

**REQUEST FOR PROPOSALS
FOR
MUNICIPAL SOLID WASTE COLLECTION AND
DISPOSAL SERVICES
FOR THE
CITY OF LAKELAND, TENNESSEE**



**10001 HIGHWAY 70
LAKELAND TN 38002**

SEPTEMBER 2018

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10001 Highway 70, Lakeland, Tennessee 38002

September 24, 2018

INVITATION TO SUBMIT
REQUEST FOR PROPOSAL
MUNICIPAL SOLID WASTE COLLECTION AND DISPOSAL SERVICES

Dear Proposer,

The City of Lakeland is soliciting proposals from all qualified vendors for Municipal Solid Waste Collection and Disposal Services. Proposals shall be in accordance with the requirements and specifications outlined in the Request for Proposal. Any deviations, additions, or deletions should be so noted. Proposals shall be submitted in a sealed envelope.

Sealed Proposals will be received until 2:00 p.m. Local Time, Thursday, October 18, 2018. Proposals received after the stated time will not be considered. A **mandatory** Pre-proposal conference will be held at 2:00 p.m. on Tuesday, October 9, 2018 at Lakeland City Hall, 10001 Highway 70, Lakeland, Tennessee. Written clarification requests must be submitted no later than 4:00 p.m. on October 14, 2018.

If you have questions regarding the Request for Proposal, please contact me at eharrell@lakelandtn.org or (901) 867-5418.

Sincerely,

Emily Harrell, PE CPESC
City Engineer

**NOTICE OF PROPOSAL LETTING
MUNICIPAL SOLID WASTE COLLECTION AND DISPOSAL SERVICES
CITY OF LAKELAND, TENNESSEE**

The City of Lakeland, Tennessee, an Equal Opportunity, Affirmative Action Employer, seeks to retain a contractor to provide Municipal Solid Waste Collection and Disposal Services. The Request for Proposals is available on the City's website at www.lakelandtn.gov. Sealed Proposals shall be submitted to Lakeland City Hall, 10001 Highway 70, Lakeland, Tennessee by 2:00 p.m. CST, Thursday October 18, 2018. A mandatory Pre-Proposal conference will be held at 2:00 p.m. on Tuesday, October 9, 2018 at Lakeland City Hall.

For additional information on the Project, please contact Emily Harrell, PE at eharrell@lakelandtn.org or (901) 867-2718.

Publish Dates:

9/25/2018

10/9/2018

**REQUEST FOR PROPOSALS
FOR
MUNICIPAL SOLID WASTE COLLECTION AND DISPOSAL SERVICES
FOR THE
CITY OF LAKELAND, TENNESSEE**

I. GENERAL REQUIREMENTS

SECTION 1 INTRODUCTION

1.1 PURPOSE AND SCOPE OF SERVICES

The City of Lakeland intends to secure a contract for Municipal Solid Waste Collection and Disposal. The purpose of this Request for Proposals (RFP) is to define the City's minimum requirements, solicit proposals, and gain adequate information by which the City may evaluate the services offered by the Proposers. The general scope of services includes, but is not limited to:

- (a) provide 96-gallon Garbage Carts, 96-gallon Recycle Carts and 96-gallon Yard Waste Carts;
- (b) provide Residential Collection Service;
- (c) provide Collection Service at Municipal Facilities;
- (d) participate in Municipal Community Cleanup Day;
- (c) deliver Residential Waste and Recyclable Materials to the Designated Facilities;
- (d) comply at all times with the requirements in this Agreement and Applicable Law;
- (e) provide all labor, services, supervision, materials and equipment necessary to provide services specified in this Agreement.

1.2 CONTRACT TERM

The term of the Contract shall be for Sixty (60) months, beginning on January 7, 2019 through January 7, 2024. The Contract may be extended by the City upon the same terms for one (1) additional successive Sixty (60) month period or portions thereof, up to a cumulative total of One Hundred Twenty (120) months, by written notice to the Contractor given at least Ninety (90) days before the expiration of the term then in existence; subject to earlier termination provisions in the Contract.

1.3 NONDISCRIMINATION

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in the treatment or employment in the City's contracted programs or activities on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance contracts with the City or in the employment practices of the City's contractors. Accordingly, all Proposers entering into contracts with the City shall, upon request, be

required to show proof of such nondiscrimination and to post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4 ASSISTANCE TO PROPOSERS WITH A DISABILITY

Proposers with a disability may receive accommodation regarding the means of communicating this RFP and participating in this procurement process. Proposers with a disability should contact the City's ADA Coordinator to request reasonable accommodation no later 4:00 p.m., October 9, 2018.

1.5 COMMUNICATION REGARDING RFP

All communications concerning this procurement shall be in writing and directed to the City Engineer. Any oral communication shall be considered unofficial and nonbinding on the City. Written comments, including questions and requests for clarification must be received by 4:00 p.m. on October 14, 2018.

