



SOLID WASTE AUTHORITY OF PALM BEACH COUNTY
7501 NORTH JOG RD, WEST PALM BEACH, FL 33412

**SOLID WASTE AND RECYCLING COLLECTION SERVICES
FRANCHISE AGREEMENT**

BETWEEN

SOLID WASTE AUTHORITY OF PALM BEACH COUNTY

AND

FOR

SERVICE AREA 6

AGREEMENT NO. 20-XXX

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FRANCHISE AGREEMENT

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**SOLID WASTE AND RECYCLING COLLECTION SERVICES
FRANCHISE AGREEMENT
SERVICE AREA X**

This Agreement is hereby made and entered into this ____ day of _____, 2019, between **Solid Waste Authority of Palm Beach County**, a special district created pursuant to Chapter 2001-331, Laws of Florida, (hereinafter referred to as "Authority") and _____ (hereinafter referred to as "Contractor").

In consideration of the mutual benefits, the parties herein agree as follows:

1. TERM:

The term of this Agreement shall be for the period beginning **October 1, 2019**, and expiring **September 30, 2026**.

2. DEFINITIONS:

To the extent the definitions contained herein conflict with similar definitions contained in any federal, state or local law, the definition herein shall prevail. However, nothing contained herein shall be interpreted to require the Contractor to undertake any conduct which is contrary to federal, state or local law.

A. Authority shall mean the Solid Waste Authority of Palm Beach County.

B. Biohazardous or Biomedical Wastes shall mean those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; including, but not limited to, waste resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing and surgical gloves.

C. Bulk Trash shall mean any non-vegetative item which cannot be containerized, bagged, or bundled; including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances, household goods and furniture. There shall be no weight limit for any item of Bulk Trash.

D. Business Days shall mean Monday through Saturday, except for Holidays.

E. Cart shall mean a curbside container meeting the Authority's specifications intended for collection via automated or semi-automated means to be supplied by the Contractor to households receiving Curbside Residential Solid Waste Collection Service.

F. Collection shall mean the process whereby Solid Waste, Garbage, Trash, Bulk Trash, Vegetative Waste or Recovered Material is gathered and transported to a Designated Facility.



- G. Commercial Recycling Collection Service** shall mean the Dual Stream Recycling Collection of Recovered Materials by the Contractor for entities within the Service Area that are not serviced by Residential Recycling Collection Service.
- H. Commercial Single Stream Recycling Collection Service** shall mean the practice of collecting Source Separated Recovered Materials generated by commercial establishments in a commingled form without separating the fiber from the other materials as is required under Dual Stream Collection.
- I. Commercial Solid Waste** shall include Solid Waste that is not Residential Solid Waste, but for the purposes of this Agreement shall exclude commercial Vegetative Waste, the collection of which is not exclusive to the Contractor.
- J. Commercial Solid Waste Collection Service** shall mean the collection of Commercial Solid Waste within the Service Area. Such service includes both Containers and Compactors, but does not include Roll-off Collection Services.
- K. Compactor** shall mean any container which has compaction mechanism(s), whether stationary or mobile, all inclusive.
- L. Construction and Demolition Debris (C&D)** shall mean materials generally considered to be not water soluble and which are nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, roofing material, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project. Mixing of a de minimis amount of waste other than C&D from the construction site will not automatically cause it to be classified as other than C&D.
- M. Container** shall mean and include any container designed or intended to be mechanically dumped into a loader packer type truck or recycling vehicle other than a Cart. All Containers must be of the specifications as designated by the Contract Administrator, in writing.
- N. Containerized Residential Recycling Collection Service** shall mean the Dual Stream Recycling collection of Recovered Materials by the Contractor from Dwelling Units in the Service Area that require the use of Containers for the collection of Recovered Materials, and which also receive Residential Collection Service for Solid Waste, and the delivery of those Recovered Materials to the Recovered Materials Processing Facility or designated Authority transfer station.
- O. Containerized Residential Solid Waste Collection Service** shall mean Solid Waste collection service of all Dwelling Units whose Garbage, Trash or Bulk Trash is collected by means of a central or shared Container and not by means of a Cart.
- P. Contract** shall mean this Agreement.
- Q. Contractor** shall mean that person or entity identified as such in the first paragraph of this Agreement that has entered into this Agreement to provide the services described herein for the Service Area.

- R. **Contract Administrator** shall mean the person designated by the Authority who shall act as the Authority's representative during the term of this Agreement, or his/her designee.
- S. **County** shall mean Palm Beach County.
- T. **Curbside Residential Recycling Collection Service** shall mean the Dual Stream Recycling collection of Recovered Materials by the Contractor from all Dwelling Units in the Service Area that also receive Curbside Residential Solid Waste Collection Service for Solid Waste, and other Dwelling Units as designated by the Authority, and the delivery of those Recovered Materials to the Authority Recovered Materials Processing Facility or designated Authority transfer station.
- U. **Curbside Residential Solid Waste Collection Service** shall mean Residential Solid Waste and Vegetative Waste Collection service for all Dwelling Units from which Garbage is collected by means of a Cart at curbside or roadway and delivery to an Authority designated disposal facility or transfer station.
- V. **Designated Facility** shall mean an Authority owned disposal, processing, recovery, recycling or transfer facility, or another facility if specifically designated in writing by the Contract Administrator to the Contractor.
- W. **Dual Stream Recycling Collection** shall mean the practice of collecting Recovered Materials in two separate containers, one for fiber and one for commingled containers and other materials accepted in the Authority's recycling program.
- X. **Dwelling Unit** shall mean any type of structure or building unit intended for or capable of being utilized for residential living other than a licensed Hotel or Motel unit.
- Y. **Fiscal Year** shall mean the period starting on October 1 of a given year and ending September 30 of the following year during this Agreement.
- Z. **Garbage** shall mean all putrescible waste which generally includes but is not limited to kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities, but shall not include Vegetative Waste or Special Waste.
- AA. **Hazardous Waste** shall mean Solid Waste as defined by the State of Florida Department of Environmental Regulation as a hazardous waste in the State of Florida Administrative Code, or by any future legislative action or by federal, state or local law.
- BB. **Hotel or Motel** shall mean a structure or building unit(s) capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven days or less. To meet this definition, the Hotel or Motel must be licensed to operate as such. "Transient" has the meaning as defined in Chapter 509, Florida Statutes (2011), or its successor law.
- CC. **Land Clearing** shall mean the removal of vegetation for the purpose of improving real property through remodeling, new construction or agricultural use. Land clearing shall include, but is not

- limited to, trees, brush, dirt, rocks or similar obstructions/materials being removed from a parcel of assessed residential land using mechanical devices such as a bobcat, backhoe, front-end loader, tractor, bulldozer, etc. Removal refers to the physical action of the equipment digging, scraping, bulldozing, and/or pulling debris from the ground. Transporting legally cut vegetation to the curb using a mechanical device does not constitute land clearing. A chainsaw is not to be considered a mechanical device in the removal process.
- DD. Mixed Paper** shall be defined as a mixture of paper products including magazines, catalogues, phone books, cereal boxes, soda and beer can boxes, chipboard, file folders, envelopes, letter paper, junk mail, notebook paper and any other clean paper products.
- EE. Peak Times** shall mean the period beginning on November 1 of a given year and ending on April 30 of the following year, unless otherwise specified by the Authority.
- FF. Public Awareness Program** shall mean that program developed by the Authority to inform and encourage residential and commercial collection customers to use all Collection services offered by the Authority through the Agreement. It shall also mean information concerning level of service and changes in scope of service.
- GG. Recovered Materials** shall mean metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and Source Separated or have been removed from the waste stream for sale, use, or reuse as raw materials, but the term does not include materials destined for any use that constitutes disposal, including but not limited to landfilling, placement upon the land or in the water, or combustion. The materials currently designated by the Authority for Residential Recycling Collection Service and Commercial Recycling Collection Service are newspapers (including inserts); magazines; catalogs; phone books; mixed paper, aluminum cans; plastic containers #1 - #7 (except styrofoam); glass bottles and jars; gable-topped containers; aseptic containers; corrugated cardboard; kraft bags; and steel and ferrous cans.
- HH. Recovered Materials Processing Facility (RMPF)** shall mean any facilities operated or managed by, for or on behalf of the Authority for the purpose of receiving, sorting, processing, storing, and/or preparing Recovered Materials, plus other items authorized by the Authority, for sale, as specifically designated by the Contract Administrator, in writing.
- II. Recycling Container** shall mean a rigid container made of plastic or other suitable substance or a paper bag that is used for the storage of Recovered Materials.
- JJ. Residential Recycling Collection Service** shall mean Curbside Residential Recycling Collection Services and Containerized Residential Recycling Collection Service.
- KK. Residential Solid Waste** shall mean Garbage, Trash and Bulk Trash resulting from the normal housekeeping activities of a Dwelling Unit, but shall not include Vegetative Waste. Residential Solid Waste shall also mean Construction and Demolition Debris (C&D) resulting from minor home repair from the Dwelling Unit.
- LL. Residential Solid Waste Collection Service** shall mean Curbside Residential Solid Waste Collection Service and/or Containerized Residential Solid Waste Collection Service.

- MM. Roll-off Collection Service** shall mean the Collection of C&D-only roll-off containers, or the Collection of C&D by other mechanical means, within temporary locations in the Service Area, limited to new construction sites and remodeling or refurbishment sites and shall require Solid Waste Authority Rule IV Permit. Permanent businesses or manufacturing companies that generate C&D on site as part of their operations may obtain roll-off containers from any source, including the Contractor, for the purpose of recycling the C&D material, if, and only if, they also have a container for all other Commercial Solid Waste which is collected exclusively by the Contractor. Roll-off collection Service also includes the collection of commercial vegetative waste.
- NN. Service Area** shall mean that portion of the unincorporated area of the County as described in Exhibit A, for which Contractor has been granted an exclusive franchise.
- OO. Sludge** shall mean a solid or semi-solid, or liquid generated from any waste water treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilets and related operations, or any other such waste having similar characteristics or effects.
- PP. Solid Waste** shall mean Residential Solid Waste and Commercial Solid Waste, but shall not include Special Waste, as defined in this Agreement, or Recovered Materials. Solid Waste shall mean Bulk Waste, Garbage, rubbish, refuse, Trash, Vegetative Waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations, but for the purpose of this Agreement shall not include Special Waste.
- QQ. Solid Waste Authority Disposal Facility** shall mean place or places specifically managed or operated by the Solid Waste Authority of Palm Beach County.
- RR. Source Separated** shall mean that Recovered Materials are separated from Solid Waste at the location where the recovered materials and solid waste are generated. The term does not require that various types of Recovered Materials be separated from each other, and recognizes de minimis Solid Waste may be included in the recovered materials. Materials are not considered Source Separated when two or more types of Recovered Materials are deposited in combination with each other in a Container located where the materials are generated and when such materials contain more than 10 percent solid waste by volume or weight, in which case the materials are Solid Waste. The term "various types of Recovered Materials" means metals, paper, glass, plastic, textiles and rubber.
- SS. Special Services** shall mean any services requested or required by the customer which are in addition to, or a change in, Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service and Commercial Solid Waste Collection Service as set out or similar to those listed in Exhibit B.
- TT. Special Waste** shall include automobiles, boats, internal combustion engines, non-automobile tires, Sludge, dead animals, livestock waste, septic tank waste, Biohazardous or Biomedical Waste, liquid waste, and Hazardous Waste. Special Waste may also include items determined by the Contract Administrator to be reasonably unmanageable.

- UU. Trash** shall mean all refuse, accumulation of paper, rags, wooden or paper boxes and containers, sweepings, broken toys, tools, utensils, and all other accumulations of a similar nature other than Garbage, which are usual to housekeeping and to the operation of stores, offices and other business places, but shall not include Vegetative Waste.
- VV. Force Majeure** shall mean any event which 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 nonperforming party. It includes, but is not limited to fire, flood, hurricanes, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, or sabotage.
- WW. Vegetative Container** shall mean any commonly available light gauge steel, plastic, or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handle(s). A Vegetative Container is also defined as a heavy duty, securely tied, plastic bag designed for use as a vegetation receptacle. Such container including Vegetative Waste shall not exceed fifty (50) gallons in capacity or fifty (50) pounds in weight.
- XX. Vegetative Waste** shall mean any vegetative matter resulting from yard and landscaping maintenance by any party and shall include materials such as tree and shrub trimming materials, grass clippings, palm fronds, tree branches and similar other matter usually produced as refuse in the care of lawns, landscaping and yards.

3. SERVICES PROVIDED BY CONTRACTOR:

The Contractor shall provide mandatory Residential automated or semi-automated Solid Waste Collection Services and Residential Recycling Collection Services in the Service Area. The right to provide such Collection Services in the Service Area shall be exclusive to the Contractor.

The Contractor shall provide Commercial Solid Waste Collection Services in the Service Area, which shall be an exclusive right to the Contractor. The Contractor shall be responsible for the billing and collection of Commercial Solid Waste Collection Services and disposal costs not being billed and collected by the Authority or its designee.

Roll-off Collection Services shall not be exclusive to the Contractor. Commercial Vegetative Waste and Construction and Demolition Debris (C&D) shall not be exclusive to the Contractor.

Collection of Solid Waste contained in roll-off containers for businesses in the Service Area is exclusive to the Contractor.

The Contractor shall provide Commercial Recycling Collection Services in the Service Area upon request by the Customer or the Authority, or through the solicitation efforts of the Contractor. However, Commercial Recycling Collection Services are not exclusive to the Contractor in the Service Area.

The Contractor shall use good faith and its best efforts to cooperate with any commercial recycling haulers collecting Source Separated Recovered Materials from commercial customers in the Service Area.

4. SOLID WASTE AND VEGETATIVE WASTE COLLECTION SERVICE:

A. Curbside Residential Solid Waste and Vegetative Waste Collection Services: The initial Curbside Residential Collection Service provided by this Agreement shall be as set forth in this Section 4.A and shall continue until such time as the Contract is terminated. Whereas the Contractor is providing Solid Waste and Vegetative Waste Collection Service on behalf of the Authority, all Solid Waste and Vegetative Waste collected by the Contractor in the Service Area(s) must be collected in the manner and for the rates and fees provided herein, and delivered to a Designated Facility. Solid Waste collected by the Contractor in the Service Area(s) pursuant to this Agreement may not be delivered to any facility other than those specified herein unless authorized by the Contract Administrator, in writing. In addition to the provisions and prohibitions provided for herein, Contractor is required to comply with all Federal, State and local laws, regulations and rules, including rules of the Authority, and is subject to the penalties provided for therein. To the extent that the requirements, prohibitions and penalties provided for in this Agreement are more stringent than those provided for under Federal, State and local laws, regulations and rules, including any rules of the Authority, this Agreement prevails.

1. **Conditions and Frequency of Service:** All Curbside Residential Solid Waste properly placed in Carts and Vegetative Waste properly containerized in Vegetative Containers or otherwise prepared for collection as dictated by this Agreement shall be collected by the Contractor.

All Curbside Residential Solid Waste Collection Service, with the exception of the holidays identified in Section 7, shall be provided twice per week, unless options of service (Exhibit B) are implemented, with not less than forty-eight (48) hours nor more than seventy-two (72) hours between regularly scheduled pick-up days. Missed Saturday Residential Solid Waste and Vegetative Waste must be collected by 12:00 noon on the following Monday.

The Contractor shall provide Semi-automated/Automated Garbage Collection services, during the term of this agreement as follows:

- a) For the first sixty (60) days of this Agreement the Contractor shall collect all Garbage and Trash placed both inside and outside of the Carts; and
- b) thereafter, and for the remaining term of this Agreement, the Contractor shall not be responsible for collection of Garbage placed outside the Carts; however, notwithstanding, the Contractor shall collect Garbage from both inside and outside the Cart on the Friday, Saturday, and Monday following Thanksgiving, and from December 26 through January 1, of each year during the term of this Agreement.

All Vegetative Waste up to six (6) cubic yards placed at an accessible pick-up location shall be collected separately from Residential Solid Waste and Recovered Materials by the Contractor. If the customer has commingled Residential Solid Waste and Vegetative Waste, the Contractor shall tag the pile with an Authority provided tag, and is not required to collect the commingled



material until the first regularly scheduled collection day after customer has properly separated the material, although nothing shall preclude the Contractor from collecting the Vegetative Waste and Residential Solid Waste sooner. In the event the customer does not wish to properly separate the material, the customer may pay the Contractor or any other private hauler to collect the non-conforming material. If the Contractor fails to tag the non-conforming pile, the Contractor will be required to collect the pile at no cost to the customer or the Authority by the end of the next Business Day. The Contractor shall not intentionally commingle Vegetative Waste with Residential Solid Waste.

Vegetative Waste shall be collected one (1) time per week on one (1) of the two (2) scheduled route days. The Contractor shall not be required to collect more than six (6) cubic yards of Vegetative Waste per dwelling unit per week. In the event that more than six (6) cubic yards is placed at the curb by the customer, the Contractor shall not be required to collect the pile. Contractor will tag the pile with an Authority provided tag, instructing the customer to contact the Authority for an estimate for removal. The Contractor shall conduct estimates no later than 72 hours after initial notice from the Authority, however nothing shall preclude the Contractor from conducting the estimate sooner. Pricing shall be based on the per cubic yard rate in Exhibit B. Removal of material by the Contractor shall be completed no later than 72 hours after payment is received. Failure to remove material within the 72 hours of payment shall be subject to assessments as set forth in this Agreement.

