

ORDINANCE NO. 3042-16

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA  
GRANTING A RESIDENTIAL, COMMERCIAL AND  
CONSTRUCTION SOLID WASTE COLLECTION FRANCHISE  
TO WASTE PRO OF FLORIDA, INC.; PROVIDING TERMS,  
CONDITIONS AND OTHER PROVISIONS; PROVIDING AN  
EFFECTIVE DATE**

**WHEREAS**, the City of Winter Park, Florida (the "City") has previously granted a franchise for the collection of solid waste materials from residential and commercial establishments within the city, the term of which franchise expires October 30, 2016; and

**WHEREAS**, the City, pursuant to the authority granted by Article VIII, Section 2, Florida Constitution (1968, as amended), Section 166.021, Florida Statutes, Section 180.14, Florida Statutes, and Chapter 403, Part IV, Florida Statutes, may grant to private companies or corporations the privilege or franchise for the collection and disposal of solid waste, other waste, and recyclable material for such term of years and upon such conditions and limitations as may be deemed expedient and for the best interest of the City; and

**WHEREAS**, Section 2.11 (b) (4) of the Charter of the City authorizes the granting, renewing or extending of a franchise; and

**WHEREAS**, the City has requested proposals for solid waste and recyclables collection within the city,

**WHEREAS**, after due and proper review, evaluation, and consideration of the proposals submitted, the city finds that it is expedient and in the best interest of the City to award a franchise to Waste Pro of Florida, Inc. a Florida corporation ("Franchisee"), for the collection and delivery for disposal of solid waste, yard waste, bulk waste, recyclables, and construction and demolition debris (collectively "Waste") from residents, businesses, and other entities within the municipal boundaries of the City.

NOW, THEREFORE, be it enacted by the people of the City of Winter Park as follows:

**SOLID WASTE COLLECTION FRANCHISE**

**Section 1. Grant of franchise.**

That there is hereby granted to the Franchisee, certain exclusive and certain non-exclusive rights, privileges and franchise to collect and deliver for disposal, Waste from residential, commercial and other establishments within the City, all as provided in the attached Franchise Agreement.



Section 2. Exclusive right.

So long as Franchisee shall perform the services set forth herein and in the attached Franchise Agreement, no other private refuse collector shall be permitted by the City to provide residential and commercial solid waste collection services within the City, except as provided in the attached Franchise Agreement or upon the prior written consent of the Franchisee.

Section 3. Contract.

The franchise shall be carried out in accordance with the Franchise Agreement attached to this Ordinance which Franchise Agreement is incorporated herein as part of this Ordinance, provided however the Franchise Agreement shall not be codified.

Section 4. Illegal provisions.

If any provision of the franchise shall be declared illegal, void, or unenforceable by a court of competent jurisdiction, the other provisions shall not be affected but shall remain in full force and effect.

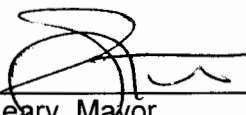
Section 5. Conflict.

In the event of any conflict between this Ordinance and any other ordinances or portions of other ordinances, this Ordinance controls.

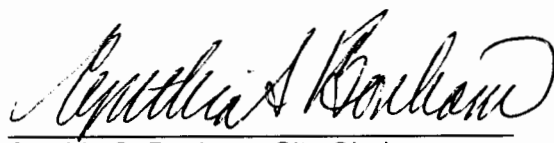
Section 6. Effective date.

This Ordinance shall take effect on October 31, 2016. The franchise herein created shall become effective as to the Franchisee named herein on the date when the Franchisee accepts the same in writing, which date shall not be more than thirty (30) days after the date of final passage and adoption.

Adopted at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 27th day of June, 2016.

  
\_\_\_\_\_  
Steve Leary, Mayor

ATTEST:

  
\_\_\_\_\_  
Cynthia S. Bonham, City Clerk





**Solid Waste and Recyclables Collection  
Franchise Agreement**

**Between**

**City of Winter Park  
("City")**

**And**

**Waste Pro of Florida, Inc.  
("Franchisee")**

## **SOLID WASTE AND RECYCLABLES COLLECTION FRANCHISE AGREEMENT**

**THIS AGREEMENT** made and entered into this <<#>> Day of <<MONTH>>, 2016, by and between the **CITY OF WINTER PARK, FLORIDA**, a Florida Municipal Corporation, located at 401 Park Avenue South, Winter Park, Florida 32789 (hereinafter "City") and **WASTE PRO OF FLORIDA, INC.**, a Florida Corporation, located at 2101 West State Road 434, Suite 305, Longwood, Florida 32779 (hereinafter "Franchisee").

WITNESSETH:

**WHEREAS**, there is an immediate and continuing need for the collection and disposal of Solid Waste, Recyclables, Yard Waste, and Bulk Waste from residents, businesses, and other entities within the municipal boundaries of the City of Winter Park; and

**WHEREAS**, Franchisee has the necessary equipment, personnel, and experience to properly perform the collection and disposal services described herein; and

**WHEREAS**, it appears to be in the best interests of the public health, safety, and welfare of the citizens of the City of Winter Park and its resident businesses and entities to award a franchise to Franchisee to provide for the collection and disposal of Solid Waste, Recyclables, Yard Waste and Bulk Waste, upon the terms and conditions more particularly described herein.

**NOW THEREFORE**, in consideration of the mutual covenants, agreements, and consideration contained herein, the City and Franchisee agree as hereinafter set forth:

## **TABLE OF CONTENTS**

<b>ARTICLE 1. DEFINITIONS .....</b>	<b>1</b>
<b>ARTICLE 2. TERM .....</b>	<b>5</b>
2.1. Effective and Commencement Dates .....	5
2.2. Initial Term .....	5
2.3. Renewal Option .....	5
<b>ARTICLE 3. COLLECTION SERVICES .....</b>	<b>5</b>
3.1. Exclusive Services .....	5
3.2. Non-Exclusive Services .....	5
<b>ARTICLE 4. TITLE TO SOLID WASTE AND RECYCLABLE MATERIALS .....</b>	<b>6</b>
<b>ARTICLE 5. TRANSITION OF COLLECTION SERVICES .....</b>	<b>6</b>
5.1. Transition Prior to Commencement of Collection Services .....	6
5.2. Solid Waste Service Contracts .....	7
5.3. Transition Prior to Expiration of Collection Services .....	8
<b>ARTICLE 6. RESIDENTIAL SERVICE .....</b>	<b>8</b>
6.1. Service Requests .....	8
6.2. Residential Collection Service .....	8
6.3. Side/Backdoor Collection .....	9
6.4. Procedures for Non-Collection .....	9
6.5. Hours and Holidays .....	10
<b>ARTICLE 7. MULTI-FAMILY SERVICE .....</b>	<b>10</b>
7.1. Service Requests .....	10
7.2. Multi-Family Collection Service .....	10
7.3. Hours and Holidays .....	11
<b>ARTICLE 8. COMMERCIAL COLLECTION SERVICE .....</b>	<b>11</b>
8.1. Service Requests .....	11
8.2. Commercial Collection Service .....	11
8.3. Center Street Service .....	11
8.4. Commercial Recycling .....	12
8.5. Hours and Holidays .....	12
<b>ARTICLE 9. CONTAINERS .....</b>	<b>12</b>
9.1. Customer-Provided Containers .....	12
9.2. Residential Roll Carts .....	12
9.3. Multi-Family and Commercial Containers .....	14
<b>ARTICLE 10. ADDITIONAL COLLECTION SERVICES .....</b>	<b>15</b>
10.1. Special Collection Service .....	15
10.2. Household Hazardous Waste and E-Waste Collection .....	15
10.3. City Facilities .....	15
10.4. City-Sponsored Events .....	16
10.5. Dead Animals .....	16
<b>ARTICLE 11. DESIGNATED FACILITIES .....</b>	<b>16</b>
11.1. Disposal .....	16

11.2. Processing .....	16
<b>ARTICLE 12. GENERAL SERVICE REQUIREMENTS .....</b>	<b>17</b>
12.1. Restrictions on Collection of Mixed Loads .....	17
12.2. Future Recycling Initiatives .....	17
12.3. Routes and Schedules .....	17
12.4. Manner of Collection .....	18
12.5. Protection of Private and Public Property .....	18
12.6. Spillage and Littering .....	19
12.7. Collection Plan .....	19
12.8. Permits and Licenses .....	20
12.9. Relationship with the City .....	20
12.10. Personnel .....	20
12.11. Employee Training and Licenses .....	21
12.12. Office Requirements .....	21
12.13. Customer Service Standards .....	21
12.14. Vehicle and Collection Equipment .....	22
12.15. Service Verification System .....	24
<b>ARTICLE 13. RECORD KEEPING AND REPORTING .....</b>	<b>25</b>
13.1. Record Keeping .....	25
13.2. Reporting .....	25
<b>ARTICLE 14. EDUCATION AND OUTREACH .....</b>	<b>27</b>
14.1. Distribution of Information .....	27
14.2. City and Franchisee Responsibilities .....	27
<b>ARTICLE 15. FRANCHISE FEE .....</b>	<b>27</b>
<b>ARTICLE 16. COMPENSATION .....</b>	<b>28</b>
16.1. Billing and Payment .....	28
16.2. Collection Service Fees .....	28
16.3. Processing Payment .....	29
<b>ARTICLE 17. EMERGENCY SERVICES .....</b>	<b>29</b>
17.1. Contingency Plan .....	29
17.2. Franchisee Unable to Provide Contracted Services .....	30
17.3. Disaster Response Plan .....	30
<b>ARTICLE 18. PERFORMANCE .....</b>	<b>30</b>
18.1. Performance Bond .....	30
18.2. Liquidated Damages .....	31
<b>ARTICLE 19. TERMINATION .....</b>	<b>33</b>
19.1. Failure to Maintain Performance Bond and Insurances. ....	33
19.2. Scrutinized Companies .....	33
19.3. Bankruptcy .....	34
19.4. Convenience .....	34
<b>ARTICLE 20. INSURANCE .....</b>	<b>34</b>
<b>ARTICLE 21. OTHER TERMS AND CONDITIONS .....</b>	<b>35</b>
21.1. Indemnification .....	35



21.2. Assignment .....	36
21.3. Severability .....	36
21.4. Compliance with Laws and Regulations .....	37
21.5. Compliance with Occupational Safety and Health .....	37
21.6. License, Permits or Fees .....	37
21.7. Sovereign Immunity .....	38
21.8. Modification .....	38
21.9. Reservation of Rights .....	38
21.10. Independent Franchisee .....	38
21.11. Governing Law, Venue .....	38
21.12. Public Access .....	38
21.13. Waiver .....	39
21.14. Survival of Obligation .....	39
21.15. Dispute Resolution .....	40
21.16. Headings .....	40
21.17. Notice .....	40
EXHIBIT 1 – COLLECTION SERVICE FEES .....	41
EXHIBIT 2 – SERVICE AREA .....	42
EXHIBIT 3 – SPECIAL COLLECTION FEES .....	43
EXHIBIT 4 – CENTER STREET SERVICE AREA .....	44
EXHIBIT 5 – CALCULATION OF RATE ADJUSTMENT .....	45
EXHIBIT 6 – TECHNICAL SPECIFICATIONS FOR ROLL CARTS .....	46
EXHIBIT 7 – TECHNICAL SPECIFICATIONS FOR CONTAINER RFID TAGS .....	50
EXHIBIT 8 – RECYCLABLES PROCESSING PAYMENT .....	51

## **ARTICLE 1. DEFINITIONS**

To the extent that any definition contained herein conflicts with any similar definition contained in any federal, state, or local law, the definition herein shall prevail for the purposes of this Agreement. However, nothing contained herein shall be interpreted to require Franchisee to undertake any conduct that is prohibited by Applicable Law. Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa.

**Applicable Law** shall mean all applicable federal and State of Florida laws, local (municipal and county) ordinances, and the rules and regulations of all authorities having jurisdiction over any part of the services provided under this Agreement.

**Bulk Waste** shall mean any non-vegetative item that cannot be containerized, bagged or bundled, or whose large size or weight precludes its handling, processing, or disposal by normal methods.

**Center Street Service Area** shall mean the specified area which generally encompasses any Commercial Establishment or place of business or residence located within the boundaries of Canton Avenue to the north, Knowles Avenue to the east, Lyman Avenue to the south, and Park Avenue to the west, adjacent to the Center Street or having frontage on that portion of streets intersecting Center Street, within the described area. [A graphic depiction of the Center Street Service Area is provided in Exhibit 4.]

**Change in Law** shall mean (i) the adoption, promulgation, or modification after the Effective Date of any law, regulation, order, statute, ordinance, or rule that was not adopted, promulgated, or modified on or before the Effective Date; or (ii) the imposition of any material conditions in connection with the issuance, renewal, or modification of any permit, license, or approval after the Effective Date, which in the case of either (i) or (ii) establishes requirements affecting Franchisee's operation under this Agreement more burdensome than the requirements that are applicable to Franchisee in effect as of the Effective Date. A change in any federal, state, county, or other tax law or worker's compensation law shall not be a Change in Law. However, in the event that a federal, state, or local entity imposes a fee, charge, or tax after the Effective Date that applies to Franchisee's operations per se, such fee, charge, or tax shall be treated as a Change in Law.

**City** shall mean the City of Winter Park, Florida.

**City Commission** or **Commission** shall mean the City Commission of the City of Winter Park, Florida.

**Code** shall mean the Code of Ordinances of the City of Winter Park, Florida.

**Commencement Date** shall mean October 31, 2016, the date services pursuant to the Agreement shall commence.

**Commercial Collection Service** shall mean the collection of Solid Waste within the Service Area from Commercial Establishments.

**Commercial Customers** shall mean any person receiving Commercial Collection Service.

**Commercial Establishment** shall mean a business, corporation, company, incorporated or limited concern, licensed to do business in the City, whether owned, leased, or rented.

**Compactor** shall mean a Container that has a compaction mechanism, whether stationary or mobile.

**Construction and Demolition** or **C&D** shall mean 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, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of C&D with other types of Solid Waste will cause it to be classified as other than C&D. The term also includes:

- (a) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;
- (b) Unpainted, non-treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non-treated wood pallets provided the wood scraps and pallets are separated from other Solid Waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other Solid Waste; and
- (c) De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects provided such amounts are consistent with best management practices of the industry.

**Container** shall mean Roll Cart, Dumpster, Compactor, Roll-Off, or any other container approved by the City intended for collection of Solid Waste or Recyclable Materials.

**Contaminates** or **Contamination** means the same as Rejects: that portion of the Recyclable Materials stream that does not consist of materials included in the definition of Program Recyclables.

**Contract Manager** shall mean the person designated by the City to act as City's representative during the term of this Agreement.

**Day** shall mean one calendar day.

**Designated Facility** shall mean the facility designated by the City for delivery of materials collected pursuant to this Agreement.

**Dumpster** shall mean a large metal or plastic box for multi-family or commercial Solid Waste or Recyclables, usually of the two-cubic-yard to eight-cubic-yard size which is lifted by mechanical means. Dumpsters normally have plastic lids.

**Effective Date** shall mean the date this Agreement has been executed by both the City and Franchisee, whichever is later.

**E-Waste** shall mean discarded electronic devices and components including, but not limited to, computers, monitors, keyboards, mice, terminals, printers, modems, scanners, cell phones, televisions, copiers, and other electronic equipment as defined by the City.

**Franchise Agreement** or **Agreement** shall mean this Franchise Agreement between the City and Franchisee, together with all exhibits and other documents that are expressly incorporated by reference.

