN and the CONTRACTOR, governing the provision of services as provided herein.
- N. Contract Administrator means the person designated by the Town Administrator to administer and monitor the provisions of this Contract.

- O. Contract Year means the time from the Commencement Date through September 30, 2018 and each year thereafter during the term of the Contract.
- P. CONTRACTOR means that person or entity that has obtained from the TOWN a Contract to provide the services set forth herein.
- Q. Contractor-Generated Waste means Bulk Trash and/or Yard Trash generated by builders, building contractors, privately employed tree trimmers and tree surgeons, landscape services, lawn or yard maintenance services, and nurseries.
- R. County means Broward County, Florida.
- S. Designated Disposal Facility means the disposal facility designated by the TOWN.
- T. Designated Materials Recovery Facility or Designated MRF means the facility designated by the TOWN for delivery of all Residential Recyclable Materials collected pursuant to this Contract.
- U. Dumpster means any metal container, with a capacity of two (2) or more cubic yards, designed or intended to be mechanically dumped into a loader packer type garbage truck.
- V. Effective Date means the date this Contract is executed by both the TOWN and CONTRACTOR.
- W. Exempt Waste means Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, tree parts or lumber that is more than four (4) feet in length in its longest dimension, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil and tires, those wastes under the control of the Nuclear Regulatory Council, Contractor-Generated Waste, and those other materials whose size and/or weight are in excess of that allowed for Bulk Waste as defined herein.
- X. Hazardous Waste means any solid waste that is defined as a hazardous waste by the Florida Department of Environmental Protection in the State of Florida Administrative Code, or by any current or future federal, state, or local law.
- Y. Holiday means a designated holiday on which the CONTRACTOR shall not be required to provide Residential Collection Service or Commercial Collection Service or to maintain office hours. For the purposes of this Contract, Holiday shall only mean Christmas Day unless additional Holidays are approved by the Contract Administrator.
- Z. Non-Collection Notice means a durable tag, sign, and/or sticker placed on any Container or waste that has been set out for Collection by a customer but is not collectable in accordance with the provisions of this Contract and, therefore, has not been collected by the CONTRACTOR.
- AA. Recyclable Materials or Recyclables means those materials that are capable of being recycled and which would otherwise be processed or disposed of as Residential Solid Waste. Recyclable Materials include newspapers (including inserts), corrugated cardboard, mixed paper (including brown paper bags, magazines, phonebooks, junk mail, white and colored paper, shredded paper in a bag, and paperboard), aluminum cans, plastic containers and bottles marked with SPI codes 1-7, glass bottles and jars, tin and ferrous cans, poly-coated cartons, and other materials added by the TOWN.

- BB. Recycling Bin means a rigid rectangular receptacle made of plastic or other suitable substance of no less than eighteen (18) gallons for the Collection of Recyclable Materials.
- CC. Residence means any individual living unit in a single-family structure or building intended for, or capable of being utilized for, residential living. For the purposes of this Contract, the term Residence shall include a living unit that adjoins or is part of a building from which a duly licensed Business is conducted or operated.
- DD. Residential Collection Service means the Collection of Residential Waste from all Residential Service Units in the Service Area and the delivery of such materials to the facilities designated in this Contract.
- EE. Residential Customer means the occupant of the Residential Service Unit that receives Collection services pursuant to this Contract.
- FF. Residential Service Unit means any Residence receiving Residential Collection Service pursuant to this Contract.
- GG. Residential Waste means Solid Waste, Bulk Waste, and Recyclable Materials generated by Residential Customers.
- HH. Roll Cart means a wheeled container designed and intended to be used for automated or semi-automated Collection of Solid Waste and/or Recyclable Materials that is a type and size approved by the Town.
- II. Roll-off Container means any open-top Container of a capacity of ten (10) cubic yards or more.
- JJ. Service Area means the municipal limits of the TOWN.
- KK. 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 such waste having similar characteristics or effects.
- LL. Solid Waste means garbage, rubbish, refuse, trash, or other similar discarded material resulting from domestic, industrial, commercial, agricultural, or governmental operations. For the purposes of this Contract, the only things Solid Waste excludes are Recyclable Materials, Exempt Waste, and Residential Bulk Waste.
- MM. TOWN means the Town of Southwest Ranches, Florida.
- NN. Town Council or Council means the governing body of the Town of Southwest Ranches, Florida.
- OO. White Goods means inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White Goods must be generated by the customer at the Residential Service Unit at which the White Goods are placed for Collection.
- PP. Work Day means any day, Monday through Saturday, which is not a Holiday as set forth in this Contract.

- QQ. Yard Trash means any vegetative matter resulting from normal yard and landscaping maintenance that is not more than four (4) feet in its longest dimension. Yard Trash must be generated by the customer at the Residential Service Unit at which the Yard Trash is placed for Collection. Yard Trash includes Christmas trees, but does not include Contractor-Generated Waste or Exempt Waste.

SECTION 3. GENERAL DESCRIPTION OF CONTRACTOR'S SERVICES

- A. Exclusive Contract. The CONTRACTOR is herein granted an exclusive Contract to provide Residential Collection Service and Commercial Collection Service within the TOWN. The CONTRACTOR is not granted the exclusive right to collect C&D Debris. Roll-off Container Collection services for C&D Debris are not being awarded exclusively to the CONTRACTOR. The CONTRACTOR may provide C&D Debris Roll-off Container services at competitive rates that shall not be controlled by this Contract.
- B. Services to be Provided. The CONTRACTOR shall provide Residential Collection Service to all Residential Service Units within the Service Area and Commercial Collection Service to all Commercial Customers within the Service Area. The CONTRACTOR shall transport and deliver all Solid Waste, Recyclable Materials, and Bulk Waste collected pursuant to this Contract to the facilities designated herein. CONTRACTOR agrees and understands that the Residential Bulk Waste is not required to be containerized in cans or plastic bags. CONTRACTOR further agrees and understands that CONTRACTOR is responsible for collecting any Residential Waste that has spilled or is no longer containerized, whether or not such spillage is a result of CONTRACTOR's actions.
- C. Commercial Recyclables. CONTRACTOR shall provide Collection of Recyclables from Commercial Customers upon request.
- D. Exempt Waste. The CONTRACTOR shall not be required to collect or dispose of Exempt Waste, but may offer such services. All such collection and disposal of Exempt Waste are not regulated under this Contract, but if provided by the CONTRACTOR shall be in strict compliance with all federal, state, and local laws and regulations.
- E. Responsibility for Billing. The TOWN shall be responsible for the billing and collection of payments for Residential Collection Service, except in the case of new Residences not yet added to the solid waste assessment roll by the County Property Appraiser. The CONTRACTOR shall be responsible for the billing and collection of payments for new Residences until they are added to the solid waste assessment roll. The CONTRACTOR shall be responsible for the billing and collection of payments for Commercial Collection Service.
- F. Payment for Disposal. The CONTRACTOR shall be responsible for making payment to the Designated Disposal Facility for the disposal of all Solid Waste collected pursuant to this Contract, and shall provide documentation of such payment to the TOWN. If the Designated Disposal Facility requires that a payment bond be posted for disposal of Solid Waste collected pursuant to this Contract, the CONTRACTOR shall be responsible for posting such payment bond.

SECTION 4. TRANSITION IN SERVICE

- A. Transition Prior to Commencement Date of Service. The CONTRACTOR is responsible for providing a smooth transition in services to minimize inconvenience to Residential Customers or Commercial Customers. To accomplish this objective, the CONTRACTOR shall submit to the Contract Administrator, no later than thirty (30) calendar days following execution of this Contract, a Transition Plan that provides a detailed description of how the CONTRACTOR will plan and prepare for initiating Collection services on the Commencement Date. The Transition Plan must meet the approval of the Contract Administrator. If the Contract Administrator does not approve any part of the Transition Plan, CONTRACTOR shall provide a revised proposed Transition Plan within five (5) Work Days of notification. At a minimum, the CONTRACTOR must address the specific performance requirements listed below in the Transition Plan and accomplish them according to deadlines specified in the TOWN-approved plan. This list is not intended to identify all necessary tasks to be performed by the CONTRACTOR, but to provide a springboard for the CONTRACTOR to develop a comprehensive Transition Plan.
- (1) **Contact List:** List of key transition personnel including, but not limited to, service transition project manager, education and outreach coordinator, and operations director (or similarly titled positions).
 - (2) **Transition Meeting and Call Schedules:** Proposed meeting and call schedules including, but not limited to, meetings with the Contract Administrator, Town staff, and outgoing contractor leading up to the Commencement Date.
 - (3) **Office:** Schedule for setting up an office, installing local telephone number routed to the office, and training staff to begin receiving calls.
 - (4) **Cart Procurement:** Schedule for purchase and manufacturing of CONTRACTOR-provided Roll Carts for Residential Collection Service including artwork approval by TOWN and prototype delivery. The TOWN retains the right to require acceptable documentation including, but not limited to, purchase orders, delivery schedules, and receipts of payment.
 - (5) **Cart Assembly and Distribution (A&D):** Schedule for Roll Cart A&D including cart shipment dates, days and hours of operations, and completion of A&D. All Roll Carts shall be delivered to all customers at least two (2) weeks prior to the Commencement Date. An A&D plan should also be included identifying A&D contractor and contact information, staging areas, A&D route schedule, number of crews, expected number of carts delivered per crew per day, method of assigning carts to addresses, data points to be collected at time of A&D, and upload frequency of data into central A&D database. CONTRACTOR shall provide a list matching the serial number of each Roll Cart to the specific address to which each Roll Cart has been assigned. After delivery, residents may affix their names and property address onto their assigned Roll Cart.
 - (6) **Cart Swaps:** Schedule for Roll Cart swaps including plan for receiving swap requests, initiating exchanges, and maintaining asset management database.
 - (7) **Fleet:** Schedule for ensuring that all vehicles are street legal (registered, insured, licensed, and tagged) and providing a vehicle/equipment list and route summary to the Contract

Administrator. For all new purchases, CONTRACTOR shall provide a list of vehicles, manufacturer, purchase order, and documentation of anticipated delivery date.

- (8) Education and Outreach: Schedule for producing and delivering TOWN-approved flyer, magnet, and other approved materials to customers prior to the Commencement Date. Schedule to produce, acquire TOWN approval, print and collate information packet to be attached to Roll Carts during A&D.
- (9) Staffing and Training: Schedule for obtaining necessary labor and training staff on equipment and routes.
- (10) Commercial Containers: Schedule for purchasing Containers and removing/replacing all commercial Containers owned by outgoing contractor.
- (11) Routing: Schedule for developing Solid Waste, Recyclables, and Bulk Waste routes, identifying obstacles such as low trees and overhead wires, and conducting dry-runs of collection routes.

B. Transition Prior to Expiration of this Contract.

- (1) Should the TOWN choose not to exercise the renewal option of this Contract or should no renewal options remain, the TOWN anticipates awarding a new contract at least six (6) months prior to the expiration of this Contract or any subsequent renewals. In the event a new contract has not been awarded within such time frame, the CONTRACTOR agrees to provide service to the TOWN for an additional one hundred and eighty (180) day period beyond the expiration of the Contract at the then established service rates, provided the TOWN requests said services, in writing, at such time.
- (2) At the expiration of this Contract, the CONTRACTOR shall work with the TOWN and the newly selected hauler to ensure a smooth transition period with no interruption of service, including, but not limited to, compliance with the following performance requirements:
 - (a) Six (6) months prior to Contract expiration, provide the Contract Administrator with a Commercial Container inventory, in a format acceptable to the TOWN, that includes for each Container its location (street address), capacity, identification number, collection frequency, customer name, and customer contact information.
 - (b) Attend coordination meetings with the TOWN and newly selected hauler, as requested.
 - (c) Work with the newly selected hauler to develop a mutually agreeable schedule for removal of CONTRACTOR-owned Containers and placement of newly selected hauler's containers. The schedule shall ensure no interruption in solid waste services.
 - (d) Allow the newly selected hauler to purchase, or rent for up to ninety (90) days, CONTRACTOR-owned Containers from the CONTRACTOR. The purchase price and/or rental shall be negotiated.
- (3) The TOWN reserves the right to withhold payment to CONTRACTOR for the final month of service until CONTRACTOR has complied with all requirements of this Section.