With the exception of palm fronds, tree branches and Christmas trees, The Contractor shall have a reliable expectation that all Vegetative Waste will be bagged or in a Vegetative Container, and that each Vegetative container, when filled, will not exceed 50 pounds in weight or 50 gallons in capacity. The Contractor shall have a reliable expectation that branches will not exceed 6 feet in length, 6" in diameter or 50 pounds in weight, that there is no length limitation on palm fronds, and that Christmas trees will be presented whole or in sections that in either case shall not exceed 8 ft. in length or 50 pounds in weight. In the event that Vegetative Waste is not presented as stated in this paragraph, the Contractor shall tag the pile with an Authority provided tag, and shall not be required to collect the non-conforming material until the first regularly scheduled collection day after the customer has properly presented the material, although nothing shall preclude the Contractor from collecting the Vegetative Waste sooner.

Trash, Bulk Trash, and Construction and Demolition Debris (C&D) resulting from minor home maintenance and repair only will be collected at the curb. Bulk trash shall be limited to three (3) items per week, and collected on one of the two regularly scheduled garbage collection days. Contractor is not required to collect sections of fencing or debris resulting from the demolition of sheds, storage buildings and other like structures or debris generated by major remodeling/construction projects. Contractor is required to collect a maximum of two (2) cubic yards of C&D per week on one of the two regularly scheduled garbage collection days per dwelling unit. In the event that the customer places more than two (2) cubic yards of C&D for Collection, the Contractor shall tag the pile with an Authority provided tag, instructing the customer to contact the Authority for a removal estimate. Contractor shall follow same guidelines as vegetative estimates stated above. The Contractor shall have a reliable expectation that small pieces of C&D, such as tile or roofing material, shall be containerized and weigh not more than 50 pounds per container. There shall be no weight limit for any item of Bulk Trash.

In the event Bulk Trash contains Chlorofluorocarbons (CFCs), the Contractor shall collect the Bulk Trash item separately in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFC's into the atmosphere, to the Authority landfill, the Belle Glade transfer station or to a scrap dealer located in Palm Beach County.

2. **Accessibility:** Contractor shall collect all Residential Solid Waste and Vegetative Waste placed Curbside where the edge of the waste is within six (6) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or other such location agreed to by the Contractor that will provide safe and efficient accessibility for the Contractor's collection crew and vehicle. In the event there is insufficient space between the curb and the sidewalk to place Residential Solid Waste and Vegetative Waste, if the edge of all Residential Solid Waste and Vegetative Waste to be collected is within two (2) feet of the sidewalk, the Contractor shall be required to collect it.

In the event there is no other accessible location available to the customer, all Residential Solid Waste and Vegetative Waste placed under electrical wires, trees or other obstructions preventing the use of a vehicle with mechanical loading capability shall be collected by means of a rear-load collection vehicle. Contractor may request, in writing, the Contract Administrator to approve an alternate Collection location. Contract Administrator's decision regarding the approval of a suitable alternate Collection location shall be final.

For purposes of this Agreement, public road or public right-of-way means a road owned and maintained by the County or special district, or a road on private property for which an easement has been granted to the public and when such road is constructed and maintained to a standard whereby access is available by the collection vehicle.

Where the resident of a dwelling unit is physically unable to deliver Residential Solid Waste to curbside and this is so certified by the Contract Administrator, or the residential structure is located in such a manner as to prevent access to the Residential Solid Waste by the Contractor's crew or vehicle, an alternative location may be arranged between the customer and the Contractor at no extra cost to the customer. In the event the customer and the Contractor cannot agree on an alternative location the Contract Administrator shall designate the alternative location, and the Contract Administrator's decision shall be final. Regardless of any accommodation made pursuant to the facts described in this paragraph, Vegetative Waste must continue to be placed curbside.

Except in the case described in the previous paragraph, if the customer requests Special Services, such as back door service, these services shall be billed directly to the customer by the Contractor in accordance with Exhibit B. In the event that a Special Service request is not listed in Exhibit B, such charges shall then be established through negotiations between the Contractor and the customer. In the event the customer and the Contractor cannot reach an agreement on the cost, the Contract Administrator shall determine the cost, and such determination shall be final.

3. **Carts:** Contractor shall deliver each Curbside Residential unit one Cart, and be responsible for all maintenance, repair, and replacement. Upon the completion of this Agreement Carts will be property of the Authority. A Cart monthly maintenance fee, as set forth in Exhibit B,

will be paid to the Contractor by the Authority. Carts must meet all specifications as set forth below:

1. Each Cart shall consist of a body, lid, wheels, axle, and necessary accessories;
2. Carts will be procured in 46-48, 64-66 and 94-96 gallon sizes with gray body and gray lid;
3. The wheeled Carts shall be designed to contain solid waste materials including garbage, refuse, and rubbish;
4. Carts shall have the Authority's logo hot stamped onto the top half of the two opposite sides (neither the front nor back) of the cart body. The logo shall be approximately 8 inches high by 8 inches wide. Camera ready artwork will be provided as well as the defined color(s) at the time the contract is awarded;
5. The Carts shall be designed to be dumped by both semi-automated and fully-automated disposal truck systems;
6. The Carts shall be designed to be fit with axles which do not require holes or bolts through the body, to eliminate potential leakage of liquids escaping odors or entry of insects;
7. All Carts must meet all ANSI (American National Compliance) Standards;
8. Lid shall not be ventilated and shall be held closed by its own weight;
9. An arrow pointed in the direction of the front of the Cart shall be molded into the top of the Cart's lid; and
10. Printed on the top of the lid in block letters not obstructing other information:

"GARBAGE ONLY"
"NO HAZARDOUS WASTE"

The Contractor's residential curbside Solid Waste, Yard Waste, and Recycle collection vehicles shall be equipped with 3rd Eye Digital or comparable monitoring system. Data acquired through set monitoring system shall be available to the Contract Administrator and the Authority Customer Information Service (CIS) office personnel upon request. All requested information shall be provided in a timely manner to avoid assessment of Liquidated Damages as authorized pursuant to this Section 19.B.

B. Containerized Residential Solid Waste Collection Services: The initial Containerized Residential Collection Service provided by this Agreement shall be as set forth in this Section 4.B and shall continue until such time as the Contract is terminated.

1. **Conditions and Frequency of Service:** The Contractor shall provide Containerized Residential Solid Waste Collection Service to all Dwelling Units in the Service Area that are suitable to receive such service and request such service. A minimum of once per week service



is required of all customers, or such other minimum frequency as provided by law. Normal Collection service, not including Bulk Trash collection, shall be twice per week. However, the customer may elect to receive once a week service during off-Peak Times of the year and up to three times per week Collection service during Peak Times, as required, at no additional cost to the customer as long as the average is two times per week on an annual basis. The size and location of the Container and frequency of collection (more than the minimum of once per week) shall be determined by the Contractor and the residential complex in accordance with this Agreement. However, size and frequency shall be sufficient to provide that no Residential Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer. In the case of an unresolved dispute, the Contract Administrator shall resolve such issue. The Contractor shall be paid the appropriate containerized unit collection rate in accordance with Exhibit B. Any service requested by the residential complex above three times per week or greater than the two times per week annual average, with the exception of Bulk Trash collection, shall be paid in accordance with the "commercial solid waste collection" rates in Exhibit B.

The frequency of collection of Bulk Trash outside the container shall be no less than once per week unless otherwise agreed to by the customer and approved by the Contract Administrator. A community may request a roll-off container for bulk waste collected one (1) time per week in accordance with the maintenance fees set forth in Exhibit B. Any disputes as to the frequency of Bulk Trash collection shall be resolved by the Contract Administrator, whose determination shall be final. In the event Bulk Trash contains Chloroflorocarbons, (CFC's), the Contractor shall collect the Bulk Trash item separately, in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFC's into the atmosphere, to the Authority landfill, the Belle Glade transfer station or to a scrap dealer located in Palm Beach County. There shall be no weight limit for any Bulk Trash item.

2. **Method of Collecting:** Collection shall occur on a regular basis with a frequency of pick-up as provided herein. Such service shall be provided by mechanical Container as defined herein. However, where a customer generates less than two (2) cubic yards per week of waste, alternate non-mechanical containers (e.g., Carts) may be utilized.

The Contractor shall provide Containers and charge the customer the approved monthly container maintenance fees as necessary. Commercial Container monthly maintenance fees, terms, and provisions contained in the Agreement shall also apply to Containers utilized for residential service. Customers may own their Container(s) provided that the customer is completely responsible for its proper maintenance. Such Containers shall be of a type that can be serviced by the Contractor's equipment.

The Contractor shall collect all Residential Solid Waste placed in a Container or alternate Carts, and shall not be required to collect Residential Solid Waste that is not so placed. The Contractor has a reliable expectation that Vegetative Waste will not be commingled with Garbage. Where Carts are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer.

All Containers and Compactors provided by the Contractor shall be in good condition. In the event a Compactor, which is provided by a source other than the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification, sufficient to provide uninterrupted service to the customer until the Compactor is repaired or replaced. Contractor may charge the customer for any Container maintenance in accordance with the rates set forth in Exhibit B. In the event a Compactor, which is provided by the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification sufficient to provide uninterrupted services until Compactor is repaired or replaced at no charge to the customer. The Contractor shall have a regularly scheduled replacement program for all Containers to ensure Containers are in good condition.

3. **Service Interruption:** The Contractor may not stop service to a residential containerized customer for non-payment of fees for Container monthly maintenance or special services without notification by certified letter to the Contract Administrator or his designee and the customer at which time the Contract Administrator shall have five (5) Business Days following receipt of such notice to investigate and respond.

C. **Commercial Solid Waste Collection Service:** The Contractor shall collect and dispose of all Commercial Solid Waste in the Service Area. Such Commercial Collection Service shall be governed by the following material terms:

1. **Conditions and Frequency of Service:** A minimum of once-a-week service is required of all commercial customers or such other minimum frequency as provided by law. However, customers utilizing a roll-off Compactor Container shall have the ability to receive service on an on-call basis provided the roll-off Compactor is free from leaks or spillage. Permanent roll-off and Compactor Containers must be collected within 24 hours of customer request. There shall be no odor at any time emanating from the roll-off Compactor, or vermin in the immediate area. If complaints are received, or an inspection conducted by the Authority proves the roll-off Compactor violates any of the above criteria, the Contract Administrator will determine the frequency of service. The size of the Container and the frequency of collection shall be determined between the customer and the Contractor. However size and frequency shall be sufficient to provide that no Commercial Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer.
2. **Method of Collecting:** Service shall be provided by mechanical Container as defined herein. However, where a customer generates less than one (1) cubic yard per week of waste, Carts may be utilized. Commercial small waste generators who generate less than one (1) cubic yard per week may purchase up to two (2) Carts, and shall be charged the monthly rate and Cart maintenance fee, as set out in Exhibit B.

The Contractor shall provide Containers as necessary however, customers may own their Container provided that the customer is completely responsible for its proper maintenance. Such customer provided Containers shall be of a type that can be serviced by the Contractor's equipment. All Commercial Solid Waste shall be placed in a Container,

Compactor or Cart. Vegetative Waste shall not be commingled with Garbage. All Carts, Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer.

Compactors may be obtained by customers from any source provided that such Compactor must be of a type that can be serviced by the Contractor's equipment and the customer shall be completely responsible for its proper maintenance. Compactor frequency of collection shall be sufficient to contain the waste without spillage.

All Carts, Containers and Compactors provided by the Contractor shall be in good condition, painted and neatly labeled with the Contractor's name, phone number and size of Container and any other labeling as may be required by Authority rule. In the event a Compactor, which is provided by a source other than the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification sufficient to provide uninterrupted service to the customer until the Compactor is repaired or replaced. The Contractor may charge the customer in accordance with the rates set forth in Exhibit B.

In the event a Compactor, which is provided by the Contractor, is damaged or in need of repair, Contractor shall provide front load Containers, or upon the written approval of the Contract Administrator a roll-off container which may be approved on a case by case basis, within 24 hours of notification sufficient to provide uninterrupted service until the Compactor is repaired or replaced. The Contractor may charge the customer for collection and disposal only in accordance with rates set forth in Exhibit B.

3. Level, Type and Disclosure of Rates for Commercial Collection and Other Services:

- a. **Commercial Collection Service:** The Contractor shall only charge rates as set out in Exhibit B or as otherwise allowed by this Agreement. The Contractor may not bill the customer more than thirty (30) days in advance unless otherwise requested by the customer. The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement on level of service, the Contract Administrator or his designee shall establish the level and type of service to be provided including the location, size of the Container and number of pick-ups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit B. The Contractor will be responsible for the billing and collection of Commercial Solid Waste Collection Services, disposal tipping fees, Special Service(s) fees and Container monthly maintenance charges except as otherwise provided in this Agreement.
- b. **Disclosure:** By October 1st of each year of this Agreement, the Contractor shall provide the customer an annual disclosure statement which may be placed either directly on the billing statement generated by the Contractor's billing system or on a separate cover letter included with the billing statement, and provide a Level of Service form as provided in Exhibit B. Contractor shall send a residential containerized and commercial customer list to the Authority as well as a master copy of the disclosure statement which includes the following language:

"REGULATION BY THE SOLID WASTE AUTHORITY"

The terms and conditions of this Commercial Solid Waste and Recycling Collection Services Agreement are regulated by a franchise granted by the Solid Waste Authority of Palm Beach County. Should the customer have any questions relating to the terms and conditions of this Agreement, the customer may call the Contract Administrator at 1-866-792-4636.

"COMMERCIAL COLLECTION CONTAINERS"

The commercial collection container shall be of a type that can be serviced by the Contractor's collection equipment. The customer may either purchase the commercial collection Container from any source or rent such Container from the Contractor at the container monthly maintenance fee as approved by the Authority. If the customer chooses to use a Compactor, the customer may rent, lease or own the Compactor from any source, provided that the Compactor can be serviced by the Contractor's collection equipment. Commercial collection Containers and Compactors shall be maintained in a serviceable, safe, and sanitary condition by the owner of the Container or Compactor. However, damage caused by the Contractor to a customer owned Container or Compactor shall be repaired at no cost to the customer or the Authority.

"SPECIAL SERVICES"

If the customer requests, the Contractor is required to provide special services for collection of solid waste such as rolling Containers out of storage areas, opening doors or gates for access, or other such special services. However, such special services may be provided by the customer, through its own or other personnel. If the Contractor provides special services, such charge must be separately stated under the "RATES FOR SERVICES" disclosure statement. The maximum for these special service rates are fixed by the Solid Waste Authority. A copy of these rates can be obtained from the Contractor or Contract Administrator.

"RATES FOR SERVICES"

The statement shall incorporate or have attached a rate schedule which specifies the Collection Rate based on size of Container and frequency of service; TYPE indicating whether the Container is for Solid Waste or Recovered Materials, DISPOSAL based on a cost per cubic yard; CONTAINER MAINTENANCE expressed in a monthly flat rate based on the size of the Container; and the cost per month for each SPECIAL SERVICE REQUIRED BY THE CUSTOMER. The notification shall specify the size of Container and frequency of collection of each Container for each business, distinguishing between solid waste and recycling collection service. The notification shall specify in which Service Area the business is located. The notification shall itemize each cost individually. A sample notification shall be approved by the Contract Administrator or his designee before distribution to the customer.

- D. **Method of Payment:** The Authority or its designee will be responsible for the billing and collection of payments for Residential Solid Waste Collection Service, including curbside Cart maintenance fee in accordance with Exhibit B. The Contractor shall be responsible for billing and collection of payments for Commercial Solid Waste Collection Service at rates not to exceed those initially set out in Exhibit B as adjusted in subsequent years in accordance with Section 6 and Exhibit C. Contractor shall also be responsible for billing and collection of payments for Special Services related to Residential Solid Waste Collection Service.
- E. **Hours of Collection:** Curbside Residential Solid Waste Collection Service shall be provided between the hours of 6:00 a.m. and 5:00 p.m. Monday through Saturday, except as otherwise provided for following a holiday as detailed in Section 4.A.1. Dwelling Units receiving Containerized Residential Solid Waste Collection Service and non-residential collection sites located within 150 yards of residential uses shall only be collected between the hours of 7:00a.m. and 5:00p.m. Monday through Saturday. Other non-residential locations may be collected at any time. The hours of collection may be extended due to extraordinary circumstances or conditions with the prior consent of the Contract Administrator.
- F. **Routes and Schedules:** The Contractor shall provide the Contract Administrator, in a format acceptable to the Contract Administrator, the schedules for all Collection routes and keep such information current at all times.

The Contract Administrator or designee shall review requested day or starting point change(s) to routes and approve or deny the request(s) within 10 Business Days. The Contract Administrator's decision shall be final. In the event a requested route or schedule change is approved by the Contract Administrator, the Contractor shall notify the customer(s) affected in writing or other manner approved by the Contract Administrator not less than two (2) weeks prior to the change, at no cost to the Authority. Notification of day or starting point changes to routes for Curbside Residential customers shall be by door hanger, unless otherwise approved by the Contract Administrator, and distributed by the Contractor at no cost to the Authority and the customer. Notification to Curbside customers shall be done twice - once two (2) weeks prior to the change and once one (1) week prior to the change. The Contractor shall provide a draft copy of the route change notification to the Contract Administrator for review and approval not less than three (3) weeks prior to printing and distribution.