**Franchisee** shall mean the person, firm, corporation, organization, agency, or joint venture with whom the City has executed this Franchise Agreement.

**Hazardous Waste** shall mean solid waste or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under F.S. § Chapter 497

**Holidays** shall mean the Days in which the Designated Facility is closed. The current Holidays include New Year's Day, Thanksgiving, and Christmas.

**Household Hazardous Waste** or **HHW** shall mean household products that contain corrosive, toxic, ignitable, or reactive ingredients, including but not limited to, paints, cleaners, oils, batteries, and pesticides, or other household materials that contain potentially hazardous ingredients, and that require special care for disposal.

**Multi-Family Collection Service** shall mean the collection of Solid Waste and Program Recyclables from Multi-Family Units, and delivery of collected materials to the Designated Facility. Residential Units not desiring to receive curbside Residential Collection Service may choose to receive Multi-Family Collection Service.

**Multi-Family Customers** shall mean any person receiving Multi-Family Collection Service.

**Multiple Dwelling Unit** or **Multi-Family Unit** shall mean any building containing four (4) or more permanent residential living units.

**Program Recyclables** refers to Recyclables, including Single Stream and segregated cardboard, collected from Residential and Multi-Family Units, Center Street Service Area, City facilities, City-sponsored events, and City-designated public areas. Program Recyclables shall include the following list of materials which may be amended at the City's discretion as markets develop for additional materials: all paper; aseptic cartons; all plastic bottles and containers; rigid bulky plastics; glass food and beverage containers; and aluminum, tin/seal, bimetal food and beverage containers, aluminum foil, and scrap metal. Program Recyclables include incidental amounts of rejects and non-designated materials as can normally be expected as part of municipal recycling collection.

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

**Rejects** means that portion of the Recyclable Materials stream that does not consist of materials included in the definition of Program Recyclables, also referred to as Contaminates or Contamination.

**Residential Collection Service** shall mean curbside collection of Solid Waste, Program Recyclables, Yard Waste, and Bulk Waste from Residential Units, and delivery of collected materials to the Designated Facility. Multi-Family Units with adequate curbside access may choose to receive Residential Collection Service and be billed individually as a Residential Unit.

**Residential Customers** shall mean any person receiving Residential Collection Service.

**Residential Unit** shall mean single family detached homes, duplexes, and triplexes.

**Residue or Residuals** means the portion of the Recyclable Materials stream, other than Rejects, accepted by the Franchisee that is not converted to Recovered Materials due to breakage and/or transportation or processing limitations or inefficiencies.

**Roll Cart** shall mean a wheeled container designed and intended to be used for automated collection of Solid Waste and Program Recyclables, which is a type and size approved by the City.

**Roll-Off Container or Roll-Off** shall mean a large metal box normally used for C&D debris or other large amounts of Solid Waste, usually of the ten-, twenty-, thirty-, or forty-cubic-yard size which are lifted by mechanical means. These containers may be either open top or closed compaction type.

**Service Area** shall mean the area within the municipal boundaries of the City of Winter Park, Florida, as may be modified from time to time pursuant to F.S. § Chapter 171.

**Single Stream** refers to a recycling process that allows for Recyclables to be collected commingled, with containers and paper collected in the same Container.

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

**Solid Waste** as defined by Section 403.703(13), F.S., as may be amended, to mean Sludge that is not regulated under the federal Clean Water Act or Clean Air Act, as well as Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or garbage, rubbish, refuse, Special Wastes, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. For the purposes of this Agreement, Solid Waste shall not include Sludge or Recyclable Materials.

**Special Collection Service** shall mean any Solid Waste collection services provided to Residential, Multi-Family, and Commercial Customers upon customer request.

**Special Wastes** shall mean Solid Waste that can require special handling and management, including but not limited to, White Goods, waste tires, used oil, lead acid batteries, C&D debris, ash residue, yard waste, and biological wastes.

**Ton** means a short ton, 2,000 pounds.

**Uncontrollable Force** shall mean any event that results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing party. It includes, but is not limited to fire, flood, hurricanes, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, terrorism, sabotage, and governmental actions. Labor disputes, including, without limitation, strikes and slowdowns, are not an Uncontrollable Force.

**White Goods** shall mean and include discarded air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

**Yard Waste** shall mean vegetative matter resulting from yard and landscaping maintenance and land clearing operations and includes associated rocks and soils. For the purposes of the City's ordinance, yard waste does not include land clearing operations or associated rocks and soils. Additionally, Yard Waste does not include debris generated by landscapers or lawn maintenance services.

## **ARTICLE 2. TERM**

### **2.1. Effective and Commencement Dates**

The Effective Date is the date the Agreement is executed and has been signed by the City and Franchisee, whichever date is later. The Commencement Date is the date that collection services required by this Agreement shall commence. The Commencement Date shall be October 31, 2016.

### **2.2. Initial Term**

The term of this Agreement shall be for a period of seven (7) years beginning on the Commencement Date, October 31, 2016, and terminating October 29, 2023.

### **2.3. Renewal Option**

At the sole option of the City, this Agreement may be renewed for one (1) additional term of three (3) years under the same terms and conditions as the initial term, including amendments. Franchisee shall be notified no later than one hundred eighty (180) Days prior to the end of the initial term of the City's intent to renew or not renew this Agreement. If renewed, the additional three (3) year term will begin on October 30, 2023, and terminate on October 31, 2026.

## **ARTICLE 3. COLLECTION SERVICES**

### **3.1. Exclusive Services**

Franchisee is herein granted the exclusive right to provide the following collection services in the Service Area:

- a. Residential Collection Service including the collection of Solid Waste, Program Recyclables, and Yard Waste from Residential Units.
- b. Multi-Family Collection Service including the collection of Solid Waste and Program Recyclables from Multi-Family Units.
- c. Commercial Collection Service including the collection of Solid Waste from Commercial Establishments.

### **3.2. Non-Exclusive Services**

- 3.2.1. Franchisee shall provide Special Collection Service to Residential, Multi-Family, and Commercial Customers upon request; however, this service is not exclusive to the Franchisee.
- 3.2.2. Franchisee shall provide collection of Recyclables from Commercial Establishments upon request and as required in this Agreement; however, provision of this service is not exclusive to Franchisee.
- 3.2.3. The Franchisee is not granted the exclusive right to collect Yard Waste from Multi-Family Customers, Commercial Customers, or contractor-generated waste. The Franchisee may provide these services at competitive rates that shall not be controlled by this Agreement.
- 3.2.4. The Franchisee is not granted the exclusive right to collect, haul, and dispose of C&D generated from existing residential single family dwelling units, duplexes, and triplexes. Existing means that the unit has been built at time collection service for C&D is desired.

- 3.2.5. The City reserves the right to exclude the collection of other materials from this Agreement in the future for the purposes of increasing waste diversion.

#### **ARTICLE 4. TITLE TO SOLID WASTE AND RECYCLABLE MATERIALS**

After Solid Waste or Program Recyclables have been placed by the customer/generator to be collected by Franchisee, the Franchisee shall hold title and ownership to all such materials. However, the Franchisee shall have no right to take, keep, process, alter, remove or otherwise dispose of any such materials, unless provided for in this Agreement or by prior written agreement of the Contract Manager, except that Franchisee shall have the right and obligation to transport all such materials to the Designated Facility.

#### **ARTICLE 5. TRANSITION OF COLLECTION SERVICES**

##### **5.1. Transition Prior to Commencement of Collection Services**

Franchisee is responsible for providing a smooth transition in services to minimize inconvenience to customers. To accomplish this objective, Franchisee shall participate in transition meetings as scheduled and conducted by the Contract Manager, to plan and manage the transition process so that no service interruption occurs.

Franchisee shall submit to the Contract Manager, no later than fifteen (15) Days following the Effective Date, a transition plan detailing how the Franchisee will plan and prepare for providing Residential Collection Services, Multi-Family Collection Services, Commercial Collection Services, and Special Collection Services leading up to the Commencement Date. The transition plan must be in Microsoft Excel format, detailed to the task level, and provide a thorough action plan with description by task, responsible party, and due date for each action item.

The transition plan must meet the approval of the Contract Manager. If the Contract Manager does not approve any part of the transition plan, the Franchisee shall provide a revised proposed transition plan within five (5) Days of notification.

At a minimum, Franchisee must address the following categories in the transition plan. This list is not intended to identify all necessary tasks to be performed by the Franchisee, but to provide a springboard for the Franchisee to develop a comprehensive transition plan:

- a) 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).
- b) Transition Meeting and Call Schedules: Proposed meeting and call schedules to include, but not be limited to, meetings with the Contract Manager, City staff, and outgoing franchisee leading up to the Commencement Date.
- c) Local Office: Schedule for setting up local office, installing local telephone number routed to the local office, and staffing in place to begin receiving calls.
- d) Cart Procurement: Schedule for purchase and manufacturing of Franchisee-provided Roll Carts for Residential Collection Service including artwork approval by City and prototype delivery. The City retains the

right to require acceptable documentation including, but not limited to, purchase orders, delivery schedules, and receipts of payment.

- e) **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. An A&D plan should also be included identifying 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.
- f) **Cart Swaps:** Schedule for Roll Cart swaps including plan for receiving swap requests, initiating exchanges, and maintaining asset management database.
- g) **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 Manager. For all new purchases, contractor shall provide a list of vehicles, manufacturer, purchase order, and documentation of anticipated delivery date.
- h) **Education and Outreach:** Schedule for delivering information brochure to all customers prior to the Commencement Date. Schedule to produce, acquire City approval, print and collate information packet to be attached to Roll Carts during A&D.
- i) **Staffing and Training:** Schedule for obtaining necessary labor and training staff on equipment and routes.
- j) **Commercial Containers:** Schedule for purchasing Containers, equipping Containers with Radio Frequency Identification (RFID) tags, and removing/replacing all multi-family and commercial Containers owned by outgoing franchisee. Or, if applicable, plan to purchase current containers from outgoing service provider, paint containers, and equip with RFID tags.
- k) **Routing:** Schedule for developing waste and recycling routes, identifying obstacles such as low trees and overhead wires, and conducting dry-runs of collection routes.
- l) **RFID:** Schedule for testing/calibrating truck-mounted RFID readers. Schedule for onsite training for City staff on the use of web-based service verification system by appropriately-trained professional personnel.

## 5.2. Solid Waste Service Contracts

- 5.2.1. Any and all contracts that provide exclusive Solid Waste collection service, disposal, and/or related Solid Waste services between the previous franchisee, including without limitation Waste Pro of Florida, Inc., and customers within the municipal boundaries of the City, not including non-exclusive services and any indemnification, hold harmless and prior franchisee continuing liability obligations, shall be null and void as of 11:59 p.m. on October 30, 2016.
- 5.2.2. The term of any contract written by the Franchisee for Solid Waste collection service, disposal, and/or related Solid Waste Services, not including non-exclusive services, shall not extend past the term of this Agreement.



**5.3. Transition Prior to Expiration of Collection Services**

- 5.3.1. Should the City choose not to renew this Agreement or should no renewal options remain, the City anticipates awarding a new agreement at least six (6) months prior to the expiration of this Agreement or any subsequent renewals. In the event a new agreement has not been awarded within such time frame, Franchisee agrees to provide service to the City for an additional ninety (90) Day period beyond the expiration of the Agreement at the then established service rates, provided the City requests said services in writing at such time.
- 5.3.2. At the expiration of this Agreement, Franchisee shall work with the City and the newly selected franchisee to ensure a smooth transition period with no interruption of service, including, but not limited to, attending coordination meetings with the City and newly selected franchisee, coordination and cooperation in removal of Containers, a comprehensive customer list, and providing service information, as requested.
- 5.3.3. Franchisee will coordinate with City to ensure the transmission of a complete and accurate asset management database including all information associated with Roll Cart management.
- 5.3.4. The City reserves the right to withhold payment to Franchisee for the final month of service until Franchisee has complied with all requirements of this Article.

**ARTICLE 6. RESIDENTIAL SERVICE**

**6.1. Service Requests**

Residential Customers will initiate and terminate service directly with the City. The City shall promptly notify the Franchisee of all changes in service.

**6.2. Residential Collection Service**

- 6.2.1. Solid Waste shall be collected twice per week in Franchisee-provided Roll Carts. See Article 9.2 for further details regarding Roll Carts.
- 6.2.2. Residents will be instructed to place all materials inside of Roll Carts. Should a resident place materials outside of the Roll Cart for collection, the Franchisee shall collect the materials outside the Roll Cart and leave a notice instructing the resident that in the future materials left outside of the Roll Cart will not be collected and providing instruction for how to request an additional Roll Cart should the resident require it. After the initial notice has been left, the Franchisee shall leave a non-collection notice on materials left outside of the Roll Cart.
- 6.2.3. Program Recyclables shall be collected once per week in Franchisee-provided Roll Carts in Single Stream. The types of materials included for collection as Program Recyclables may be modified upon mutual agreement between the City and the Franchisee. Such modification shall be at no additional cost to the City or resident unless the Franchisee can document that the addition of such items substantially impacts the cost of providing service.
- 6.2.4. Yard Waste placed curbside by Residential Customers for collection according to the provisions herein shall be collected once per week. Residential Customers are to containerize in Franchisee-provided roll

carts (Franchise-provided Yard Waste are roll carts that are repurposed solid waste carts used during the City's previous franchise), resident-provided cans, plastic or paper bags, bundle, or neatly stack Yard Waste and place it curbside. Yard Waste may not exceed four (4) feet in length or be greater than fifty (50) pounds in weight for any single can, bag, or bundle. Franchisee shall collect all Yard Waste set out for collection that does not require a special vehicle for collection service.

- 6.2.5. Franchisee shall provide collection of all small piles of Bulk Waste not requiring a special vehicle to service twice per week at the same time as Solid Waste collection. In addition, Franchisee shall provide an unlimited collection of Bulk Waste from Residential Customers twice per year at a time agreed upon by the City and Franchisee (typically during the months of May and November) at no cost to the City or customer.

### 6.3. Side/Backdoor Collection

Franchisee shall, at no additional cost to the Residential Customer or the City, provide side/backdoor collection of Solid Waste, Program Recyclables, and Yard Waste in Roll Carts to Residential Customers who are unable to deliver their Solid Waste or Program Recyclables to the curb. Franchisee shall commence backdoor collection within one (1) week of notification by the City.

### 6.4. Procedures for Non-Collection

- 6.4.1. In the event that the Solid Waste or Yard Waste placed out for collection does not comply with set out procedures pursuant to this Agreement, Franchisee is not required to collect it. If Franchisee elects to not collect such materials, a non-collection notice shall be placed on the container or non-conforming materials explaining why collection was not made and Franchisee shall notify the Contract Manager pursuant to Article 13.2.
- 6.4.2. In the event that Program Recyclables are contaminated through commingling with materials that are not a Program Recyclable, Franchisee shall collect the Program Recyclables and leave material that is not Program Recyclables in the Recycling Roll Cart along with a non-collection notice explaining why all materials were not collected. However, in the event that the Program Recyclables and materials that are not Program Recyclables are commingled to the extent that they cannot easily be separated by the Franchisee, or the nature of the non-Program Recyclables renders the entire Recycling Roll Cart contaminated, Franchisee shall leave all the materials along with a non-collection notice explaining why collection was not made.
- 6.4.3. In the event that a repurposed Yard Waste roll cart is contaminated through commingling with non-Yard Waste, Franchisee shall collect the Yard Waste and leave material that is not Yard Waste in the roll cart along with a City-provided non-collection notice explaining why all materials were not collected. However, in the event that the Yard Waste and materials that are not Yard Waste cannot be easily separated by Franchisee, or the nature of the non-Yard Waste renders the entire Yard Waste roll cart contaminated, Franchisee shall leave all the materials along with a City-provided non-collection notice explaining why collection was not made. Franchisee shall collect contaminated Yard Waste containers with Solid Waste collection if non-collection notices

have been issued. Should a Residential Customer continue to set out contaminated Yard Waste in the repurposed roll cart, the Franchisee shall remove the Yard Waste roll cart from the customer's residence.