1.6 DISCREPANCIES

Should a Proposer find discrepancies in, or omission from, the specifications or other contract documents or should the bidder be in doubt as to their meaning, he shall at once notify the City Engineer with the City of Lakeland, Tennessee, and obtain an interpretation or clarification prior to submitting his bid. Every request for such an interpretation and clarification shall be made in writing to the City Engineer. Any interpretation or clarification given in accordance with this provision shall be in writing.

1.7 PRE-PROPOSAL CONFERENCE

A **MANDATORY** Pre-Proposal Conference will be held at 2:00 p.m. on Tuesday, October 9, 2018 at Lakeland City Hall, 10001 Highway 70, Lakeland, Tennessee.

1.8 SUBMISSION OF PROPOSAL

All proposals must be received for review and evaluation by the City no later than 2:00 p.m. CST, Thursday, October 18, 2018. Proposals received after this deadline will not be accepted. Proposers shall be restricted to one (1) proposal per RFP. Proposers submitting more than one (1) version of their Proposal per RFP may be disqualified.

Proposals shall be delivered in a sealed envelope and clearly marked "Proposal for Municipal Solid Waste Collection and Disposal Services" to:

City of Lakeland
Engineering Department
10001 Highway 70
Lakeland, TN 38002

All proposals become the property of the City of Lakeland upon submission. The cost of preparing, submitting and presenting a proposal is the sole expense of the Proposer.

1.9 PROPOSAL WITHDRAWAL

A Proposer may withdraw a Proposal by submitting a written request, signed by an authorized representative, to the City Engineer. The Proposer may submit another Proposal at any time up to the deadline for submitting Proposals.

1.10 RIGHT OF REJECTION

Lakeland reserves the right to reject any and all proposals received as a result of this solicitation, to negotiate with any qualified source, to waive any formality and any technicalities or to cancel the RFP in part or in its entirety if it is in the best interest of City of Lakeland. This solicitation of proposals in no way obligates Lakeland to award a contract.

1.11 INSURANCE

The successful bidder will be required to maintain Workmen's Compensation, General Liability, Automobile Liability, Errors and Omissions and Property Damage Insurance as provided in the specifications herein.

1.12 LICENSURE

The successful Bidder must hold and maintain all necessary, applicable business and professional licenses throughout the Contract Time.

1.13 PAYMENT AND PERFORMANCE BONDS

The Contractor will be required to furnish payment and performance bonds upon approval of a Contract to provide security for the faithful performance of this contract. Said bond to be executed by a responsible and recognized surety company who is acceptable to the City and is licensed and authorized to do business in the State of Tennessee. Bonds shall be provided on the form included herein (Attachment 6) and made part of this Contract. The payment and performance bonds will be furnished annually by the Contractor for each year of the Contract or renewal term and shall guarantee performance of this contract and payment for all materials and labor by the Contractor.

The amount of the bond for the first year shall be equal to the unit bid price times the estimated Unit Count determined by the City. The amount of the payment and performance bonds for each of the following twelve (12) month periods shall equal 100% of the amount paid to the Contractor by the City during the twelve (12) months period immediately preceding such period.

The successful Bidder shall obtain the required payment and performance bonds in form and substance acceptable to the City within thirty (30) days of the date of Contract signing. Failure to provide the payment and/or performance bonds prior to the deadline as required shall result in termination of the Contract.

1.14 TRANSFERABILITY OF CONTRACT

No assignment of the Contract or any right accruing under this Contract shall be made in whole or in part by the Contractor without the express written consent of the City, which consent shall not be unreasonably withheld; in the event of any assignment, the assignee shall assume the liability of the Contractor, but the Contractor shall not be released from its liability under this Contract without the written consent of the City.

1.15 DEFAULT OF CONTRACT

Should the Contractor abandon, delay unnecessarily in the performance of, or in any manner refuse or fail to comply with any of the terms of his contract, or neglect or refuse to comply with the instructions of the City Manager relative thereto, the City Manager shall notify the Contractor, in writing, of such abandonment, delay, refusal, failure or neglect and direct him to comply with all provisions of the contract. A copy of such written notice is to be mailed to the surety on the Performance Bond and delivered to the surety. The City Manager shall hear the matter at open session within ten (10) days after receipt of such written notice from the City Manager and shall, not less than five (5) days prior to the date of such hearing, notify the Contractor and the surety on the Performance Bond of the date and place thereof. The Contractor agrees to be present at such hearing and show cause why he has abandoned, delayed, refused, failed or neglected to comply with the terms of the contract.