5. RECYCLING COLLECTION SERVICE:

The Contractor shall provide Residential and Commercial Recycling Collection Service in the Service Area, as provided within the Agreement. The Authority or its designee shall be responsible for the billing and collection of payments for Residential Recycling Collection Services. The Contractor shall be responsible for billing and collection of Commercial Recycling Collection Service cost not being billed and collected by the Authority or its designee. Unless otherwise provided for in this Agreement, all Recovered Materials collected by the Contractor in the Service Area(s) must be collected in the manner and for the rates and fees provided herein, and delivered to the Authority's Recovered Materials Processing Facility or an Authority transfer station, or other facility designated in writing by the Contract Administrator. Notwithstanding the foregoing, the Contractor shall retain the right to continue to provide Commercial Recycling Collection Service to contractor's existing Commercial Recycling Collection Service customers in the Service Area, including the delivery of said materials to

facilities not designated by the Authority, under agreements effective and in place as of the date of award of the franchise governed by this Agreement for the term of said agreements. Unless specifically provided to the contrary herein, Contractor shall not compete with the Authority for Recovered Materials within the Franchise area. Recovered Materials collected by the Contractor in the Service Area(s) pursuant to this Agreement may not be delivered to any facility other than those specified herein unless authorized by the Contract Administrator, in writing. In addition to the provisions and prohibitions provided for herein, Contractor is required to comply with all Federal, State and local laws, regulations and rules, including rules of the Authority, and is subject to the penalties provided for therein. To the extent that the requirements, prohibitions and penalties provided for in this Agreement are more stringent than those in Federal, State and local laws, regulations and rules, including rules of the Authority, this Agreement prevails. Contractor shall, upon request of the Authority, provide Authority with a list of all Commercial Recycling Collection Service customers in the Service Area as of the effective date of this Agreement, which list shall include the expiration date for each such customer.

A. Curbside Residential Recycling Collection Services will be governed by the following terms and conditions:

- 1. Conditions and Frequency of Service:** The Contractor shall provide Curbside Residential Recycling Collection Services to all Dwelling Units receiving Curbside Residential Solid Waste Collection Service located in the designated Service Area and to other such Dwelling Units as determined appropriate by the Contract Administrator. This service shall be provided once every week on a scheduled route basis which shall coincide with the regularly scheduled solid waste collection pick-up days.

Recovered Materials shall not be commingled with other Residential Solid Waste. Contractor's collection personnel shall not knowingly collect Recovered Materials and place in a solid waste collection vehicle or Cart. Commingling of Solid Waste with Recovered Materials shall be subject to assessments as set forth in this Agreement. Recovered Materials set out for collection by Customers must be collected in a vehicle designated solely for the purpose of collecting Recovered Materials. Said vehicle shall contain signage designating the vehicle as such and include the Authority's toll-free new bin telephone number.

- 2. Accessibility for and Manner of Curbside Recycling Collection:** Contractor shall collect all Recovered Materials placed in a Recycling Container or paper bag and additionally cardboard and/or paper bags, which may be placed beside the container, when any edge of said Recovered Materials is placed within six (6) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or other such location agreed to by the Contractor that will provide safe and efficient access for the Contractor's collection crew and vehicle. The Contractor must collect as many Recycling Containers, paper bags, bundles, or cardboard, as the customer sets out. Cardboard and/or paper bags shall be collected if placed next to, or inside, the Recycling Container(s). Where the resident is physically unable to deliver Recovered Materials to curbside and this is certified by the Contract Administrator, or the Dwelling Unit is located in such a manner as to prevent access to the Contractor's crew or vehicle, an alternative location may be arranged between the customer and the Contractor at no extra cost to the customer. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for pick-up, and such designation shall be final.

3. **Recycling Containers:** The Contractor shall ensure distribution of Recycling Containers as supplied by the Authority to each unit that is to receive Curbside Residential Recycling Collection Service in the Service Area. The title to these Recycling Containers shall be vested with the Authority. However, customers may use their own additional Recycling Containers or paper bags as long as they are similar and suitable for the service.

B. **Containerized Residential Recycling Collection Services** will be governed by the following terms and conditions:

1. **Conditions and Frequency of Service:** The Contractor shall provide Containerized Residential Recycling Service to Dwelling Units as are designated by the Authority that are located in the Service Area. Containerized Residential Recycling Service shall be provided at least once every week on a scheduled route basis as set out in paragraph 2 below, and up to twice a week as necessary during Peak Times of the year.

2. **Accessibility and Schedule for Containerized Residential Recycling Collection:** All Recovered Materials, with the exception of cardboard, are to be collected in a Recycling Container or Container designated for Recovered Materials which shall be located in such location and shall be collected on a schedule as mutually agreed to by the owner or governing association (of the multiple unit residential complex or development being serviced) and the Contractor that will provide safe and efficient access for the Contractor's collection crew and vehicle. Cardboard shall be collected if placed next to, or inside, the Recycling Container or Container. If there is a large amount of cardboard placed outside of the Container (i.e., in the case of a 101 gallon Container), an alternate, larger Container shall be provided, upon agreement by the customer and the Authority. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for pick-up, and such designation shall be final.

C. **Commercial Recycling Collection Services:** The Contractor shall provide Commercial Recycling Collection Services on behalf of the Authority for any business in the Service Area where the Authority has arranged, negotiated or contracted for such service, and Contractor shall have the right to solicit Commercial Recycling Collection Service agreements with any business in the Service Area upon terms and conditions consistent with this Agreement.

1. **Conditions and Frequency of Service:** The Contractor shall provide Commercial Recycling Collection Services to all businesses or commercial entities located in the designated Service Area resulting from its own solicitation, by request of the customer, or where a contract meeting the terms and conditions of this Agreement is arranged by the Contract Administrator or his designee. The size and frequency of service of the Container designated for Recovered Materials shall be determined by a waste audit and agreed to by the customer and the Contractor. However, size and frequency shall be sufficient to provide that no Recovered Materials need be placed outside the Container. Storage capacity shall be suitable for the amount of Recovered Materials generated by the customer. The Contractor shall provide Containers as necessary however, customers may own their Container provided that the customer is completely responsible for its proper maintenance. Such Containers shall be of a type that can be serviced by the Contractor's equipment.

Compactors may be obtained by customers from any source provided that such Compactor be of a type that can be serviced by the Contractor's equipment and the customer shall be completely responsible for its proper maintenance. Compactor frequency of collection shall be sufficient to contain the Recovered Material without spillage. All Commercial Recovered Materials shall be placed in a Container, Compactor or other acceptable Recycling Container. All Containers and Compactors provided by the Contractor shall be in good condition, painted and neatly labeled with the Contractor's name, phone number and size of Container. All Containers and Compactors provided by the Contractor shall be clearly labeled to indicate they hold Recovered Materials only.

Recovered Materials shall not be commingled with other solid waste. Contractor's collection personnel shall not knowingly collect Recovered Materials and place them in a Solid Waste collection vehicle. Commingling of Recovered Materials with Solid Waste shall subject the Contractor to assessments as set forth in this Agreement. Recovered Materials set out for collection by customers must be collected in a vehicle designated solely for the purpose of collecting Recovered Materials and shall be delivered to a facility designated by the Authority. Said vehicle shall contain signage designating vehicle as such and include the Authority's toll-free new bin telephone number (1-866-639-2467).

Where Recycling Containers are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers shall be kept in a safe, accessible location agreed upon between the Contractor and the customer.

2. **Level, Type and Disclosure of Rates for Commercial Recycling Collection and Other Services:** The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement, the Contract Administrator, or his designee, at the election of the customer and Contractor may establish the level and type of service to be provided including the location, size of the Container and number of pick-ups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit B. The Contractor will be responsible for the billing and collection of Commercial Recycling Collection charges except as otherwise provided in this Agreement.
3. **Ownership:** Notwithstanding any other provision of this Agreement, a commercial generator of Recovered Materials retains ownership of those materials until he or she donates, sells, or contracts for the donation or sale of those materials to another person or entity. Nothing in this Agreement shall prevent a Recovered Materials dealer or other person or entity properly registered to engage in the Recovered Materials business in Palm Beach County, whether for profit or nonprofit, from accepting and transporting commercially generated, Source Separated Recovered Materials from such commercial generator, provided however, that such activities are subject to applicable State and local laws, regulations and rules, including rules of the Authority, and provided that the transporter reports such information to the Authority in accordance with applicable State and local laws and rules, including rules of the Authority.

- D. Authority Public Drop-off Recycling Collection Services:** The Contractor shall provide Public Drop-off Recycling Collection Services to all Authority Public Drop-off Locations within the unincorporated and municipal areas of the Service Area at the approved Commercial Recycling Collection Service collection rate set out in Exhibit B as may be adjusted in accordance with Section 6 and Exhibit C. The Authority will provide the containers. The frequency of collection shall be sufficient to provide that no Recovered Materials need be placed outside the Container and shall be determined by the Authority. The Contract Administrator or his designee will establish the number of Containers to be collected and frequency of collection as defined in Exhibit F. The Authority has the right to add or remove up to five (5) containers annually and/or increase or decrease service as deemed necessary.

The Contractor shall provide the Contract Administrator, in a format acceptable to the Contract Administrator, the schedules for all Collection routes and keep such information current at all times. Public Drop-off Commercial Recycling Container collection sites located within 150 yards of residential uses shall only be collected between the hours of 7:00 a.m. and 5:00 p.m. Monday through Saturday.

The Contractor shall bring Recovered Materials collected from the Public Drop-off locations to the Authority owned Recovered Materials Processing Facility or an Authority transfer station.

Authority owned Public Drop-off Recycling Collection Containers damaged by the Contractor shall be replaced at no charge to the Authority within three (3) Business Days.

- E. Method of Payment:** The Authority or its designee will be responsible for the billing and collection of payments for Residential Recycling Collection Service.

The Contractor shall be responsible for billing and collection of payments for Commercial Recycling Collection Service, not to exceed the rates as set out in Exhibit B. The rate set out in Exhibit B shall be adjusted in subsequent years in accordance with Section 6 and the Payment Adjustment Schedule (Exhibit C). The Authority shall provide recycling Containers for commercial customers utilizing a 95 or 101 gallon Container(s) at no charge to the Contractor or customer. The Contractor may be asked to bill the Authority or the customer for all or a part of the Containers used by the customer for Commercial Recycling Collection Service, at the rate set out in Exhibit B, as determined by the Contract Administrator.

- F. Hours of Collection:** Curbside Residential Recycling Collection Service shall be conducted between the hours of 6:00 a.m. and 5:00 p.m., Monday through Saturday, except as otherwise specified in Section 4.A.1. Dwelling Units receiving Containerized Residential Recycling Collection Service and non-residential collection sites located within 150 yards of residential uses shall only be collected between the hours of 7:00 a.m. and 5:00 p.m., Monday through Saturday. Other non-residential locations may be collected at any time. The hours of collection may be extended due to extraordinary circumstances or conditions with the prior consent of the Contract Administrator.

- G. Routes and Schedules:** Route and schedule changes shall be handled as specified in Section 4, Paragraph F.

H. Replacement of Recycling Containers for Residential Dwelling Units:

1. The Contractor will replace at its expense any Container or Recycling Container damaged through the fault or negligence of the Contractor or its personnel (including agents, employees or subcontractors) in accordance with Section 10, and report all such replacements to the Authority. Such replacement Recycling Containers or Containers designated for Recycling for Residential Dwelling Units will be provided by the Authority with the cost for replacement containers deducted from the Contractor's monthly fees.
2. The Authority, at its expense, will supply to the Contractor, for distribution to the customer, replacement Recycling Containers or Containers which were originally provided by the Authority and lost or damaged by the occupant of a Dwelling Unit, and the Contractor shall report all such replacements to the Authority.
3. The Contractor shall promptly deliver Recycling Containers or Containers as requested by the Authority on behalf of the residential customers for the purpose of excess Recovered Materials or for new residential customers.

- I. Contaminated Recovered Materials:** In the event the curbside customer places Solid Waste in the Recycling Container(s) or Container(s), the Contractor must place a contamination sticker on the Recycling Container(s) or Container(s) advising the customer of the reason for non-collection. Contamination stickers will be provided to the Contractor by the Authority. In the event the curbside customer places fiber and commingle material mixed together in either container, Contractor may leave the material but must place a contamination sticker on the container(s) advising the customer of the reason for non-collection.

In the event the Contractor is unaware that a load of Recovered Materials collected pursuant to Residential Containerized Recycling Collection or Commercial Recycling Collection is commingled with Solid Waste, and the Contractor is charged a disposal fee by the Authority, the Contractor is authorized to make an effort to identify the customer responsible for the contamination and charge the customer the applicable disposal charges based on the size of the container serviced for that customer.

- J. Recovered Materials Processing Facility:** The Contractor shall deliver all Recovered Materials collected pursuant to this Agreement from the Service Area to the Solid Waste Authority RMPF, or a SWA transfer station or other facility designated, in writing, by the Contract Administrator.
- K. Change in Scope of Recycling Collection Service:** From time to time, at the sole option of the Authority, it may be necessary to modify the scope of Recovered Materials that will be included in Recycling Collection Service. Should this occur, the Authority and the Contractor agree to enter into good faith negotiations to amend this Agreement to reflect the impact of any such modification.

6. CHARGES, RATES AND LEVEL OF SERVICES:

- A. Solid Waste and Recycling Collection Rate Adjustments:** For all Collection services with the exception of those specifically excluded, the charges shall be initially based on the rates established in Exhibit B, and as subsequently adjusted pursuant to this Agreement. For all cost components other than fuel, the Contractor shall receive an annual adjustment in the Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service, and Commercial Solid Waste Collection Service and Residential Recycling Collection Service rates. At the end of the first year of this Agreement, and each year thereafter, the adjustment shall be made as set out in Exhibit C.

Additionally, for Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service and Commercial Solid Waste Collection Service the Contractor shall receive a biannual fuel price adjustment for the fuel cost component as set out in Exhibit C.

No change in rates except for the Payment Schedule adjustment as provided by this Agreement shall be made without the approval of the Authority Board. Annual rate adjustments shall be effective the following October 1, unless otherwise mutually determined by the Authority and the Contractor.

B. Billing, Collection, and Payments:

1. The Authority will be responsible for the billing and collection of payments for those units included in the Authority's mandatory Residential Solid Waste Collection Services and the Residential Recycling Collection Services programs. The Authority shall make monthly payments in arrears to the Contractor for the Residential Solid Waste Collection Service and Residential Recycling Collection Services provided pursuant to this Contract. The Contractor shall be entitled to payment for services rendered irrespective of whether or not the Authority collects from customers for such service. Payments from the Authority to the Contractor will be due and paid no later than the tenth day of the month following the month during which services were rendered.

On or before October 1, and before commencement of work by the Contractor under the terms of this Agreement, the Authority shall provide to the Contractor the estimated total number of units to be serviced. By November 1 of each Fiscal Year, the Authority shall provide to the Contractor a copy of the annual assessment roll providing a detailed listing of all the units to receive these services. Thereafter and for the duration of this Agreement, the Authority shall promptly notify the Contractor of new residential units to be served and/or deleted and payments will be adjusted accordingly. New Dwelling Units which are added for service during the Authority's Fiscal Year will be added to the customer service list and payment will be paid by the Authority to the Contractor in the Contractor's monthly payment. Payment will be prorated based upon the day of Certificate of Occupancy and verification of the beginning of actual service, whichever is later. The payments from the Authority to the Contractor for units added by Certificate of Occupancy are paid no later than the tenth day of the month, two months following the month during which the Dwelling Unit is provided a

Certificate of Occupancy. After the first year of the Agreement, the Dwelling Unit becomes part of the total number of the subsequent year's total number of units, provided annually to the Contractor on or before October 1.

2. In the event the Contractor provides service to Dwelling Units whose parcel was not included on the annual assessment roll provided by the Authority, the Contractor must provide a written list of such Dwelling Units to the Contract Administrator within 90 days receipt of the assessment roll. Upon receipt of such written list by the Authority, the Contract Administrator will verify the customer address and that service to the unit is proper within 30 days, and if proper, shall remit monthly payments to the Contractor for such service effective as of October 1 of that Fiscal Year or the date service began, whichever is later. If the Authority has not received notification within 90 days by the Contractor, no adjustments to payment will be made until the next Fiscal Year annual roll is certified for the same units. However, the Authority reserves the right to correct any errors of omission or commission per the laws and rules that govern the Authority. In the event the Authority pays the Contractor for a residential unit in error for whatever reason, the Contractor shall notify the Contract Administrator. Upon determination of any overpayment, the Contract Administrator will verify the error and make appropriate adjustment to the Contractor's payment to correct the error.
- C. **Solid Waste Disposal Costs:** Collection service costs and Solid Waste disposal costs shall be treated separately for the Solid Waste Collection services being provided pursuant to this Contract. Residential and commercial Solid Waste disposal costs shall be separated from residential and commercial collection service costs as shown in Exhibit B. Residential disposal costs will be part of the special assessment billed by the Authority except as otherwise provided in this Agreement. The Contractor will be given a disposal credit for each residential unit as calculated in Exhibit B. The non-assessed portion of the commercial disposal costs will be part of the service charge billed by the Contractor. The Contractor shall pay the Authority for all Solid Waste disposal costs incurred for disposing of all Solid Waste at the Authority's Disposal Facilities except for the portion of disposal costs which have been separately credited by the Authority.
- D. **Extraordinary Rate Adjustment:** The Contractor may petition the Authority at any time for an additional rate adjustment on the basis of extraordinary and unusual changes in the cost of operations that could not reasonably be foreseen by a prudent operator. The Contractor's request shall contain substantial proof and justification, as determined by the Contract Administrator, to support the need for the rate adjustment. The Authority may request from the Contractor, and the Contractor shall provide, such further information as may be reasonably necessary in making its determination. The Authority Board, in its sole discretion, may approve or deny the request, in whole or in part, within 120 days of receipt of the request and all other additional information required by the Authority.
- E. **Franchise Fee:** To compensate the Authority for the cost of administration, supervision and inspection rendered for the effective performance of this Agreement, as well as other costs related to Collection, the Contractor shall pay to the Authority a fee of three percent (3%) of all gross revenues charged for services or operations conducted in the Service Area in accordance with Exhibit E. Solid Waste disposal costs paid by the Contractor to the Authority under this

Agreement shall be deducted from the gross revenue total prior to calculation of the franchise fee due to the Authority. Franchise fees shall be payable within forty-five (45) days of the last day of each calendar quarter. A late charge of 1.5% of the monies due for the Franchise fee shall be calculated monthly until payment is received. Misrepresentation of revenues by Contractor shall result in the following: 1) Contractor must pay the Authority the calculated difference determined from the misrepresentation within five (5) Business Days; 2) Contractor must pay an additional 20% assessment based on the misrepresented amount; 3) Contractor shall submit a Certified Financial Statement on a quarterly basis for the remainder of the Agreement. Such Certified Financial Statement must include the opinion of a Florida Certified Public Accountant who has conducted an audit of the Contractor's books and records in accordance with generally accepted auditing standards which include tests and other procedures necessary, that the Financial Statements are fairly presented, in all material respects, in conformity with generally accepted accounting practices.