6.4.4. Franchisee shall develop and produce non-collection notices for Solid Waste, Yard Waste, and Program Recyclables collection. The City shall provide the Franchisee a special non-collection notice for repurposed roll carts used for segregated Yard Waste. The design and content of non-collection notice are subject to approval by the City.

6.4.5. As further specified in Article 13.2, Franchisee shall electronically notify the Contract Manager regarding all non-collection events.

6.5. Hours and Holidays

6.5.1. Residential Collection Service shall take place between 7:00 a.m. and 7:00 p.m. Monday through Friday, unless prior approval by the Contract Manager is obtained. There shall be absolutely no Residential Collection Service on Saturdays or Sundays, unless prior approval is given by the Contract Manager.

6.5.2. Residential Collection Service is not required on Days in which the Designated Facility is closed for a Holiday.

6.5.3. No makeup collection is required for Solid Waste but missed Recyclables and Yard Waste must be collected on the next Day. The Franchisee may provide makeup collection services for Recyclables and Yard Waste on the Saturday following each of the three Holidays. No other Saturday collection is permissible. All holiday makeup collection schedules must have prior approval by the Contract Manager.

**ARTICLE 7. MULTI-FAMILY SERVICE**

7.1. Service Requests

Multi-Family Customers will initiate, change, and terminate services directly with the City. The City will electronically transmit initiated, terminated, or changed service requests to the Franchisee on a daily basis. Collection service shall start, terminate, or change on the next scheduled collection day from the date requested by the Multi-Family Customer.

7.2. Multi-Family Collection Service

7.2.1. The Franchisee shall collect Solid Waste from Multi-Family Units at least once per week. Franchisee shall provide Containers for the accumulation of Solid Waste. The number and size of Containers shall be mutually agreed upon by the customer and Franchisee. The City retains the right to determine the appropriate number and size of Containers.

7.2.2. The Franchisee shall collect Program Recyclables from Multi-Family Units at least once per week. Franchisee shall provide Containers for the accumulation of Program Recyclables. The number and size of Containers shall be mutually agreed upon by the customer and the Franchisee. The City retains the right to determine the appropriate number and size of Containers.

- 7.2.3. Franchisee shall provide an unlimited collection of Bulk Waste from Residential Customers twice per year at a time agreed upon by the City and Franchisee (typically during the months of May and November) at no cost to the City or customer.

7.3. Hours and Holidays

- 7.3.1. Multi-Family Collection Service shall take place between 7:00 a.m. and 7:00 p.m. Monday through Friday. Any variation must have prior approval by the Contract Manager.
- 7.3.2. Franchisee shall not be required to provide Multi-Family Collection Service on a Holiday.

**ARTICLE 8. COMMERCIAL COLLECTION SERVICE**

8.1. Service Requests

- 8.1.1. Commercial Customers will initiate, change, and terminate service directly with City, excluding Roll-Off services. The City will electronically transmit initiated, terminated, or changed service requests to the Franchisee on a daily basis. Collection service shall start, terminate, or change on the next scheduled collection day from the date requested by the customer.
- 8.1.2. Commercial Customers utilizing Roll-Offs will initiate, terminate, or change level of service directly with the Franchisee.

8.2. Commercial Collection Service

- 8.2.1. Collection of Solid Waste shall be provided at least once per week, unless otherwise approved by the City. Collection shall be provided frequently enough to prevent the creation of a public nuisance or a threat to the public health, safety, or welfare. If necessary, the Contract Manager or their designee shall assist Franchisee and customer in confirming that the size of the collection Container and frequency of collection are sufficient to ensure that Solid Waste is not routinely placed or stored outside of the collection Container.
- 8.2.2. Collection Containers shall be placed at locations that are mutually acceptable to Franchisee and Commercial Customer, and in compliance with Code. If a dispute should arise between a Commercial Customer and Franchisee regarding the location of a Container, the Contract Manager shall designate the location.

8.3. Center Street Service

- 8.3.1. The City shall designate the size, quantity, type, and location of all shared Containers for Solid Waste and Recyclables in the Center Street Service Area.
- 8.3.2. No other Commercial Collection Service is allowed in the Center Street Service Area without the written approval of the Contract Manager.
- 8.3.3. All Recyclables collected from City-designated shared Containers shall be considered Program Recyclables.
- 8.3.4. Franchisee shall provide daily valet service to collect cardboard from Commercial Establishments and residences that set cardboard out at

their back door. Franchisee shall collect properly prepared and set out cardboard once per day Monday through Saturday. Saturday collection shall be scheduled to facilitate the completion of the valet service prior to 12:00 p.m. The City shall pay the Franchisee the per cubic yard rate for loose commercial Recyclables as identified in Exhibit A. The daily valet service shall be provided only with the coordination of and at the direction of the Contract Manager.

- 8.3.5. The City retains the right to designate other areas within the City, similar to Center Street Service Area, for shared Container program(s).

#### 8.4. Commercial Recycling

- 8.4.1. Franchisee shall encourage all persons utilizing a Commercial Establishment to recycle and shall provide for collection of Recyclables. The types of Recyclables collected from Commercial Customers shall, at a minimum, include those materials collected as Program Recyclables.
- 8.4.2. Frequency of collection for Recyclables may be provided as agreed upon by the Commercial Customer and Franchisee.
- 8.4.3. The rate charged by Franchisee for collection of commercial Recyclables shall be less than the collection rate charged for servicing a Solid Waste Container of equal size and frequency.

#### 8.5. Hours and Holidays

- 8.5.1. Commercial Collection Service shall take place between 6:00 a.m. and 6:00 p.m. Monday through Sunday. Any variation must have prior Contract Manager approval.
- 8.5.2. Franchisee shall not be required to provide Commercial Collection Service on Holidays.

### **ARTICLE 9. CONTAINERS**

#### 9.1. Customer-Provided Containers

Franchisee shall replace personal containers used for Yard Waste of a Residential Customer within three (3) business days after being notified by a customer or the City that Franchisee or its employees damaged the customer's container. Franchisee shall provide a replacement container (as applicable) that is similar in style, material, quality, and capacity to the customer's original container. Franchisee is not responsible for a replacement container if it can satisfactorily prove to the Contract Manager that Franchisee or its employees did not damage the customer's container.

#### 9.2. Residential Roll Carts

- 9.2.1. Prior to the Commencement Date, in accordance with transition plan specified in Article 5, Franchisee shall deliver Solid Waste and Recyclables Roll Carts for all Residential Customers within the Service Area. Following the Commencement Date Franchisee shall deliver Solid Waste and Recyclable Roll Carts within three (3) business days of notification of a new Residential Customer. Roll Carts must meet the technical specifications provided in Exhibit 6. Roll carts shall be delivered with information attached pursuant to Article 14.1.

- 9.2.2. Ownership of Roll Carts provided for Residential Collection Service shall rest with Franchisee until expiration or termination of this Agreement, at which point ownership and warranty transfer shall rest with the City. Should the Agreement be terminated early for convenience, the City shall pay the Franchisee a prorated amount for the purchase price of the Roll Carts based on the initial term of the Agreement.
- 9.2.3. The standard program-size Roll Carts include a ninety-five (95) gallon cart, or similar size, for Solid Waste and a sixty-five (65) gallon cart, or similar size, for Program Recyclables issued to each Residential Customer. However, ~95-, ~65-, and ~35-gallon Solid Waste and Recycling Roll Cart sizes will be made available for customers that request alternative sizes.
- 9.2.4. Franchisee shall exchange a Residential Customer's Roll Cart with an alternatively-sized Roll Cart. Franchisee shall provide one (1) Roll Cart exchange for Solid Waste and one (1) Roll Cart exchange for Recyclables per customer at no charge to the customer or the City. Should a Residential Customer request additional exchanges, Franchisee may charge the Residential Customer no more than thirty-five dollars (\$35) per Roll Cart that is exchanged. Franchisee shall track and report exchanges as specified in Article 13.2.
- 9.2.5. If a customer generates large quantities of Solid Waste, the customer may request up to one (1) additional Roll Cart to accommodate the extra materials. The City will request the Franchisee to deliver additional Roll Carts at no charge to the Residential Customer or the City.
- 9.2.6. If a customer generates large quantities of Program Recyclables, the customer may request an additional Roll Cart to accommodate the extra materials. The City will request the Franchisee to deliver additional Roll Carts at no charge to the Residential Customer or the City.
- 9.2.7. Franchisee shall repair or replace a Roll Cart within three (3) business days of receiving notice from the City or customer of the need for repair, or if identified unserviceable by Franchisee.
- 9.2.8. Roll Carts shall be delivered to customers within three (3) business days from the date of request.
- 9.2.9. Franchisee shall make every reasonable effort to track and locate all Roll Carts reported by a Residential Customer as stolen, lost, or missing. If a Roll Cart is unable to be located after sixty (60) Days from the date a claim was made, the City will reimburse the Franchisee for the lost, stolen, or missing cart. Franchisee must provide the Contract Manager a recent Roll Cart invoice showing the price paid for a replacement Roll Cart.
- 9.2.10. If the Franchisee can prove that a damaged Roll Cart is the fault of the customer, the City will reimburse the Franchisee for the damaged Roll Cart. Franchisee must provide the Contract Manager a recent Roll Cart invoice showing the price paid for a replacement Roll Cart.
- 9.2.11. The City will inform residents of options for repurposing or recycling their recycling bins. Recycling options will include placing bins curbside during first month of carted collection service. If placed curbside, Franchisee shall collect and recycle the recycling bins.

- 9.2.12. Franchisee shall provide one (1) repurposed solid waste roll cart from the City's previous franchise to Residential Customers, upon request, for segregated Yard Waste. Ownership of the repurposed Yard Waste roll carts shall rest with the Franchisee. The Contract Manager shall provide a sticker identifying that the repurposed roll cart is for segregated Yard Waste only. Franchisee shall only provide repurposed roll carts to Residential Customers based on Franchise's existing inventory. At no time shall the Franchisee be required to purchase Roll Carts for Yard Waste collection.

### 9.3. Multi-Family and Commercial Containers

- 9.3.1. Franchisee shall purchase, equip, and maintain Ultra High Frequency (UHF) RFID tags on all commercial Containers serviced, with the exception of Compactors and Roll-Offs. However, receiving containers used with vertical compactors in the Center Street Service Area are required to have RFID tags. Technical specifications for the required RFID tags are provided in Exhibit 7. Roll Cart RFID tags shall meet the technical specifications as described in Exhibit 6.
- 9.3.2. Prior to the Commencement Date and in accordance with transition plan specified in Article 5, Franchisee shall provide appropriate Solid Waste and Recyclables Containers, as required to service Multi-Family and Commercial Customers.
- 9.3.3. All Containers shall be painted (with the exception of Roll Carts) and have the Franchisee's name and phone number clearly displayed. No advertising shall be posted on Containers.
- 9.3.4. Roll Carts used for Multi-Family and Commercial Collection Service shall meet the specifications in Exhibit 6, with the exception of markings and warranty transfer. Roll Carts used for Multi-Family and Commercial Collection Service shall have the Franchisee's name displayed on the outside of the Roll Cart and remain the property of the Franchisee at the expiration or termination of this Agreement.
- 9.3.5. 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.
- 9.3.6. Maintenance of all Containers is the sole responsibility of the Franchisee. RFID technology maintenance shall be considered part of Container maintenance. The Franchisee shall repair or replace any Container in need of such repair or replacement within three (3) business days of notification. All repair or replacement costs shall be borne by the Franchisee.
- 9.3.7. Franchisee shall maintain Containers so they are clean and free from offensive odors. Containers (with the exception of Roll Carts) shall also be painted on a regular basis to maintain an acceptable appearance. Upon request, Franchisee shall deodorize, wash-out, paint, or switch out Containers as needed.
- 9.3.8. Any Container not conforming to the requirements in this Article 9.3, as determined by the Contract Manager, shall be replaced within three (3) business days.

- 9.3.9. Franchisee shall provide Containers to new Multi-Family and Commercial Customers within two (2) business days of request, or as agreed upon by the customer.

## **ARTICLE 10. ADDITIONAL COLLECTION SERVICES**

### **10.1. Special Collection Service**

- 10.1.1. Franchisee shall provide Special Collection Services to Residential, Multi-Family, and Commercial Customers upon request.
- 10.1.2. Special Collection Services shall be provided according to the pricing schedule in Exhibit 3. Prices for Special Collection Services are approved by the City and may be periodically adjusted, but are not subject to the annual service fee adjustment.
- 10.1.3. All requests for Special Collection Services shall initiate with the City. The Franchisee shall provide the City access to an electronically transmitted or web-based work order system that will track the status of all Special Collection Service requests including customer request for collection, request for quote, Franchisee quote, customer acceptance of price, completion of work, and any other pertinent information. Items requested for Special Collection Service shall not be collected by the Franchisee unless the price has been accepted by the customer.

### **10.2. Household Hazardous Waste and E-Waste Collection**

Franchisee shall provide one (1) HHW and E-Waste collection event for residents within the Service Area per Agreement year. Event dates, hours, and location are subject to approval by the City; however, collection events are typically a single Day event on a weekend scheduled from 9:00 a.m. to 3:00 p.m. Franchisee shall be responsible to provide sufficient, qualified, and trained staff to accept and properly manage materials delivered including, as required, pallets, shrink wrap, fork-lift, gaylord boxes, containers, transport truck and any other equipment needed. Franchisee personnel shall receive residential household HHW and E-Waste from residents, properly containerize it, load it, and deliver it to the Designated Facility. Franchisee shall screen residents at the HHW and E-Waste collection event to reasonably assure that only residential household waste from City residents is received. Properly prepared HHW and E-Waste will be received at the Designated Facility at no cost to Franchisee.

Upon request of the City, Franchisee shall provide one (1) additional HHW and E-Waste collection event within the Service Area per Agreement year, as described above, for the fee provided in Exhibit 1.

### **10.3. City Facilities**

Franchisee shall, at no cost to the City, provide collection services at all City facilities and designated bus shelter locations. Collection services shall include collecting and delivering materials to the appropriate Designated Facility, as well as providing and maintaining Containers, if required by the City. The bus shelter location containers will be provided by the City but the Franchisee shall provide plastic liners. Franchisee shall service all Solid Waste and Recyclables containers on Park Avenue prior to 7:00 a.m. The City reserves the right to modify these services, within reason, throughout the duration of this Agreement as necessary. The Franchisee agrees to provide reasonable modified services at no cost.



**10.4. City-Sponsored Events**

Contractor shall provide temporary Containers and/or collection service for the following City-sponsored events at no cost to the City: Taste of Winter Park, winter holiday events, Winter Park Sidewalk Art Festival, Autumn Art Festival, July 4<sup>th</sup> Celebration, Dinner on the Avenue, and downtown road races (4 per year).

**10.5. Dead Animals**

Franchisee shall collect dead animals from City right of ways within twenty-four (24) hours of notice.