SECTION 5. RESIDENTIAL COLLECTION SERVICE

A. Residential Solid Waste Collection.

- (1) The CONTRACTOR shall provide Residential Solid Waste Collection to all Residential Service Units in the Service Area two (2) times per week with not less than forty-eight (48) hours or more than seventy-two (72) hours between regularly scheduled pickup days, with the exception of Holidays as set forth herein. To the greatest extent possible, CONTRACTOR shall maintain the existing collection schedule, unless a modification is approved by the Contract Administrator.
- (2) All Residential Solid Waste shall be properly containerized in (a) CONTRACTOR-provided Roll Carts or (b) customer-provided containers or non-dissolvable plastic garbage bags with a capacity of not more than 40 gallons depending on service option selected by the Town. (Note: This provision will be modified once the Town selects a service option.)
- (3) Hours: Residential Collection Service shall be provided commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m. The hours and days of Collection may be extended due to extraordinary circumstances or conditions, with the prior written consent of the Contract Administrator.

B. Residential Bulk Waste Collection.

- (1) The CONTRACTOR shall provide Residential Bulk Waste Collection, consisting of Yard Trash and Bulk Trash, to all Residential Service Units in the Service Area every other week, to occur on the first day of the week that a Residential Service Unit receives Solid Waste Collection service, unless otherwise approved in writing by the Contract Administrator. Collection is limited to twelve (12) cubic yards per set-out.
- (2) In the event that Bulk Waste exceeds the twelve (12) cubic yard limit, the CONTRACTOR will treat this as a special collection service in accordance with Section 5.D(4).
- (3) The CONTRACTOR may collect Bulk Trash and Yard Trash in the same vehicle or in separate vehicles, but shall collect such material in such a way that Yard Trash can be separated for recycling. Residents are asked to place non-containerized Yard Trash separate from Bulk Trash into an unobstructed pile so as to permit the CONTRACTOR to collect such Yard Trash with a grapple or clam truck. Collection of Yard Trash using a grapple or clam truck shall be on the same Collection day as Collection of Bulk Trash. Collection of Bulk Trash shall require the use of a grapple or clam truck.
- (4) The CONTRACTOR shall collect White Goods so that they can be recycled. Residents are asked to place White Goods adjacent to other Bulk Trash but separate so as not to be obstructed.
- (5) Residents are asked to place certain loose Bulk Trash items in a container with the weight of the contents not to exceed fifty (50) pounds.

C. Residential Recyclables Collection.

- (1) The CONTRACTOR shall provide unlimited Residential Recyclables Collection to all Residential Service Units in the Service Area. This service shall be provided once every

week on a scheduled route basis on the first day of the week that a Residential Service Unit receives Residential Solid Waste Collection, unless otherwise approved in writing by the Contract Administrator.

- (2) Residential Recyclables shall be collected in a single stream, meaning that paper and commingled containers may be placed in the same Roll Cart.
- (3) Upon thirty (30) days written notice to the CONTRACTOR, the TOWN may add or delete the types of items included as Recyclable Materials. The addition of items shall be at no additional cost to the TOWN unless the CONTRACTOR can document that the addition of such items substantially impacts the cost of providing Residential Collection Service.

D. Residential Special Collection Service.

- (1) For an additional fee, Residential Customers may request special collection service from the CONTRACTOR that exceeds the base-level services outlined herein. CONTRACTOR shall be responsible for invoicing and collecting payment from Residential Customers for special collection services outlined in this section in accordance with the fee schedule set forth in Exhibit 1. The TOWN is not liable for a Residential Customer's failure to remit payment to CONTRACTOR for any special collection service provided.
- (2) Solid Waste Collection on unscheduled day. Upon request by a Residential Customer and after approval by the Residential Customer of the service fee, CONTRACTOR shall collect Residential Solid Waste on an unscheduled day, provided it is one of CONTRACTOR's scheduled days within the TOWN. CONTRACTOR may charge the Residential Customer seeking an off-day Residential Solid Waste Collection an additional amount not to exceed the fee schedule set forth in Exhibit 1.
- (3) Bulk Waste Collection on unscheduled day. Upon request by a Residential Customer and after approval by the Residential Customer of the service fee, CONTRACTOR shall collect Bulk Waste on an unscheduled day. CONTRACTOR may charge Residential Customers seeking off-day Residential Bulk Waste Collection an amount not to exceed the Bulk Waste fee schedule set forth in Exhibit 1.
- (4) Bulk Waste in excess of twelve (12) cubic yard limit. (Note: The Town is considering two options. Depending on the option selected by the Town, one of the following two clauses will be inserted.)

Option 1: If a Residential Customer places more than twelve (12) cubic yards of Bulk Waste curbside for Collection, the CONTRACTOR shall collect twelve (12) cubic yards, leave the remainder of the Bulk Waste, and affix a Non-Collection Notice to the remaining waste explaining why Collection was not made. CONTRACTOR shall also take digital photographs of the entire pile prior to Collection and the remaining pile that was not collected to document the reason for non-collection. At a minimum, photographs should be taken from all four (4) sides of the pile. Upon request by a Residential Customer and after approval by the Residential Customer of the service fee, CONTRACTOR shall collect the Bulk Waste in excess of the twelve (12) cubic yard per set-out limit and charge the Residential Customer for the excess Bulk Waste in accordance with the fee schedule set forth in Exhibit 1.

Option 2: If a Residential Customer places more than twelve (12) cubic yards of Bulk Waste curbside for Collection, the CONTRACTOR shall collect all Bulk Waste and shall automatically invoice the Residential Customer for the amount of Bulk Waste exceeding the twelve (12) cubic yard limit in accordance with the fee schedule set forth in Exhibit 1. CONTRACTOR shall take digital photographs of the entire pile prior to Collection to document the size of the Bulk Waste pile. At a minimum, photographs should be taken from all four (4) sides of the pile. If the Residential Customer fails to remit payment within thirty (30) calendar days, the Town shall bring the non-payment before its Special Master in accordance with its Code Enforcement procedures. If the amount owed to CONTRACTOR is collected, it shall be tendered to CONTRACTOR within thirty (30) days from the receipt of same. The TOWN is not responsible for any uncollected amounts.

- (5) At the end of each Work Day, the CONTRACTOR shall notify the Contract Administrator of arrangements for any residential special collection service and any occurrences of Bulk Waste exceeding the twelve (12) cubic yard limit, whether or not the excess Bulk Waste was collected. Such notification shall include the customer name and address, service provided, amount of Bulk Waste collected and amount not collected if applicable, any digital photographs taken, and any amount charged to the Residential Customer.
- E. No Mixing of Residential Materials.
- (1) The CONTRACTOR shall collect Residential Solid Waste, Bulk Waste, and Recyclable Materials generated in the TOWN separate from any Solid Waste, Bulk Waste, or Recyclable Materials generated in another jurisdiction.
- (2) The CONTRACTOR shall not commingle Residential Recyclable Materials with other Residential or Commercial Waste.
- F. Side or Back Door Collection. Notwithstanding any term or definition set forth in this Contract, side or back door Collection of Residential Solid Waste and Residential Recyclable Materials from a Residential Service Unit shall be required if all adult occupants residing therein are disabled and if a request for side or back door Collection has been made to, and approved by, the Contract Administrator in the manner required by TOWN. The Contract Administrator shall notify the CONTRACTOR in writing of any customers requiring side or back door Collection. No additional monies shall be due to the CONTRACTOR for the provision of side or back door Collection to disabled Residential Customers.
- G. Hours. Residential Collection Service shall be provided Monday through Saturday, commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m., with no service on Sunday. The hours and/or days of Collection may be extended due to extraordinary circumstances or conditions, with the prior consent of the Contract Administrator.
- H. Holidays. In the event a Residential Customer's normal Collection day falls on a Holiday, Collection shall occur on the Residential Customer's next regularly scheduled Collection day.
- I. Accessibility. All properly prepared Residential Containers, including Roll Carts, shall be placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the CONTRACTOR and customer, that will provide safe and efficient accessibility to the CONTRACTOR'S collection crew and vehicle. When possible, CONTRACTOR shall work to ensure that Containers, including Roll Carts, are placed

back into the swale and not placed on the TOWN's roadway. In certain instances, properly prepared Residential Waste may be placed in driveway turnout areas to avoid placing it in the traveled roadway. The CONTRACTOR shall report monthly to the Contract Administrator all situations that prevent or hinder Collection on any premises.

J. Manner of Collection.

- (1) The CONTRACTOR shall provide Residential Collection Service with as little noise and disturbance as possible.
- (2) CONTRACTOR's employees shall completely empty any Container and leave it at the same point it was collected without obstructing alleys, roadways, driveways, sidewalks, or mail boxes. Roll Carts shall be placed in an upright position with the lid closed. Containers with unattached lids shall be placed either in an upright position with the lid set on top or in an inverted position with the lid placed beside the Container.
- (3) CONTRACTOR'S employees shall follow the regular walk for pedestrians while on private property. No trespassing by CONTRACTOR'S employees will be permitted or crossing property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.
- (4) CONTRACTOR's Collection vehicles shall remain on the right-hand side of the road when providing Residential Collection Service on two-way streets. At no time shall collection crews cross to the opposite side of the street to retrieve Containers, Roll Carts, or materials that have been set out for Collection. In situations where it is impossible or difficult to turn around to serve a location from the right side of the vehicle, then left-side service is permitted, but only in a manner that ensures the safety of residents and collection workers. At no time shall collection workers use the riding steps when the vehicle is backing up, exceeding 10 miles per hour, or traveling more than 0.2 miles.

K. Spillage. The CONTRACTOR shall clean up any Residential Solid Waste spilled from a Container by the CONTRACTOR or its employees or Residential Bulk Waste spilled or scattered by the CONTRACTOR or its employees. Care shall be taken by CONTRACTOR'S employees to prevent damage to Containers by unnecessary rough treatment.

L. Routes and Schedules. The CONTRACTOR shall provide the Contract Administrator with schedules for all Residential Collection Service routes in accordance with the Transition Plan and shall keep such information current at all times. If any changes in the Collection routes occur, the Contract Administrator shall be immediately notified in writing. No permanent change in routes or schedules that will alter the days of Residential Waste Collection may be made without the prior written consent of the Contract Administrator. In the event a permanent change in routes or schedules that will alter the days of Residential Waste Collection is approved by the Contract Administrator, the CONTRACTOR shall immediately notify the affected Residential Customers, in writing or other manner as approved by the Contract Administrator, not less than two (2) weeks prior to the change.

SECTION 6. RESIDENTIAL COLLECTION CONTAINERS

- A. Customer-Provided Containers. CONTRACTOR shall provide Customer with a twenty-five dollar (\$25.00) payment within five (5) Work Days of being notified by a Residential Customer or the TOWN that CONTRACTOR or its employees destroyed the customer's Container. CONTRACTOR is not responsible for a replacement Container if it can satisfactorily prove to the Contract Administrator that CONTRACTOR or its employees did not damage the customer's Container.
- B. Purchase and Distribution of Solid Waste Roll Carts. (To be included if the Town selects this service option)
- (1) Prior to the Commencement Date, in accordance with Transition Plan specified in Section 4.A, CONTRACTOR shall deliver one (1) Solid Waste Roll Cart to each Residential Customer within the Service Area. Following the Commencement Date, CONTRACTOR shall deliver Solid Waste Roll Carts within five (5) Work Days of notification of a new Residential Customer. Roll Carts must meet the technical specifications provided in Exhibit 5 and be approved by the Contract Administrator. Roll carts shall be delivered with information attached pursuant to Section 11.C.
 - (2) The standard Solid Waste Roll Cart shall be ninety-five (95) gallons or similar in size. However, CONTRACTOR shall make sixty-five (65) gallon (or similar in size) Solid Waste Roll Carts available upon request by a Residential Customer.
 - (3) Upon request by a Residential Customer, CONTRACTOR shall exchange a Solid Waste Roll Cart with an alternatively-sized Roll Cart within five (5) Work Days of request for such exchange by the customer or TOWN. CONTRACTOR shall provide one (1) Solid Waste Roll Cart exchange per Residential Customer at no charge to the customer or the TOWN. Should a Residential Customer request additional exchanges, CONTRACTOR may charge the Residential Customer no more than thirty-five dollars (\$35) per Roll Cart that is exchanged. CONTRACTOR shall track and report exchanges in the asset management database specified in Subsection E below.
 - (4) Upon request by a Residential Customer, CONTRACTOR shall provide more than one (1) Solid Waste Roll Cart to accommodate extra materials. CONTRACTOR shall charge Residential Customer for each extra Solid Waste Roll Cart in accordance with Exhibit 1. CONTRACTOR shall provide additional Solid Waste Roll Carts within five (5) Work Days of request by a Residential Customer or the TOWN. CONTRACTOR shall record all extra Solid Waste Roll Carts delivered to Residential Customers in the asset management database and report them monthly to the Contract Administrator. In the event that a Residential Customer desires the Collection of the extra Solid Waste Roll Cart(s), CONTRACTOR shall issue an annual invoice for the Collection that shall be paid directly by the Residential Customer to CONTRACTOR in accordance with the rate schedule provided in Exhibit 1. Such annual invoice shall be prorated based upon the 1st day of the month that Collection commences, and it shall be based upon a calendar year. CONTRACTOR shall send all renewal invoices to the Residential Customers in December of each calendar year. CONTRACTOR shall not be required to collect any extra Solid Waste Roll Cart(s) unless it has been paid to collect same. Residential Customer may cancel its extra Solid Waste Roll Cart(s) Collection at any time, but such cancellation shall only go into effect the next calendar year. Residential Customers who cancel their extra Collection shall not receive a

proration for services, nor shall they be able to seek a credit for failure to utilize this service. The TOWN is not liable or responsible for any payment to CONTRACTOR for the failure of payment by a Residential Customer, or for CONTRACTOR's collection of such extra waste.