F. **Exclusive Franchise:** Authority agrees to assist the Contractor in taking timely action against any entity violating, and/or in defense of, the Contractor's exclusive franchise rights granted under this Agreement.

7. **HOLIDAYS:** The Contractor shall not be required to perform Collection on Thanksgiving Day and Christmas Day. Residential Solid Waste, Recovered Material and Vegetative Waste not collected from curbside service customers on Thanksgiving Day and Christmas Day shall be collected on the next scheduled service day. Residential Solid Waste and residential Recovered Material not collected from container service customers shall be collected on the next Business Day. The Contractor shall not be required to maintain office hours on Thanksgiving Day and Christmas Day. However, on all holidays except Thanksgiving Day and Christmas Day, the Contractor shall provide collection of Commercial Solid Waste, Commercial Recovered Material, Residential Solid Waste, Vegetative Waste and Residential Recovered Material and provide for operations personnel to accept calls from the Authority and the Contractor's customers.
8. **SPECIAL SERVICES:** Rates charged for Special Services may not exceed the special service rates as listed in Exhibit B. In the event the requested special service is not included within Exhibit B, the Contractor may negotiate with the customer for the rate. Upon failure of the parties to reach an agreement on the rate, the Contract Administrator shall establish the rate. The Contractor shall be responsible for billing and collection of payment for all Special Services.
9. **PUBLIC AWARENESS PROGRAM:** The Contractor shall assist the Authority with the Public Awareness Program by distributing door hangers, stickers, flyers or other medium to residential and commercial customers as requested by the Authority. Additionally it is the Contractor's responsibility to provide information about those customers who repeatedly do not prepare or set out their Recovered Material or solid waste as specified within this Contract to the Authority.

The Commercial Recycling customer will also be notified, by the Authority through the Contractor, about special commercial recycling events, workshops, educational forums and symposiums and other activities, as needed.

10. **TREATMENT OF CONTAINERS:** The Contractor shall collect Residential Solid Waste, Vegetative Waste and Recovered Materials and Commercial Solid Waste and Recovered Materials with as little disturbance as possible and shall leave any receptacle at the same point it was collected. Unless

otherwise specified in this Agreement, any Cart, Vegetative Container, Container, Compactor or Recycling Container requiring repair, replacement or delivery for whatever reason shall be repaired and/or replaced or delivered within five (5) Business Days of the request of the customer or the Authority. Unless otherwise specified in the Agreement, any Cart, Vegetative Container, Container, Compactor or Recycling Container damaged by the Contractor or reported in poor condition by the customer or the Authority shall be repaired or replaced at the Contractor's expense. Unless otherwise specified in the Agreement, for Recycling Containers provided to the Contractor by the Authority, the cost of Recycling Containers provided to replace those damaged by the Contractor or reported in poor condition by the customer or the Authority shall be deducted from the Contractor's monthly fees. The Contractor shall neatly re-place the Cart, Container, Recycling Container and Vegetative Container to the point of collection.

11. PERSONNEL OF THE CONTRACTOR:

- A. The Contractor shall assign a qualified person or persons to be in charge of the operations within the service area and shall give the name(s), office and cellular telephone numbers and, if applicable, email address of the person(s) to the Contract Administrator.
- B. Supervisory personnel must be present to direct operations on all routes in a safe and satisfactory manner. All supervisory personnel shall operate a non-collection vehicle that is clearly marked with Contractor's name and office telephone number.
- C. Contractor shall provide personnel sufficient to complete all routes. Supervisory personnel may temporarily operate collection vehicles in an emergency situation.
- D. The Contractor shall keep all contact information provided to the Authority current at all times.
- E. The Contractor's collection employees shall wear a uniform or shirt bearing the company's name during operations.
- F. The Contractor's name and office telephone number shall be properly displayed on all Solid Waste and Recycling Collection Vehicles and Containers provided by the Contractor. All vehicles utilized for the collection of Recovered Materials shall be clearly identified for that purpose.
- G. The Contractor shall provide operating and safety training for all personnel.
- H. The Contractor's employees shall treat all customers in a polite and courteous manner.
- I. The Contractor shall provide emergency contact name(s), office, home and cellular telephone numbers and email address for all key personnel.
- J. In the event of a dispute between customer and Contractor, key personnel of the Contractor shall be available to meet with Contract Administrator or his designee as requested by the Authority.
- K. Any employee of the Contractor who removes or diverts Solid Waste or Recovered Materials from the Authority's system without authorization shall be prohibited from providing Solid Waste or Recovered Materials Collection services under this Agreement.



12. **SPILLAGE:** The Contractor shall not litter or cause any spillage to occur upon the premises, roadway or the right-of-way wherein the collection shall occur. During hauling, all Solid Waste, Vegetative Waste and Recovered Materials shall be contained, tied, or enclosed so that leaking, spilling and blowing is prevented. In the event of any spillage or leakage, including but not limited to, hydraulic and other fluids from the collection vehicle or materials such as paint, by the Contractor, for any reason or source, the Contractor shall clean up all spillage and leakage at no cost to the Authority or the customer within two (2) Business Days unless otherwise specified within this Agreement.
13. **SOLID WASTE AND RECOVERED MATERIALS PROCESSING FACILITIES:** All Residential Solid Waste, Vegetative Waste, and Recovered Material, and all Commercial Solid Waste and Recovered Material collected by the Contractor in the Service Area(s) pursuant to this Agreement shall be hauled to a Designated Facility. For all Service Areas the Contractor is free to use any suitable Designated Facility.

The Contract Administrator may specify in writing facilities not owned by the Authority as Designated Facilities. These facilities are supplemental to the facilities owned by the Authority. The Authority does not guarantee the continued availability of facilities not owned by the Authority. In the event a Designated Facility not owned by the Authority is unavailable, closes, or has its Designated Facility status revoked, Contractor shall use an alternate Designated Facility at no charge to the Authority.

Facilities managed and operated by the Authority, are periodically closed for maintenance an average of 30 Business Days every five (5) years. In the event a Designated Facility is closed, the Contractor shall take the Solid Waste, Vegetative Waste and Recovered Materials to another Designated Facility at no charge to the Authority, except as limited herein.

In the event an Authority owned Designated Facility closes more than 30 Business Days in a five (5) year period, for all routes in any Service Area, Contractor shall receive additional compensation for the additional travel time to an alternate Designated Facility. Contractor's rates shall be increased to 1.08 times the rate set out in Exhibit B, as adjusted by Exhibit C, if applicable, for each Business Day the Authority-owned Designated Facility is closed in excess of thirty (30) Business Days and for each type of waste or Recovered Material for which acceptance is unavailable.

Unless otherwise specified in this Agreement, in the event that a load of Recovered Materials collected pursuant to Curbside Residential Recycling Collection Service or Containerized Residential Recycling Collection Service delivered to the Designated Facility contains more than 10%, by volume of the total load, material which is not Recovered Material or that there is more than 5% fiber products within the commingled Recovered Material or 5% commingled Recovered Material by volume within a load of fiber, the Authority has the right to reject the load and to charge the Contractor the full disposal fee for each ton within the load.

Unless otherwise specified in this Agreement, in the event that a load of Recovered Materials collected pursuant to Commercial Recycling Collection Service delivered to the Designated Facility contains more than 10% by weight or volume of the total load of solid waste, trash or commingle within a load of paper products, the Authority has the right to reject the load and to charge Contractor the full disposal fee for each ton within the load. The Contractor may pass this cost through to a commercial customer in the event that the Contractor can prove that the customer caused the contamination to the

satisfaction of the customer. It is the responsibility of the Contractor to notify the Authority of any customer who has repeatedly contaminated the Recovered Materials.

The Authority currently operates a Dual Stream recycling program for both residential and commercial Recovered Materials. If at any time during the term of this Agreement the Authority begins to accept Single Stream Commercial Recovered Materials, the Authority reserves the right to designate a specific subset of facilities for the receipt and pre-processing of the material. The Authority shall designate at least one facility in each Service Area. In the event the Authority fails to designate at least one facility in a Service Area(s), Contractor's rates for Commercial Recycling Collection for those accounts receiving Single Stream Commercial Recovered Material Collection service shall be increased to 1.08 times the rate set out in Exhibit B, as adjusted by Exhibit C, if applicable, for each Business Day no such designated facility is provided in the Service Area(s).

14. **COLLECTION EQUIPMENT:** The Contractor shall have on hand at all times and in good working order such equipment as shall permit the Contractor to safely, adequately and efficiently perform the contractual duties specified in this Agreement. Upon execution of this Agreement and semi-annually thereafter, the Contractor shall provide in a format specified by the Contract Administrator a list of the equipment, both dedicated and reserve, to be used by the Contractor to provide each type of collection service relating to this Agreement. Solid Waste collection equipment shall be of the enclosed loader packer type, or other equipment that meets industry standards and is approved by the Contract Administrator, unless otherwise provided within this Agreement. All Equipment shall be kept in good repair, appearance and in a sanitary, clean condition at all times. Recovered Materials collection equipment shall be the McNeilus or Heil split body rear loader (one compartment for paper products; one compartment for other Recovered Material), and must be compatible for unloading at the designated RMPF or transfer station. In the event a compacting vehicle is used for the collection of Recovered Materials, compaction pressure may not exceed 50 pounds per square inch for the commingled non-paper Recovered Materials to avoid glass breakage. Equipment utilized for the collection of Recovered Materials shall be clearly identified for that purpose. The Contractor shall have available reserve equipment which can be put into service within two (2) hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the Contractor to perform the contractual duties. Contractor shall notify the Contract Administrator or his designee by phone within two hours of any equipment breakdown. If the public road or public right-of-way in the Service Area is substandard, as specifically designated by the Contract Administrator, in writing, the Contractor must provide lightweight equipment to service these roads.
15. **VEGETATIVE WASTE:** All Vegetative Waste shall be collected separately from Residential Solid Waste and Recovered Materials. Contractor is not required to collect debris generated by Land Clearing activity which includes, but is not limited to, stumps, tree trunks and logs.
16. **SPECIAL WASTE, HAZARDOUS WASTE, BIOHAZARDOUS OR BIOMEDICAL WASTE AND SLUDGE:** The Contractor shall not be required to collect and dispose of Special Waste.
17. **OFFICE AND EQUIPMENT YARD:** The Contractor shall maintain an office within Palm Beach County where complaints from the Authority and commercial customer inquiries shall be received. It shall be equipped with sufficient telephones, with no less than two phone lines, and shall be open during normal business hours and shall have local customer service and sales representatives sufficient to provide adequate phone coverage and assistance to customers within their own Service Area(s) from 8:00 a.m.

to 5:00 p.m., Monday through Saturday, with the exception of Thanksgiving Day and Christmas Day. The Contractor shall provide a dedicated email address and computer with internet access to receive complaints from the Authority. The contractor must have a fax machine and dedicated fax line to be utilized in the event of a computer system malfunction. The Contractor shall provide an answering machine during non-office hours for customer requests and questions to be responded to during the following Business Day. The Contractor shall provide a contact person for the Authority to reach during all non-office hours. The contact person must have the ability to authorize Contractor operation in the case of Authority direction or situations requiring immediate attention. An equipment yard must be established no later than September 1, 2019. Failure to establish an office and equipment yard may result in loss of franchise. Equipment yard means a real property location that shall be utilized by the Contractor for the storage and keeping of all equipment needed by the Contractor to provide all services under this Agreement.

18. **COMPLAINTS:** All service complaints shall be directed to the Contract Administrator, or his designee. The complaint will be forwarded to the Contractor by telephone, computer or electronic media not less than twice daily where it shall be recorded on a complaint log by the Contractor. The complaint shall be resolved no later than 12:00 noon the next Business Day after it is received by the Contractor. When the complaint is received on a Saturday or the day preceding Thanksgiving Day and Christmas Day, it shall be resolved by the Contractor no later than 12:00 noon the next business day.

When the Contract Administrator or his designee notifies the Contractor of a complaint, the Contractor shall take the appropriate steps that may be necessary to resolve the complaint by 12:00 noon on the next Business Day after its receipt. If a complaint cannot be resolved by 12:00 noon on the next Business Day following the scheduled Collection day, the Contract Administrator shall be notified in writing of reason for non-resolution of the complaint.

Non-conforming Solid Waste, Recovered Materials and Vegetative Waste not properly tagged by the Contractor shall be collected by the Contractor by 12:00 noon on the next Business Day following the scheduled Collection day. Complaints of sloppy service provided by Contractor, including, but not limited to Solid Waste, Recovered Materials or Vegetative Waste being left in the roadway or Carts and Vegetative Containers not being returned to point of collection on the scheduled Collection day shall be resolved by 5:00 p.m. on the same day.

The Contractor shall investigate and provide the Contract Administrator or his designee with a full written explanation of the disposition of any complaint involving a claim of damage to private or public property as a result of actions of the Contractor's employees, agent, or sub-contractors within 24 hours of receipt. The Contract Administrator will consider all documentation provided and make final determination of party responsibility. If the Contractor fails to provide a written explanation of the disposition of such complaints within 24 hours of receipt, determination of responsibility shall be in favor of the customer and Contractor shall be held liable for all necessary repairs. Any damage shall be repaired within five (5) Business Days, with the exception of mailboxes and Carts, which shall be repaired or replaced within three (3) Business Days. In the case of an unresolved dispute, the Contract Administrator's or his designee's decision shall be final.



19. **QUALITY OF PERFORMANCE OF CONTRACTOR:** It is the intent of this Agreement to ensure that the Contractor provides high quality services. The following constitute violations of this Agreement that have negative impacts on the Authority and the public, the costs of which are not reasonably quantifiable, and are subject to liquidated damages and potentially loss of Franchise. The parties readily acknowledge that given the nature of the subject matter and performance required under this Agreement, the actual amount of damages, if any, that may be assessed is not able to be determined at the time of execution of this Agreement.

A. **Complaints:** All complaints received by the Contract Administrator, or his designee, and reported to the Contractor shall be promptly resolved pursuant to the provisions of Section 18 of this Agreement. Complaints shall not include customer informational requests or Recycling Container requests. A complaint not resolved by 12:00 noon on the next Business Day, unless otherwise provided in this Agreement, shall count as two complaints. In the event complaints received from curbside customers exceed the following annual or monthly allowable complaint(s), the Contract Administrator shall impose as liquidated damages the amount of \$200.00 per incident to reimburse the Authority for the cost of receiving, logging, investigating, and following up on the complaint.

Complaint Type (Monthly Total)	Area 6
Garbage, Trash and Damage	30
Recycling	20
Vegetation	40

B. **Other Administrative Charges:** In addition to the liquidated damages provided for in Subsection 19.A related to customer complaints, the Contract Administrator may, without regard to the percentage of customer complaints, also impose liquidated damages at the rate of \$200.00 per day per incident for any other infraction of this Agreement to reimburse the Authority for the cost of receiving, logging, investigating and following up on the complaint and or failure to perform, and additional costs that cannot be reasonably quantified. Such infractions include but are not limited to:

1. Failure to provide clean, safe, sanitary equipment;
2. Failure to maintain office hours as required;
3. Failure to provide documents and reports in a timely and accurate manner;
4. Failure to repair or replace and/or deliver a Container, Compactor, Recycling Container, Cart, Vegetative Container or mailbox within the required time period;
5. Failure to clean spillage other than the clean-up required by the Palm Beach County Health Department, as provided in Section 19.C.7 below;
6. Failure to cover and or secure materials on collection vehicles;
7. Collection employees out of uniform;
8. Name and phone number, and if applicable, size not displayed on Collection vehicles or Containers;
9. Failure to provide schedule and route maps;
10. Using an improper truck for the specific service provided;
11. Failure to submit a disclosure notice to either a customer or the Contract Administrator;



12. Failure to report recycling activity monthly (on or before the 10th day of the following month), in the format determined by the Authority, for the purpose of tracking and verifying countywide recycling activity;
13. Failure to collect Recovered Materials, Solid Waste or Vegetative Waste on schedule for any customer who has been missed more than three times within a 12 month period;
14. Failure to respond to customer calls, including all residential and commercial customers, in a timely and appropriate manner;
15. Failure to place a contamination sticker in Recycling Containers, as required;
16. Failure to repair damage to property resulting from Contractor's (including agents, employees or subcontractors) equipment failure or negligence within five (5) Business Days;
17. Failure to return calls to the Authority in a timely manner;
18. Failure to provide a supervisor on routes to direct operations in safe and satisfactory manner;
19. Failure to remove Vegetative Waste tagged in accordance with Section 4.A.1 within 72 hours will result in a \$200.00 liquidated damage assessment each day until Vegetative Waste is removed.