**ARTICLE 11. DESIGNATED FACILITIES**

**11.1. Disposal**

11.1.1. Franchisee shall deliver all Solid Waste collected pursuant to the Agreement to a facility designated by the City, unless otherwise approved by the Contract Manager in writing. The Designated Facilities are specified below.

a. Solid Waste

Seminole County Central Transfer Station  
1950 State Road 419, Longwood, FL 32750

b. Yard Waste

Seminole County Central Transfer Station  
1950 State Road 419, Longwood, FL 32750

c. C&D

Franchisee may deliver C&D to any legally permitted facility to receive such materials. Franchisee is encouraged to deliver C&D to a facility that recycles C&D.

11.1.2. The City reserves the right to change a Designated Facility during the term of the Agreement. Should the City change a Designated Facility, collection fees may be adjusted according to the average change in distance driven by the Franchisee. Supporting information justifying the need for an adjustment will be required.

**11.2. Processing**

11.2.1. All Recyclables must be processed and/or disposed at a legally permitted and licensed facility to process such materials. The Franchisee shall not dispose of or landfill any Recyclables or deliver such Recyclables to another agent that landfills or disposes of material other than through recycling without prior approval by the City.

11.2.2. Franchisee shall be responsible for the transport, processing, and marketing of Recyclables collected pursuant to this Agreement in accordance with all Applicable Law.

11.2.3. Franchisee shall deliver the City's Program Recyclables to the Waste Management Inc. of Florida – Recycle America (Waste Management) MRF in Orange County at no charge to the City. Should Waste Management begin charging a tip fee for Recyclable Materials, the City shall be responsible to pay the tip fee.

- 11.2.4. Should the Contract Manager request the Franchisee to identify an alternative processing location, upon identification of a mutually acceptable facility the City and the Franchisee shall negotiate a reasonable processing payment based on market prices that shall not to exceed the processing payment in Exhibit 8.
- 11.2.5. The City reserves the right to amend this clause and designate a facility for the processing and marketing of Program Recyclables. Should the City designate a facility for the processing of Program Recyclables, the City shall no longer be responsible for making payments pursuant to Article 11.2.3 and Exhibit 8 herein and shall be responsible for any associated processing and marketing fees. Should the Designated Facility change, collection rates may be adjusted to take into account the change in location if Franchisee submits adequate documentation that its costs have increased and the City approves such increase.

## **ARTICLE 12. GENERAL SERVICE REQUIREMENTS**

### **12.1. Restrictions on Collection of Mixed Loads**

- 12.1.1. Franchisee shall collect materials generated within the City Service Area separate from materials generated outside of the City Service Area.
- 12.1.2. Franchisee shall collect Solid Waste, Yard Waste, and Recyclables separate from each other, and shall not combine loads of different material types. Franchisee shall be responsible for all disposal costs associated with loads of mixed materials.
- 12.1.3. Franchisee shall collect Solid Waste and Yard Waste generated by Residential Customers separate from Solid Waste and Yard Waste generated by Multi-Family and Commercial Customers, unless otherwise approved by the City. If it is operationally more efficient, the Franchisee may choose to include the collection of Multi-Family and Commercial Solid Waste collected in Roll Carts with Residential Solid Waste collected in Roll Carts. If Multi-Family and Commercial Solid Waste collected in Roll Carts is combined with Residential Solid Waste collected in Roll Carts, the Residential Solid Waste tonnage report must note the additional sources of Solid Waste.
- 12.1.4. Franchisee shall collect Program Recyclables separate from Recyclables from Commercial Customers. Any Recyclables from Commercial Customers that are commingled with Program Recyclables shall be considered Program Recyclables.

### **12.2. Future Recycling Initiatives**

To further the City's sustainability goal the City may expand future recycling initiatives, such as residential, multi-family and commercial food waste collection programs. Nothing in this Agreement shall preclude the City from allowing a Commercial Establishment or resident to source separate and provide for the transport of food waste or recyclable material outside of this Agreement for the purpose of diverting it from disposal.

### **12.3. Routes and Schedules**

- 12.3.1. Franchisee shall not change the scheduled collection days until Franchisee receives the Contract Manager's prior written authorization.

The Contract Manager's approval of such changes shall not be unreasonably withheld. In the event that the Contract Manager authorizes a change in schedule that alters the collection day for any Residential Customer, Franchisee shall, at its expense, notify each affected Residential Customer by mail or other manner approved by the Contract Manager not less than one (1) week prior to the change.

- 12.3.2. Franchisee shall provide routes and map information in GIS-compatible format to the Contract Manager at least thirty (30) Days prior to the Commencement Date. All updates during the term of this Agreement shall be provided in a GIS-compatible format prior to implementation.
- 12.3.3. In those instances where a public or private street is temporarily closed to vehicular traffic, Franchisee shall return within twenty-four (24) hours of the normal collection schedule for that street to service customers located on the street. If at that time the street is still temporarily closed, Franchisee shall notify the City immediately and work with the City to determine appropriate service alternatives.

#### 12.4. Manner of Collection

- 12.4.1. All containers and Roll Carts shall be completely emptied and placed back in an upright position at the point where collected. Containers with an unattached lid shall be completely emptied and placed back in an upright or inverted position with the lid set on top, or placed beside the container. Roll Carts shall be placed with the lid in the closed position.
- 12.4.2. Franchisee shall provide all collection services with as little noise and disturbance as possible.
- 12.4.3. No trespassing by Franchisee's employees will be permitted. Franchisee's employees are permitted access to residential property when providing approved side/backdoor collection service.
- 12.4.4. No Franchisee employee shall remove or tamper with any property not placed for collection.
- 12.4.5. All collection vehicles shall remain on the right-hand side of the road when providing Residential Collection Service and at no time shall collection crews cross to the left-hand side of the road 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.
- 12.4.6. Franchisee's vehicles shall not unduly interfere with vehicular or pedestrian traffic. Vehicles shall not be left on the street unattended.

#### 12.5. Protection of Private and Public Property

- 12.5.1. Franchisee acknowledges that collection points on right of ways are frequently co-located with other utility easements. Therefore, particular attention shall be given to the location of water meters, transformers, guy wires, utility poles, and irrigation structures. Authorization to use

the easement does not abrogate Franchisee's responsibility to exercise caution in relationship to the property of other authorized users.

- 12.5.2. Franchisee shall take care to prevent damage to all public and private property while conducting services pursuant to this Agreement, including, but not limited to, buildings, monuments, markers or fences, vehicles, pipes and underground structures, storm water inlet covers, gutters, curbs, public streets, trees and tree canopies, flowers, shrubs, and other plantings. The City acknowledges this does not preclude normal wear and tear of streets resulting from normal use by Franchisee.
- 12.5.3. Franchisee shall immediately notify the Contract Manager of any personal injury or damage to public or private property caused by Franchisee during the provision of collection services. Wherever such property is damaged due to the activities of Franchisee, it shall be restored to its original condition by Franchisee at Franchisee's expense. If any damage caused by the Franchisee impacts the safety, health, or welfare of the City's citizens and the Franchisee fails to restore such property or make good such damage or injury with a sense of urgency, the City may, upon twenty-four (24) hours written notice to the Franchisee, proceed to repair, rebuild, or otherwise restore such property as may be deemed necessary and to bill the cost to the Franchisee. The repairs will be arranged by the City and billed to the Franchisee based on the actual cost incurred to repair the said damages, plus ten percent (10%) to account for the City's administrative costs. In addition, if on City property, Franchisee shall submit an accident/investigation report within forty-eight (48) hours to Contract Manager.

#### 12.6. Spillage and Littering

- 12.6.1. Franchisee shall not litter or cause any spillage to occur upon the premises or the right of way wherein the collection and transport of materials shall occur. During transportation, all collected materials shall be contained, tied, or enclosed to prevent leaking, spilling and blowing.
- 12.6.2. In the event of any confirmed spillage/leakage/blowing from a Franchisee's vehicle, Franchisee shall promptly, at least within twenty-four (24) hours, clean up all spillage/leakage/blowing at no cost to the City. Franchisee is responsible to clean such spills, leaks, or blown materials to the satisfaction of the Contract Manager up to, and including, resealing or resurfacing depending on the severity of the damage. If Franchisee can satisfactorily prove to the Contract Manager that the responsibility for the spillage/leakage/blowing belongs to a third party, then Franchisee will not be responsible for the cleanup.

#### 12.7. Collection Plan

Franchisee shall maintain a collection plan, initially developed during the transition prior to Commencement Date, describing in detail how Franchisee will provide collection services in compliance with the requirements in the Agreement. Any change to the collection plan shall be submitted to the Contract Manager for approval.

#### 12.8. Permits and Licenses

Franchisee shall obtain, at its own expense, all permits and licenses required by Applicable Law and maintain same in full force and effect. Any revocation of Franchisee's licenses or permits shall be reported to the Contract Manager within three (3) business days.

#### 12.9. Relationship with the City

Franchisee shall cooperate with the City in every reasonable way to facilitate the successful completion of the activities contemplated in this Agreement. Franchisee shall assign a qualified person or persons as a point of contact to be in charge of Franchisee's operations within the City. The City shall have direct access to Franchisee's point of contact as designated by Franchisee. The City's point of contact shall be the Contract Manager. Alternates may be designated by either party upon written notification.

#### 12.10. Personnel

- 12.10.1. Within three (3) business days following the Effective Date, Franchisee shall provide the Contract Manager with a written list containing the names, addresses, emails, and telephone numbers of Franchisee's operations manager and other key personnel, and the telephone numbers that are to be used to contact Franchisee in the event of an emergency.
- 12.10.2. Franchisee shall use competent, qualified, sober, drug-free personnel to provide collection services pursuant to this Agreement. Employees shall adhere to a no smoking policy while performing services for the City. Franchisee shall only utilize personnel in providing services pursuant to this Agreement that have passed criminal background checks. Franchisee shall devote sufficient personnel, time, and attention to its operations under this Agreement to ensure that its performance will be satisfactory to the City.
- 12.10.3. Franchisee shall furnish each employee with an appropriate means of identifying him or her as an employee of Franchisee. At a minimum each Franchisee employee shall have a uniform with a nametag and company logo. Franchisee's employees shall wear the uniform and identification at all times while on duty.
- 12.10.4. All of Franchisee's personnel shall maintain a courteous and respectful attitude at all times. Franchisee shall instruct its employees to avoid loud or profane language at all times during the performance of their duties under this Agreement. Franchisee's employees shall not conduct themselves in a negligent, disorderly, or dishonest manner.
- 12.10.5. Franchisee shall comply with all Applicable Law relating to wages, hours, overtime, disability, and all other matters relating to the employment and protection of employees, now or hereafter in effect.
- 12.10.6. The City reserves the right to disapprove and request removal of any Franchisee personnel assigned to the City's work. Such disapproval or request shall be for reasonable cause only and shall be addressed in writing to Franchisee. Notwithstanding the foregoing, Franchisee shall not be required to take any action with regard to Franchisee's personnel that would violate any Applicable Law.

#### 12.11. Employee Training and Licenses

- 12.11.1. All of Franchisee's employees shall be qualified and appropriately trained for the tasks assigned to them. Franchisee shall provide refresher courses and additional training to its employees, as needed, to ensure compliance with the requirements of this Agreement and all Applicable Law. The City has the right to review Franchisee's training records.
- 12.11.2. At all times when operating vehicles or equipment pursuant to this Agreement, Franchisee's employees shall carry a valid Florida driver's license for the type of vehicle or equipment being operated.

#### 12.12. Office Requirements

- 12.12.1. Franchisee shall maintain a local office within a two-hour drive time from City Hall that is accessible to customers from 8:00 a.m. to 5:00 p.m., Monday through Friday, except Holidays.
- 12.12.2. Franchisee's local office shall be equipped with adequate and appropriate personnel and equipment to receive, document, and respond to inquiries, issues, and complaints in a timely manner (not longer than twenty-four (24) hours). Franchisee's office staff shall be familiar with the City and Franchisee's obligations under this Agreement.
- 12.12.3. Franchisee shall maintain a local telephone number routed to the local office where service inquiries and complaints can be received by Franchisee. Franchisee shall use either a telephone answering service or answering machine to receive service inquiries and complaints during those times when the office is closed. Messages shall be answered no later than noon the following business day. Should the answering service or answering machine be used during office hours, such as during lunch time or when all telephone lines are full, these services must be monitored regularly, so that Franchisee can respond to the message within sixty (60) minutes.
- 12.12.4. Franchisee shall establish a process, subject to the Contract Manager's approval, for receiving and handling emergency calls, both during and after normal operating hours.

#### 12.13. Customer Service Standards

- 12.13.1. Franchisee shall be responsible for providing the highest quality service to all customers under the provisions of this Agreement.
- 12.13.2. Franchisee shall designate Route Managers to ride behind all routes in order to pick up misses or late set outs.
- 12.13.3. Franchisee shall keep a written record of all calls it receives regarding the Franchisee's service under this Agreement including, but not limited to, inquiries, missed pickups, and complaints. Franchisee shall use a standard form to record the pertinent facts regarding each call, how it was responded to, and resolution, if required. The form shall identify source of the call (customer name, customer type – residential, multi-family, or commercial, account number, and contact information), the time and date when a call was received, when Franchisee responded to the call, and the date and time when any issue was resolved. Franchisee's records and forms shall be kept up to date and a record of all calls shall be submitted daily as outlined in Article 13.2, unless

otherwise directed by the Contract Manager. In addition, Franchisee's records and forms shall be maintained throughout the term of this Agreement. The call log shall be maintained at Franchisee's office in Orange or Seminole County and shall be electronically transmittable upon request.

- 12.13.4. Franchisee shall resolve all complaints as expeditiously as possible and shall take whatever steps are necessary to remedy the cause of a complaint within twenty-four (24) hours after receiving notification.
- 12.13.5. If the City receives a complaint regarding Franchisee's service under this Agreement, the complaint shall be immediately forwarded to Franchisee by telephone or electronic communication. Within twenty-four (24) hours of receipt the Franchisee shall notify the City by telephone or electronic communication of the action taken to resolve the complaint.
- 12.13.6. If the City or customer notifies Franchisee of a missed collection before 12:00 p.m. Monday through Friday, Franchisee shall return to the customer's premises before 6:00 p.m. the same Day of the notification and collect all of the Solid Waste or Recyclables that have been set out for collection. If Franchisee is notified after 12:00 p.m. Monday through Friday of a missed collection, collection shall be made by 12:00 p.m. the next Day following notification. Notifications received Friday after 12:00 p.m. Friday through Sunday shall be corrected before 12:00 p.m. on Monday.
- 12.13.7. Franchisee shall notify the Contract Manager regarding any issues that have not been resolved within twenty-four (24) hours after receiving notification. Franchisee may request, and the Contract Manager may grant, additional time to remedy a complaint when necessary. If a dispute is not resolved to a customer's satisfaction, the City shall have the authority to determine how the dispute will be resolved.

#### 12.14. Vehicle and Collection Equipment

- 12.14.1. Franchisee shall maintain a dedicated frontline fleet of collection vehicles designated for the City of Winter Park to fulfill this Agreement. No single frontline or spare vehicle shall exceed the maximum age of ten (10) years. The City reserves the right, at its discretion, to require a vehicle be taken out of service for habitual maintenance issues.
- 12.14.2. Franchisee shall provide the Contract Manager with a list of vehicles and other collection equipment that will be used by the Franchisee to provide services under this Agreement as required in Article 5.1. This list shall identify the use of each vehicle (e.g., garbage or recycling collection, residential or commercial collection, etc.), make and model, license tag number, and age for each vehicle. Franchisee shall revise and resubmit the list to the Contract Manager during the term of this Agreement if there are any changes to the list of vehicles or other collection equipment. The requirements of this paragraph do not apply to: (a) vehicles and other collection equipment used in the City for thirty (30) Days or less; or (b) bona fide demonstration trucks and other collection equipment.
- 12.14.3. Franchisee shall purchase and/or lease, maintain, and repair all of the vehicles and equipment necessary to comply with the requirements of

this Agreement. Franchisee's vehicles and equipment shall be compatible (in size and weight) with, and appropriate for, the areas where such vehicles and equipment are utilized.