C. Purchase and Distribution of Recycling Carts.

- (1) Residential Customers shall retain Recycling Roll Carts utilized during the previous collection contract. Prior to the Commencement Date, the CONTRACTOR shall ensure that all Residential Customers desiring Recycling Roll Carts are provided such. Recycling Roll Carts shall be of a similar size and quality as those currently in use, meet the technical specifications provided in Exhibit 5, and be approved by the Contract Administrator. The CONTRACTOR shall purchase and provide Recycling Roll Carts to all new Residential Customers within five (5) Work Days of notification of a new Residential Customer.
- (2) Upon request by a Residential Customer, CONTRACTOR shall provide more than one (1) Recycling Roll Cart to accommodate extra recyclable materials. CONTRACTOR shall charge Residential Customer for the extra Recycling Roll Cart in accordance with Exhibit 1. CONTRACTOR shall provide additional Recycling Roll Carts within five (5) Work Days of request by a Residential Customer or the TOWN. CONTRACTOR shall record all extra Recycling Roll Carts delivered to Residential Customers in the asset management database and report them monthly to the Contract Administrator. Additional Recycling Roll Carts shall be collected at no additional cost to the Residential Customer or the TOWN.

D. Repair and Replacement of Solid Waste and Recycling Roll Carts.

- (1) CONTRACTOR shall maintain a sufficient inventory of Solid Waste and Recycling Roll Carts to be able to deliver new or replacement Roll Carts of the requested size within five (5) Work Days of receiving request.
- (2) CONTRACTOR shall repair or replace a Roll Cart within five (5) Work Days of receiving notice from the TOWN or customer of the need for repair, or if identified unserviceable by CONTRACTOR.
- (3) Any Roll Carts damaged by the CONTRACTOR, including extra Roll Carts, shall be replaced by the CONTRACTOR, at the CONTRACTOR's expense, at no cost or inconvenience to the Residential Customer.
- (4) The cost of replacing Roll Carts due to loss, theft (without a documented police report), or destruction through no fault of the CONTRACTOR shall be charged to the Residential Customer for an amount not to exceed the rate schedule set forth in Exhibit 1. This rate may be adjusted by the TOWN if the CONTRACTOR provides sufficient documentation to demonstrate that such adjustment is warranted. This fee may be collected from the Residential Customer by the CONTRACTOR at the time of delivery of the Roll Cart.

E. Asset Management Database.

- (1) CONTRACTOR shall develop and maintain an asset management database through which CONTRACTOR shall be responsible for reporting and tracking the movement of all Roll

Carts used for Residential Collection Service, including deliveries, removals, exchanges, repairs, warranty recovery, and any other information necessary to manage cart assets, subject to TOWN approval. The database shall also specify the route for each Residential Service Unit and should be in a format that is searchable by the Contract Administrator. The initial database must be populated and transmitted to the Contract Administrator in accordance with the approved Transition Plan. All database adjustments must be made within forty-eight (48) hours of physical inventory exchange and completion of work order. If a cart is swapped out, data for the cart removed and the cart replaced is to be provided. Data fields shall include, but not be limited to the following:

- (a) Work order number, date, and status
 - (b) Residential Service Unit name/ID and address
 - (c) Parcel folio number (as provided by the TOWN)
 - (d) For each Roll Cart at each Residential Service Unit, the type (Solid Waste or Recycling), size, and serial number
 - (e) Routes on which the Residential Service Unit is serviced
- (2) CONTRACTOR shall provide the Contract Administrator with an updated copy of the asset management database monthly, as well as access upon request.
- F. Ownership of Roll Carts. Ownership of Roll Carts provided by CONTRACTOR shall rest with the CONTRACTOR until expiration or termination of this Contract, at which point ownership and warranty transfer shall rest with the TOWN. Should the Contract be terminated early for convenience, the TOWN shall pay the CONTRACTOR a prorated amount for the purchase price of the Solid Waste Roll Carts based on the initial term of the Contract.

SECTION 7. RESIDENTIAL NON-COLLECTION PROCEDURES

- A. In the event Solid Waste contains Exempt Waste, more than twelve (12) cubic yards of Bulk Waste is placed at a Residential Service Unit for Collection (this may be deleted or modified depending on Bulk Waste service options selected by the Town), Recyclable Materials are contaminated through commingling with Solid Waste, or other occurrence that would warrant legitimate non-collection by the CONTRACTOR, the CONTRACTOR shall affix a Non-Collection Notice to the Container or waste itself explaining why Collection was not made and explaining proper procedures for setting out Solid Waste, Bulk Waste, and Recyclable Materials. CONTRACTOR shall take digital photographs of the waste or pile to document the reason for non-collection. If the uncollected waste consists of Bulk Waste, CONTRACTOR shall take photographs from all four (4) sides of the pile, at a minimum.
- B. The design and content of all Non-Collection Notices must be approved by the Contract Administrator and the cost of printing and delivery of said notices shall be paid for by the CONTRACTOR.
- C. By the end of each Work Day, the CONTRACTOR shall electronically transmit to the Contract Administrator a list of all Residential Service Units at which Collection was not made that Work Day. This list shall include the reasons for the non-collection and the addresses of such non-

collection. The CONTRACTOR shall also electronically transmit all digital photographs of the non-collection to the Contract Administrator.

SECTION 8. RESIDENTIAL BULK WASTE PROCESSING

- A. The CONTRACTOR is responsible for the transport, processing, marketing, and final disposal of all Residential Bulk Waste collected by the CONTRACTOR. Bulk Waste must be processed at a legally permitted and licensed facility(ies) to process such materials, as agreed upon by the TOWN and CONTRACTOR. The Bulk Waste processing facility shall be (name of facility specified by selected vendor to be inserted) or such other facility(ies) approved in writing by the Contract Administrator.
- B. To the extent practical, the CONTRACTOR shall recycle any recyclable items collected in the Residential Bulk Trash, including White Goods, and shall mulch, compost, or otherwise recycle Yard Trash. The CONTRACTOR shall record the quantities of Bulk Trash and Yard Trash recycled and the quantities disposed, and shall report such quantities to the Contract Administrator monthly.

SECTION 9. COMMERCIAL COLLECTION SERVICE

- A. Commercial Solid Waste Collection. The CONTRACTOR shall provide Commercial Solid Waste Collection to all Commercial Customers in the Service Area. The Container size and frequency of service shall be agreed upon between the CONTRACTOR and the Commercial Customer.
- B. Applicability of Commercial Franchise. The provisions of this section shall apply to all Businesses as defined herein and in no event shall a Business use the Residential Collection Service provided at curbside as the primary means of Solid Waste Collection. In the event that said Business is a house of worship that receives Commercial Dumpster Collection from a member of the house of worship as an in-kind service that is free-of-charge to the house of worship, the house of worship must provide proof in the form of an affidavit from the member describing his business and certifying that he/she is authorized to collect Solid Waste, is duly licensed and permitted, and is doing so at no cost to the house of worship. Said document shall be provided to the CONTRACTOR so that the house of worship may be exempt from the provisions of this section.
- C. Non-Exclusive Commercial Recycling. On a non-exclusive basis, the CONTRACTOR shall offer for a fee, not-to-exceed the rates established in Exhibit 3, attached hereto and included herein, to collect Recyclable Materials from those Commercial Customers to which they provide Commercial Collection Service. 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.
- D. Hours. Commercial Collection Service shall be provided commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m. The hours and/or days of Collection may be extended due to extraordinary circumstances or conditions, with the prior consent of the Contract Administrator.
- E. Holidays. CONTRACTOR shall not be required to provide Commercial Collection Service on Holidays. If Commercial Collection Service is not provided on a Holiday, CONTRACTOR shall

provide service on the next Work Day or as agreed upon between the CONTRACTOR and Commercial Customer so as to ensure adequate service is provided.

- F. Commercial Containers. Commercial Containers shall be maintained in accordance with general industry standards, which include being rust-free, having drain plugs installed to retain storm water and prevent leaching, having properly fitting lids that close tightly, and are in proper, safe, working condition. Commercial Containers shall be painted and have the CONTRACTOR's name and phone number clearly displayed. No advertising shall be posted on Containers. Maintenance of Commercial Containers shall be the sole responsibility of the CONTRACTOR. Any Commercial Container not conforming to these requirements, as determined by the Contract Administrator, shall be replaced by the CONTRACTOR within three (3) Work Days of notification by the Contract Administrator.
- G. Commercial Agreement. The term of any agreements between the CONTRACTOR and Commercial Customers for collection of Solid Waste, not including non-exclusive services, shall not extend past the term of this Contract.

SECTION 10. DESIGNATED FACILITIES

- A. Except as set forth below, all Residential Solid Waste and Commercial Solid Waste collected by the CONTRACTOR shall be transported to, and disposed of, at the Designated Disposal Facility. The Designated Disposal Facility at the time of Contract execution is the transfer station located at 2380 College Avenue in Davie, Florida, but may change during the term of this Contract. In the event the Designated Disposal Facility is closed on a Work Day, the CONTRACTOR may transport and dispose of Solid Waste at any legally permitted disposal facility, with the prior written approval of the Contract Administrator.
- B. All Residential Recyclable Materials collected by the CONTRACTOR shall be delivered to the Designated MRF. The Designated MRF at the time of Contract execution is located at 2281 NW 16th Street in Pompano Beach, Florida, but may change during the term of this Contract.
- C. Failure to comply with this provision shall result in the levy of liquidated damages as specified in Section 21 of this Contract and may result in the CONTRACTOR being in default under this Contract.

SECTION 11. ADDITIONAL SERVICES

- A. TOWN Services. The CONTRACTOR shall provide, at no cost to the TOWN, Solid Waste and Recyclables Collection services to all Town facilities, including the provision and servicing of Containers. Provided below is a list of services provided at the time of Contract execution. Services to be provided may be adjusted during the term of the Contract based on need.

Locations	Address	Service Frequency	# Garbage Carts	# Recycle Carts	Dumpster Size
Rolling Oaks Passive Open Space Park	17630 SW 56 Street	Twice weekly	6	4	4 yard
Sunshine Ranches Equestrian Park	5840 SW 148 Avenue	Twice weekly	6	4	N/A
Country Estates Fishing Hole Park	18900 Griffin Road	Twice weekly	3	1	N/A
Trailside Park	12498 Griffin Road	Twice weekly	1	1	N/A
Southwest Meadows Sanctuary/Calusa Corners	15900 Block of Griffin Road	Twice weekly	2	2	N/A
Fire Department	17220 Griffin Road	Twice weekly	3	2	N/A
Town Hall	13400 Griffin Road	Twice weekly	N/A	4	4 yard

- B. Town Events. The CONTRACTOR shall provide, at no cost to the Town, Solid Waste and Recyclables Collection services for up to five (5) events per year. Such service may include Dumpster and/or Roll Cart service. Such events generally do not exceed 1,000 attendees.
- C. Public Education. By July 1, 2017 and July 1 of each year during the term of this Contract, the CONTRACTOR shall provide to the Contract Administrator a camera-ready public education flyer and a camera-ready refrigerator magnet for distribution to Residential Service Units regarding Residential Collection Service. The flyer shall contain, at a minimum, definitions of the materials to be collected, procedures for setting out the materials, and maps of the Service Area indicating the days of Residential Collection Service. The magnet shall delineate the zones for the Residential Collection Service and the specific Collection days for Residential Waste, Bulk Waste, and Recyclables. The flyer and magnet must be approved by the Contract Administrator prior to publication. The CONTRACTOR shall print and distribute the flyer and magnet to all Residential Service Units no later than September 1, 2017 and no later than September 1 of each year thereafter during the term of the Contract.
- D. Public Awareness Program. The CONTRACTOR agrees to participate in public outreach events, at no charge to the Town, by providing up to forty (40) hours per year of an outreach person's time at such public outreach events, provided that notice of at least five (5) Work Days is given. In the event that the TOWN'S notice for CONTRACTOR'S cooperation under this Section is less than five (5) Work Days, CONTRACTOR, at its sole discretion, may agree to provide the requested outreach person.