C. Major Prohibitions and Liquidated Damages: The following constitute serious violations of this Agreement that have negative impacts on the Authority and the public, the costs of which are not reasonably quantifiable, and are subject to liquidated damages and potentially loss of Franchise. The parties readily acknowledge that given the nature of the subject matter and performance required under this Agreement, the actual amount of damages, if any, that may be assessed is not able to be determined at the time of execution of this Agreement.

1. Mobilization and Preparation: Prior to the commencement of the term of this franchise Agreement, the Contractor shall prepare for the collection services in the Service Area in a responsible manner and, at a minimum, shall adhere to the requirements as set out in Exhibit G. In the event the Contractor fails to meet the deadlines of any one of the tasks outlined in Exhibit G, the Authority has the right to assess and collect liquidated damages in accordance with Section 19.C.1. Failure to meet the deadline of more than two tasks may lead to loss of the exclusive franchise for each Service Area.
2. Failure to meet the requirements in accordance with Section 48 will result in a \$10,000 liquidated damage assessment for each task deadline missed to compensate the Authority for costs, including additional supervision, associated with assisting the Contractor in getting back on schedule.
3. Intentionally commingling Solid Waste, Vegetative Waste and/or Recovered Materials (including commingling recovered fiber with recovered commingle material, or recovered dual stream material with recovered single stream material in the event that the Authority authorizes single stream Commercial Recycling Collection Service) is prohibited and may result in liquidated damages in the amount of \$5,000.00 per incident to reimburse the Authority for the cost of inspecting, sorting, handling and disposing of the contaminated load, and the costs associated with potential injury to employees and workers who are exposed to said contamination, and upon the fifth offense may constitute default of contract and result in loss of Franchise.



4. Changing routes, including the starting point of a route without approval from the Authority or notification to the Authority and the customer is prohibited and will result in liquidated damages of \$2,000.00 per incident to reimburse the Authority for the costs of managing the service disruption, including the cost of receiving, logging, investigating and following up on customer complaints, communicating with the Contractor and coordinating the return to normal service. Additionally, the Contractor shall be required to return to the previous route(s) and schedule and properly notify customers in accordance with the requirements of this Agreement at no cost to the Authority or customer.
5. Billing commercial customers service charges unauthorized by this Agreement, such as special fuel surcharges, handling charges or billing charges, is prohibited and will result in the assessment of liquidated damages in the amount of \$500 per incident to compensate the Authority for the cost of receiving, logging, investigating and following up on customer complaints, communicating with the Contractor and the customer, and coordinating the reimbursement to the customer for all non-approved charges. Contractor shall also be required to reimburse the customer for all non-approved charges paid by the customer.
6. Violating the exclusive Franchise in another contractor's Service Area without approval from the Authority is prohibited and will result in the assessment of liquidated damages of \$5,000.00 per incident to compensate the Authority for managerial, and investigative costs associated with defending and reinstating the exclusive Franchise rights of the Authority's franchisee, in addition to reasonable attorney's fees incurred by the Authority. Additionally, Contractor will be required to pay restitution to the offended contractor in an amount equal to the contractor's lost collection charges at the rate per cubic yard, or pull, whichever is applicable, as of the time of the infraction for every cubic yard, or pull.
7. Failure to clean up spillage of any substance required to be cleaned up by and in accordance with the Palm Beach County Health Department will result in the assessment of liquidated damages in the amount of \$2,500.00 per day, per incident to compensate the Authority for the cost of receiving, logging, investigating and following up on customer complaints, assessing the extent of the damage, and communicating with the Contractor, the Health Department and the customer(s). Additionally, in the event of such failure to clean up spillage, the Authority retains the right to perform or contract for the performance of such clean-up and assess the Contractor for all costs incurred.
8. The Contractor, providing Collection service on behalf of the Authority, excepting as provided for in Section 5, is required to deliver all Commercial and Residential Solid Waste, Vegetative Waste and Recovered Materials collected pursuant to this Agreement to disposal facilities and/or Recovered Materials Processing Facilities, designated by the Authority. Diversion of these materials to any facility not designated by the Authority without the written consent of the Contract Administrator, whether within or outside Palm Beach County, is prohibited and will result in the following assessments:

The first offense will result in the assessment of liquidated damages in the amount of \$100,000.00 to compensate the Authority for the investigative and legal costs and expenses incurred to ascertain and quantify the extent of the violation. Additionally, in the case of Solid Waste, the Contractor shall reimburse the Authority for lost revenue based on the per



ton tipping fee for garbage in effect at the time of the offense for each ton of material diverted, plus reimbursement for lost energy revenues, if any. In the case of Recovered Material, in addition to liquidated damages, the Contractor shall reimburse the Authority for lost net revenue based solely on the then current average commodity value as determined by Authority sales and the then current incremental processing cost paid by the Authority for processing at the Authority-owned Recovered Materials Processing Facility.

The second offense may result in loss of franchise(s) and a ten (10) year ban on the ability to bid on future Solid Waste Authority of Palm Beach County Solid Waste and Recycling Collection Services.

Provided that the Contractor provides timely notification to the Authority, and notwithstanding the above, the parties agree that it is not the intent of this subsection to punish the Contractor, beyond the payment of restitution, for the random, infrequent or inadvertent actions of an employee, acting in a manner other than as directed by the Contractor, that result in the diversion of materials from an Authority approved facility.

The unauthorized diversion of Solid Waste and/or Recovered Materials from the Authority system, in addition to being a violation of this Agreement, is prohibited by Solid Waste Authority Rule 5, regulating Solid Waste Collection and Disposal, and Rule 6, regulating Recovered Materials Collection and Processing. To the extent allowed by law, the imposition of the above liquidated damages is in addition to any fines or penalties that may arise out of any proceeding, criminal or civil, for violations of the Palm Beach County Solid Waste Act (Ch. 2001-331), any Authority rule, or any other Federal, State, or local act, ordinance, resolution or rule.

9. Failure to complete a route or community on the regular scheduled pick-up day shall result in the assessment of liquidated damages in the amount of \$2,000.00 for each route/community per day not completed to reimburse the Authority for the value of services not rendered, costs of managing the service disruption, including the cost of receiving, logging, investigating and following up on customer complaints, communicating with the Contractor and coordinating the return to normal service. Each missed route/community shall be completed by 10:00 a.m. of the next Business Day following regular scheduled collection day. Failure to collect missed routes/communities by 10:00 a.m. the next Business Day as required will result in an additional \$2,000.00 assessment for each route/community not completed.
10. Failure to make a Good Faith Effort to utilize the services of the subcontractors and suppliers listed in the Contractor's Subcontractor/Supplier Utilization Plan in the manner and in the amounts specified therein shall result in the imposition of Liquidated Damages in an amount up to the difference between the dollar amounts specified in the Subcontractor/Supplier Utilization Plan and the amount actually spent.
11. Further, failure to make a Good Faith Effort to achieve the S/M/WBE goal shall be considered by the Authority as a Material Breach of the Agreement, and further, shall constitute a Default of Contract subject to the provisions of Section 29 and shall be cause for debarment in accordance with the Authority's Purchasing Manual, Section 11, paragraphs D or E and

Section 29 of this Agreement. For the purpose of this section, and notwithstanding anything to the contrary in the Purchasing Manual or herein, such action shall only be imposed by the Governing Board of the Solid Waste Authority and only subsequent to a public hearing before the Board during which hearing the Contractor shall have the opportunity to present facts and evidence in its defense.

For the purpose of this Section, the Contract Administrator may deduct any charges from payments due or to become due to the Contractor. In the event the Contractor fails to repair damages as a result of the Contractor's equipment failure or negligence within the time provided within this Agreement, the Contract Administrator may arrange for the repairs and assess the Contractor for the cost of the repairs and any applicable administrative charges. The Contract Administrator may assess administrative charges and liquidated damages pursuant to this Section on a monthly basis in connection with this Agreement and shall at the end of each month during the term of this Agreement notify the Contractor in writing of the charges assessed and the basis for each assessment. In the event the Contractor wishes to contest such assessment it shall, within five (5) Business Days after receiving such monthly notice, request in writing an opportunity to be heard by the Authority Board and present its defense to such assessment.

The Authority shall notify the Contractor in writing of any action taken with respect to Contractor's claims and the decision of the Authority Board will be final. Any aggrieved party that wishes to appeal may apply in the Circuit Court of Palm Beach County, Florida, within thirty (30) days of the rendition of such decision in accordance with the applicable Florida Appellate Rules.

D. Filing of Requested Information and Documents:

1. In addition to any other requirements of this Agreement, the Contractor shall be required to file pertinent statistical and aggregate cost information pertaining to residential and commercial Solid Waste and Recovered Materials Collection services that is requested by the Authority. All Solid Waste (including Vegetative Waste) and Recovered Materials tonnage collected by the Contractor in the Service Area during each month, whether residential or commercial, shall be reported accurately to the Authority, in a format and with such dates as specified by the Authority, on or before the 10th day of the following month.
2. The Contractor shall file and keep current with the Authority all documents and reports required by this Agreement. By September 1st of each year this Agreement is in effect, the Contractor shall ensure and certify to the Authority, in a format acceptable to the Contract Administrator, that all required documents are current and on file with the Authority.
3. The Contractor shall provide the Authority on a quarterly basis a list of all commercial customers and containerized residential customers within the Service Area. The list shall include at a minimum the customer name, customer contact person, customer contact telephone number, service address, compactor or container size, level of service and monthly invoice amount.
4. Failure to file any document or report within three (3) Business Days of the required filing date, except where granted an extension by the Contract Administrator, may result in the assessment of liquidated damages as authorized pursuant to this Section 19.B.

20. **NATURAL DISASTERS:** In the event of a hurricane, tornado, major storm or other natural disaster, the Contractor's sole responsibility shall be to reestablish regular routes and schedules for the collection of Solid Waste, Recovered Materials, and Vegetative Waste as soon after the natural disaster as possible. The collection and disposal of Solid Waste shall be the highest priority. The collection and disposal of debris generated by a natural disaster shall not be the responsibility of the Contractor. However the Authority and the Contractor may mutually agree to execute a temporary agreement under which the Contractor will collect debris generated by a natural disaster. Contractor shall have a reasonable expectation that under a separate agreement or agreements, the Authority will procure collection and disposal services for debris generated by a natural disaster. The Contractor agrees to provide full cooperation with the Authority and the debris collection contractor in the aftermath of a natural disaster in an effort to return the county to its pre-disaster state, and resume normal collection services.
21. **FORCE MAJEURE:** Neither the Authority nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Force Majeure, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid.

Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by a Force Majeure event, give written notice to the other party describing the Force Majeure preventing continued performance of the obligations of this Agreement.

22. **PERMITS AND LICENSES:** The Contractor shall obtain, at their own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect throughout the Term of this Agreement. Any changes of the licenses or permits shall be reported to the Authority within ten (10) Business Days of the change. Failure to obtain and maintain all permits and licenses, including but not limited to any permit or license which may in the future be required by the Authority to engage in the business of Collection in Palm Beach County, shall constitute an event of default.
23. **PERFORMANCE BOND:** The Contractor shall furnish to the Authority a performance bond executed by a surety company rated A- VII or higher by A.M. Best & Co., having a successful record of continuous operation, and licensed, admitted and authorized to do business in the State of Florida or a clean irrevocable letter of credit issued by a bank within Palm Beach County to ensure the faithful performance of this Agreement and all obligations arising hereunder in the appropriate amount determined in accordance with Exhibit D, attached. A clean, irrevocable letter of credit or bond, either of which meeting the requirements of this section, may be substituted for the other upon approval by the Authority. The form of this bond or letter of credit, and the Surety Company, shall be acceptable to Authority legal counsel and the Contract Administrator and shall be maintained during the term of this Agreement as provided in Section 1. The bond(s) shall be endorsed to show the Authority as obligee and it shall provide that bond(s) shall not be canceled, limited or non-renewed until after thirty (30) days' notice has been given to the Authority. A current performance bond or letter of credit evidencing required coverage must be in force and on file at the Authority at all times.

24. INSURANCE:

- A. **Worker's Compensation Insurance:** Worker's Compensation coverage must be maintained in accordance with statutory requirements as well as Employer's Liability Coverage in an amount not less than \$100,000.00 per each accident, \$100,000.00 by disease and \$500,000.00 aggregate by disease.
- B. **Liability Insurance:** The Contractor shall, during the term of this Agreement, and any extensions hereof maintain in full force and effect commercial general liability insurance policy and automobile liability insurance policy, which specifically covers all exposures incident to the Contractor's operations under this contract. Such insurance shall be with an insurance company with a current AM Best Rating of A- VII or better, and authorized to do business in the state of Florida and each policy shall be in an amount of not less than \$1,000,000.00 Combined Single Limit for personal bodily injury, including death, and property damage liability and the general liability shall include but not be limited to coverage for Premises/Operations, Products/Completed Operations, Contractual, to support the Contractor's Agreement or indemnity and Fire Legal Liability. In addition to the above liability limits, the Contractor shall maintain \$5,000,000.00 in umbrella and/or excess liability coverage. Policy(ies) shall be endorsed to show the Authority, a political subdivision of the State of Florida, as an additional insured as its interests may appear and shall also provide that insurance shall not be canceled, limited or non-renewed until after thirty (30) days' written notice has been given to the Authority. Current certificates of insurance evidencing required coverage must be on file with the Authority at all times. Contractor expressly understands and agrees that any insurance protection furnished by Contractor shall in no way limit its responsibility to indemnify and save harmless Authority under the provisions of Section 25 of this Agreement.

25. INDEMNIFICATION: The Contractor will indemnify, save and hold the Authority harmless from any and all liabilities, losses or damages the Authority may suffer as a result of claims, demands, costs or judgments against the Authority arising out of the acts or omission of the Contractor or its employees, which said liabilities, losses, damages, claims, demands, costs or judgment arise out of the matters which are the subject of this Agreement and the work to be performed thereby. The Contractor shall not be responsible for nor be required to indemnify or hold the Authority harmless for any act, omission, negligence or other liability to the extent caused by the act or omission of the Authority or any one of its employees or agents.

26. ACCESS AND AUDITS: The Contractor shall maintain within Palm Beach County adequate records of the solid waste collection and/or recycling services for every year of the Agreement and for five (5) years following the end of the term of this Agreement. Upon request, the Authority or its designee shall have the right to review all records maintained by the Contractor upon 48 hours written notice. In the event that the Authority exercises its right to review under this Section within the term of this Agreement or within the five (5) year period following the end of the term of this Agreement, Contractor must then continue to maintain all records until released by the Authority. If the Contractor fails to maintain records as required pursuant to this Section or infringes the Authority's right to review said records at any time during the period beginning on the date of execution of this Agreement and ending on the date five (5) years after the end of the term of this Agreement, or in the event the Authority has exercised its right to review, the date beyond the date five (5) years after the end of the term of this Agreement that the records are released by the Authority, the Authority will suffer damage, the amount



of which is difficult or impossible to ascertain. Therefore, as a consequence of the aforementioned failure, and in addition to the liquidated damages specifically provided for in this Agreement, the Contractor shall pay to the Authority, as liquidated damages, the sum of \$1,000,000.

- 27. **POINT OF CONTACT:** All dealings, contacts, notices, and payments between the Contractor and the Authority shall be directed by the Contractor to the Contract Administrator or designee.
- 28. **NOTICE:** Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

AS TO THE AUTHORITY:

**Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, Florida 33412**

Attention: Contract Administrator Copy to: Executive Director

AS TO THE CONTRACTOR:

Attention: _____

Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made from time to time by written notice. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next Business Day. The original of the notice must additionally be mailed as required herein.

29. DEFAULT OF CONTRACT:

- A. To the extent permitted by law, the Authority may cancel this Agreement, except as otherwise provided below in this section, by giving Contractor thirty (30) days advance written notice, to be served as hereafter provided, upon the happening of any one of the following events:
 - 1. Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or state of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
 - 2. By order or decree of a Court, Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60)



days after the entry thereof, any notice of cancellation shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or

3. By or pursuant to or under authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the Contractor, and such possession or control shall continue in effect for a period of sixty (60) days; or
 4. The Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the Authority pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto, whether such default is considered minor or major, and said default is not cured within thirty (30) days of receipt of written notice by Authority to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by Contractor of written demand from Authority to do so, Contractor fails to commence the remedy of such default within said thirty (30) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate [a] that the default cannot be cured within thirty [30] days, and [b] that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time).
- B. However, notwithstanding anything contained herein to the contrary, failure of Contractor to provide collection service for a period of two (2) consecutive scheduled Business Days, the Authority may secure the Contractor's billing records (at the request of the Authority, the Contractor shall immediately provide such records). On the third Business Day, in order to provide interim collection services, the Authority may hire an alternate service provider until such time as the matter is resolved and the Contractor is again able to perform pursuant to this Agreement; provided, however, if the Contractor is unable for any reason or cause to resume performance at the end of thirty (30) Business Days all liability of the Authority under this Agreement to the Contractor shall cease and this Agreement may be deemed immediately terminated by the Authority. The cost to provide interim collection service, including all of the Authority's costs, shall be at the Contractor's expense, paid by the Authority and deducted from Contractor's payment(s).
- C. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Section, in the event that Contractor's record of performance shows that Contractor has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor, in the opinion of Authority and regardless of whether Contractor has corrected each individual condition of default, Contractor may be deemed a "habitual violator", shall forfeit the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively, shall constitute a condition of irredeemable default. The Authority shall thereupon issue Contractor final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, Authority



may terminate this Agreement upon the giving of written Final Notice to Contractor, such cancellation to be effective upon the fifteenth consecutive calendar day following the date of Final Notice, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and Contractor shall have no further rights hereunder. Immediately upon receipt of said Final Notice, Contractor shall proceed to cease any further performance under this Agreement. Contractor shall be deemed to have frequently, regularly or repeatedly defaulted in the event Authority has given Contractor default notice pursuant to Section 29(A)(4) three times in any one year time period or five times cumulatively during the term of this agreement.