- 12.14.4. All of Franchisee's collection vehicles shall have waterproof seals and shall be watertight to a depth sufficient to prevent the discharge or leaking of liquids that have accumulated in the vehicle's cargo area during loading and transport operations.
- 12.14.5. Franchisee shall monitor, maintain and repair its collection vehicles and equipment, at a minimum, in compliance with the manufacturer's recommendations and Applicable Law. Oil/hydraulic systems and waterproof seals/enclosures shall be kept in good condition at all times to prevent spills and leaks.
- 12.14.6. All collection vehicles shall be painted a uniform color.
- 12.14.7. The City reserves the right to conduct periodic inspections of operations, vehicles, and equipment to ensure compliance with Applicable Law, as well as requirements of this Agreement.
- 12.14.8. All vehicles used to provide collection service under this Agreement 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.
- 12.14.9. Franchisee shall have sufficient reserve vehicles and equipment available to complete daily routes. The use of reserve vehicles and equipment shall include, but not be limited to, occasions when frontline vehicles and equipment are out of service, or when unanticipated delays will prevent frontline vehicles and equipment from completing the collection route(s) within the established hours of collection.
- 12.14.10. The reserve vehicles and equipment shall be in service within two (2) hours of any breakdown or delay of the frontline collection vehicle. The reserve vehicles and equipment shall be similar in size and capacity to the vehicles and equipment being replaced.
- 12.14.11. Franchisee shall keep all collection vehicles and equipment cleaned. All collection vehicles used for the collection of Solid Waste shall be washed thoroughly and sanitized with a suitable disinfectant and deodorant at least once each week, unless the Contract Manager approves an alternate cleaning schedule. Other collection vehicles shall be cleaned and washed, as necessary, to minimize the potential for odors and nuisance conditions.
- 12.14.12. Franchisee's vehicles shall clearly display Franchisee's logo, name, and telephone number printed in letters not less than four inches (4") on each side of the vehicle.
- 12.14.13. Franchisee vehicles shall be numbered with numbers not less than four inches (4") high on each side of the vehicle. Franchisee shall keep a record of the vehicle to which each number is assigned.



**12.14.14.** Franchisee shall display the City theme and logo on the sides and rear of every frontline vehicle used to collect Solid Waste or Program Recyclables pursuant to this Agreement. The signs shall be appropriately sized, as mutually agreed. The City will provide the approved artwork for the Franchisee's vehicles.

**12.15. Service Verification System**

**12.15.1.** Franchisee shall provide, populate, and maintain a web-based service verification system to which the City has access. Service verification software shall be capable of providing reports online that can be downloaded in PDF and Excel formats. Franchisee is responsible for all associated costs and maintenance. The service verification system must be operational and accessible no later than by the Commencement Date.

**12.15.2.** Service verification system shall be capable of providing map-based location visibility of frontline and reserve collection vehicles. Service verification system shall be capable of providing location-based Container collection service and be able to generate reports as needed based on Container collection service activity, including, but not limited to, collection and non-collection events and set-out data. Variables and fields used to supply and manage this information shall include, but not be limited to:

- a. Roll Cart or Container type (garbage or recycling)
- b. Generator type (residential, multi-family, or commercial)
- c. Customer name/ID and address
- d. Collection event date, time, and latitude/longitude coordinates
- e. RFID tag number
- f. Serial number
- g. Cart/Container size
- h. Route and truck information

**12.15.3.** Service verification system shall include an asset management database through which Franchisee 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 City approval. The initial database must be populated and uploaded into the web-based Service Verification Database no later than seven (7) Days following the Commencement Date. All database adjustments must be made within forty-eight (48) hours of physical inventory exchange and completion of work order. The service verification system shall be able to generate reports as needed on residential Roll Cart activity including maintenance and inventory reports. 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:

- a. Work order number, date, and status
- b. Roll Cart type (garbage or recycling)
- c. Residential Customer name/ID and address

- d. RFID tag numbers
- e. Serial number
- f. Cart size
- g. Recovery and delivery latitude/longitude coordinates
- h. Route information

- 12.15.4. Franchisee shall provide necessary access to the City of the Franchisee's web-based service verification and asset management system and work with the City to develop regular reports.

## **ARTICLE 13. RECORD KEEPING AND REPORTING**

### **13.1. Record Keeping**

Franchisee shall maintain books, records, documents, time and cost accounts, and other evidence directly related to its provision or performance of services under this Agreement. All time-records and cost data shall be maintained in accordance with generally accepted accounting principles.

Franchisee shall maintain and allow access to the records required under this section for a minimum period of five (5) years after the completion of the provision or performance services under this Agreement and date of final payment for said services, or date of termination of this Agreement.

### **13.2. Reporting**

- 13.2.1. Franchisee shall provide the City with complete visibility of daily collection service operations through the use of a web-based RFID tracking software system. The software shall have the ability to generate reports based on Container activity such as inventory reports, maintenance reports, set out rates, non-collection events, and any others requested by the City. Reports should be able to be viewed in Adobe PDF format or downloadable in Microsoft Excel format. The system shall also have the following capabilities and/or requirements:

- a. Visibility of every collection event by customer, truck, route, Container, location, date, and time.
- b. Visibility of Containers serviced by associated customer/address, serial number (for Roll carts), GPS location of service, date and time of collection event.
- c. The system shall be free of any requirements for the City to install and support any back office software for the collection and delivery of collection data.
- d. The system provider shall provide onsite training as part of the transition (Article 5.1.)

- 13.2.2. Daily Report: Franchisee shall electronically submit a daily report, by 11:00 a.m. each day, to the Contract Manager, in a format pre-approved by the Contract Manager, containing the following information for the previous day:

- a. Weight ticket information for all Solid Waste delivered to the Designated Facility on behalf of the City including daily tonnage by material type and individual load tonnage by route type.
  - b. Weight ticket information for all Program Recyclables collected and delivered to the Designated Facility by the Franchisee.
  - c. Call log for all calls received (cumulative for the current month) as specified in Article 12.13.
  - d. Non-collection as specified in Article 6.4.
  - e. Incidences of personal injury or property damage, including vehicular damage, to public or private property by Franchisee as specified in Article 12.5.
  - f. Spillage and Littering occurrences as specified in Article 12.6.
- 13.2.3. Monthly Report: Franchisee shall electronically submit a monthly report, prior to the fifteenth (15) Day of each month, to the Contract Manager, in a format pre-approved by the Contract Manager, containing the following information for the previous service month:
  - a. Tonnage of Solid Waste, Yard Waste, and Bulk Waste collected from Residential Customers during the previous month, each reported separately.
  - b. Tonnage of Solid Waste collected from Multi-Family Customers and Commercial Customers during the previous month. If it is operationally more efficient, the Franchisee may choose to include the collection of Multi-Family and Commercial Solid Waste collected in Roll Carts with Residential Solid Waste collected in Roll Carts. If Multi-Family and Commercial Solid Waste collected in Roll Carts is combined with Residential Solid Waste collected in Roll Carts, the Residential Solid Waste tonnage report must note the additional sources of Solid Waste.
  - c. Tonnage of Program Recyclables collected during the previous month.
  - d. A summary of calls as specified in Article 12.13.
  - e. Roll Cart asset management report as specified in Article 12.15.
  - f. List of customers receiving commercial Recyclables collection service. Include customer name, address, type of material (such as segregated cardboard, paper, commingled containers, glass, Single Stream, etc.) container size, frequency of collection and billing rate. If possible, the total tonnage of Recyclables collected from Commercial Customers during the previous month.
  - g. Documentation of all activities conducted by the Franchisee to encourage participation in recycling.
- 13.2.4. Franchisee shall provide any additional information or reports as requested by the Contract Manager to monitor this Agreement or the City's Solid Waste and recycling programs.

## **ARTICLE 14. EDUCATION AND OUTREACH**

### **14.1. Distribution of Information**

- 14.1.1. All forms of communication regarding the City's Solid Waste and Recycling program including, but not limited to, electronic, written, audio, video, graphics, logos, etc. shall be reviewed and approved by the Contract Manager, or designee, prior to disseminating or presenting publically. The City desires to follow the Recycle Across America standards but may choose alternative messaging.
- 14.1.2. Prior to the Commencement Date and at least annually thereafter, the Franchisee shall provide each customer with an informational brochure summarizing the obligations of the customer and the Franchisee. Residential Customer information should include, but is not limited to, information regarding Solid Waste, Program Recyclables, Yard Waste, and Bulk Waste collection, and Special Collection Services, and include setout procedures, regulations, days of collection, and complaint procedures. Multi-Family and Commercial Customers information should include information appropriate for their collection service. The brochure(s) must be approved by the Contract Manager prior to distribution. The Franchisee shall be responsible for all costs of production and distribution.
- 14.1.3. At the time of Roll Cart delivery to a Residential Customer, Franchisee shall include, at a minimum, the information brochure described in Article 14.1.2. and service day notice bagged and secured to each Roll Cart in a manner approved by the City. The City reserves the right to provide additional documents to the Franchisee for distribution in the Roll Cart delivery packet. If both a Solid Waste Roll Cart and Recycling Roll Cart are delivered at the same time to the same Residential Customer, the information packet shall be secured to the Solid Waste Roll Cart and is not required for the Recycling Roll Cart.

### **14.2. City and Franchisee Responsibilities**

The City shall have the primary responsibility for creating public education and outreach promotional materials for the City's Solid Waste services in partnership with the Franchisee. The Franchisee shall contribute a yearly education and outreach fee of twenty-five thousand dollars (\$25,000) to support the City's education and outreach efforts. A check shall be due by August 1 prior to each year during the term of the Franchise Agreement. The first year's education and outreach fee shall be due October 30, 2016.

## **ARTICLE 15. FRANCHISE FEE**

The Franchise Fee shall pertain to collection and disposal service for all Multi-Family and Commercial Customers with Compactor and Roll-Off services, except for City-designated Compactors and/or Roll-Offs in the Center Street Service Area. Franchisee shall remit a Franchise Fee in the amount of fifteen percent (15%) of services provided in the immediately preceding month pursuant to the Franchise granted herein to the City, by check, on or before the fifteenth (15th) Day of each month.

## **ARTICLE 16. COMPENSATION**

### **16.1. Billing and Payment**

- 16.1.1. The City will bill and collect payment for collection services, including Special Collection Services, from all Residential, Multi-Family, and Commercial Customers, with the exception of Compactor and Roll-Off service. However, the City will bill and collect payment for all services provided in the Center Street Service Area including Compactor and Roll-Off services. An account of the customers receiving collection services and the level of service provided will be taken each month and used to determine the amount due to the Franchisee. The City will remit payment for services each month by the fifteenth (15<sup>th</sup>) Day of the following service month.
- 16.1.2. The City shall be responsible for payment for disposal services to the Designated Facilities for Solid Waste collected in Roll Carts and Dumpsters from Residential, Multi-Family, and Commercial Customers pursuant to this Agreement. Franchisee shall be responsible for payment for disposal services to Designated Facilities for Solid Waste collected in Compactors and Roll-Offs from Multi-Family and Commercial Customers, with the exception of City-designated Compactors and/or Roll-Offs from the Center Street Service Area. The City shall be responsible for payment for disposal services to the Designated Facilities for Solid Waste collected in Compactors or Roll-Offs in the Center Street Service Area.
- 16.1.3. Billing and collection of all other non-exclusive services including, but not limited to, collection of commercial Recyclables and C&D generated from existing residential single family dwelling units, duplexes, and triplexes shall be the sole responsibility of the Franchisee.

### **16.2. Collection Service Fees**

- 16.2.1. Service fees for Residential, Multi-Family, and Commercial Collection Service are provided in Exhibit 1. Service fees for Special Collection Service are provided in Exhibit 3.
- 16.2.2. Annual Service Fee Adjustments
  - All fees in Exhibit 1 are subject to annual service fee adjustments as set forth in Exhibit 5.
  - 16.2.2.1. Service fees shall remain the same through the first year of the Franchise Agreement.
  - 16.2.2.2. On October 1, 2017 and October 1 of each subsequent year during the term of this Agreement, service fees, shall be adjusted as specified in Exhibit 5. The annual service fee adjustment shall not exceed three and a half percent (3.50%).
- 16.2.3. Change in Law Fee Adjustment
  - Franchisee may petition the City for an additional collection service fee adjustment resulting from a Change in Law. Franchisee's request shall contain substantial proof and justification to support the need for the fee adjustment. The City may request from Franchisee such further

information as may be reasonably necessary in making its determination. Within sixty (60) Days of receipt of the request and all other additional information required by the City, the Contract Manager shall make a determination regarding the fairness of the request and shall make a recommendation to the Commission. The Commission shall consider the request at a regularly scheduled meeting. If the Commission approves the request, adjusted fees shall become effective upon the Commission's approval.

**16.2.4. Limitation on Fee Changes**

Franchisee shall not be allowed a collection service fee increase for any reason other than those expressly specified in this Agreement. Notwithstanding the foregoing, in the event that a federal, state, or local entity imposes a fee, charge, or tax after August 1, 2016 that applies to Franchisee's operations, such fee, charge, or tax shall be treated as a Change in Law and shall be passed through as a separate billed item after notice to, and confirmation by, the City.

**16.3. Processing Payment**

The processing payment shall be remitted quarterly for all Single Stream and segregated cardboard Program Recyclables collected from Residential Customers, Multi-Family Customers, the Center Street Service Area, City Facilities, City-sponsored events, and City-designated public areas. The processing payment shall be based on the inbound tons of Program Recyclables as measured by the facility scales at which the Recyclables are initially received. Commercial Recyclables collected with Program Recyclables shall thereby be considered Program Recyclables. Payment shall be made according to the following schedule with a report detailing monthly tonnage and revenue calculation in a format approved by the Contract Manager. Revenue payment per ton shall be calculated as specified in Exhibit 8.

<b>Collection Schedule</b>	<b>Payment Due Date</b>
October 1 – December 31	January 31
January 1 – March 31	April 30
April 1 – June 30	July 31
July 1 – September 30	October 31

**ARTICLE 17. EMERGENCY SERVICES**

**17.1. Contingency Plan**

In the event of a hurricane, tornado, major storm, natural disaster, or other such event, resulting in the temporary closure of the Designated Facility, the Contract Manager may grant Franchisee a variance from regular routes and schedules. However, Franchisee shall resume regular collection service upon re-opening of the Designated Facility. Should the Designated Facility be in operation but the Franchisee is unable to perform regular collection service, the Franchisee may be granted a variance upon request by Franchisee in writing to the Contract Manager. Franchisee shall coordinate with the City to inform customers of any change in schedule as soon as possible after variance has been granted. In such cases, Franchisee shall make the City its highest priority and additional effort will be

rendered to make up for missed collections. As soon as practicable after such event, Franchisee shall advise the Contract Manager when it is anticipated that normal routes and schedules can be resumed. All of the vehicles normally used by Franchisee in the City shall be dedicated to the collection of Solid Waste in the City during the emergency and any subsequent recovery periods.