SECTION 12. RESIDENTIAL RATES AND BILLING

- A. Customer Billing. Except as specifically provided herein, the TOWN shall be responsible for the billing and collection of payments for all Residential Collection Service. The CONTRACTOR shall be responsible for directly billing any newly constructed Residential Service Unit until the time that the unit is added to the annual assessment roll by the County Property Appraiser, which will result in it being billed by the TOWN through the annual solid waste assessment. The CONTRACTOR shall also be responsible for directly billing any Residential Customer who may seek special collection service from CONTRACTOR.

- B. CONTRACTOR Invoicing. The CONTRACTOR shall invoice the TOWN for Residential Collection Services rendered under this Contract no later than the tenth (10th) calendar day of the month following the month such services were rendered. The TOWN shall review the invoice and pay all undisputed portions of the invoice within twenty (20) days of receipt of the invoice. The monthly invoice from and payment to the CONTRACTOR shall be the Residential Service Unit count times the monthly residential rate as shown in Exhibit 1, attached hereto and included herein.
- C. Residential Service Unit Count. No later than August 15, 2017, and July 15 of each subsequent Contract Year, the TOWN will provide the CONTRACTOR with a list of Residential Service Units in the Service Area. In the event the CONTRACTOR does not agree with the Residential Service Unit count provided by the TOWN, the CONTRACTOR may request that the TOWN and the CONTRACTOR perform a joint physical count of the Residential Service Units in the Service Area. Except as set forth below, no adjustments will be made to the Residential Service Unit count during a Contract Year to account for Residential Service Units that come on or go off Residential Collection Service on a monthly basis. The unit count for the initial year of the Contract shall be the count as contained in the solid waste non-ad valorem assessment roll as currently maintained by the Broward County Property Appraiser. In the event the TOWN does not hear from the CONTRACTOR within ten (10) Work Days from the date the TOWN provides the CONTRACTOR with a list of Residential Service Units in the Service Area, the new Residential Service Unit count submitted by the Town shall be deemed to be accepted by the CONTRACTOR and the CONTRACTOR waives all rights to recourse for its failure to contest the Residential Service Unit count provided by the TOWN.
- D. Service Rates. The TOWN shall initially pay the CONTRACTOR for Residential Collection Service in accordance with the rates and generation factors established in Exhibit 1, attached hereto and included herein. The collection elements and Bulk Waste disposal element of the initial service rate shall not be adjusted through September 30, 2018.
- E. Service Rate Adjustments. The rates for Residential Collection Service shall be adjusted October 1, 2018, and annually thereafter each Contract Year, as described herein. An example of the calculation of such adjustment is provided in Exhibit 4. All rate adjustments shall be reduced to writing and signed by the CONTRACTOR representative identified in Section 27 and the Town Administrator.
- F. Indexes for Adjusting Rates. The following indexes shall be used for calculating rate adjustments pursuant to this Contract. If either of these indexes is discontinued or substantially altered, the TOWN shall select another relevant index published by the United States Government or by a reputable publisher of financial and economic indexes.
- (1) The Consumer Price Index (CPI) used for adjusting rates shall be the Consumer Price Index for all Urban Consumers, All Items, Not Seasonally Adjusted for the Miami-Fort Lauderdale Area (series ID #CUURA320SA0) as determined and recorded by the United States Department of Labor, Bureau of Labor Statistics.
 - (2) The Fuel Index used for adjusting rates shall be the Lower Atlantic (PADD 1C) Ultra Low Sulfur (15 ppm and under) Retail Diesel Prices (Dollars per Gallon) as published by the Energy Information Administration of the United States Department of Energy.

G. Collection Element Adjustment. The collection elements of the Residential Collection Service rates shall be adjusted based on the Consumer Price Index and Fuel Index, as defined in this Section and illustrated in Exhibit 4.

- (1) Ninety-five percent (95%) of the collection elements of the Residential service rates shall be adjusted based on eighty percent (80%) of the percentage change in the CPI for February of the previous year and February of the current year, rounded to the nearest hundredth of a percent.
- (2) Five percent (5%) of the collection elements of the Residential service rates shall be adjusted based on the percentage change in the average monthly Fuel Index for the twelve (12) month period ending February of the previous year and the average monthly Fuel Index for the twelve (12) month period ending February of the current year, rounded to the nearest hundredth of a percent.
- (3) In no event shall the annual collection element adjustment exceed five percent (5%) of the collection element of the service rate paid by the Town in the previous Contract Year.

H. Solid Waste Disposal Element Adjustment. The Solid Waste disposal element of the Residential service rate shall be adjusted annually based on the new tipping fee at the Designated Disposal Facility. The new annual Residential Solid Waste disposal element shall be calculated as follows:

$$\begin{array}{rcl} \text{New tipping fee (\$/ton)} & \times & 1.28 \text{ tons/Residential Service Unit (Solid Waste generation factor)} \\ & & = \text{New Residential Solid Waste disposal element (\$/Residential Service Unit)} \end{array}$$

Such changes in rate shall be effective immediately upon change in the tipping fee. In no event shall the CONTRACTOR utilize any tipping fee, other than the current approved tipping fee, in the preparation of its monthly invoices to the TOWN; except that in the event the CONTRACTOR is charged a tipping fee that is less than the current approved tipping fee for the disposal of Residential Solid Waste, such lower tipping fee shall be used in the preparation of the monthly invoice to the TOWN. The TOWN may request from the CONTRACTOR such further information as may be reasonably necessary in making its determination.

I. Bulk Waste Disposal Element Adjustment. The Bulk Waste disposal element of the Residential service rate shall be adjusted based on the Consumer Price Index as defined in this Section and illustrated in Exhibit 4.

$$\begin{array}{rcl} \text{New tipping fee (\$/ton)} & \times & 3.73 \text{ tons/Residential Service Unit (Bulk Waste generation factor)} \\ & & = \text{New Residential Bulk Waste disposal element (\$/Residential Service Unit)} \end{array}$$

- (1) The Bulk Waste disposal element shall be adjusted based on eighty percent (80%) of the percentage change in the CPI for February of the previous year and February of the current year, rounded to the nearest hundredth of a percent.
- (2) In no event shall the annual Bulk Waste disposal element adjustment exceed five percent (5%) of the Bulk Waste disposal element of the service rate paid by the Town during the previous Contract Year.

J. Contract Preparation and Administration Expenses. CONTRACTOR understands and agrees that the cost of the proposal process is a part of the cost of providing Residential Collection Service

and thus a responsibility of the CONTRACTOR, and even though such costs in the amount of forty-nine thousand dollars (\$49,000) were initially expended by the TOWN, the expenditure was for the benefit of the CONTRACTOR. Accordingly, CONTRACTOR agrees that any and all monies due CONTRACTOR for the provision of services under this Contract, up to an amount of forty-nine thousand dollars (\$49,000), will be credited against the CONTRACTOR'S monthly invoices, as follows, as reimbursement for these expenditures:

- (1) Five thousand dollars (\$5,000) will be credited against payment to the CONTRACTOR for the first month of service, and will represent the CONTRACTOR'S Franchise Permit Fee for the first Contract Year.
 - (2) The remaining forty-four thousand dollars (\$44,000) will be credited against the CONTRACTOR'S monthly invoices at one thousand dollars (\$1,000) per month for forty-four (44) months, beginning the second month of the Contract term.
- K. Franchise Permit Fee. With the exception of the initial year of this Contract, the CONTRACTOR shall pay an annual Franchise Permit Fee of five-thousand dollars (\$5,000) to the TOWN due on October 1st of each Contract Year.
- L. Recycling Revenues. The TOWN shall retain any revenue it receives for the processing and sale of Residential Recyclable Materials.

SECTION 13. COMMERCIAL RATES AND BILLING

- A. Billing. The CONTRACTOR shall be responsible for the billing and collection of payments for all Commercial Collection Service. The TOWN shall not be held liable for CONTRACTOR'S failure to bill or collect for Commercial Collection Service.
- B. Franchise Fee. By the twentieth (20th) day of each month, the CONTRACTOR shall remit a franchise fee to the TOWN equal to ten percent (10%) of the Commercial Collection Service fees charged and collected during the previous month. With such remittance, the CONTRACTOR shall provide documentation of the total amount of gross receipts for Commercial Collection Service during the previous month and calculation of the franchise fee.
- C. Service Rates. The initial Commercial Collection Service rates shall be in accordance with the rates established in Exhibit 2, attached hereto and included herein, with the addition of the ten percent (10%) franchise fee. The collection elements of the initial service rates shall not be adjusted through September 30, 2018. The Solid Waste disposal elements will be established, as specified in Section 12.H, based on the Designated Disposal Facility tipping fee. The CONTRACTOR is responsible for making payment to the Designated Disposal Facility for the disposal of Commercial Solid Waste, and shall provide documentation of such payment to the TOWN.
- D. Service Rate Adjustment. The rates for Commercial Collection Service shall be adjusted October 1, 2018, and annually thereafter each Contract Year as described herein. An example of the calculation of such adjustment is provided in Exhibit 4. All rate adjustments shall be reduced to writing and signed by the CONTRACTOR representative identified in Section 27 and the Town Administrator.

- E. Collection Element Adjustment. The collection elements of the Commercial Collection Service rates shall be adjusted in a manner similar to that described in Section 12.G. In no event shall the annual collection element adjustment exceed five percent (5%) of the collection element of the Commercial Collection Service rates charged by the CONTRACTOR during the previous Contract Year.
- F. Disposal Element Adjustment. The Solid Waste disposal element of the Commercial service rates shall be adjusted annually based on the new tipping fee at the Designated Disposal Facility. The new disposal element shall be calculated as follows:

$$\begin{array}{rclcl} \text{New tipping} & \times & 125 \text{ pounds/cy} & \times & 0.0005 & = & \text{New Commercial} \\ \text{fee (\$/ton)} & & \text{(Commercial waste} & & \text{tons/} & & \text{Solid Waste disposal} \\ & & \text{density factor)} & & \text{pound} & & \text{element (\$/cy)} \end{array}$$

Such changes in rates shall be effective immediately upon change in the tipping fee. In no event shall the CONTRACTOR utilize any tipping fee, other than the current approved tipping fee in the preparation of its invoices to Commercial Customers except that in the event the CONTRACTOR is charged a tipping fee that is less than the current approved tipping fee for the disposal of Commercial Solid Waste, such lower tipping fee shall be used in the preparation of invoices to Commercial Customers. The TOWN may request from the CONTRACTOR such further information as may be reasonably necessary in making its determination.

SECTION 14. CHANGE IN LAW

The CONTRACTOR may petition the TOWN for an additional rate adjustment resulting from a change in law. The CONTRACTOR'S request shall contain substantial proof and justification to support the need for the rate adjustment. The TOWN may request from the CONTRACTOR such further information as may be reasonably necessary in making its determination. Within sixty (60) calendar days of receipt of the request and all other additional information required by the TOWN, the Town Administrator shall make a determination regarding the fairness of the request, and shall make a recommendation to the Town Council at a regular meeting. Adjusted Rates shall become effective upon approval by the Town Council.

SECTION 15. CONTRACTOR'S PERSONNEL

- A. The CONTRACTOR shall assign a qualified supervisor to be in charge of the operations within the Service Area and shall provide the name of that person in writing to the Contract Administrator annually and any other time the person in that position changes. The supervisor shall be available to the TOWN through the use of telecommunications equipment at all times that the CONTRACTOR is providing Residential Collection Service and shall be available onsite within two (2) hours of request by the Contract Administrator.
- B. The CONTRACTOR shall employ and assign qualified personnel to perform all services set forth herein. The CONTRACTOR shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position.
- C. The TOWN may request the transfer of any employee of the CONTRACTOR who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.

- D. CONTRACTOR'S employees shall be required to wear a clean uniform shirt bearing the CONTRACTOR'S name. CONTRACTOR'S employees, who normally come into direct contact with the public, including drivers, shall bear some means of individual identification such as a name tag or identification card.
- E. Each driver of a Collection vehicle shall at all times carry a valid Florida driver's license and all other required licenses for the type of vehicle that is being operated.
- F. CONTRACTOR'S employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of the TOWN. The CONTRACTOR'S name and office telephone number shall be properly displayed on all Collection vehicles.