- D. In the event of any of the aforesaid events specified in paragraphs A, B, and C above and except as otherwise provided in said paragraphs, termination shall be effective upon the date specified in Authority's written notice to Contractor and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of the Authority under this Agreement to the Contractor shall cease, and the Authority shall have the right to call the performance bond or letter of credit and shall be free to negotiate with other Contractors for the operation of the herein specified services. The Contractor shall reimburse the Authority for all direct and indirect costs of providing interim collection service incurred due to the Contractor's failure to perform.
- E. AUTHORITY shall be in default ("AUTHORITY Default") under this Agreement if the AUTHORITY fails to observe or perform any of the covenants, conditions, or obligations imposed upon AUTHORITY hereunder, and such failure shall continue for a period of ninety (90) days after written notice from Contractor to AUTHORITY specifying AUTHORITY's default; provided, however, that if the nature of AUTHORITY's default is such that more than ninety (90) days are reasonably required for its cure, then AUTHORITY shall not be deemed to be in default if AUTHORITY commences such cure within such ninety (90) day period and thereafter diligently pursues such cure to completion. In the event of an Authority Default, Contractor and Authority shall attempt to negotiate a resolution of the AUTHORITY Default for a period not to exceed sixty (60) days from the later of: (i) the date that notice of the AUTHORITY Default is delivered to the AUTHORITY; or (ii) the end of any contractually provided cure period. In the event that the parties are unable to negotiate a resolution of the AUTHORITY Default and Contractor wishes to pursue the matter, Contractor shall have the right to seek specific performance of the terms of this Agreement. In the event Contractor seeks specific performance and is unable to obtain specific performance of this Agreement through no fault of Contractor, Contractor shall have the right to terminate this Agreement and/or pursue damages.

30. **PUBLIC WELFARE:** The Authority shall have the power to make changes in or to impose new and reasonable rules and regulations on the Contractor under this Agreement relative to the method of collection and disposal of Garbage, Trash, Bulk Trash, Vegetative Waste or Recovered Materials as shall from time to time be necessary and desirable for the public welfare. The Authority shall give the Contractor reasonable notice of any proposed change and an opportunity to be heard concerning those matters. The method of collection and disposal of Solid Waste and Recovered Materials set out herein shall also be liberally construed to include, but not be limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Contractor. The Contractor shall be reasonably and appropriately compensated as determined by negotiation and agreement between the Authority and the Contractor for any additional services or other obligations required of the Contractor due to any modification in the Agreement under this Section.

31. **RIGHT TO REQUIRE PERFORMANCE:** The failure of the Authority at any time to require performance by the Contractor of any provisions hereof shall in no way affect the right of the Authority thereafter to enforce the same. Nor shall waiver by the Authority of any breach of any provisions hereof be taken or held to be waived of any succeeding breach of such provisions or as a waiver of any provision itself.
32. **TITLE TO WASTE:** The Authority shall, at all times, hold title and ownership to all Commercial Solid Waste, Recovered Materials and Vegetative Waste and Residential Solid Waste, Vegetative Waste, and Recovered Materials and all other waste collected by the Contractor pursuant to this Agreement and the Contractor shall have no right to take, keep, process, alter, remove or otherwise dispose of any such materials without specific written authorization from the Contract Administrator.
33. **GOVERNING LAW AND VENUE:** Any and all legal action necessary to enforce the Agreement will be held in a state court of competent jurisdiction located in Palm Beach County and the Agreement will be interpreted according to the laws of Florida.
34. **COMPLIANCE WITH LAWS:** The Contractor shall conduct operations under this Agreement in compliance with all applicable laws, regulations and rules.
35. **SEVERABILITY:** The invalidity, illegality, or non-enforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.
36. **ASSIGNMENT:** No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or part by the Contractor without the express written consent of the Authority. The Authority shall have full discretion to approve or deny, with or without cause, any proposed assignment or assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the Authority shall be null and void and shall be grounds for the Authority to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to the Contractor, and upon the date of such notice this Agreement shall be deemed immediately terminated, and upon such termination all liability of the Authority under this Agreement to the Contractor shall cease, and Authority shall have the right to call the performance bond or letter of credit and shall be free to negotiate with other contractors or any other person or company for the service of the franchise area which is the subject of this Agreement. In the event of any assignment, assignee shall fully assume all the liabilities of the Contractor.

It is the intent of the parties that no person, corporation or company, whether by itself or through a relative, itself or through its parent(s), subsidiary(s) or holding companies, shall at any time hold or have control of more than two (2) of the four (4) Solid Waste and Recycling Collection Franchise Service Areas identified as Service Area 1, Service Area 2, Service Area 3 and Service Area 4, nor exceed this amount from the acquisition of an additional franchise.



For purposes of this section a parent, subsidiary or holding company shall mean any person, corporation or company holding, owning or in control of more than 10% of the stock or financial interest of another person, corporation or company.

37. **MODIFICATION:** This Agreement constitutes the entire contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties hereto. Such modification shall be in the form of an Amendment executed by both parties.
38. **INDEPENDENCE OF AGREEMENT:** 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 between the parties hereto, or as constituting the Contractor as the agent, representative or employee of the Authority for any purpose whatsoever. The Contractor is to be and shall remain an independent contractor with respect to all services performed under this Agreement.
39. **ANNEXATIONS AND INCORPORATIONS:** Adjustments to Service Area boundaries and the rights of the parties to this Contract due to municipal annexation or contraction will be as provided by Florida Statutes Section 171.062, as amended, or its successor. Adjustments to Service Area boundaries and the rights of the parties to this Agreement due to incorporation will be as provided by Florida Statutes Section 165.061, as amended, or its successor.
40. **CHANGE OF LAW:** The parties understand and agree that the Florida Legislature from time to time has made comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future, whether federal, state or local, which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law.

To the extent that any law effective after the opening and awarding of proposals for this Agreement is in conflict with, or requires changes in, the provisions of collection service or exclusive rights set out in this Agreement, the parties agree to enter into good-faith negotiations for the resolution of any such changes in this Agreement as a result of change in law.

41. **OTHER RATE ADJUSTMENTS:** The Authority will strictly enforce all of the provisions of the Franchise Agreement including liquidated damages clauses for any performance quality problems. The Contractor shall not be allowed rate increases on the basis that the Contractor bid too low or agreed to do the work for a lower Proposer's price. Non-performance of Franchise Agreement or a request for a rate increase, either of which are attributed to the Contractor accepting the Franchise Agreement award at an insufficiently low rate, may, at the Authority's sole discretion, result in cancellation of all Solid Waste and Recycling Collection Services Franchise Agreements for all Service Areas entered into with the Contractor.



42. EQUAL BUSINESS OPPORTUNITY PROGRAM

42.1 SMALL/MINORITY/WOMEN BUSINESS ENTERPRISE (S/M/WBE) PARTICIPATION:

The Governing Board of the Authority has implemented the Economic Inclusion Policy administered by the Equal Business Opportunity (EBO) Program Office to ensure that all segments of its business population, including, but not limited to small, local, minority, and women-owned businesses, have an equitable opportunity to participate in the Authority's procurement process as described in Section 6 of the Purchasing Manual, is incorporated herein.

A. Affirmative Procurement Initiative (API):

The Authority has applied the following contract-specific Affirmative Procurement Initiative to this contract. Contractor hereby acknowledges and agrees the selected API requirement shall also be extended to any change order or subsequent contract modification, and absent EBO's granting of a waiver, that its full compliance with the following API terms and conditions are material to its satisfactory performance under this Agreement.

SBE and M/WBE SUBCONTRACTOR PARTICIPATION:

The Authority established a mandatory 20% participation goal for Small/Minority/Women Business Enterprise (S/M/WBE) participation in this agreement in accordance with the solicitation.

B. Subcontractor/Supplier Utilization Plan:

The Subcontractor / Supplier Utilization Plan submitted by the Contractor to Authority with its proposal for this contract contains the names of the certified S/M/WBE Subcontractors to be used by Contractor on this contract, the respective percentages and dollar value of the total prime contract dollar value to be awarded and performed by each S/M/WBE Subcontractor, and documentation including a description of each S/M/WBE Subcontractor's scope of work and confirmation of each S/M/WBE Subcontractor's commitment to perform such scope of work for an agreed upon dollar amount is hereby attached and incorporated by reference into the material terms of this Agreement. In the absence of a waiver granted by the EBO, the failure of Contractor to attain this subcontracting goal for S/M/WBE firm participation in the performance of a Commercially Useful Function under the terms of its contract shall be a material breach and grounds for termination of the contract with the Authority, and may result in debarment from performing future Authority contracts, withholding of payment up to the dollar amount of the underutilization below the agreed upon S/M/WBE subcontracting goal, and/or shall be subject to any other remedies available under the terms of this Agreement for violations of the EBO Program Policy, or under any other law.

C. Calculating S/M/WBE Participation:

The percentage of participation shall be calculated by dividing the actual payments made to local certified S/M/WBE firms providing goods and/or services necessary to support the required services under the agreement by the Net Revenue earned in the performance of this Agreement. Net Revenue shall be defined as Gross Revenue less the sum of the disposal charges billed to commercial customers, the disposal charges in excess of the residential credit incurred by the Contractor and paid to the Authority in performance of its services to residential customers, and the franchise fees paid to the Authority. Gross Revenue shall be defined as all revenue derived by the Contractor in performance of this Agreement, including but not limited to the monthly residential rates paid to the Contractor by the Authority, the commercial charges billed by the Contractor to the commercial customer, container maintenance charges, special services charges, and all other revenue received by the Contractor from any source in relation to this Agreement.

The goal is to encourage doing business with certified local S/M/WBE firms with certifications from any certifying organization in the State of Florida approved by the Authority. For the purpose of this requirement, an eligible local S/M/WBE firm included in the Contractor's plan submitted in response to the solicitation giving rise to this Agreement must have had a valid certification prior to the due date for responses to RFP. Certified local S/M/WBE firms added after contract award must have a valid certification prior to the date upon which they are added. Furthermore, such firms shall be domiciled in Palm Beach County as defined in the Authority's Purchasing Manual, Section 6, incorporated herein, as of the aforementioned dates required for certification.

D. Demonstration of Good Faith Effort:

For the purposes of this agreement, "Good Faith Effort" as defined in the Authority's Purchasing Manual, is incorporated herein. The Subcontractor/Supplier Utilization Plan is a binding part of this contract agreement which states the Contractor's commitment for the use of Joint Venture Partners and/or Subcontractors/Suppliers in the performance of this contract agreement. The Subcontractor/Supplier Utilization Plan shall state the names, scope of work, and dollar value of work to be performed by each of Contractor's Joint Venture partners and Subcontractors/Suppliers in the course of the performance of this contract, specifying the S/M/WBE Certification category for each Joint Venture partner and Subcontractor/Supplier, as approved by the EBO Office. The Subcontractor/Supplier Utilization Plan may be modified by submitting to the EBO Office a request for additions, deletions or modifications of the Joint Venture partner or Subcontractor/Supplier names, scopes of work, or dollar values of work to be performed. Upon approval by the EBO office or its designee of the requested additions, deletions or modifications, it shall constitute a duly authorized modification of this Agreement and considered an amendment hereto by consent of the parties satisfying the requirements of Section 37 without necessity of further action of any type by the parties. Among other things, in demonstration of a Good Faith Effort in relation to this Agreement, Contractor shall follow all requirements of the EBO Program, including:

1. If, awarded Contractor is unable to meet the participation requirements for S/M/WBEs specified in its Subcontractor/Supplier Utilization Plan, the contractor shall seek

substitute or additional S/M/WBEs to fulfill the requirements; the requested substitution must be approved in writing by the Coordinator of the EBO Office or designee and the Originating Department Director or designee.

2. If, after reasonable Good Faith Efforts, the Contractor is unable to find an acceptable substitute or additional S/M/WBE, a post-award waiver shall be requested. The request shall document the reasons for the contractor's inability to meet the goal requirement. In the event the contractor is found not to have performed Good Faith Efforts in its attempt to find a suitable substitute or additional for the initial S/M/WBE proposed utilization, the contract may, in the Authority's sole discretion, be terminated for material breach or the Authority may impose other penalties and sanctions within the law.
3. If requesting a post-award vendor subcontracting waiver, the Contractor shall request waiver of a specified subcontracting goal by submitting a Post-Award Vendor Subcontracting Waiver Request Form (See Exhibit J). Documentation and supporting evidence of all Good Faith Efforts made to comply with the subcontracting goal must also be submitted.

E. Equal Business Opportunity (EBO) Program Compliance – General Provisions

1. Contractor acknowledges that the Authority's EBO Program is in furtherance of the Authority's efforts at economic inclusion, and that Contractor's commitments, including but not limited to the Subcontractor/Supplier Utilization Plan, are part of Contractor's scope of work as referenced in the Authority's solicitation that formed the basis for contract award and subsequent execution of this Agreement. Contractor's compliance with the EBO Program and exercise of a Good Faith Effort to achieve the M/WBE and SBE Participation Goals are considered by the parties to this Agreement to be material terms. Contractor voluntarily agrees to fully comply with the EBO Program terms as a condition for being awarded this contract by the Authority. Without limitation, Contractor further agrees to the following terms as part of its contract compliance responsibilities under the EBO Program:
 - a) Contractor shall cooperate fully with the EBO Office and other Authority departments in their data collection and monitoring efforts regarding Contractor's utilization and payment of all of its subcontractors and suppliers, including both S/M/WBE and non-S/M/WBE firms for their performance of Commercially Useful Functions on this contract, including, but not limited to, the timely submission of completed forms to the Office of EBO as specified in the EBO Program Policy & Procedures, the timely submittal of Monthly Subcontractor/Supplier Utilization Reports (Exhibit H), and when established the entry of data into the Centralized Bidder Registration System (CBR), and ensuring the timely compliance of its subcontractors and suppliers with this requirement;
 - b) Contractor shall cooperate fully with any Authority or EBO investigation (and shall also respond truthfully and promptly to any Authority or EBO inquiry) regarding possible non-compliance with EBO Program requirements on the part of Contractor or its Subcontractors or suppliers;



- c) Contractor shall permit the EBO, upon reasonable notice, to undertake inspections as necessary, including, but not limited to, contract-related correspondence, records, documents, payroll records, daily logs, invoices, bills, cancelled checks, and work product, and to interview Subcontractors and workers to determine whether there has been a violation of the terms of this Agreement;
- d) Contractor shall immediately notify Authority in writing to the EBO and the Originating Department for this contract of any proposed changes to Contractor's Subcontractor / Supplier Utilization Plan, with an explanation of the necessity for such proposed changes, including documentation of Good Faith Efforts made by Contractor to replace the Subcontractor / Supplier in accordance with the applicable Affirmative Procurement Initiative. All proposed changes to the Subcontractor / Supplier Utilization Plan, including, but not limited to, proposed self-performance of work by Contractor of work previously designated for performance by Subcontractor or supplier, substitutions of new Subcontractors, terminations of previously designated Subcontractors, or reductions in the scope of work and value of work awarded to Subcontractors or suppliers by submitting a Post Award Vendor Subcontracting Waiver Request (Exhibit J) and Change To Utilization Plan form (Exhibit I), and shall be subject to advanced written approval by the Originating Department and the EBO;
- e) Contractor shall immediately notify the Originating Department and EBO of any transfer or assignment of its contract with the AUTHORITY, as well as any transfer or change in its ownership or business structure in accordance with Section 36;
- f) Contractor shall retain all records of its Subcontractor payments for this contract for a minimum of five (5) years following the conclusion of this contract;
- g) In instances wherein the EBO determines that a Commercially Useful Function is not actually being performed by the S/M/WBE firms listed in a Contractor's Subcontractor/Supplier Utilization Plan, the Contractor shall not be given credit for the participation of its S/M/WBE subcontractor(s) or joint venture partner(s) towards attainment of S/M/WBE firm utilization goals, and the Contractor and its listed S/M/WBE firms may be subject to sanctions and penalties in accordance with the EBO Program Policy and Procedures;
- h) Contractor acknowledges that the Authority will not execute an agreement for this project until the Contractor and each of its Subcontractors for this project have registered and/or maintained active status in the Authority's Vendor Registration System and when established its CBR, and Contractor has represented to Authority which primary commodity codes each registered Subcontractor will be performing under for this contract;
- i) Contractor acknowledges that the Authority will not execute an agreement for this project until the Contractor provides an executed agreement with each of its S/M/WBE Subcontractors or suppliers with a contract term having the same as with this Agreement at a minimum.



F. Affirmative Procurement Initiatives - Compliance

1. Commercial Non-discrimination Policy Compliance:

As a condition of entering into this agreement, the Contractor represents and warrants that it has complied with throughout the course of this proposal and contract award process, and will continue to comply with, the Authority's Commercial Non-discrimination Policy, as described in Section 50 hereof and in Section 6 of the Purchasing Manual, is incorporated herein. As part of such compliance, Contractor shall not discriminate on the basis of race, color, national origin, religion, ancestry sex, age, marital status, familial status sexual orientation, gender identity or expression, disability or genetic information, or on the basis of any otherwise unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the Authority's relevant marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in Authority contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. Contractor's certification of its compliance with this Commercial Non-discrimination Policy as submitted to the Authority pursuant to the RFP solicitation for this contract is hereby attached and incorporated into the material terms of this Agreement. Contractor shall incorporate this clause into each of its subcontractor and supplier agreements entered into pursuant to Authority contracts.