**17.2. Franchisee Unable to Provide Contracted Services**

In the event that Franchisee is unable to provide adequate services during an emergency or other event involving an Uncontrollable Force, the City may hire other contractors to provide those services. In such case, the City, as applicable, reserves the right to charge Franchisee for all costs and expenses that the City incurs while providing the services that Franchisee is obligated to provide pursuant to the requirements of this Agreement, subject to set-off for the amounts that would have been paid to Franchisee for services.

**17.3. Disaster Response Plan**

Franchisee shall develop and provide to the City a written disaster preparedness and response plan (Disaster Plan) thirty (30) Days prior to the Commencement Date. Thereafter, Franchisee shall provide an updated Disaster Plan by April fifteenth (15<sup>th</sup>) of each year. This Disaster Plan shall include provisions for additional personnel and equipment, and shall establish a reasonable, verifiable basis for any charges associated therewith. The City shall coordinate with Franchisee if a disaster should require temporary closure, or modification to the hours of operation of the Designated Facility. Franchisee shall be familiar with local, state, or federal agency documentation requirements, including but not limited to the generality of the foregoing, rules, regulations, and guidelines applicable to the Federal Emergency Management Agency's (FEMA's) Public Assistance Program for Debris Removal, as such requirements change from time to time. Franchisee shall maintain complete and accurate records of any and all such disaster work and provide all required and necessary documentation for submission of cost reimbursement requests. Franchisee shall be required to submit its FEMA documentation of costs to the City as a condition of payment for additional personnel and equipment pursuant to this section.

**ARTICLE 18. PERFORMANCE**

**18.1. Performance Bond**

Upon award, the Franchisee shall be required to furnish and pay for bonds covering faithful performance of the Agreement and payment of all obligations arising thereunder by delivering to the City a Performance & Payment (P&P) bond. The P&P bond shall be furnished in the amount equal to fifty percent (50%) of the annual Agreement value, in such a form as the City may prescribe and with a surety company acceptable to the City. The amount of the performance bond shall be adjusted in accordance with this provision annually on October 1, 2017 and October 1 of each subsequent year during the term of this Agreement.

All P&P bonds are to be issued from a company licensed to sell bonds in the State of Florida and with a rating no less than A in the Best Key Rating Guide. The City has the right but not the obligation to verify that these requirements are met. The Performance & Payment Bond must be delivered to the City within ten (10) Days following the Effective Date. Failure or neglect to deliver said bond as specified shall be considered as having abandoned the contract. Letters of Credit are not acceptable in lieu of the required bond.

**18.1.1. Said bond shall be forfeited should Franchisee:**

- a. Fail to comply with the requirements of this Agreement; or
- b. Take the benefit of any present or future insolvency status or make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of reorganization or the readjustment of indebtedness under the Federal bankruptcy laws or under any 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 Franchisee's property; or
- c. By an order or decree of a court to be adjudicated bankrupt; or
- d. Have an order or decree of a court entered approving a petition filed by any of Franchisee's creditors seeking a reorganization or readjustment of Franchisee's indebtedness under the Federal Bankruptcy laws or any law or statute of the United States or any state thereof.

**18.2. Liquidated Damages**

- 18.2.1. It is the intent of the City to ensure that the Franchisee provides a quality level of Solid Waste and Recyclables collection service. The City and Franchisee acknowledge and agree that it is impossible to precisely determine the amount of damages that would be incurred by the City due to service failures or circumstances described in this section for which the Franchisee would otherwise be liable. Accordingly, the City 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, for the Franchisee's breach of this Agreement.
- 18.2.2. The Contract Manager shall notify Franchisee in writing by the twenty-fifth (25th) Day of the month of the City's intent to deduct any liquidated damages, including the basis for each assessment, from payments due or to become due to Franchisee for service provided under this Agreement.
- 18.2.3. In the event Franchisee wishes to contest such monthly assessment, Franchisee must do so within five (5) Days of issuance of each assessment notification by requesting, in writing, a meeting with the Contract Manager to resolve the issue. Following such a meeting, the Contract Manager shall notify Franchisee in writing of any action taken with respect to Franchisee's claims. Franchisee may further appeal, in writing, the decision of the Contract Manager to the City Manager, who shall conduct a review of all of the facts and circumstances, and make a determination in writing. The City Manager'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.
- 18.2.4. Prior to the Commencement Date, the Franchisee shall prepare to provide its collection services in a responsible manner. Franchisee shall, at a minimum, adhere to the requirements set out in Article 5.1 including



gaining approval of a detailed transition plan by the Contract Manager. In the event that the Franchisee fails to meet the deadlines in the transition plan without prior Contract Manager approval, the City has the right to assess liquidated damages for each deadline that is missed. Failure to meet the deadline of more than two (2) tasks may lead to the termination of this Agreement. The Contract Manager may impose liquidated damages for the Franchisee's actions during the Transition Period, as set forth below, and deduct from payments due or to become due to Franchisee for services provided under this Agreement.

<b>Transition Performance Standard Violation</b>		<b>Liquidated Damages</b>
1	Failure to provide the Contract Manager with contact information for the Franchisee's operations manager and other key personnel within three (3) business days of the Effective Date. (Article 12.10.1)	\$1,000 per Day past the due date
2	Failure to submit a detailed, task-level transition plan to the Collection Manager no later than fifteen (15) Days following the Effective Date. (Article 5.1.)	\$3,500 per Day past the due date
3	Failure to revise the transition plan based on Contract Manager directive within five (5) Days of notification. (Article 5.1.)	\$7,000 per Day past the due date
4	Failure to provide, populate, and maintain the Service Verification System no later than by the Commencement Date. (Article 12.15.)	\$5,000 per Day past the due date
5	Missed deadline on Contract Manager-approved transition plan	\$1,000 per incident per Day past the due date

18.2.5. The Contract Manager may assess the following liquidated damages pursuant to this Article on a monthly basis in connection with the Agreement:

<b>Performance Standard Violation</b>		<b>Liquidated Damages</b>
1	Failure to deliver materials to a Designated Facility. (Article 11.)	Per occurrence (occ.) 1 <sup>st</sup> occ. = \$1,000 2 <sup>nd</sup> occ. = \$5,000 3 <sup>rd</sup> + occ. = \$10,000
2	Mixing materials. (Article 12.1.)	\$5,000 per occ.
3	Failure to submit to City all plans, reports, or other documents in the time required under the provision of this Agreement, unless otherwise approved by the Contract Manager. (Article 13)	\$500 per item per Day past the due date
4	Failure to leave a non-collection notice for customer explaining why material was not collected. (Article 6.4)	\$50 per occ.

5	Failure to comply with the hours and days of operation. (Articles 6.5., 7.3., and 8.5.)	\$100 per occ. per vehicle
6	Failure to repair, replace, or deliver a Container or RFID tag on commercial Containers within the required timeframe. (Article 9.)	\$50 per Container per Day
7	Failure to complete each route on the regularly scheduled day except when such completion is made impossible by weather or other conditions, as determined by City.	\$250 per incomplete route per Day
8	Changing routes or route order without proper notification. (Article 12.3.)	\$1,000 per occ.
9	Failure to clean spillage, leakage, or blowing of material (oil, hydraulic fluid, Solid Waste, Recyclables, etc.) within twenty-four (24) hours. (Article 12.6.)	\$250 per incident per Day
10	Failure to have vehicle operators properly licensed. (Article 12.11.)	\$1,000 per occ. per Day
11	Failure to maintain a local customer service office for the hours required (Article 12.12.)	\$500 per occ. per Day
12	Failure to resolve missed pickups or complaints within the specified time frame, unless otherwise approved by the Contract Manager. (Articles 12.13.)	\$100 per unresolved missed pickup or complaint per Day
13	Failure to provide proper vehicles and equipment as required. (Article 12.14.)	\$250 per occ.

## **ARTICLE 19. TERMINATION**

### **19.1. Failure to Maintain Performance Bond and Insurances.**

The City reserves the right to terminate this Agreement if Franchisee fails to obtain and maintain the Performance Bond as set forth in Article 18.1 or the insurance set forth in Article 20.

### **19.2. Scrutinized Companies**

Franchisee is advised that section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of One Million Dollars (\$1,000,000.00) or more that are on either the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List. Both lists are created pursuant to section 215.473, Florida Statutes. The City reserves the right to terminate this Agreement if the City discovers that Franchisee has submitted a false certification regarding the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List, and/or if, during the term of the Agreement, Franchisee has been placed on the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List.

### 19.3. Bankruptcy

- 19.3.1. The City reserves the right to terminate this Agreement if Franchisee takes the benefit of insolvency statute, or shall make a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy, petitions or answers seeking an arrangement for its reorganization or 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 consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property.
- 19.3.2. The City reserves the right to terminate this Agreement if by order or decree of a court, Franchisee 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 Franchisee seeking its reorganization or the readjustment of its indebtedness under 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 cancellation shall be and become null, void, and of no effect.
- 19.3.3. The City reserves the right to terminate this Agreement if by or pursuant to or under 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 Franchisee, and such possession of control shall continue in effect for a period of sixty (60) Days.

### 19.4. Convenience

The City may terminate this Agreement in whole, or in part, by giving Franchisee thirty (30) Days advanced written notice, to be served as hereafter provided, under determination by the City Manager that such termination is in the best interest of the City. Any such termination shall be effected by the delivery, via mail or otherwise, to the address provided in Article 21.17., of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated and the date upon which such termination becomes effective. Upon such termination for convenience, Franchisee shall be entitled to payment, in accordance with the payment provisions, for services rendered up to the termination date and the City shall have no other obligations to the Franchisee. Franchisee shall be obligated to continue performance of services, in accordance with this Agreement, until the termination date and shall have no further obligation to perform services after the termination date.

## **ARTICLE 20. INSURANCE**

The Franchisee, and any subcontractors, shall require its insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City. The Franchisee shall instruct their agent to issue certificates of insurance to the City immediately upon signed Agreement, attesting to insurance coverage for Worker's Compensation Insurance as required by the Florida Statutes, Public Liability, Property Damage Insurance, Professional Liability Insurance (when applicable) in the amount of \$1,000,000.00, and other requirements, as summarized on and in the amounts specified below. The Franchisee shall not commence work under this Agreement until obtaining

all insurance coverage under this section and until the City has received and approved such insurance.

The City of Winter Park shall be named as an **ADDITIONAL INSURED** on the General Liability coverage. Insurance companies must be licensed to do business in the State of Florida with a Best's Key Rating Guide rate of no less than A. This information will be verified at the City's discretion.

The certificate holder shall be named as City of Winter Park. Thirty (30) Days cancellation notice is required.

Insurance Type	Required Limits
✓ Worker's Compensation	Statutory Limits of Florida Statutes, Chapter 440 and all Federal Government Statutory Limits
✓ Employer's Liability	\$500,000.00 each accident, single limit per occurrence
✓ Commercial General Liability (Occurrence Form) patterned after the current ISO form	\$1,000,000.00 single limit per occurrence \$2,000,000.00 aggregate for Bodily Injury Liability & Property Damage Liability. This shall include Premises and Operations; Independent Contractors; Products & Completed Operations & Contractual Liability.
✓ Automobile Liability	\$1,000,000.00 each person; Bodily Injury & Property Damage, Owned/Non-owned/Hired; Automobile Included. \$2,000,000.00 each accident; Bodily Injury & Property Damage, Owned/Non-owned/Hired; Automobile Included.

## **ARTICLE 21. OTHER TERMS AND CONDITIONS**

### **21.1. Indemnification**

The Franchisee hereby agrees to indemnify and hold harmless the City, and its officials, representatives, agents, officers, and employees from and against all claims for infringement of any United States Patent and all other claims, damages, losses and expenses (including without limitation costs of defending the same and attorney's fees) arising out of or resulting from the performance of the work, furnishing of services, or furnishing of materials, goods, or equipment (including but not limited to claims regarding defects in materials, goods or equipment) which is caused in whole or in part by any breach of contract, act, or omission of the Franchisee, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The Franchisee shall indemnify and hold harmless the City from and against any and all claims against the City, or any of its officials, representatives, agents, officers, and employees, by any employee of the successful proposer or of any subcontractor. The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Franchisee or any subcontractor under any Worker's Compensation Act, Disability Benefit Act, or other Employee Benefit Act.

In addition to and without limitation of the foregoing provisions regarding protection of the City from liabilities, the Franchisee agrees for good and valuable consideration to protect, defend, indemnify and hold the City, its officials, officers, employees, representatives, and agents free and harmless from and against any and all claims, losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character including, but not limited to, attorney's fees and other legal costs such as those for paralegal, investigation and legal support services, and the actual costs incurred for expert witness testimony arising out of or resulting from the performance or provision of services required under this Agreement, arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of the error, omission or negligent act of the contractor, its agents, servants, officers, officials, employees or subcontractors. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, failure to act, malfeasance, misfeasance, conducts or misconduct, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. Franchisee agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at its sole expense and agrees to bear all other costs and expenses related thereto, even if such claim is groundless, false or fraudulent.

## 21.2. Assignment

### 21.2.1. Assignment

Assignment of this Agreement, or any portion of this Agreement, cannot be made without the advance written consent of the City, in the City Commission's sole discretion.

### 21.2.2. Subcontracting

Franchisee shall not employ subcontractors without the advance written permission of the Purchasing Division or Contract Manager, in the City's sole discretion. Franchisee shall be fully responsible for the services and work provided by a subcontractor under the terms of this Agreement. Franchisee agrees that any employee or agent of the Franchisee and any agent/employee of a subcontractor to the Franchisee shall be removed from the City jobsite or City premises upon request by the City Manager or designee. Such request will only be issued to remove a person if the City Manager or designee has a reasonable basis (as determined in his or her discretion) that the presence of such person on City property or at a City jobsite is not in the best interest of the City, or its employees, guests, visitors or citizens. Additionally, a person may be directed to be removed if the person is reasonably deemed to be under the influence of drugs or alcohol, or is behaving in any manner reasonably determined to be unacceptably disruptive or in violation of any criminal law.

## 21.3. Severability

If any term, provision or condition contained in this Agreement shall to any extent, be held invalid against public policy, or otherwise unenforceable by a court of law,

the remainder of this Agreement, or the application of such term or provision shall otherwise be fully enforceable.

**21.4. Compliance with Laws and Regulations**

The Franchisee at all times shall be familiar with and observe and comply with all Applicable Law, which in any manner may apply and those which may be enacted later, or bodies or tribunals having jurisdiction or authority over the work and shall indemnify and hold harmless the City against any claims or liability arising from, or based on, the violation of any Applicable Law. Noncompliance may be considered grounds for termination of this Agreement.

The Franchisee is assumed to have made himself/herself/itself familiar with all Applicable Law, including which in any manner affect those engaged or employed in the work, or the materials or equipment used in or upon the work, or in any way affect the work. No plea of misunderstanding will be considered an excuse for the ignorance thereof.

**21.5. Compliance with Occupational Safety and Health**

Franchisee certifies that all material, equipment, etc. meets all O.S.H.A. requirements. Franchisee further certifies that if material, equipment, etc. delivered is subsequently found to be deficient in any O.S.H.A. requirement in effect on the day of delivery, all costs, necessary to bring the materials, equipment, etc. into compliance with the aforementioned requirements shall be borne by the Franchisee. Franchisee certifies that all employees, subcontractors, agents shall comply with all O.S.H.A. and state safety regulations and requirements.