SECTION 16. SPILLAGE AND LITTER

- A. The CONTRACTOR shall not litter any premises in the process of providing Residential Collection Service or Commercial Collection Service. The CONTRACTOR shall exercise all reasonable care and diligence in providing Collection services so as to prevent spilling or dropping of Solid Waste, Bulk Waste, or Recyclable Materials during Collection activity and shall immediately, at the time of occurrence, clean up such spilled or dropped Solid Waste, Bulk Waste, or Recyclable Materials. The CONTRACTOR shall transport all Solid Waste, Bulk Waste, and Recyclable Materials in such a manner as to prevent the spilling or blowing from the CONTRACTOR'S vehicle.
- B. Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from the CONTRACTOR'S operations or equipment repair shall be covered immediately with an absorptive material and removed from the street or other surface. When necessary, CONTRACTOR shall apply a suitable cleaning agent to the street surface to provide adequate cleaning or remove contaminated surface soil or material and promptly replace with clean soil or surface material. CONTRACTOR shall provide the TOWN with a daily report of any such leakage, the location of such leakage, the vehicle at issue, and the remediation measures used to correct same.

SECTION 17. COLLECTION EQUIPMENT

- A. The CONTRACTOR shall have on hand at all times, in good working order, such collection equipment as shall permit the CONTRACTOR to adequately and efficiently perform the duties specified in this Contract. Any proposed change in the collection system being used by the CONTRACTOR during the Contract period shall be submitted in writing by the CONTRACTOR to the Contract Administrator.
- B. Residential collection vehicles shall be of a type sufficient to efficiently collect all Solid Waste, Bulk Waste, and Recyclable Materials covered by this Contract, and transport such materials to the designated facilities in a manner such that no collected materials can be blown or fall from the vehicle during transport. The CONTRACTOR may utilize open-bed vehicles in the provision of Bulk Waste Collection; however, the vehicles must contain the Bulk Waste so that no material is spilled, leaked, or blown from the vehicle, and the vehicle must be covered with a securely fastened tarp during transport.

- C. Each collection vehicle shall be equipped at all times with: (a) all safety supplies, equipment, and first aid supplies required by applicable laws; (b) a fire extinguisher; (c) a heavy-duty broom, a rake, and a large dustpan; (d) a spill response kit; (e) an audible back-up warning device; and (f) back-up cameras. The spill response kit shall be suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from Franchisee's collection vehicles.
- D. All equipment shall be kept well painted, shall clearly display and shall only display CONTRACTOR's name and telephone number, and shall be maintained in good repair, appearance, and sanitary, clean condition in order to meet community standards of appearance at all times. All collection equipment shall be leak-proof so as to prevent any liquid from draining onto the ground. The TOWN reserves the right, at its discretion, to require a vehicle be taken out of service for habitual leakage of oil, hydraulic fluid, or other liquids or other maintenance issues. Such vehicle shall not be placed back into service until and unless the TOWN is able to verify that the necessary repairs have been made.
- E. The CONTRACTOR shall have available to it, at all times, reserve equipment which can be put into service and operation within two (2) hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the CONTRACTOR to perform the contractual duties.

SECTION 18. OFFICE

- A. The CONTRACTOR shall maintain an office, located within the tri-county area of Broward, Miami-Dade, and Palm Beach, where complaints can be received and which provides toll-free telephone access for customers living in the TOWN. Such office shall be equipped with sufficient telephones, shall have responsible persons in charge, and shall be open 8:00 a.m. to 5:00 p.m. Monday through Friday on those days that the CONTRACTOR provides Residential Collection Service and on Saturday from 8:00 a.m. to 1:00 p.m., as applicable. The CONTRACTOR shall provide either a telephone answering service or mechanical device to receive customer inquiries during those times when the office is closed. Messages left on the answering service or mechanical device shall be responded to on the next Work Day.
- B. The CONTRACTOR shall provide the Contract Administrator with an emergency phone number where the CONTRACTOR can be reached outside of the required office hours.

SECTION 19. SERVICE INQUIRIES, COMPLAINTS, AND PROPERTY DAMAGE

- A. All service inquiries and complaints shall be directed to the CONTRACTOR. A representative of the CONTRACTOR shall be available to receive the complaints during normal business hours. All service complaints shall be handled by the CONTRACTOR in a prompt and efficient manner. In the case of a dispute between a CONTRACTOR and a customer, the matter will be reviewed and a decision made by the Contract Administrator.
- B. The CONTRACTOR will maintain a written record of all calls it receives regarding services provided pursuant to this Contract, including but not limited to inquiries, missed Collections, and complaints (Call Log). CONTRACTOR shall use a standard form for the Call Log, as approved by the Contract Administrator, to record the pertinent facts of each call, including but not limited to date and time of call; name, address, and telephone number of person calling; reason for the call; action taken by CONTRACTOR; and date and time any issue was resolved.

CONTRACTOR shall keep this Call Log up to date. By the end of each Work Day, the CONTRACTOR shall e-mail to the Contract Administrator the Call Log for all calls received during that Work Day or since the previous Call Log was submitted.

- C. For those complaints related to missed Collections, CONTRACTOR shall make every effort to return to the service address and collect the missed materials that same day. For missed Collection complaints that are received by 3:00 p.m. on a Work Day, the CONTRACTOR must return to the service address and collect the missed materials that same day. For missed Collection complaints that are received after 3:00 p.m. on a Work Day, the CONTRACTOR must return to the service address and collect the missed materials by noon of the following Work Day.
- D. For those complaints related to repair or replacement of Roll Carts, the appropriate subsections of Section 6 of this Contract shall apply.
- E. By noon on the first Work Day of each week, the CONTRACTOR shall e-mail to the Contract Administrator a report of those complaints, related to Collection, that were not resolved in the manner set forth in Subsection C above. This weekly report shall include all information specified in Subsection B above, as well as the status of the disposition of the complaint.
- F. The CONTRACTOR shall be responsible for the prompt repair or replacement, if repair is not adequate, of any damage to public or private property during the provision of Residential Collection Service or Commercial Collection Service, and caused by the CONTRACTOR or the CONTRACTOR'S representative. Within twenty-four (24) hours of occurrence, the CONTRACTOR shall provide the Contract Administrator with a full explanation of the disposition of any complaint involving a claim of damage to public or private property as a result of actions of the CONTRACTOR. The CONTRACTOR shall promptly repair any such legitimate damage claim at its sole expense and within a two (2) day period of time as approved by the Contract Administrator. Upon the request of the CONTRACTOR, the Contract Administrator may grant a time extension. Proof of the need for an extension shall be submitted by the CONTRACTOR.
- G. By the end of the first Work Day of each month, the CONTRACTOR shall e-mail to the Contract Administrator a report on any unresolved complaint involving a claim of damage to public or private property as a result of actions of the CONTRACTOR'S employees, agents or subcontractors. This monthly report shall include the name, address and phone number of the complainant, date of occurrence, nature of occurrence and the status of the disposition of the complaint.
- H. CONTRACTOR agrees that it is in the best interest of the TOWN that all Residential Collection Service be provided on the scheduled Collection day. Accordingly, missed Collections will normally be collected in accordance with Subsection C above regardless of the reason that the Collection was missed. However, in the event the CONTRACTOR does not address a missed Collection complaint in accordance with Subsection C because it believes such complaint to be without merit, CONTRACTOR shall immediately notify the Contract Administrator in writing. The Contract Administrator will investigate all disputed complaints and render a final and binding decision.

SECTION 20. RECORDKEEPING AND REPORTING

- A. The Town is subject to Chapter 119, Florida Statutes, "Public Records Law." CONTRACTOR acknowledges the public shall have access at all reasonable times to all documents and information pertaining to TOWN's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the TOWN and the public to all documents subject to disclosures under applicable law.
- B. To the extent that CONTRACTOR has been provided access to or has received security sensitive information, as defined by Florida Statutes, Section 119.071 and/or has executed a Confidential Information Acknowledgement and Agreement as part of this Contract, CONTRACTOR shall keep and maintain the security sensitive information as confidential and exempt from public disclosures as required by Florida Statutes.
- C. CONTRACTOR agrees to keep and maintain public records required by the TOWN to perform the service in CONTRACTOR's possession or control in connection with CONTRACTOR's performance under this Contract and, upon the request from the TOWN's custodian of public records, to provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable amount of time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the CONTRACTOR does not transfer the records to the TOWN.
- D. Upon completion of the Contract, CONTRACTOR agrees, at no cost to TOWN, to transfer to the TOWN all public records in possession of the CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If the CONTRACTOR transfers all public records to the TOWN upon completion of the Contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology system of the TOWN.
- E. CONTRACTOR's failure or refusal to comply with the provisions of this section shall result in the immediate termination for cause of the Contract by TOWN.
- F. The CONTRACTOR shall keep records of the amounts of Residential Solid Waste, Bulk Trash, and Yard Trash disposed; Residential Bulk Trash, Yard Trash, and Recyclable Materials recycled; and Commercial Solid Waste disposed. Such records shall be kept separate and apart from all other records maintained by the CONTRACTOR.
- G. The CONTRACTOR shall file and keep current with the TOWN all documents and reports required by this Contract. All documents and reports submitted to the TOWN by the CONTRACTOR shall be fully transparent. CONTRACTOR shall provide additional information as requested by the Contract Administrator to comply with such requirement for transparency.

- H. By the date specified in the TOWN-approved Transition Plan, CONTRACTOR shall electronically transmit to the Contract Administrator the completed and current Roll Cart asset management database meeting the requirements of Section 6.E. As specified in Section 6.E, in addition to Roll Cart information, the database shall include the parcel folio number, and routes on which each Residential Service Unit is serviced.
- I. At the end of each Work Day, the CONTRACTOR shall electronically submit the following to the Contract Administrator, in a format approved by the Contract Administrator:
- (1) Call Log for all calls received since the previous report, including how such calls were resolved.
 - (2) Record of Residential Customers that placed more than the twelve (12) cubic yard limit of Bulk Waste curbside for Collection during that Work Day.
 - (3) Record of any other non-collection occurrences during that Work Day, the reasons for the non-collection, and the addresses of such non-collection.
 - (4) Full explanation of any complaint involving a claim of damage to public or private property as a result of actions of the CONTRACTOR that occurred within the last twenty-four (24) hours.
 - (5) Full explanation of any occurrences of leakage of fluids from a collection vehicle within the last twenty-four (24) hours, including the location of such leakage, the vehicle at issue, and the remediation measures used to correct same.
- J. By noon on the first Work Day of each week, the CONTRACTOR shall e-mail to the Contract Administrator a report of Collection complaints that were not resolved as required by Section 19.E.
- K. Prior to the tenth (10th) calendar day of each month during the term of this Contract, the CONTRACTOR shall submit a report electronically to the Contract Administrator, in a format approved by the Contract Administrator. The report shall contain the following information:
- (1) Tonnage of Residential Solid Waste, Residential Bulk Trash, Residential Yard Trash, and Commercial Solid Waste disposed during the previous month.
 - (2) Tonnage of Residential Bulk Trash, Residential Yard Trash, and Residential Recyclable Materials recycled during the previous month.
 - (3) List of all Residential Customers charged for special waste collection, including Bulk Waste in excess of twelve (12) cubic yards per set-out, during the previous month. The list shall include the customer's name and address, date service was provided, service that was provided, and fee that was charged.
 - (4) Updated Roll Cart asset management database, as well as the number of new, replacement, or additional Solid Waste Roll Carts and Recycling Roll Carts distributed during the previous month, the date each was requested, and the date each Roll Cart was delivered.

- (5) List of Commercial Customers receiving Commercial Solid Waste Collection Service the previous month, including each customer's name and address, size and number of Containers, frequency of Collection, and amount billed.
 - (6) List of Commercial Customers receiving Commercial Recyclable Materials Collection Service the previous month, including each customer's name and address, size and number of Containers, frequency of Collection, and amount billed. If possible, the tonnage of Recyclables collected from Commercial Customers during the previous month should also be provided.
 - (7) Documentation of payment to the Designated Disposal Facility for disposal of Solid Waste during the previous month.
- L. Prior to September 15 of each year during the term of this Contract, the CONTRACTOR shall ensure and certify to the TOWN that all required documents are current and on file with the TOWN. Such documents include, but are not limited to, certificates of insurance, performance bond, route schedules and maps.
- M. In addition to any other requirements of this Contract, the CONTRACTOR shall be required to provide statistical and other pertinent information pertaining to Residential Collection Service or Commercial Collection Service as may be requested by the TOWN to monitor compliance with this Contract or to comply with the provisions of Section 403, F.S., as amended, other pertinent laws and regulations, or any interlocal agreements the TOWN has or may enter into during the term of this Contract.