2. Prompt Payment:

As a requirement of this contract by Contractor, Contractor shall be required to submit to Authority accurate payment information with each invoice regarding each of its subcontractors to ensure that the Contractor's reported subcontract participation is accurate. Contractor shall pay its subcontractors in compliance within timeframes set forth in accordance with the Florida Local Government Prompt Payment Act, or within ten (10) days of receipt of payment from the Authority, whichever is sooner.

3. Violations:

In addition to the above, Contractor acknowledges and agrees that it is a violation of the EBO Program Policy and Procedures and a material breach of this Agreement to:

- a) Fraudulently obtain, retain, or attempt to obtain, or aid another in fraudulently obtaining, retaining, or attempting to obtain or retain Certification status as an SBE, MBE, WBE, M/WBE for purposes of benefitting from the EBO Program;

- b) Willfully falsify, conceal or cover up by a trick, scheme or device, a material fact or make any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry pursuant to the terms of the EBO Program;
- c) Willfully obstruct, impede or attempt to obstruct or impede any authorized official or employee who is investigating the qualifications of a business entity which has requested Certification as an S/M/WBE firm;
- d) Fraudulently obtain, attempt to obtain or aid another person fraudulently obtaining or attempting to obtain public monies to which the person is not entitled under the terms of the EBO Program; and
- e) Make false statements to any entity that any other entity is, or is not, certified as an S/M/WBE for purposes of the EBO Program.

4. Penalties, Sanctions and Debarment:

Any person who violates the provisions of this section shall be subject to the provisions of Section 6 of the EBO Program and Section 19 of this Agreement including but not limited to:

- a) Suspension of contract;
- b) Withholding of funds up to an amount equivalent to the deficiency in the S/M/WBE Participation;
- c) Termination of contract based upon a material breach of contract pertaining to S/M/WBE Program compliance;
- d) Refusal to accept a response or proposal; to a future RFP and
- e) Disqualification of Contractor or other business firm from eligibility for providing goods or services to the Authority for a period not to exceed three (3) years (subject to change) (upon Authority Board approval).

43. LOCAL BUSINESS PARTICIPATION: The Governing Board of the Authority has made it a goal for this Agreement that the use of local businesses be maximized. For the purposes of this requirement, the term "local business" means a business which has a permanent place of business within the county and which holds a business tax receipt issued by the county that authorizes the business to provide the goods, services, or construction to be purchased and which business tax receipt is issued as of the Proposal due date. If the business is a joint venture/partnership, it is sufficient for qualification as a local business if at least one (1) of the joint ventures/partners meets the test set forth in this subsection. For the purposes of this requirement, having a "permanent place of business" within the county means having headquarters which are located within the county or a permanent office or other site located within Palm Beach County from which the local business will produce or provide a substantial portion of the goods or perform a substantial portion of the services to be purchased and which headquarters or office was in existence as of the Proposal due date. A post office box or location at a postal service center shall not constitute a permanent place of business. Contractor



shall prioritize the satisfaction of the S/M/WBE goals established in Section 42 of the Agreement. Upon satisfaction of the requirements of Section 42, Contractor shall prioritize the utilization of local businesses. For every procurement, Contractor shall contact local businesses that provide the supplies or services sought, assess their qualifications and interest to provide the supplies or services sought, and provide them with the opportunity to submit a quote, bid or proposal. Contractor shall thoroughly investigate the capabilities of local businesses and maintain documentary evidence that it did not reject local businesses without sound reasons. The Contractor agrees to maintain all relevant records and information necessary to document compliance with this contract for five (5) years following the term of this Agreement and shall allow the Authority to inspect such records upon request.

44. **PUBLIC ENTITY CRIMES:** No Contractor may be a person or affiliate identified on the Department of General Services "convicted vendor" list. This list is defined as consisting of persons and affiliates who are disqualified from public contracting and purchasing process because they have been found guilty of a public entity crime. The Contractor is required to comply with Florida Statutes Section 287.133, as amended, or its successor.
45. **SUBSTANTIAL COMPLIANCE:** The Contractor shall promptly collect all materials disposed of by the customer, provided the materials are prepared and placed within substantial compliance with the guidelines as set forth herein. Any dispute as to the standards of substantial compliance shall be determined by the Contract Administrator or his designee.
46. **COMPETENCY TO CONTRACT:** The Contractor expressly recognizes, acknowledges, and agrees the Solid Waste Authority of Palm Beach County is a legally constituted agency, that is, a dependent special district created by the Florida Legislature in Chapter 2001-331, Laws of Florida. Furthermore, the Contractor expressly admits, acknowledges, and recognizes the Authority's jurisdiction and ability to enter into collection franchise agreements in Palm Beach County. The Contractor expressly recognizes, acknowledges and agrees that the Authority has the legal right under Chapter 2001-331, Laws of Florida, to maintain flow control of Solid Waste generated within Palm Beach County, and has the right under 403.7046 F.A.C. to provide for the exclusive collection, transportation and processing of Recovered Materials from single family and multi-family residential properties. The Contractor hereby waives any legal causes of action regarding the Solid Waste Authority's competency and/or ability to enter into solid waste collection franchise agreements.
47. **COMMUNITY SERVICE:** The Contractor shall provide collection of debris through means of roll-off Container(s), placement and collection pull service or by mechanical means utilizing a clamshell vehicle throughout each Fiscal Year, at no cost to the Authority or others, for illegal dumping, neighborhood cleanups and special events, including, but not limited to the Great American Cleanup, and other events as requested by the Authority.

Contractor shall pay the cost of loading and transporting such containers and/or debris to an Authority approved disposal facility. The Authority shall pay the cost of disposal.

For neighborhood cleanups and special events, Contractor shall provide collection of debris on a schedule as determined by the Authority's community service manager or designee. In the case of illegal dumping that is determined by the Authority to pose a nuisance or danger to the public, Contractor shall provide collection of debris within 24 hours of notice sent by either electronic means or by phone.

The maximum quantity of debris to be collected within Service Area 6 during each fiscal year of the Agreement is 200 Cubic Yards.

Contractor shall receive a written quarterly report from the Authority to accurately reflect the amount of debris collected each quarter and the total year-to-date.

48. OFFICE OF THE INSPECTOR GENERAL: Palm Beach County has established the Office of the Inspector General, Ordinance (OIG) No. 2009-049, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. The Authority has entered into an agreement with Palm Beach County for Inspector General services. This agreement provides for the Inspector General to provide services to the Authority in accordance with the authority, functions and powers set out in the ordinance. All parties doing business with the Authority and receiving Authority funds shall fully cooperate with the Inspector General including providing access to records relating to this Agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the Contractor, its officers, agents, employees, and lobbyists in order to ensure compliance with this Agreement and detect corruption and fraud. Failure to cooperate with the Inspector General or interference with or impeding any investigation shall be a violation of Ordinance 2009-049 and punishable pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

49. SCRUTINIZED COMPANIES:

A. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or is engaged in business operations in Cuba or Syria.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by Contractor, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal.

B. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the Contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by Contractor, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal.



50. **COMMERCIAL NON-DISCRIMINATION POLICY:** It is the policy of the Authority not to enter into a contract or to be engaged in business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information, or on the basis of any otherwise unlawful use of characteristics regarding the vendor's supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in relevant marketplace for Palm Beach County.

51. **THIRD PARTY BENEFICIARY DISCLAIMER:** It is not the intention of these documents to create third party beneficiary status in any person or entity that is not a direct party to this Agreement. No language in this Agreement should be construed or interpreted as creating a third party beneficiary.

52. **PUBLIC RECORDS, ACCESS AND AUDITS**

1 It is the intent of this Article to maintain compliance with the Florida Public Records Law, Ch. 119, Florida Statutes, as amended.

2. **DESIGNATED RECORDS CUSTODIAN CONTACT INFORMATION:**

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

**RECORDS MANAGER
SOLID WASTE AUTHORITY OF PALM BEACH COUNTY
7501 NORTH JOG ROAD
WEST PALM BEACH, FL. 33412
561-640-4000 EXT. 4210
RECORDS [CUSTODIAN@SWA.ORG](mailto:RECORDS_CUSTODIAN@SWA.ORG)**

3. The Contractor shall maintain records related to all charges, expenses, and costs incurred in estimating and performing the work, in accordance with the timeframes and classifications for records retention as per the General Records Schedule GS1-SL for State and Local Government Agencies (see: <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>) after completion or termination of this Contract. Upon AUTHORITY'S request, Contractor shall provide AUTHORITY with access to such records during normal business hours at a location within Palm Beach County for purposes of inspection or audit.

4. Notwithstanding anything herein to the contrary, the Contractor expressly acknowledges that: i) it is providing a specific service to the AUTHORITY in the performance of this Contract; ii) acting on behalf of the AUTHORITY in the performance of this Contract; iii) that it has read and is familiar with the Florida Public Records Law, Ch. 119, Florida Statutes, as amended, and both understand its responsibility and obligation to comply with this law; and iv) to the extent any question(s) arise regarding its duties to produce public records, it shall contact the Records Manager with same.



5. Any public records requests directed to, or related in any way to this contract shall be directed solely to the Records Manager. If the requested records are not in the possession of the Records Manager they shall immediately notify the Contractor and the Contractor must provide the records or allow access to the records within a reasonable time. A Contractor who fails to provide the records to the public agency within a reasonable time may be subject to penalties under Florida Statutes (F.S) §119.10, and §119.10(2) provides that a person who willfully and knowingly violates the Public Records Act commits a misdemeanor of the first degree, which is punishable by up to a year in jail and a fine not to exceed \$1,000.
6. Therefore, the Contractor is required to:
 - 1) Keep and maintain public records that ordinarily and necessarily would be required by the AUTHORITY in order to perform the service;
 - 2) Upon AUTHORITY's request from the AUTHORITY's Records Manager provide the AUTHORITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time on the same terms and conditions that the AUTHORITY would provide the records at a cost that does not exceed the cost provided by Florida law;
 - 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following the completion of the Agreement if the Contractor does not transfer the records to the AUTHORITY; and
 - 4) Upon completion of the Agreement, transfer, at no cost, to the AUTHORITY, all public records in possession of the Contractor or keep and maintain public records required by the AUTHORITY to perform the service. If the Contractor transfers all public records to the AUTHORITY upon completion or termination of the Agreement the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the AUTHORITY, upon request from the AUTHORITY's Record Manager, either during performance of the Agreement or after termination or completion of the Agreement in a format that is compatible with the information technology systems of the AUTHORITY.
7. Failure of the Contractor to comply with these requirements shall be a material breach of this Contract.

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In Witness Whereof, the **Solid Waste Authority of Palm Beach County**, at a regular meeting thereof, by action of the Authority Board authorizing and directing the foregoing be adopted, has caused these presents to be signed by the Authority's Executive Director, and the Authority's seal to be hereunto affixed, and _____ has executed this Agreement all as of the day and year first above written.

**SOLID WASTE AUTHORITY OF
PALM BEACH COUNTY**

By: _____
Mark Hammond, Executive Director

ATTEST: _____ *(Seal)*

By: _____
Sandra Vassalotti, Clerk to the Board

APPROVE AS TO LEGAL SUFFICIENCY

By: _____
Howard J. Falcon, III
General Counsel

APPROVE AS TO TERMS AND CONDITIONS

By: _____
Signature

Print Name

Title

ATTEST:

By: _____
Corporate Secretary

[NAME OF CONTRACTOR]:

By: _____
Signature

Print Name

Title

WITNESSES:

Witness Signature

Print Witness Name

Witness Signature

Print Witness Name

(Corporate Seal)

Approved by Authority Board on March 12, 2019



**SOLID WASTE AND RECYCLING COLLECTION SERVICES
FRANCHISE AGREEMENT**

EXHIBITS



Solid Waste Authority Franchise Area Boundaries

Description of the boundaries of franchise known as Service Area 6 in Palm Beach County, Florida is as follows:

<u>Section</u>	<u>Township</u>	<u>Range</u>
2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13 thru 42	44	41
7, 8, 9 (south of , and inclusive of, the south side of Forest Hill Boulevard), 10 (south of, and inclusive of, the south side of Forest Hill Boulevard and west of, and inclusive of, the west side of Jog Road)	44	42
15, 22, 27, 34, 39 (west of, and inclusive of, the west side of Jog Road), 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33, 40, 41, 42	44	42
1, 2, 3, 4, 5, 6	45	41
3, 4, 5, 6, (west of, and inclusive of, the west side of Jog Road)	45	42
7, 8 (north of and inclusive of north side of Hypoluxo Rd)	45	42

Less and excepting therefrom all incorporated areas.

All references are as to the Palm Beach County Property Appraiser's property control numbers (tax folio numbers) as used in reference to the Property Appraiser's assessor maps in Palm Beach County, Florida

**APPROVED RATE SCHEDULE
SERVICE AREA 6
FY 2019-2020 MONTHLY RATES**

RESIDENTIAL COLLECTION (PER UNIT)

Services	Curbside Service	Containerized Service
Solid Waste	\$_____ (2x/wk)	\$_____ (2x/wk avg)
Vegetative	\$_____ (1x/wk)	XXXXXXXX
Recycling	\$_____ (1x/wk)	\$_____ (1.5x/wk avg)
Cart Maintenance Fee	\$2.10	N/A
Total:	\$_____	\$_____

COMMERCIAL COLLECTION

Container Solid Waste Collection Rate	\$3.55 per cubic yard
Compactor Collection Rate (8 cubic yards or less)	\$4.44 (1.25x the container collection rate)
Commercial Recycling Collection Rate	\$2.10 per cubic yard
Small Business Generator (less than 1 cubic yard per week, additional Cart maintenance fee)	\$32.00 per month (\$16.00 collection and \$16.00 disposal)
96 Gallon Recycling Container (1 time per week)	\$16.00
Compactor Collection Rate (greater than 8 cubic yards Roll-off Compactors)	\$210.00 per pull
Roll-off Collection Rate	\$175.00 per pull

SPECIAL SERVICES RATES ESTABLISHED BY THE AUTHORITY

(Not to be Adjusted during the Term of the Agreement)

SERVICE	RATE PER SERVICE
Rolling Out Commercial 95 or 101 Gallon Container with 10 or more feet per direction	\$1.00 (no charge for Residential regardless of distance, no charge for commercial less than 10 feet per direction)
Rolling Out Container (and returning it to original location)	\$1.84 per Service per Container
Back Door Service (Residential Curbside Only)*	\$22.00 per Dwelling Unit
Opening (and closing) Doors or Gates	No Charge
Locks for Containers	\$9.00 (one time) Charge for Replacements based on cost +10%
Unlocking Containers	\$1.35
Supplying (and retrofitting) locking mechanism on Container per customer request only	\$55.00
Adding wheels to or changing wheels on Containers	No Charge
Adding lids to or changing lids on Containers	No Charge
Moving Container Location Per Customer Request	No Charge
Changing Out Container Sizes (above one time per year residential only)	\$55.00
Changing Out Container Sizes (Commercial)	\$55.00
Additional 96 Gallon Cart (Residential)	\$65.00
Additional Scheduled Pick-ups for Residential Containerized Customers	Same as Applicable Commercial Collection Rates (No Disposal Charges)
Additional Unscheduled (picked up by end of business the following day but not including "on-call") Pick-ups for Commercial and Residential Containerized Customers	\$25.00 Special Service Fee Plus Applicable Commercial Collection and Disposal Rates Per Dumpster (No Disposal Charges for Residential)
Special Service or Special Equipment required because of impaired accessibility	Negotiable
Turn around Compactors (commercial customer only)	\$20.00 (No Charge for Multi-family)
Stump/Land Clearing Collection	Negotiable
Residential Vegetation Collection	\$8.00 Per CY
Residential Mixed Collection (Vegetation with C&D and/or bulk)	\$22.00 Per CY

* No charge for residents medically unable to bring Solid Waste or Recovered Materials to curbside as delineated in Section 4.



MONTHLY CONTAINER MAINTENANCE FEES ESTABLISHED BY THE AUTHORITY

(Not to be Adjusted during the Term of the Agreement)

CONTAINERS (NON-COMPACTING)	
SIZE (cubic yards)	RATE w/out locking mechanism
CART	\$2.10
2 YD	\$24.00
3 YD	\$26.00
4 YD	\$28.00
6 YD	\$30.00
8 YD	\$32.00
10-40 YD ROLL-OFF	\$50.00

Capacities in between these values can be obtained by interpolation.
 Capacities outside of these values can be obtained by extrapolation.

COMMERCIAL SOLID WASTE AND VEGETATIVE DISPOSAL CHARGE CALCULATION

The Authority will determine the commercial disposal fee rates (\$/cubic yard) each Fiscal Year based on a calculation supplied by the Authority and the tipping fee. The calculation for non-compacted Garbage and Trash is 134 lbs/cubic yard times the Authority's tipping fee (\$/ton) times 1 ton/2000 lbs = ____\$/cy. Commercial non-compacted Vegetation is calculated at 350 lbs/cubic yard times the Authority's tipping fee (\$/ton) times 1 ton/2000 lbs = ____\$/cy. The compacted rate for commercial solid waste or vegetative waste may be billed at either actual expense or three times the rate for non-compacted solid waste or vegetative rate, respectively.

In the unlikely event the Authority charges a tipping fee for Recovered Materials, the Contract Administrator will determine the conversion factor and calculate the factor times the tipping fee for Recovered Materials. The Contractor will be responsible for billing Commercial Recycling Collection customers for the Recovered Materials disposal fee.