**21.6. License, Permits or Fees**

It shall be the responsibility of the Franchisee to obtain all licenses and permits, as required, to complete this service at no additional cost to the City. Permits and the payment of related fees are required from the City of Winter Park within the scope of work in these specifications. Said fees paid for required building permits may be reduced by 33% for the City of Winter Park, only. Fees paid for trade permits including plumbing, electrical, gas, mechanical and demolition permits cannot be waived. The successful proposer is required to obtain the permits; however, the successful proposer may inform the Building Division they are under contract to the City, and request a reduction of the required fees as referenced above. Payment of these fees does not relieve the successful proposer from the financial responsibilities or other requirements imposed by other governmental agencies relating to permits, licenses or fees which they may impose. This does not include waiving school impact fees or Competency Card License fee when applicable. The Franchisee is required to obtain all necessary inspections including building, plumbing, mechanical and electrical inspections and the Certificate of Occupancy must be obtained prior to occupancy as is required by the Winter Park Building Division. All other related Land Development Code requirements related to building projects must be observed including, but not limited to, landscape, irrigation, lighting and storm water provisions. All required licenses and permits shall be disclosed by true and correct copy thereof upon submission of the proposal, and thereafter, shall be readily available for review by the City.

**21.7. Sovereign Immunity**

The City reserves and does not waive any and all defenses provided to it by the laws of the State of Florida or other Applicable Law, and specifically reserves and does not waive the defense of sovereign immunity.

**21.8. Modification**

No waiver, alterations, consent or modification of any of the provisions of the contract shall be binding unless in writing and signed by the City Manager, Assistant City Manager and/or Commission.

**21.9. Reservation of Rights**

The City hereby expressly reserves the right to amend this Agreement, which may be necessary or proper to secure and protect the health, safety, moral, general welfare and accommodation of the public including, but not limited to, amendments related to rates, and to protect the public from danger and inconvenience in the management and operations of solid waste services business, and to provide such services as is contemplated by this Agreement.

**21.10. Independent Franchisee**

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 Franchisee as an agent, representative or employee of the City for any purpose whatsoever. Franchisee is to be, and shall remain, an independent contractor with respect to all services performed under this Agreement. Persons employed by Franchisee in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the City's officers and employees either by operation of law or by the City.

**21.11. Governing Law, Venue**

In the event of any litigation or claim between the Franchisee and the City, including but not limited to any claim or litigation the venue shall be in Orange County, Florida, where all Applicable Law shall be used in the adjudication.

**21.12. Public Access and Public Records**

Franchisee acknowledges and agrees that the City is a public entity that is subject to Florida's public records laws and as such, documents in Franchisee's possession relating to services performed pursuant to this Agreement are subject to inspection pursuant to Chapter 119, Florida Statutes, unless otherwise exempt or excepted by applicable law. Franchisee agrees that any record, document, computerized information and program, e-mail, audio or video tape, photograph, or writing of the Franchisee and its employees, agents and subcontractors related, directly or indirectly, to this Agreement or the services contemplated by this Agreement, shall be deemed to be a Public Record whether in the possession or control of the City or the Franchisee. Specifically but without limiting Franchisee's obligations, Franchisee agrees to: i. at Franchisee's expense, keep, secure, maintain, preserve, and retain the Public Records in the manner specified pursuant to the Public Records Law; ii. provide the public with access to the Public Records on the same terms and conditions that apply to the City and at a cost that does not

exceed the cost provided by law; iii. ensure that the Public Records that are exempt or confidential and exempt from disclosure to the public are not disclosed except as authorized by law for the duration of this Agreement and following the termination and expiration of this Agreement if the Franchisee does not transfer the Public Records to the City; and iv. Meet all requirements for retaining Public Records, and transfer, at no cost to the City, all Public Records in the Franchisee's possession upon termination and expiration of the Agreement or keep and maintain the Public Records required by the City. If the Franchisee transfers all Public Records to the City upon termination and expiration of this Agreement, the Franchisee shall destroy any duplicates that are exempt or confidential and exempt. If the Franchisee keeps and maintains the Public Records upon termination and expiration of this Agreement, the Franchisee shall meet all applicable requirements for retaining Public Records. Upon request from the City's custodian of Public Records, Franchisee must provide the electronically stored Public Records to the City in a format that is compatible with the City's information technology systems. During the effectiveness of this Agreement, upon request by the City, the Franchisee shall, within three business days, supply copies of any requested Public Records to the City. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall, at any and all reasonable times during the normal working hours of the Franchisee, be open and freely exhibited to the City for the purpose of examination and/or audit. Since the City's documents are of utmost importance to the conduct of City business and because of the legal obligations imposed upon the City and Franchisee by the Public Records Law, Franchisee agrees that it shall, under no circumstances, withhold possession of any Public Records, including originals, copies or electronic images thereof when such are requested by the City, regardless of any contractual or other dispute that may arise between Franchisee and the City. This provision shall survive expiration and termination of this Agreement.

**IF THE FRANCHISEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FRANCHISEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 407-599-3277, CITYCLERK@CITYOFWINTERPARK.ORG, 401 S. PARK AVE., WINTER PARK, FL 32789.**

**21.13. Waiver**

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provisions.

**21.14. Survival of Obligation**

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations shall survive final payment, completion and acceptance of the work and termination or completion of the Agreement.



**21.15. Dispute Resolution**

Dispute resolution shall be by litigation. Each party shall bear its own costs and fees.

**21.16. Headings**

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

**21.17. Notice**

Unless otherwise specified by the Contract Manager, all notices required or contemplated by this Agreement shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the City and Franchisee as follows:

To the City: City of Winter Park  
Michelle Neuner, Assistant City Manager  
401 South Park Avenue  
Winter Park, FL 32789

To Franchisee: Waste Pro of Florida, Inc.  
Tim Dolan, Regional Vice President  
3705 St. Johns Pkwy  
Sanford, FL 32771

**IN WITNESS WHEREOF**, the parties have executed, or caused to be executed by their duly authorized officers, this **AGREEMENT** in duplicate each of which shall be deemed an original on the first date as written.

**City of Winter Park, Florida**

Steve Leary

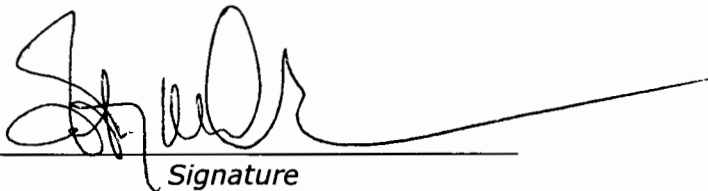
Mayor

  
Signature

**Waste Pro of Florida, Inc.**

Tim Dolan

Regional Vice President

  
Signature

**Attest**

Name: 

Title: City Clerk

By: \_\_\_\_\_

**Attest**

Name: 

Title: City Clerk

By: \_\_\_\_\_

### EXHIBIT 1 – COLLECTION SERVICE FEES

<b>2-1-1 RESIDENTIAL COLLECTION SERVICE</b>	<b>Monthly Collection Fee/Unit*</b>
Solid Waste: 2x/week in Franchisee-provided Roll Carts	\$1.50
Recyclables: 1x/week in Franchisee-provided Roll carts	\$5.52
Yard Trash: 1x/week	\$6.36
<b>Total Monthly Residential Collection Service Fee</b>	<b>\$13.38</b>
Monthly Service Fee for 2 <sup>nd</sup> Solid Waste Roll Cart	\$1.50

<b>COMMERICAL RECYCLING</b>	<b>Monthly Collection Fee/Unit*</b>
Cart Service: 95-gallon Roll Cart collected 1x/week	\$2.30
Dumpster Service: per cubic yard (loose)	\$3.75

<b>COMMERCIAL COLLECTION SERVICE</b>		<b>Monthly Collection Fee/Unit*</b>
95-gallon Roll Cart collected 2x/week		\$20.00
Per Cubic Yard (loose)		\$3.76
Per Cubic Yard (compacted)		\$3.76
	<b>Container and Maintenance Fee/Month**</b>	<b>Fee/Pull</b>
Open Top Roll-Off - 15 cubic yards	\$0.00	\$187.50
Open Top Roll-Off - 20 cubic yards	\$0.00	\$187.50
Open Top Roll-Off - 30 cubic yards	\$0.00	\$187.50
Open Top Roll-Off - 40 cubic yards	\$0.00	\$187.50
Compactor - Vertical	\$200.00	\$0.01
Compactor - 15 cubic yards	\$400.00	\$187.50
Compactor - 20 cubic yards	\$425.00	\$187.50
Compactor - 30 cubic yards	\$450.00	\$187.50
Compactor - 40 cubic yards	\$475.00	\$187.50

\*Includes container and maintenance

\*\* Maximum fee charged for monthly container and maintenance fee; Franchisee may negotiate lower container and maintenance fees. Franchisee may not charge the container and maintenance fee for the collection of Program Recyclables.

NOTE: Disposal fees for compactors and roll-offs will be actual.

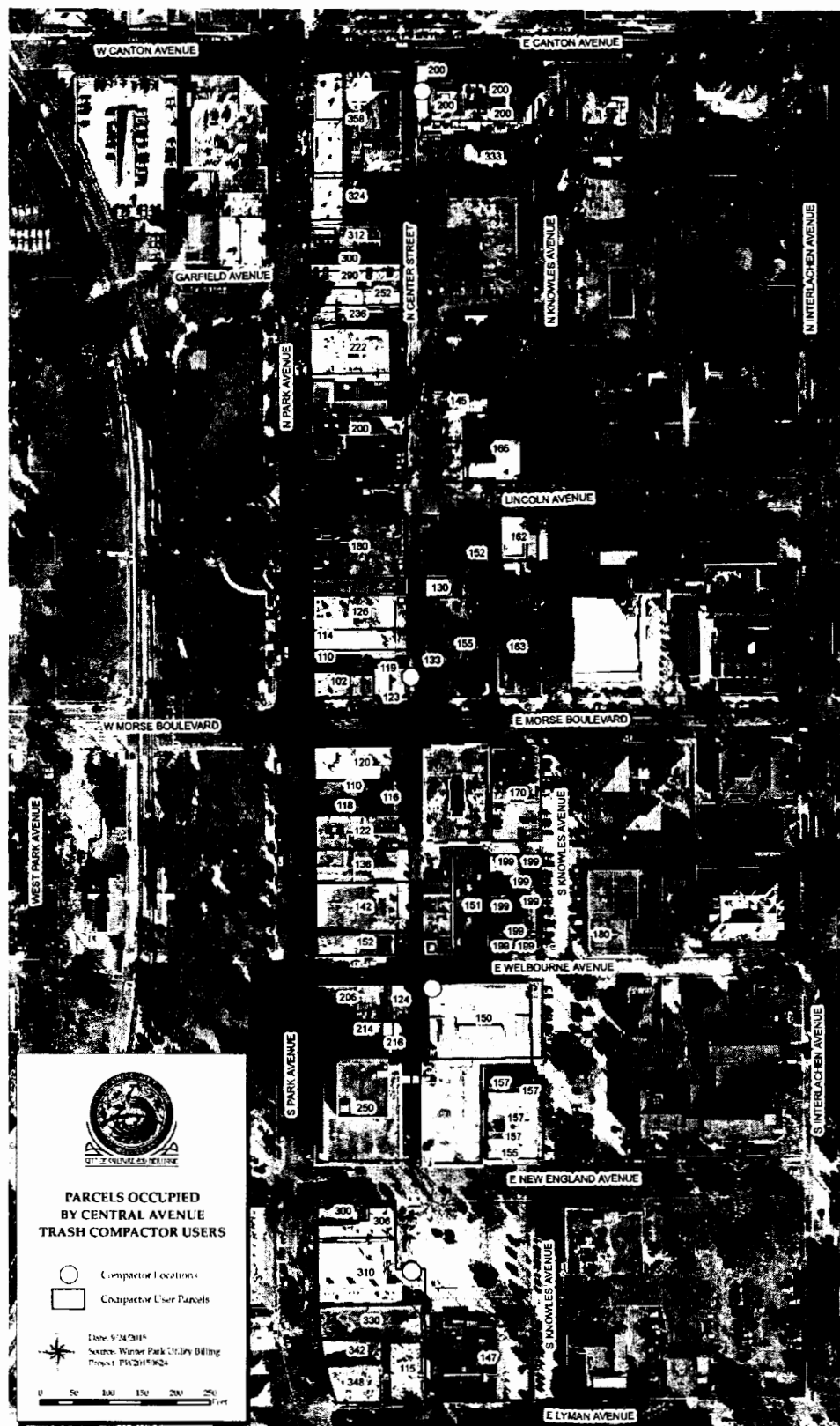
2 <sup>nd</sup> HHW/E-Waste Collection Event, if requested	\$20,000.00
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**EXHIBIT 3 – SPECIAL COLLECTION FEES**

<b>Item</b>	<b>Fee</b>
White Goods	\$30.00 each
Furniture	\$20.00 each
E-Waste	\$20.00 each
Yard Waste	\$10.00 per cubic yard
C&D	\$15.00 per cubic yard

### EXHIBIT 4 – CENTER STREET SERVICE AREA



## EXHIBIT 5 – CALCULATION OF RATE ADJUSTMENT

Ninety percent (90%) of the rate adjustment shall be based on seventy five percent (75%) of the change in the average monthly Consumer Price Index (CPI) from July through June in the prior year (CPI1) and the average monthly CPI from July through June in the current year (CPI2). The index used shall be the CPI for All Urban Consumers; South Urban Region; All Items, not seasonally adjusted, 1982-1984=100 reference base, published by the United States Department of Labor, Department of Labor Statistics (Series ID = CUUR0300SA0).

Ten percent (10%) of the rate adjustment shall be based on the percentage change in the average monthly fuel price from July through June in the prior year (FI1) and the average monthly fuel price from July through June of the most recent year (FI2). If Franchisee utilizes primarily CNG vehicles, fuel prices shall be based on the Henry Hub Gulf Coast Natural Gas Spot Price (dollars/million BTUs) published by the United States Energy Information Administration. If Franchisee utilizes primarily diesel vehicles, fuel prices shall be based on the Lower Atlantic (PADD1C) No. 2 Diesel Ultra Low Sulfur Diesel (0-15 ppm) Retail Prices (dollars per gallon) published by the United States Energy Information Administration.

If any of the designated indices are discontinued or substantially altered, the City may select another relevant price index published by the United States Government or by a reputable publisher of financial and economic indices.

The total rate adjustment is rounded to the nearest hundredth of a percent and in any given year shall not exceed three and a half percent (3.50%) of the previous rate.

### EXCEL FORMULA FOR CALCULATING RATE ADJUSTMENT

$$\text{Rate Adjustment (\%)} = \text{ROUND} \left( \left( \left( \text{CPI2} - \text{CPI1} \right) / \text{CPI1} \right) * 0.75 * 0.90 \right) + \left( \left( \text{FI2} - \text{FI1} \right) / \text{FI1} \right) * 0.10, 4 \right)$$

Where:

"CPI1" = averaged published monthly CPI from July through June of the year prior to CPI2.