SECTION 21. LIQUIDATED DAMAGES

- A. It is the intent of the TOWN to ensure that the CONTRACTOR provides a quality level of Residential Collection Service and Commercial Collection Service. The TOWN and CONTRACTOR acknowledge and agree that it is impossible to precisely determine the amount of damages that would be incurred by the TOWN due to service failures or circumstances described in this Section for which the CONTRACTOR would otherwise be liable. Accordingly, the TOWN has determined terms and amounts of liquidated damages set forth herein, and the parties agree that the liquidated damages are reasonable under the circumstances. Therefore, the following shall constitute liquidated damages, not penalties, that the TOWN may assess against the CONTRACTOR for failing to comply with requirements of this Contract, time being of the essence. It is hereby agreed that the TOWN may deduct from any monies due, or which may become due to the CONTRACTOR, such assessed liquidated damages in the following amounts:
- (1) Failure to submit a Transition Plan within thirty (30) days of Contract execution or to revise the Transition Plan within five (5) Work Days of notification by the Contract Administrator without prior approval of the Contract Administrator for such delay in submittal (§4.A) \$1,000.00 per day past the due date
 - (2) Failure to meet the schedule outlined in the TOWN-approved Transition Plan without prior approval of the Contract Administrator for such delay (§4.A) \$250.00 per incident per day past the due date

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| (3) | Failure or neglect to resolve each valid complaint, including missed Collection, in the timeframe specified (§19) | \$250.00 per each unresolved complaint or missed Collection per Residential Service Unit per day |
| (4) | Failure to repair damage to public or private property determined caused by the CONTRACTOR or its personnel within the timeframe approved by the Contract Administrator (§19.F) | \$1,000.00 per incident per day, after the initial 48 hours or alternate timeframe approved in writing by Contract Administrator |
| (5) | Mixing of materials in violation of §5.E | \$1,000.00 per occurrence |
| (6) | Failure to comply with hours and days of operation (§5.G and §9.D) | \$250.00 per occurrence per vehicle |
| (7) | Changing Collection routes without proper notification (§5.L) | \$1,000.00 per incident per day |
| (8) | Failure to distribute Solid Waste Roll Carts by date specified in Transition Plan unless otherwise approved by the Contract Administrator (§6B(1)) | \$100.00 per Roll Cart per day past due date |
| (9) | Failure to repair, replace, exchange, or deliver a Roll Cart within the required timeframe (§6) | \$100.00 per Roll Cart per day past due date |
| (10) | Failure to provide a completed Roll Cart asset management database and to keep such database up to date as specified (§6.E) | \$500.00 per day past due date |
| (11) | Failure to leave a Non-Collection Notice explaining why all material was not collection (§7) | \$100.00 per occurrence |
| (12) | Failure to collect and process Bulk Waste in a manner that enables, at a minimum, recycling of Yard Trash and White Goods (§5.B and §8) | \$250.00 per Residential Service Unit for 1 st occurrence
\$500.00 per Residential Service Unit for 2 nd occurrence
\$1,000.00 per Residential Service Unit for each additional occurrence |
| (13) | Failure to deliver all Residential Solid Waste and Commercial Solid Waste to the Designated Disposal Facility (§10.A) | \$1,000.00 per incident |
| (14) | Failure to deliver all Residential Recyclable Materials to the Designated MRF (§10.B) | \$1,000.00 per incident |

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| (15) | Failure to prepare and distribute TOWN-approved public education materials in the timeframe specified (§11.C) | \$100.00 per Residential Service Unit per day past due date |
| (16) | Failure to remit the annual and monthly Franchise Fees to the TOWN in the timeframe specified (§12.K and §13.B) | \$500.00 per day past due date |
| (17) | Failure to have a vehicle operator properly licensed (§15.E) | \$1,000.00 per vehicle per day |
| (18) | Failure to clean up spillage, leakage, or excessive blowing debris with the timeframe specified (§16.B) | \$1,500.00 per incident per day |
| (19) | Failure to provide sufficient and properly maintained vehicles and equipment (§17) | \$1,000.00 per vehicle per day |
| (20) | Failure to submit to the TOWN all plans, reports, records, or other documents in the time required under the provisions of this Contract, including §20, unless otherwise approved by the Contract Administrator | \$250.00 per document not submitted per occurrence |
| (21) | Failure or neglect to complete each route on the regularly scheduled Collection day without justifiable cause. | \$250.00 per Residential Service Unit not collected per day past collection date |
- B. The Contract Administrator may assess liquidated damages pursuant to this Section at any time during the term of this Contract. The Contractor Administrator shall notify the CONTRACTOR in writing of the liquidated damages assessed and the basis for each assessment. In the event the CONTRACTOR wishes to contest such assessment, within five (5) Work Days of receipt of written notice, CONTRACTOR shall request in writing a meeting with the Contract Administrator to resolve the issue. The TOWN shall notify the CONTRACTOR in writing of any action taken with respect to CONTRACTOR'S claims within five (5) Work Days of such meeting. The Town Administrator's decision shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, so grossly erroneous as to necessarily imply bad faith, or not supported by competent evidence. Any liquidated damages assessed by the Town Administrator shall be deducted from the TOWN's next monthly payment to the CONTRACTOR.

SECTION 22. EMERGENCY SERVICE PROVISIONS

- A. In the event of a hurricane, tornado, major storm, natural disaster, or other such event, the Contract Administrator may grant the CONTRACTOR a variance from regular routes and schedules. However, CONTRACTOR shall make its best effort to resume regular Collection service as soon as possible. As soon as practicable after such event, the CONTRACTOR shall advise the Contract Administrator when it is anticipated that normal routes and schedules can be resumed. The Contract Administrator shall make an effort through the local news media to inform the public when regular Collection services may be resumed.

- B. The clean-up from some events may require that the CONTRACTOR hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. The CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Contract, to cover documented costs provided the CONTRACTOR has first secured written authorization and approval from the TOWN through the Contract Administrator. The CONTRACTOR shall substantiate such additional costs for labor, equipment, transportation, and/or disposal in writing. The TOWN shall have the right to audit such costs. The CONTRACTOR shall provide the TOWN with a separate disaster cleanup agreement with specified rates at the commencement of each Contract Year.
- C. In the event of a declared disaster, the rate paid to the CONTRACTOR shall be the rate authorized and reimbursed by the Federal Emergency Management Agency (FEMA) for that work outside of the standard Contract services described herein. The TOWN reserves the right to hire additional hauling contractors for debris removal operations after it is determined by the Contract Administrator that additional services are needed and after notice to the CONTRACTOR.

SECTION 23. PERFORMANCE BOND

Prior to commencing services, the CONTRACTOR shall furnish to the TOWN, and keep current for the full duration of the Contract and any renewal, a Performance Bond for the faithful performance of this Contract and all obligations arising hereunder in the amount of one million dollars (\$1,000,000.00). It shall be executed by a surety company licensed to do business in the State of Florida; having an "A-" or better rating by A. M. Best or Standard and Poors; included on the list of surety companies approved by the Treasurer of the United States; and in a form acceptable to the TOWN.

SECTION 24. INSURANCE

- A. The CONTRACTOR shall provide, pay for, and maintain in force at all times during the term of this Contract, such insurance, including Worker's Compensation Insurance and comprehensive general liability insurance as stated below. The CONTRACTOR shall also name the TOWN as an additional insured to CONTRACTOR'S comprehensive general liability insurance policy, and shall provide the TOWN with annual Accords documenting both insurance coverages and that the TOWN has been named as an additional insured on the comprehensive general liability insurance policy and setting forth the minimum insurance standards set forth below:
 - (1) Worker's Compensation Insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws, for the benefit of the CONTRACTOR'S employees.
 - (2) Comprehensive General Liability Insurance, including contractual, with minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence, combined single limit for bodily injury liability and property damage liability. The TOWN is to be included and named as an "additional insured" with respect to any claims arising out of this Contract.
 - (3) Business Automobile Liability Insurance with minimum limits of one million dollars (\$1,000,000) per occurrence, combined single limits bodily injury liability and property damage. The policy must be no more restrictive than the latest edition of the business

automobile liability policy without restrictive endorsements, as filed by the Insurance Services Office, and must include all owned vehicles and all hired or non-owned vehicles.

- (4) If any of CONTRACTOR's Insurance policies includes a general aggregate limit and provides that claims investigation or legal defense costs are included in the general aggregate limit, the general aggregate limit that is required shall be at least five (5) times the occurrence limits specified above in this Section.
- B. UPON EXECUTION OF THIS CONTRACT, CONTRACTOR SHALL SUBMIT TO TOWN COPIES OF ITS CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES REQUIRED HEREIN AND SPECIFICALLY PROVIDING THE ENDORSEMENT TO THE POLICIES THAT SHOWS THE TOWN OF SOUTHWEST RANCHES IS AN ADDITIONAL NAMED INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND CONTRACTOR'S WORK UNDER THIS CONTRACT.
- C. The CONTRACTOR shall not commence operations, and/or labor to complete any of the work pursuant to this Contract until certification or proof of insurance issued directly by the insurance company underwriting department or insurance agent, detailing terms and provisions of coverage has been received and approved by the Town.
- D. Insurance policies and coverages shall not be affected by any other policy of insurance which the TOWN may carry in its own name.
- E. CONTRACTOR's insurance policies shall be endorsed to provide the TOWN with at least thirty (30) calendar days' prior written notice of cancellation, non-renewal, restrictions, or reduction in coverages or limits. Notice shall be sent to:
- Town of Southwest Ranches
Andrew D. Berns, Town Administrator
13400 Griffin Road
Southwest Ranches, Florida 33330
- And
- Keith M. Poliakoff, Esq.
Arnstein & Lehr
200 East Las Olas Boulevard, Suite 100
Fort Lauderdale, Florida 33301
- F. All required insurance policies shall preclude any insurer's or underwriter's rights of recovery or subrogation against TOWN with the express intention of the parties being that the required insurance coverages protect both parties as the primary coverages for any and all losses covered by the above-described insurance.
- G. CONTRACTOR shall ensure that any companies issuing insurance to cover the requirements contained in this Contract agree that they shall have no recourse against TOWN for payment or assessments in any form on any policy of insurance.
- H. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which TOWN is named as an additional

insured shall not apply to TOWN. TOWN shall use its best efforts to provide written notice of occurrence within thirty (30) working days after TOWN's actual notice of such event.

- I. If any of CONTRACTOR's initial insurance expires prior to the completion of the term of this Contract, renewal copies of policies shall be furnished to TOWN at least thirty (30) days prior to the date of their expiration, and TOWN shall be an additional named insured by endorsement on all of CONTRACTOR's renewal policies.
- J. The official title of the owner is Town of Southwest Ranches. This official title shall be used in all insurance policies and documentation.
- K. Notwithstanding any other provisions of this Contract, CONTRACTOR's obligation to maintain all required insurance as specified in this Section of the Contract shall survive the expiration or earlier termination of this Contract.

SECTION 25. INDEMNIFICATION OF TOWN

- A. CONTRACTOR shall indemnify, defend, and hold harmless TOWN, TOWN'S contractors, and the public officials, officers, directors, employees, agents and other contractors of each of them, from and against any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals as well as all Court or other dispute resolution costs), liabilities, expenditures or causes of action of any kind (including negligent, reckless, willful or intentional acts or omissions of the CONTRACTOR, any subcontractor, any supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any services or anyone for whose acts any of them may be liable), caused by the breach of this Contract, violation of applicable law, and the negligent acts or omissions of the CONTRACTOR in the performance of this Contract. This indemnity includes but is not limited to claims attributable to bodily injury, sickness, disease or death and to injury or destruction of tangible property.
- B. CONTRACTOR further agrees to indemnify, defend, save and hold harmless the TOWN, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against TOWN, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent rights or for the infringement of any and all copyrights or patent claimed by any person, firm or corporation.
- C. CONTRACTOR agrees, at CONTRACTOR'S expense, after written notice from the TOWN, to defend any action against the TOWN that falls within the scope of this indemnity as set forth above in Subsections A and B, or the TOWN, at the TOWN'S option, may elect not to tender such defense and may elect instead to secure its own attorneys to defend any such action and the reasonable costs and expenses of such attorneys incurred in defending such action shall be payable by CONTRACTOR. Additionally, if CONTRACTOR, after receipt of written notice from the TOWN, fails to make any payment due under this Contract to the TOWN or fails to perform any obligation required by this Contract, CONTRACTOR shall pay any reasonable attorneys' fees and costs incurred by the TOWN in securing any such payment from CONTRACTOR, or any reasonable attorneys' fees and costs incurred in the enforcement of this indemnity, or both. Payment of any amount due pursuant to the foregoing indemnity shall, after receipt of written notice by CONTRACTOR from the TOWN that such amount is due, be made by CONTRACTOR

prior to the TOWN being required to pay same, or in the alternative, the TOWN, at the TOWN'S option, may make payment of an amount so due and CONTRACTOR shall promptly reimburse the TOWN for same, together with interest thereon at the rate of twelve percent (12%) per annum simple interest from the date of receipt by CONTRACTOR of written notice from the TOWN that such payment is past due at least twenty (20) days .