RESIDENTIAL SOLID WASTE DISPOSAL CREDIT CALCULATION

Category	Type	Generation Factor (Tons/Year)	Times(x) Garbage Tipping Fee	Annual Credit per unit
I	Single Family	1.10	x	=
II	Multi-family, 4 or less units	0.67	x	=
III	Mobile Homes	1.10	x	=
IV	Multi-family, more than 4 units	0.74	x	=

RESIDENTIAL VEGETATIVE WASTE DISPOSAL CREDIT CALCULATION

Category	Type	Generation Factor (Tons/Year)	Times(x) Vegetation Tipping Fee	Annual Credit per unit
I	Single Family	0.85	x	=
II	Multi-family, 4 or less units	0	x	=
III	Mobile Homes	0.58	x	=
IV	Multi-family, more than 4 units	0	x	=

PAYMENT ADJUSTMENT SCHEDULE

A. Annual Adjustment – Non-Fuel

The annual adjustment shall be applied to those rates subject to adjustment as shown in Exhibit B and as provided within this Agreement. For the purpose of this Agreement, the Non-Fuel component is assumed to represent 90% of the Contractor's costs therefore 90% of the approved rates shall be so adjusted.

The rates shall be adjusted as follows:

The rates shall be adjusted annually, commencing on the first anniversary date, by the change in the Water and Sewer and Trash Collection Services Index, Series ID CUSR0000SEHG, as published by the United States Department of Labor, Bureau of Labor Statistics (www.bls.gov). The change in the index shall be calculated by dividing the average of the index over the twelve month period ending the December preceding the effective date of the adjustment by the average of the index over the twelve month period from January 2017 through December 2017. The first adjustment shall be effective October 1, 2019.

For example:

For the year beginning October 1, 2019, the average of the index over the twelve month period from January 2018 through December 2018 shall be divided by the average of the index over the twelve month period from January 2017 through December 2017. The result shall be multiplied by the rates subject to adjustment, and that result shall be rounded to the nearest cent. The resultant rates shall be effective from October 1, 2019 through September 30, 2020.

B. Bi-Annual Fuel Adjustment (Fuel Surcharge/Credit)

The rates subject to adjustment shall be subject to a bi-annual fuel price surcharge/credit for fluctuations in the price of fuel. For the purpose of this Agreement, fuel is assumed to represent 10% of the Contractor's costs therefore 10% of the approved rates shall be so adjusted.

The rates shall be adjusted as follows:

For the rates subject to adjustment, a bi-annual fuel surcharge/credit shall be charged/credited basis based on the percentage change in the bi-annual average price of fuel as published by the Oil Price Information Service (OPIS) and measured by the OPIS Standard Rack, OPIS No. 2 Distillate Gross Prices, Unbranded Average for Miami, Florida between the month of November 2017 and the month two (2) months prior to the effective date.

For example:

For the month of October 2018, the fuel surcharge/credit shall be calculated by dividing the reported unbranded average price for August 2018 by the unbranded average price for November 2017, multiplying the result by ten (10) percent of the bid or Authority established price, and subtracting ten (10) percent of the bid or Authority established price.

Assuming:

Index for November	2017	315.98
Index for August	2018	340.67
Commercial Solid Waste Collection Rate (per yd.)		\$3.55
Surcharge: $340.67/315.98 \times .10 \times 3.55 - (.10 \times 3.55) =$		\$.0254

The surcharge/credit shall be rounded to the nearest cent, which in this example would result in a \$.03 per cubic yard surcharge.



PERFORMANCE BOND REQUIREMENT

The Annual Performance Bond due to the Authority from the Contractor is calculated as:

Gross Annual Revenues (Minus Disposal Fees paid to the Authority) x 1/3 = Performance Bond Required

Sample Performance Bond Requirement

Gross Revenue	\$2,450,000
Less Disposal Fees	<u>750,000</u>
	\$1,700,000

Annual Performance Bond Requirement = $0.3333 \times \$1,700,000 = \$566,667$

MONTHLY FINANCIAL REPORTING FORMAT

The Contractor shall submit to the Authority within forty-five (45) days of the end of each month a revenue statement prepared in accordance with general accepted accounting standards for each residential and commercial operation within each Service Area. Therefore, if a Contractor has two (2) Service Areas, four (4) separate monthly statements will need to be submitted: two (2) residential and two (2) commercial.

The Contractor shall disclose all methods of allocations used to distribute revenues between Service Areas and/or commercial and residential operations. The disclosure shall be in narrative form and include the basis for the allocation method.

The required format for monthly financial statement reporting in accordance with this Franchise Agreement is shown below.

(Contractor)

**Statement of Revenues and Disposal Expenses
(Residential or Commercial) Service Area X
For (month, year) ended (month, year)**

Revenues:

(list by type - commercial and residential, including collection rates, container rental, special service rates, etc.)

\$ _____

Total Revenue:

\$ _____

Disposal Expenses:

Disposal fees paid to the Authority

\$ _____

Net

\$ _____

Franchise Fees (Net x .03%)

\$ _____

"The Accompanying Notes are an Integral Part of this Statement"



AUTHORITY PUBLIC DROP-OFF RECYCLING CONTAINERS

SERVICE AREA 6 ALL CONTAINERS ARE 8CY UNLESS NOTED						
Organization	Address	CityStZip	DistrictNum	ServiceDays	Frequency	Qty
Boys and Girls Club of PBC, Inc.	3401 South Shore Blvd	Wellington, FL 33411	Wellington	Tues	2	1
Chancellor Corp Center	12008 South Shore Blvd	Wellington, FL 33414	Wellington	Tues	1	1
Commerce Park/Forum Publication	11496- 11576 Pierson Road	Wellington, FL 33414	Wellington	Tues	1	1
CubSMART Self Storage	6788 Lantana Rd		2	Mon-Thurs	2	1
CubSMART Self Storage	6680 Lantana Rd		2	Mon-Thurs	2	1
Fortune Way G Building	11320 Fortune Circle	Wellington, FL 33414	Wellington	Tues	1	1
Lake Wellington Professional Center	12230 Forest Hill Blvd #110	Wellington, FL 33414	Wellington	Tues	2	1
Nassau Square	7721 Lake Worth Rd	Lake Worth, FL 33467	2	Tues - Fri	2	1
Nassau Square - Metro Lumber	7645 Lake Worth Rd		2	Tues - Fri	2	1
PS Business Park	3132 Fortune Way	Wellington, FL 33414	Wellington	Tues	1	1
PS Business Park	11420 Fortune Cir		Wellington	Tues	1	1
Shoppes at Chancellor	12020 South Shore Blvd #400	Wellington, FL 33414	Wellington	Tues - Fri	1	2
The Marketplace	7350 Lake Worth Rd	Lake Worth, FL 33463	2	Tues - Fri	2	2
Wellington Country Plaza	12789 Forest Hill Blvd W #E	Wellington, FL 33414	Wellington	Tues - Fri	2	7
Wellington Land Development	3340 Fairlane Farms Rd		Wellington	Fri	2	1
Wellington Land Development	3281 Fairlane Farms Rd		Wellington	Tues - Fri	2	1
Wellington Land Development	3420 Fairlane Farms Rd		Wellington	Tues	2	1
Wellington, Village of - City Hall	12300 Forest Hill Blvd		Wellington	Tues - Fri	2	1
Wellington, Village of - Public Works	14000 Greenbriar Blvd	Wellington, FL 33414	Wellington	Tues	1	1
Worth Plaza	7111 Lake Worth Rd	Lake Worth, FL 33467	2	Tues - Fri	2	3
Total Containers						30



MOBILIZATION AND PREPARATION

Task	Completion Deadline
Submit Residential Curbside Routing to SWA for review and approval	6/7/19
Provide SWA with truck orders or verification of vehicle source(s)	6/14/19
Hire operations manager, supervisors and provide verification to SWA	8/23/19
Secure container source and provide verification to SWA	8/23/19
Equipment yard and office sited and set up	8/23/19
Office and accounting staff hired and in place	8/23/19
Maintenance staff hired and in place	8/23/19
Disposal bond in place with SWA for October 1, 2019	8/23/19
Provide transition report to SWA outlining plan to minimize disruptions during transition period	9/2/19
Secure vehicles	9/2/19
Supervisors run routes	8/26/19 through 9/01/19
Disclosure notices mailed to commercial customers	8/29//19
All Drivers hired and in place	9/07//19
Drivers and Supervisors run routes	9/10//19 through 9/29/19

Monthly Subcontractor/Supplier Utilization Report

EXHIBIT H

SECTION I - GENERAL INFORMATION			
Project Name:		Contract Number and Work Order Number (if applicable):	
Report #:	Reporting Period:	S/M/WBE Contract Goal:	Contract Completion Date:
	_____ to _____		
Prime Contractor Name:		Project Manager (PM) Name:	
Prime Contractor Street Address:			
Prime Contractor Phone #:	Prime Contractor Email Address:	PM Phone #:	PM Email Address:

SECTION II - UTILIZATION INFORMATION								
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Prime Contractor must list ALL Certified and non-certified subcontractors that will be utilized for the entire contract period.
 For assistance in completing this form, please call the Equal Business Opportunity Program at (561) 640-4000.

ROLE	FEDERAL IDENTIFICATION NUMBER	BUSINESS NAME	S/M/WBE CERTIFIED (Y/N)	DESCRIPTION OF WORK	TOTAL PROJECT AMOUNT	AMOUNT PAID DURING REPORTING PERIOD	INVOICE #	TOTAL PAID TO DATE
PRIME CONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$



Monthly Subcontractor/Supplier Utilization Report (Continued)

SECTION II - UTILIZATION INFORMATION

Prime Contractor must list ALL Certified and non-certified subcontractors that will be utilized for the entire contract period.
 For assistance in completing this form, please call the Equal Business Opportunity Program at (561) 640-4000.

ROLE	FEDERAL IDENTIFICATION NUMBER	BUSINESS NAME	S/M/WBE CERTIFIED (Y/N)	DESCRIPTION OF WORK	TOTAL PROJECT AMOUNT	AMOUNT PAID DURING REPORTING PERIOD	INVOICE #	TOTAL PAID TO DATE
PRIME CONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
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SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
SUBCONTRACTOR					\$	\$		\$
Total Paid to Date for All Subcontractors					\$	\$		\$

SECTION III - AFFIDAVIT

I hereby affirm that the information on this form is true and complete to the best of my knowledge.

Prime Contractor Authorized Personnel (Signature)	Prime Contractor Authorized Personnel (Print)	Title	Date
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Monthly Subcontractor/Supplier Utilization Report (Continued)

Please review instructions to complete this form.

SECTION I : GENERAL INFORMATION

1. **Project Name:** Enter the entire name of the Project.
2. **Contract Number (work order):** Enter the Authority contract number and work order number
3. **Report Number:** Enter the Monthly Subcontractor/Supplier Utilization Report number.
4. Reports must be in a numerical series (i.e., 1, 2, and 3).
5. **Reporting Period:** Enter the beginning and end dates for which this report covers (i.e., 06/01/2019-07/01-2019)
6. **S/M/WBE Contract Goal:** Enter the S/M/WBE Contract Goal on entire contract.
7. **Contract Completion Date:** Enter the expiration date of the contract, (not work order).
8. **Prime Contractor Name:** Enter the complete legal business name of the Prime Contractor.
9. **Prime Contractor Street Address:** Enter the mailing address of the Prime Contractor.
10. **Prime Contractor Phone Number:** Enter the telephone number of the Prime Contractor.
11. **Prime Contractor Email Address:** Enter the email address of the Prime Contractor.
12. **Project Manager (PM) Name:** Enter the name of the Project Manager for the Prime Contractor on the project.
13. **PM Telephone Number:** Enter the direct telephone number of the Prime Contractor's Project Manager.
14. **PM Email Address:** Enter the email address of the Prime Contractor's Project Manager.

SECTION II : UTILIZATION INFORMATION

15. **Federal Identification Number:** Enter the Federal Identification Number of the Subcontractor/Supplier(s)
16. **Business Name:** Enter the complete legal business name of the Subcontractor/Supplier(s)
17. **S/M/WBE Certified (Yes/No):** Enter "yes" or "no" to indicate if the subcontractor is S/M/WBE Certified
18. **Description of Work:** Enter the type of work being performed by the Subcontractors/Supplier(s) (i.e., electrical services).
19. **Total Project Amount:** Enter the dollar amount allocated to the Subcontractors/Supplier(s) for the entire project (i.e., amount in the subcontract agreement).
20. **Amount Paid During Reporting Period:** Enter the total amount paid to the Subcontractor/Supplier(s) during the reporting period.
21. **Invoice Number:** Enter the Subcontractor/Supplier's invoice number related to the payment reported this period.
22. **Total Paid (to Each Subcontractor) to Date:** Enter the total amount paid to the Subcontractor/Supplier(s) to date.
23. **Total Paid to All Subcontractors to Date:** Enter the total amount paid to all subcontractors during reporting period.

SECTION III: AFFIDAVIT

24. **Affidavit:** Statement attesting to the contents of the report.
25. **Prime Contractor Name Authorized Personnel (signature):** Signature of the employee that is authorized to execute the Subcontractor/Supplier Utilization Report.
26. **Prime Contractor Name Authorized Personnel (print):** Printed name of the employee that is authorized to execute the Subcontractor/Supplier Utilization Report.
27. **Title:** Enter the title of authorized employee completing the Monthly Subcontractor/Supplier Utilization Report.
28. **Date:** Enter the date of submission of the Subcontractor Utilization Report to the Authority.

Change To Utilization Plan

EXHIBIT I

SOLICITATION INFORMATION

Instructions: List all changes in the use of certified or non-certified Subcontractors/Suppliers in relation to the Prime Contractor’s original Utilization Plan or latest Change to Utilization Plan approved by the Equal Business Opportunity Office (EBO) for the contract listed below.

Name of Prime Contractor: _____

Contract Name: _____

ORGANIZATION STATUS

All sections of the following table must be completed.

Role	Name of Firm	Certifications (S/M/WBE)			New*/Remove**/Change Value	Estimated Total Contract Value (\$)	NIGP Code (5-Digit)	Start Date (New Sub Only)
SUB						\$		
SUB						\$		
SUB						\$		
SUB						\$		
SUB						\$		

****IF A NEW FIRM IS ADDED TO THE CONTRACT, ENSURE THEY ARE REGISTERED AS A VENDOR WITH THE AUTHORITY. IF REMOVING/REDUCING THE DOLLAR VALUE FOR A FIRM, ATTACHED DOCUMENTATION ESTABLISHING THAT THE FIRM WAS NOTIFIED AND EVIDENCE OF JUSTIFICATION FOR REQUEST.**

Note: If the Subcontractor changes listed on this document result in not meeting the subcontracting goal for this contract, you will be contacted by the EBO for further action.

JUSTIFICATION FOR ALL CHANGES TO UTILIZATION

BIDDER/PROPOSER SIGNATURE

I hereby affirm that the above information is true and complete to the best of my knowledge and belief. I possess internal documentation from all proposed new Subcontractors/Suppliers confirming their intent to perform the scope of work for the price indicated above. All Subcontractors/Suppliers removed or reduced in dollar value have been notified of the change in writing. I understand and agree that if this change to utilization is approved, this document shall be attached there to and become a binding part of the contract.

Prime Contractor’s Authorized Agent

Name (Print)

Date

Equal Business Opportunity Office

Sign & Date

Approved/Denied



Post-Award Vendor Subcontracting Waiver Request

DATE: _____

CONTRACT INFORMATION					
Contract Title:					
Contract #:					
Prime Contractor:					
Contact Person:		Phone #:		Email:	

RATIONALE FOR WAIVER

The purpose of this waiver is to specify the good faith efforts made in meeting the required subcontracting goal(s) for this project. The prime contractor is required to submit a *change to the Utilization Plan* (if not previously submitted) with this *Post-Award Subcontracting Waiver Request Form*.

**1a. Select the statement below that best explains why the required subcontracting goal(s) were not met:
(Check all that apply)**

<input type="checkbox"/>	The Authority issued a change order that limited subcontracting opportunities of the scope of work causing the subcontracting goal(s) to not be met
<input type="checkbox"/>	The Authority issued a change order that required expedited completion of the scope of work, and causing the subcontracting goal(s) to not be met
<input type="checkbox"/>	The S/M/WBE previously selected for utilization is not available to perform the scope of services and could not be replaced with another S/M/WBE that could perform the scope of work
<input type="checkbox"/>	The S/M/WBE previously selected for utilization is no longer certified in accordance with the Equal Business Opportunity Program Policy and could not be replaced with another S/M/WBE that could perform the scope of work
<input type="checkbox"/>	There were other issue(s) that resulted in the subcontracting goal(s) not being met

1b. In the box below, please provide further detail for each statement selected above.



Post-Award Vendor Subcontracting Waiver Request

2. List and explain all communication efforts between your firm and each potential S/M/WBE subcontractor related to participation on this contract. Attach all support documentation (i.e. emails, call logs, and faxes) to verify communication. In addition, provide response(s) from the S/M/WBE subcontractor(s). (Attach additional page, if necessary.)

3a. Select the statement that best describes other good faith efforts made: (Check all that apply)

	Helped a vendor become a certified S/M/WBE so they could become a subcontractor on the project
	Offered joint check services or bonding assistance for lines of credit to S/M/WBE subcontractors
	Advertised and contacted certified firms using S/M/WBE Certification lists from the website, trade organizations, professional organizations, and others
	Other:
	N/A – No Good Faith Effort attempted

3b. In the box below, please provide further details for each statement selected above and attached support documentation.

AFFIRMATION

The undersigned does hereby declare that the statements contained herein and all documentation provided are true, accurate and complete and include all material information necessary to determine compliance with the Equal Business Opportunity Program Policy.

Signature Name & Title (Print)

FOR EBO USE ONLY

	Waiver Status:	<input type="checkbox"/> Approved <input type="checkbox"/> Denied
Signature	Date:	
Name & Title (Print)		