"CPI2" = averaged published monthly CPI from July through June of the most recent year

"FI1" = average published monthly fuel price from July through June of the year prior to FI2

"FI2" = average published monthly fuel price from July through June of the most recent year

### SAMPLE CALCULATION OF RATE ADJUSTMENT

Assumptions: Current Rate = \$8.00	CPI1 = 225.838	FI1 = 3.9185
	CPI2 = 230.195	FI2 = 3.8747

Rate Adjustment:

$$= \text{ROUND} \left( \left( \left( (230.195 - 225.838) / 225.838 \right) * 0.75 * 0.90 \right) + \left( (3.8747 - 3.9185) / 3.9185 \right) * 0.10, 4 \right) = 1.19\%$$

*Rate Adjustment of 1.19% is less than 3.5%, the maximum allowed.*

$$\text{New Rate} = \text{ROUND} (\$8.00 * (1 + 0.0119), 2) = \$8.10$$

## EXHIBIT 6 – TECHNICAL SPECIFICATIONS FOR ROLL CARTS

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

<b>Construction and Design</b>	<ul style="list-style-type: none"> <li>• Must meet ANSI Standards Z245.30 and AZ245.60 "Type B/G" containers, all rules, regulations, and laws pertaining to this product.</li> <li>• Roll Carts must be produced by a major manufacturer.</li> <li>• 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.</li> <li>• The Roll Cart must be manufactured with a narrow width design to fit through a 30" door opening.</li> </ul>
<b>Size (Capacity)</b>	<ul style="list-style-type: none"> <li>• Three different sized Roll Carts are required with the following capacities: <ul style="list-style-type: none"> <li>○ Large = 94-96 gallon</li> <li>○ Medium = 64-66 gallon</li> <li>○ Small = 32-35 gallon</li> </ul> </li> </ul>
<b>Materials</b>	<ul style="list-style-type: none"> <li>• Must be rotationally or injection molded using medium to high density 100% recyclable polyethylene.</li> <li>• Minimum resin weight of unassembled Roll Cart, including cart body and lid, must be: <ul style="list-style-type: none"> <li>○ 30 pounds or greater for large Roll Cart</li> <li>○ 22 pounds or greater for medium Roll Cart</li> <li>○ 15 pounds or greater for small Roll Cart</li> </ul> </li> <li>• Resin used in the manufacturing process must contain a minimum of 25% post-consumer recycled material.</li> <li>• All plastic parts must be stabilized against ultraviolet light deterioration with an UV stabilizer additive.</li> </ul>
<b>Body</b>	<ul style="list-style-type: none"> <li>• The body of the Roll Cart must be one piece.</li> <li>• The Roll Cart wall and bottom thickness must be a minimum of .150 inches.</li> <li>• 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.</li> <li>• 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.</li> </ul>
<b>Lid</b>	<ul style="list-style-type: none"> <li>• Lids must be of a configuration that they will not warp, bend, slump, or distort to such an extent that it no longer fits the body property or becomes otherwise unserviceable.</li> </ul>

	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Lids must be designed to be easily removed in the event of damage or failure. Lid latches are not acceptable.</li> </ul>
<b>Handle</b>	<ul style="list-style-type: none"> <li>• Each Roll Cart must have a horizontal handle(s) to provide comfortable gripping areas for pushing or pulling the Roll Cart.</li> <li>• The handle shall be integrally molded into the body or lid, and only plastic surfaces shall be exposed to the hands of the user.</li> </ul>
<b>Wheels/Axle</b>	<ul style="list-style-type: none"> <li>• Roll Carts must be equipped with two (2) plastic molded or rubber wheels making the cart capable of being easily moved and maneuvered.</li> <li>• Wheels shall be snap-on or attached in a way that prevents unintended detachment.</li> <li>• Wheels must be a minimum of 10 inches in diameter for large and medium Roll Carts and a minimum of 8 inches in diameter for small Roll Carts.</li> <li>• 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.</li> <li>• The wheels and axle must be rated to meet the maximum load requirements of 3.5 pounds per gallon.</li> </ul>
<b>Stability</b>	<ul style="list-style-type: none"> <li>• Roll Carts must be able to remain stable and upright in winds up to 30 miles per hour when empty.</li> </ul>
<b>Color</b>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• The Solid Waste Roll Cart shall be grey with a grey lid and black wheels.</li> <li>• The Recycling Roll Cart shall be blue with a blue lid and black wheels.</li> <li>• The final color selection must be approved by the City prior to manufacturing.</li> </ul>
<b>Markings</b>	<ul style="list-style-type: none"> <li>• The City must approve all markings.</li> <li>• Sequential serial numbers must be molded, branded, or hot stamped into the front of the body with white color.</li> <li>• An eight to ten (8-10) alpha/numeric serial number shall be used as determined by the City.</li> <li>• A Winter Park City logo and recycling 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"> <li>○ Property of the City of Winter Park.</li> <li>○ Instructions for which side of the Roll Cart must face the street for collection.</li> <li>○ Recycling Roll Cart lids must include program instructions as determined by the City.</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>○ ANSI and regulatory labeling required.</li> <li>• In-mold label on the cart lid.</li> </ul>
<b>RFID Tags</b>	<ul style="list-style-type: none"> <li>• Each Roll Cart must have a unique integrated RFID tag installed into the Roll Cart.</li> <li>• RFID tags must be passive UHF with an optimal operating frequency of 860-960 MHz.</li> <li>• RFID tags must have an optimal operating temperature of -40°F to +149°F.</li> <li>• The dry inlay must meet ISO/IEC 18000-6C and EPD Global Gen 2 standards.</li> <li>• RFID tag values must be written and locked.</li> <li>• All RFID tags must be attached so that the tags have no exposure to outside elements, are not visible to the customer, and are tamper-resistant.</li> <li>• RFID tags placed inside of the body of the Roll Cart are unacceptable.</li> <li>• Adhesive or sticker RFID tags are unacceptable.</li> <li>• Each RFID tag must be tested at the manufacturing facility to ensure that it is working properly.</li> </ul>
<b>Warranty</b>	<ul style="list-style-type: none"> <li>• 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 City at the expiration of this Agreement.</li> <li>• The warranty must be unconditional and non-prorated providing the City with assurance of full Roll Cart replacement. The warranty must survive the termination of any contract for the manufacture and/or A&amp;D of Roll Carts.</li> <li>• Warranty is understood to include the following coverage: <ul style="list-style-type: none"> <li>○ Failure of the lid to prevent rainwater from entering the Roll Cart when the lid is closed on the body.</li> <li>○ Damage to the body, the lid, or any component parts through opening or closing the lid.</li> <li>○ 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.</li> <li>○ Failure of the body and lid to maintain its original shape.</li> <li>○ Wear through of Roll Cart bottom so that it leaks liquid.</li> <li>○ Failure of the wheels to provide continuous, easy mobility, as originally designed.</li> <li>○ Failure of any part to conform to minimum standards as specified.</li> </ul> </li> </ul>
<b>Asset Management</b>	<ul style="list-style-type: none"> <li>• A manufacturing database must be maintained that includes each Roll Cart's RFID tag identification, serial number, date of manufacture, location of manufacturer, Roll Cart type, color, and size.</li> <li>• At the time and point of delivery, the RFID tag, 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.</li> </ul>

	<ul style="list-style-type: none"><li>• The combined databases consisting of the manufacturing information and A&amp;D information shall be uploaded into the web-based Service Verification System no later than seven (7) Days following the Commencement Date and maintained through the term of this Agreement as provided for in Article 12.15.</li><li>• At the termination of this Agreement the asset management database shall be transmitted to the City in an acceptable format.</li></ul>
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## **EXHIBIT 7 – TECHNICAL SPECIFICATIONS FOR CONTAINER RFID TAGS**

Following are minimum requirements for the RFID tags required to be placed on all Containers, except for Roll Carts, used for Multi-Family and Commercial Collection Service within the scope of this Agreement. Roll Carts shall meet the RFID tag requirements defined in Exhibit 6. Compactors and Roll-Offs are not required to have RFID tags.

<b>Technical Specs</b>	<ul style="list-style-type: none"><li>• RFID tags must be passive Ultra High Frequency (UHF) with an optimal operating frequency of 860 – 960 MHz</li><li>• Read range: 6 foot minimum</li><li>• Protocol: EPC Class 1 Gen 2</li></ul>
<b>Environmental Specs</b>	<ul style="list-style-type: none"><li>• RFID tags must have an optimal operating temperature of -40°F to +149°F</li><li>• Waterproof</li><li>• Chemical resistant appropriate for Solid Waste collection application</li><li>• Mechanical resistant appropriate for Solid Waste collection application</li></ul>
<b>Mounting Specs</b>	<ul style="list-style-type: none"><li>• Encapsulated tag designed for mounting</li><li>• Mounting surfaces: Metal, plastic, etc.</li></ul>
<b>Memory Requirement</b>	<ul style="list-style-type: none"><li>• EPC 96 bits; User 512 bits; TID 64 bits. EPC and User memory reprogrammable, TID is locked at point of manufacturer</li></ul>

## EXHIBIT 8 – RECYCLABLES PROCESSING PAYMENT

The processing payment shall be remitted quarterly for all Program Recyclables collected from Residential Customers, Multi-Family Customers, the Center Street Service Area, City Facilities, City-sponsored events, and City-designated public areas. The Recyclables processing payment shall be based on the inbound tons as measured by the facility scales at which the Recyclables are initially received. Commercial Recyclables collected with Program Recyclables shall thereby be considered Program Recyclables.

**Payment per inbound ton of Single Stream Program Recyclables shall be calculated as follows:**

The Franchisee shall calculate the Average Market Value (AMV) of the Single Stream Program Recyclables, defined as the sum of the Southeast USA regional average commodity prices (U.S. dollars per ton) first posted in the collection schedule for which payment is being made in RecyclingMarkets.net multiplied by the composition percentages as defined in the table below. For illustrative purposes, the Table 1 below calculates the AMV for a collection schedule January 1 – March 31, 2016, which is based on the commodity prices first posted in January 2016.

**Table 1 – Average Market Value of Single Stream Program Recyclables Sample Calculation**

AMV Calculation for January 1, 2016 – March 31, 2016					
Material	Index Description	January 2016 Index Value	Market Value (\$/ton)	Material %	Average Market Value (\$/ton)
Mixed paper	PS 1 baled, F.O.B. seller's dock	42.50	\$42.50	23.97%	\$10.19
Newspaper	PS 8 baled, F.O.B. seller's dock	52.50	\$52.50	13.72%	\$7.20
Corrugated containers	PS 11 baled, F.O.B. seller's dock	77.50	\$77.50	15.76%	\$12.21
Aseptic cartons	PS 52 baled, F.O.B. seller's dock	0.00	\$0.00	0.43%	\$0.00
Aluminum cans	Cents/lb., sorted, baled and delivered	54.50	\$1090.00	1.42%	\$15.48
Steel cans	\$/Ton, sorted, baled and delivered	17.50	\$17.50	2.01%	\$0.35
PET	Cents/lb., baled and picked up	7.75	\$155.00	4.60%	\$7.13
Natural HDPE	Cents/lb., baled and picked up	28.50	\$570.00	1.64%	\$9.35
Colored HDPE	Cents/lb., baled and picked up	21.50	\$430.00	1.53%	\$6.58
Plastics #3-7	Commingled #3-7, cents/lb., baled & picked up	0.50	\$10.00	4.36%	\$0.44
Bulky mixed rigid	Cents/lb., baled and picked up	0.50	\$10.00	0.62%	\$0.06
Glass (3 Mix)	\$/Ton, delivered	-17.50	(\$17.50)	15.28%	(\$2.67)
Contamination	N/A (market value shall remain fixed at 0)	N/A	\$0.00	14.66%	\$0.00
				100.00%	<b>\$66.32</b>

The processing payment for Single Stream Program Recyclables shall be made according to the payment schedule in Article 16.3. for the inbound tons of Single Stream Program Recyclables as measured by the facility scales at which the materials are initially received multiplied by the payment in Table 2.

**Table 2 – Payment per Inbound Ton of Single Stream Program Recyclables based on the AMV Value**

Average Market Value (\$/Ton)		Contractor Payment to City/ (\$/Ton Payment to Contractor)
Low	High	
<\$70.00	\$70.00	(\$50.00)
\$70.01	\$80.00	(\$40.00)
\$80.01	\$90.00	(\$30.00)
\$90.01	\$100.00	(\$20.00)
\$100.01	\$110.00	(\$10.00)
\$110.01	\$120.00	\$0.00
\$120.01	\$130.00	\$0.00
\$130.01	\$140.00	\$0.00
\$140.01	\$150.00	\$0.00
\$150.01	>\$150.01	\$0.00

Sample Calculation of Single Stream Program Recyclables

Assumptions: Inbound Tons = 800  
Calculated AMV (Table 1) = \$66.32  
Proposed payment for AMV <\$70.00 = \$5.00

Inbound Tons \* Proposed Payment = 800 \* \$5.00 = \$4,000

**Payment per inbound ton of Segregated Cardboard shall be calculated as follows:**

The processing payment for segregated cardboard shall be remitted according to the payment schedule in Article 16.3. for the inbound tons of segregated cardboard collected from the Center Street Service Area, City Facilities, and any other City-designated collection Containers as measured by the facility scales at which the cardboard is initially received multiplied by zero percent (0%) of the market value of cardboard as identified in the AMV, Corrugated Containers (PS 11 baled, F.O.B. seller's dock). Should it not be operationally feasible to maintain a separate route for the City's segregated cardboard, the Franchisee may mix the City's segregated cardboard with non-City segregated cardboard and assume the tonnage collected to be equal to seventy-five (75) pounds per uncompacted cubic yard based on the size of Containers serviced.

Sample Calculation of Segregated Cardboard

Assumptions: Inbound Tons = 15  
Market index for corrugated containers (Table 1) = \$77.50  
Proposed percentage = 75%

Inbound Tons \* Market Index \* Proposed percentage = 15 \* \$77.50 \* 75% = \$871.88

The Franchisee acknowledges and accepts the following:

- A. The material percentages used for calculating the AMV are best estimates of the composition of the City's Program Recyclables. The composition used is an average of the results of ten (10) Single Stream recycling composition studies performed in Florida jurisdictions during the past two years. Because different processors use different equipment and technologies, they will have varying amounts of processing Residue. Therefore, the material percentages do not attempt to estimate or include processing Residue. Franchisee has utilized its industry knowledge and experience processing materials similar to the City's Program Recyclables as defined herein in evaluating the accuracy of these percentages to the City's recycling stream and developing its financial proposal accordingly.
- B. The market index utilized (RecyclingMarkets.net) is intended to reflect the average value, in the Southeast United States, of each material included in Program Recyclables. It is not intended to equate to the commodity revenue received by the Franchisee. Franchisee took this into consideration when developing its financial proposal.
- C. For the purposes of calculating revenue, the value of contamination in the AMV table shall remain fixed at \$0. Franchisee took this into consideration when developing its financial proposal.
- D. If at any time during the term of the Agreement RecyclingMarkets.net no longer posts or otherwise provides the applicable market indices, then the parties shall mutually select an appropriate replacement source for the required information from among the sources recycling industry professionals utilize to obtain reliable Recovered Material pricing information.
- E. The payment formulas shall be used for calculating the Recyclables processing payment throughout the term of the Agreement. Franchisee shall submit the detailed AMV calculation showing how the AMV was determined for the payment period, as well as the calculation for determining the payment per inbound ton of Single Stream Program Recyclables and segregated cardboard.
- F. If, in the future, the City or Franchisee wishes to have a recyclables composition study performed, the party requesting such study shall pay for the study unless otherwise agreed upon. The final methodology and selection of a qualified entity to conduct the study must be approved by the Contract Manager. The City reserves the right to have a representative onsite throughout the recycling composition study. Study results are subject to final approval by the Contract Manager and shall not be unreasonably withheld. If approved by the Contract Manager, adjustments to the composition percentages provided in this Exhibit, shall become effective for the following month and the remainder of the Agreement, or until further adjusted in a future composition study.