- D. It is specifically understood and agreed that the consideration inuring to the CONTRACTOR for the execution of this Contract consists of the promises, payments, covenants, rights and responsibilities contained in this Contract.
- E. The execution of this Contract by the CONTRACTOR shall obligate the CONTRACTOR to comply with the foregoing indemnification provision; however, the collateral obligation of providing insurance must be also complied with as set forth in Section 24.
- F. The CONTRACTOR shall require all subcontractors to enter into a contract containing the provisions set forth in the preceding subsections in which contract the subcontractor fully indemnifies the TOWN in accordance with this Contract.

SECTION 26. POINT OF CONTACT

The day-to-day dealings between the CONTRACTOR and the TOWN shall be between the CONTRACTOR and the Town Administrator or designee.

SECTION 27. NOTICE

Except as provided herein, whenever either party desires to give notice to the other, it must be given by written notice, sent by certified U.S. mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the TOWN:

Andrew D. Berns, Town Administrator
Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, Florida 33330

With a copy to:

Keith M. Poliakoff, J.D., Town Attorney
Law Offices of Arnstein & Lehr, P.A.
200 East Las Olas Boulevard, Suite 100
Fort Lauderdale, Florida 33301

As to the CONTRACTOR:

With a copy to:

Notices shall be effective when received at the address as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time-to-time by written notice. Facsimile transmission is acceptable notice, effective when received; however, facsimile transmissions received (i.e. printed) after 4:30 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of items that are transmitted by facsimile equipment must also be mailed as required herein.

SECTION 28. TERMINATION OF CONTRACT

- A. Termination for Cause. The TOWN may cancel this Contract, except as otherwise provided below in this Section, by giving the CONTRACTOR thirty (30) days' advance written notice, to be served as provided in Section 27, upon the happening of any one of the following events:
- (1) The CONTRACTOR shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors or file a voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States or any state thereof or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
 - (2) By order or decree of a Court, the CONTRACTOR shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the CONTRACTOR, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of default shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated, in which case, said default shall be deemed immediate; or
 - (3) By, or pursuant to or under the authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver trustee or liquidator shall take possession or control of all or substantially all of the property of the CONTRACTOR, and such possession or control shall continue in effect for a period of sixty (60) days; or
 - (4) The CONTRACTOR has defaulted by failing or refusing to pay in a timely manner the administrative charges or other monies due the TOWN and said default is not cured within thirty (30) days of receipt of written notice by TOWN to do so; or

- (5) The CONTRACTOR has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and said default is not cured within thirty (30) days of receipt of written notice by TOWN to do so; or
 - (6) In the event that the monies due the TOWN under subsection (4) above or an unsatisfied final judgment under subsection (5) above is the subject of a judicial proceeding, the CONTRACTOR shall not be in default if the sum of money is bonded. All bonds shall be in the form acceptable to the Town Attorney; or
 - (7) The CONTRACTOR has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Contract or any of the rules and regulations promulgated by the TOWN pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto and said default is not cured within thirty (30) days of receipt of written notice by the TOWN to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by the CONTRACTOR of written demand from the TOWN to do so, the CONTRACTOR fails to commence the remedy of such default within said thirty (30) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with the CONTRACTOR having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time). However, notwithstanding anything contained herein to the contrary, for the failure of the CONTRACTOR to provide Collection for a period of three (3) consecutive Work Days, the TOWN may secure the CONTRACTOR'S billing records on the fourth (4th) Work Day in order to provide interim Contract Collection until such time as the matter is resolved and the CONTRACTOR is again able to perform pursuant to this Contract; provided, however, if the CONTRACTOR is unable for any reason or cause to resume performance at the end of thirty (30) Work Days all liability of the TOWN under this Contract to the CONTRACTOR shall cease and this Contract may be deemed terminated by the TOWN.
- B. Habitual Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Contract under this Section, in the event that the CONTRACTOR'S record of performance shows that the CONTRACTOR has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by the CONTRACTOR, in the opinion of the TOWN, and regardless of whether the CONTRACTOR has corrected each individual condition of default, the CONTRACTOR shall be deemed a "habitual violator," shall be deemed to have waived the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively and shall constitute a condition of irredeemable default. The TOWN shall thereupon issue the CONTRACTOR a final warning citing the circumstances therefore, and any single default by the CONTRACTOR of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of the Contract. In the event of any such subsequent default, the TOWN may terminate this Contract upon giving of written final notice to the CONTRACTOR, such cancellation to be effective upon the date specified in the TOWN'S written notice to the CONTRACTOR, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and the CONTRACTOR shall have no further rights hereunder. Immediately upon the specified date in such final notice the CONTRACTOR shall cease any further performance under this Contract.

- C. Effective Date of Termination. In the event of the aforesaid events specified in subsections A and B above and except as otherwise provided in said subsections, termination shall be effective upon the date specified in the TOWN'S written notice to the CONTRACTOR and upon said date this Contract shall be deemed immediately terminated and upon such termination all liability of the TOWN under this Contract to the CONTRACTOR shall cease, and the TOWN shall have the right to call the performance bond and shall be free to negotiate with other contractors for the operation of the herein specified services. The CONTRACTOR, for failure to perform, shall reimburse the TOWN all direct and indirect costs of providing interim Residential Solid Waste, Recyclables, and Bulk Waste Collection.

SECTION 29. MODIFICATIONS TO THE CONTRACT

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

The TOWN and the CONTRACTOR understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Contract. The CONTRACTOR agrees that the terms and provisions of any TOWN Code of the TOWN related to solid waste services and regulations, as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Contract and the customers of the CONTRACTOR located within the Service Area. In the event any future change in the TOWN Code materially alters the obligations of the CONTRACTOR, then the Collection charges established in the Exhibits to this Contract shall be adjusted. Nothing contained in this Contract shall require any party to perform any act or function contrary to law. The TOWN and CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Contract which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Contract, the TOWN and the CONTRACTOR shall negotiate in good faith a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Contract under this Section. The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

SECTION 30. PERMITS AND LICENSES

The CONTRACTOR shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect.

SECTION 31. INDEPENDENCE OF CONTRACT

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners or a joint venture between the parties hereto or as

constituting the CONTRACTOR as an agent, representative or employee of the TOWN for any purpose whatsoever. The CONTRACTOR is to be, and shall remain, an independent contractor with respect to all services performed under this Contract.

SECTION 32. FORCE MAJEURE

If either party is prevented from or delayed in performing its duties under this Contract by circumstances beyond its control, whether or not foreseeable, including, without limitation, fires, hurricanes, severe weather, floods, pandemics, quarantines, war, civil disturbances, acts of terrorism, labor disputes, acts of God, or significant threats of such circumstances, or any future laws, rules, regulations, orders, or acts of any local, state, or federal government ("Force Majeure"), then the affected party shall be excused from performance hereunder during the period of such disability. The party claiming Force Majeure shall promptly notify the other party in writing when it learns of the existence of a Force Majeure condition and when the Force Majeure condition has terminated. Notwithstanding anything in this Contract to the contrary, the term "Force Majeure" does not include, and a party shall not be excused from performance under this Contract for, events relating to increased costs, including, without limitation, increased costs of fuel, labor, insurance, or other expenses of performing the services hereunder.

SECTION 33. EMPLOYEE STATUS

Persons employed by the CONTRACTOR in the performance of services and functions pursuant to this Contract shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the TOWN'S officers and employees either by operation of law or by the TOWN.

SECTION 34. EQUAL OPPORTUNITY EMPLOYMENT

CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin, or physical or mental handicap, or marital status. CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, religion, age, color, sex or national origin, or physical or mental handicap, or marital status. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that he/she will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

CONTRACTOR shall comply with all federal, state and TOWN laws applicable to the CONTRACTOR services and specifically those covering Equal Opportunity Employment, the Americans with Disabilities Act ("ADA") and the South Florida Building Code, The CONTRACTOR is expected to fully comply with all provisions of all laws and the TOWN reserves the right to verify the CONTRACTOR'S compliance with them. Failure to comply with any laws will be grounds for termination of the Contract for cause.

SECTION 35. MEDIATION

In addition to any other remedy provided by law, the TOWN may agree to use arbitration or mediation to resolve any controversy or claim arising out of or relating to this Contract. Any controversy or claim arising out of or relating to this Contract, or breach thereof, may be settled by arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In the event arbitration is agreed to by both parties in writing, such controversy or claim shall be submitted to arbitrators selected from the National Panel of The American Arbitration Association.

SECTION 36. RIGHT TO REQUIRE PERFORMANCE

The failure of the TOWN at any time to require performance by the CONTRACTOR of any provision hereof shall in no way affect the right of the TOWN thereafter to enforce same, nor shall waiver by the TOWN of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

SECTION 37. GOVERNING LAW

The parties agree that this Contract shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 38. CONSENT TO JURISDICTION

The parties agree that the jurisdiction for any legal action arising out of or pertaining to this Contract shall be with the State Courts of Florida, and specifically, the County or Circuit Court for the Seventeenth Judicial Circuit in and for Broward County, depending upon the respective jurisdictional limit. Each party further agrees that venue for any action to enforce this Contract shall be in Broward County, Florida.

SECTION 39. LITIGATION

In the event of any litigation which arises out of, pertains to, or relates to this Contract, or the breach of it, including, but not limited to, the standard of performance required in it, the prevailing party shall be entitled to recover its reasonable attorneys' fees from the non-prevailing party, at both trial and appellate levels.

SECTION 40. COMPLIANCE WITH LAWS

The CONTRACTOR shall conduct its operations under this Contract in compliance with all applicable Federal, State and local laws and regulations.

SECTION 41. SEVERABILITY

If any provision of this Contract or the application of it to any person or situation shall to any extent be held invalid or unenforceable, the remainder of this Contract and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected, shall continue in full force and effect, and shall be enforced to the fullest extent permitted by law.

SECTION 42. ASSIGNMENT AND SUBCONTRACTING

- A. Assignment. No assignment of this Contract or any right occurring under this Contract shall be made in whole or in part by the CONTRACTOR without the express written consent of the Town Council. The TOWN shall have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the CONTRACTOR. Any assignment of this Contract made by the CONTRACTOR without the express written consent of the Town Council shall be null and void and shall be grounds for the TOWN to declare a default of this Contract and immediately terminate this Contract by giving written notice to the CONTRACTOR, and upon the date of such notice this Contract shall be deemed immediately terminated, and upon such termination all liability of the TOWN under this Contract to the CONTRACTOR shall cease, and the TOWN shall have the right to call the performance bond and shall be free to negotiate with other contractors, the CONTRACTOR, or any other person or company for the service which is the subject of this Contract. In the event of any assignment, the assignee shall fully assume all the liabilities of the CONTRACTOR.
- B. Subcontracting. CONTRACTOR shall not employ subcontractors without the advance written permission of the TOWN. CONTRACTOR shall be fully responsible for the services and work provided by a subcontractor under the terms of this Contract. CONTRACTOR agrees that any employee or agent of the CONTRACTOR and any agent/employee of a subcontractor to the CONTRACTOR shall be removed from the TOWN jobsite or TOWN premises upon request by the Town Administrator or designee. Such request will only be issued to remove a person if the Town Administrator or designee has a reasonable basis (as determined in his or her discretion) that the presence of such person on TOWN property or at a TOWN jobsite is not in the best interest of the TOWN, or its employees, guests, visitors or citizens.
- C. CONTRACTOR shall not be permitted to alter its contracted name, create a dba, or transfer more than fifty percent (50%) interest in its company without the specific written approval of the TOWN.

SECTION 43. MODIFICATIONS

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

SECTION 44. LEGAL REPRESENTATION

It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Contract and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

SECTION 45. FUND APPROPRIATION

The CONTRACTOR understands and agrees that the TOWN, during any fiscal year, is not authorized to expend money, incur any liability or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year and that

any contract, verbal or written, made in violation of this subsection is null and void and that consequently, no money may be paid on such contract beyond such limits. Nothing contained in this Contract shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. CONTRACTOR shall not proceed with services under this Contract without TOWN'S written verification that the funds necessary for CONTRACTOR'S compensation and other necessary expenditures are budgeted as available within the appropriate fiscal year budget. The TOWN does not represent that said budget item will be actually adopted, said determination being the determination of the Town Council at the time of the adoption of the budget.

SECTION 46. PUBLIC ENTITY CRIME

CONTRACTOR understands that a person or affiliate as defined in Section 287.133, Florida Statutes, who has been placed on the convicted vendor list maintained by the Florida Department of Management Services following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the TOWN and may not transact business with the TOWN in an amount set forth in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. CONTRACTOR herein certifies that it is qualified under Section 287.133, Florida Statutes, to provide the services set forth in this Contract for Residential Collection Service and Commercial Collection Service.

SECTION 47. FINANCIAL INTEREST

CONTRACTOR warrants and represents that no elected official, officer, agent or employee of the TOWN has a financial interest, directly or indirectly, in this Contract or the compensation to be paid under it and, further, that no person who acts in the TOWN as a "purchasing agent" as defined in Chapter 112, Florida Statutes, nor any elected or appointed officer of the TOWN, nor any spouse or child of such purchasing agent, employee or elected or appointed officer, is a partner, officer, director or proprietor of the CONTRACTOR and, further, that no such person, purchasing agent, TOWN elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in the CONTRACTOR. Material interest means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of the CONTRACTOR.

SECTION 48. ALL PRIOR AGREEMENTS SUPERSEDED

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

SECTION 49. HEADINGS

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

SECTION 50. EXHIBITS

Each exhibit referred to in this Contract forms an essential part of this Contract. Each such exhibit is a part of this Contract and each is incorporated by this reference.

SECTION 51. MOST FAVORED NATIONS PROVISION

In the event that CONTRACTOR offers another similarly sized governmental entity a contractual, including but not limited to a pricing term, that TOWN, in its sole discretion, determines to be more favorable, CONTRACTOR shall agree to modify this Contract to conform with the more favorable term.

DRAFT

IN WITNESS WHEREOF, the TOWN and the CONTRACTOR have executed this Contract on the respective date(s) below each signature.

TOWN OF SOUTHWEST RANCHES, FLORIDA
A municipal corporation

ATTEST:

By:

Russel Muniz
TOWN CLERK

Doug McKay, Mayor

Date: _____

Date: _____

Approved as to form and correctness:

KEITH M. POLIAKOFF, J.D.
TOWN ATTORNEY

Date: _____

CONTRACTOR:

WITNESSES: _____
Print name: _____

Print Name: _____
Print Title: _____

Date: _____

Date: _____

EXHIBIT 1
RESIDENTIAL COLLECTION AND DISPOSAL SERVICE RATES

Service Rates of selected vendor to be inserted.

DRAFT

EXHIBIT 2
COMMERCIAL COLLECTION AND DISPOSAL SERVICE RATES

Service Rates of selected vendor to be inserted.

DRAFT

EXHIBIT 3
NOT-TO-EXCEED COMMERCIAL RECYCLING SERVICE RATES

Service Rates of selected vendor to be inserted.

DRAFT

**EXHIBIT 4
 SAMPLE CALCULATION OF ANNUAL RATE ADJUSTMENTS**

Service rates are adjusted as defined and described in Sections 12 and 13 of this Contract and as illustrated in this Exhibit. All assumptions are for demonstration purposes only.

Assumptions (for demonstration purposes only):

- CPI February 2017 = 243.283
 CPI February 2018 = 247.126
 $80\% \text{ of percentage change in CPI} = 80\% \times ((247.126 - 243.283) / 243.283) = 0.01264 = 1.26\%$
- Average of monthly Fuel Index prices for March 2016-February 2017 = 2.56375
 Average of monthly Fuel Index prices for March 2017-February 2018 = 2.65231
 $\text{Percentage change in Fuel Index} = (2.65231 - 2.56375) / 2.56375 = 0.034543 = 3.45\%$

Residential Service Rate	a	b	c	d	e	f	g	h	i
	Rates for Demonstration Purposes Only (\$/unit/month)	95% of Collection Element	CPI (80% of \$ Change)	5% of Collection Element	Fuel Index (% Change)	New Rate (\$/unit/month)	Formula	5% Cap	Exceeds 5% Cap?
COLLECTION ELEMENTS	\$/unit/month					\$/unit/month			
Solid Waste Collection	\$8.00	\$7.60	1.26%	\$0.40	3.45%	\$8.11	$f = a + (b \cdot c) + (d \cdot e)$	\$8.40	No
Bulk Waste Collection	\$3.50	\$3.33	1.26%	\$0.18	3.45%	\$3.55	$f = a + (b \cdot c) + (d \cdot e)$	\$3.68	No
Recycling Collection	\$1.50	\$1.43	1.26%	\$0.08	3.45%	\$1.52	$f = a + (b \cdot c) + (d \cdot e)$	\$1.58	No
	\$13.00					\$13.18			
DISPOSAL ELEMENTS	See Calculations Below (\$/unit/month)					\$/unit/month			
Bulk Waste Disposal	\$7.46	na	1.26%	na	na	\$7.55	$f = a + (b \cdot c)$	\$7.83	No
Solid Waste Disposal	\$4.68	Adjusted only when actual tip fee changes				\$4.68	na	na	
TOTAL	\$25.14					\$25.41			

Residential Disposal Rates	a	b	c	d
	Tip Fees for Demonstration Purposes Only (\$/ton)	Generation Factor (tons/unit/year)	Rates (\$/unit/month)	Formula
Bulk Waste Disposal	\$24.00	3.73	\$7.46	$c = (a \cdot b) / 12 \text{ months}$
Solid Waste Disposal	\$43.90	1.28	\$4.68	$c = (a \cdot b) / 12 \text{ months}$

Town of Southwest Ranches, Florida
 Solid Waste, Recyclables, and Bulk Waste Collection and Disposal Franchise Agreement

Commercial Service Rate	a	b	c	d	e	f	g	h	i
	Rates for Demonstration Purposes Only (\$/cubic yard)	95% of Collection Element	CPI (80% of \$ Change)	5% of Collection Element	Fuel Index (% Change)	New Rate (\$/cubic yard)	Formula	5% Cap	Exceeds 5% Cap?
	\$/unit/month					\$/unit/month			
Solid Waste Collection	\$3.50	\$3.33	1.26%	\$0.18	3.45%	\$3.55	$f = a + (b*c) + (d*e)$	\$3.68	No
Solid Waste Disposal (see calculation below)	\$2.74	Adjusted only when actual tip fee changes				\$2.74	na	na	
TOTAL	\$6.24					\$6.29			

Commercial Disposal Rate	a	b	c	d
	Tip Fee for Demonstration Purposes Only (\$/ton)	Generation Factor (lbs./cubic yard)	Rate (\$/cubic yard)	Formula
Solid Waste Disposal	\$43.90	125	\$2.74	$c = (a/2000 \text{ lbs.}) * b$

**EXHIBIT 5
 TECHNICAL SPECIFICATIONS FOR ROLL CARTS**

Following are minimum requirements for Solid Waste and Recyclables Roll Carts as required within the scope of this Contract. CONTRACTOR must provide a prototype of each of the TOWN’s program-sized Roll Carts (Solid Waste and Recycling) that meet the following technical specifications for TOWN approval prior to ordering the TOWN’s Roll Carts. The TOWN reserves the right to waive the requirement of a prototype.

Construction and Design	<ul style="list-style-type: none"> • Must meet ANSI Standards Z245.30 and AZ245.60 “Type B/G” containers, all rules, regulations, and laws pertaining to this product. • Roll Carts must be produced by a major manufacturer. • The upper lift point shall be permanently molded into the Roll Cart and the lower must be a 1” diameter galvanized free floating metal bar or composite equivalent, securely attached to prevent failure or loss. Molded bars are unacceptable. • The Roll Cart must be manufactured with a narrow width design to fit through a 30” door opening.
Size (Capacity)	<ul style="list-style-type: none"> • Two different sized Roll Carts are required with the following capacities: <ul style="list-style-type: none"> ○ Large = 94-96 gallon ○ Medium = 64-66 gallon
Materials	<ul style="list-style-type: none"> • Must be rotationally or injection molded using medium to high density 100% recyclable polyethylene. • Minimum resin weight of unassembled Roll Cart, including cart body and lid, must be: <ul style="list-style-type: none"> ○ 30 pounds or greater for large Roll Cart ○ 22 pounds or greater for medium Roll Cart • Resin used in the manufacturing process must contain a minimum of 25% post-consumer recycled material. • All plastic parts must be stabilized against ultraviolet light deterioration with a UV stabilizer additive.
Body	<ul style="list-style-type: none"> • The body of the Roll Cart must be one piece. • The Roll Cart wall and bottom thickness must be a minimum of .150 inches. • The body of the Roll Cart must be designed with a drag rail on the container bottom and reinforced in the area that contacts the ground with a molded-in bottom wear strip. • The top of the body must be molded with a reinforced rim to add structural strength and stability to the container and to provide a flat surface for lid closure. This reinforced rim must have a raised inner perimeter. The rim of the Roll Cart must not be designed to have an inward radius to obstruct free flow emptying the material out of the container.
Lid	<ul style="list-style-type: none"> • Lids must be of a configuration that the lid will not warp, bend, slump, or distort to such an extent that it no longer fits the body properly or becomes otherwise unserviceable.

	<ul style="list-style-type: none"> • The lid must be one-piece construction and securely attached to the rear of the wheeled section of the Roll Cart using a rustproof, weather-resistant fastener system. • The lid must be hinged to open to a position of 270 degrees from the closed position and hang open without stressing the lid, body, or tipping over the Roll Cart. • Lids must be designed to be easily removed in the event of damage or failure. Lid latches are not acceptable.
Handle	<ul style="list-style-type: none"> • Each Roll Cart must have a horizontal handle(s) to provide comfortable gripping areas for pushing or pulling the Roll Cart. • The handle shall be integrally molded into the body or lid, and only plastic surfaces shall be exposed to the hands of the user.
Wheels/Axle	<ul style="list-style-type: none"> • Roll Carts must be equipped with two (2) plastic molded or rubber wheels making the cart capable of being easily moved and maneuvered. • Wheels shall be snap-on or attached in a way that prevents unintended detachment. • Wheels must be a minimum of 10 inches in diameter for large and medium Roll Carts. • Each Roll Cart shall be furnished with a minimum 5/8 inch diameter axle with a corrosion-resistant coating that must be securely attached to the body by molded axle retainers. • The wheels and axle must be rated to meet the maximum load requirements of 3.5 pounds per gallon.
Stability	<ul style="list-style-type: none"> • Roll Carts must be able to remain stable and upright in winds up to 30 miles per hour when empty.
Color	<ul style="list-style-type: none"> • Color must not be streaked in the finished product and must be colorfast so that the color does not alter significantly with normal use. Painted Roll Carts are unacceptable. • Colors will be specified by the Town. • The final color selection must be approved by the TOWN prior to manufacturing.
Markings	<ul style="list-style-type: none"> • The TOWN must approve all markings. • Sequential serial numbers must be molded, branded, or hot stamped into the front of the body with white color. Such number shall be assigned to a specific property within the TOWN. • An eight to ten (8-10) alpha/numeric serial number shall be used as determined by the TOWN. • A Southwest Ranches logo must be clearly molded, inscribed, or hot-stamped into both sides of the body with the following wording in 1 inch lettering on the lid: <ul style="list-style-type: none"> ○ Property of the Town of Southwest Ranches. ○ Instructions for which side of the Roll Cart must face the street for collection. ○ ANSI and regulatory labeling required.

	<ul style="list-style-type: none"> • Recycling Roll Carts must also have the following markings: <ul style="list-style-type: none"> ○ Recycling logo on both sides of the Roll Cart. ○ In-mold label on the cart lid with program instructions as determined by the TOWN.
Warranty	<ul style="list-style-type: none"> • Roll Carts must be fully (100%) warranted against defects in materials and workmanship for a minimum period of ten (10) years from the date of delivery and be transferrable to the TOWN at the expiration of this Contract. • The warranty must be unconditional and non-prorated providing the TOWN with assurance of full Roll Cart replacement. The warranty must survive the termination of any contract for the manufacture and/or A&D of Roll Carts. • Warranty is understood to include the following coverage: <ul style="list-style-type: none"> ○ Failure of the lid to prevent rainwater from entering the Roll Cart when the lid is closed on the body. ○ Damage to the body, the lid, or any component parts through opening or closing the lid. ○ Failure of the lid hinge to remain fully functional and continually hold lid in the originally-designed and intended positions when either opened or closed. ○ Failure of the body and lid to maintain its original shape. ○ Wear through of Roll Cart bottom so that it leaks liquid. ○ Failure of the wheels to provide continuous, easy mobility, as originally designed. ○ Failure of any part to conform to minimum standards as specified.
Asset Management	<ul style="list-style-type: none"> • A manufacturing database must be maintained that includes each Roll Cart's serial number, date of manufacture, location of manufacturer, Roll Cart type, color, and size. • At the time and point of delivery, the date, time, and latitude/longitude of the Roll Cart's delivery must be captured and associated with the manufacturing database and the residential physical address to which the Roll Cart is assigned. • The asset management database, including manufacturing information and A&D information, shall be completed and submitted to the Contract Administrator prior to the Commencement Date and maintained throughout the term of this Contract. • At the termination of this Contract, the asset management database shall be transmitted to the TOWN in an acceptable format.