Should the Contractor fail to appear or fail to show cause why he has abandoned, delayed, refused, failed or neglected to comply with the terms of the contract, to the satisfaction of the City Manager, the City may declare a default of the contract and notify the Contractor and the surety on the Performance Bond of such declaration of default, or the City may take such other action as it may deem advisable.

Upon such declaration of default, all payments due the Contractor shall be retained by the City and applied to the completion of the contract and to damages suffered and expense incurred by the City by reason of such default, unless the surety on the Performance Bond shall assume the contract, in which event all payments remaining due the Contractor at the time of default, less amounts due the City from the Contractor and less all sums due the City for damages suffered and expense incurred by reason of such default shall be due and payable to such surety. Thereafter, such surety shall receive monthly payments equal to those that would have been paid the Contractor had such Contractor continued to perform the contract.

If such surety fails to exercise such option, the City may complete the contract or any part thereof, either by day labor or by re-letting a contract for the same, and the City shall have the right to take possession of and use any or all of the vehicles, materials, equipment, facilities and property of every kind provided by the Contractor for the performance of this contract, and to procure other vehicles, equipment and facilities necessary for the completion of the same, and to charge the cost of same to the Contractor, together with the cost incident thereto. In the event the City completes the contract at a lesser cost than would have been payable to the Contractor under such contract if the same had been fulfilled by said Contractor, then the City shall retain such difference. Should such cost to the City be greater, the Contractor shall be liable for and pay the amount of such excess to the City.

Should the Contractor fail at any time to perform all or any part of the contract for a period of more than seventy-two hours, for whatever cause or reason other than force majeure, the City may at such time or any time thereafter, take possession of all the Contractor's equipment, vehicles, and facilities, and employ

such force as it may deem advisable to continue the work; and the cost of all labor, materials and equipment necessary for such work shall be paid by the City out of monies then due or to become due the Contractor under and by virtue of the contract for the work herein specified.

SECTION 2 PROPOSAL FORMAT AND CONTENT

2.1 GENERAL REQUIREMENTS

Proposals should be prepared simply and economically to provide a straightforward concise description of the Bidders capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Any information presented which is not relevant to a requirement of this RFP shall be deemed extraneous and shall in no way contribute to the evaluation process.

Proposals shall be prepared on standard 8½"x 11" paper. Foldouts containing charts, spreadsheets, and oversize attachments are permissible. All proposal pages shall be numbered. If a proposal fails to detail and address each of the requirements herein, the City may determine the proposal to be nonresponsive and subject to rejection.

The proposal shall be divided into the following sections:

- I. Proposal Transmittal Letter
- II. Mandatory Requirements
- III. Qualifications and Experience
- IV. Technical Approach
- V. Specifications
- VI. Cost Proposal

2.2 PROPOSAL TRANSMITTAL LETTER

The Proposal shall provide a written transmittal and offer of the proposal in the form of a standard business letter. The letter shall be signed by a company officer and include the following:

- (a) Proposal shall remain valid for at least ninety (90) days subsequent to the date of the proposal opening.
- (b) Provide the name, mailing address, email address, and telephone number of the primary contact.
- (c) Proposed subcontractors, if applicable.

2.3 MANDATORY REQUIREMENTS

Proposal shall provide responses and documentation that indicate Proposer has met the Mandatory Qualifications Requirements including:

- (a) Written confirmation that the Proposer shall comply with all provisions in this RFP and shall accept and sign all terms and conditions set out in the Contract.
- (b) Written certification and assurance of the Proposer's compliance with:
- the laws of the State of Tennessee;
 - Title VI & VII of the federal Civil Rights Act of 1964;
 - the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
 - the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government
 - the condition that the submitted Proposal was independently arrived at, without collusion, under penalty of perjury; and,
 - the condition that no amount shall be paid directly or indirectly to an employee or official of the City of Lakeland, Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer in connection with the procurement under this RFP.
- (c) Documentation of financial responsibility and stability including:
- a current written bank reference, in the form of a standard business letter, indicating the Proposer's business relationship with the financial institution is in positive standing;
 - a copy of a valid certificate of insurance indicating liability insurance in the amount required per the specifications herein; and,
 - written confirmation that the Proposer will provide a performance and payment bond in accordance with the requirements of the RFP

2.4 QUALIFICATIONS AND EXPERIENCE

Proposals shall provide the following information to evidence the Proposer's experience in delivering services similar to those required by this RFP including:

- (a) brief, descriptive statement indicating the Proposer's credentials to deliver the services sought under this RFP;
- (b) brief description of the Proposer's background and organizational history including years in business, location of offices, organizational chart, longevity and client base;
- (c) resumes of key people who will be assigned to perform duties under this Contract;
- (d) statement as to whether there is any pending litigation or threatening dispute against the Proposer; and if such litigation or dispute exists.
- (e) statement as to whether, in the last ten (10) years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors; and if so, an explanation providing relevant details.

- (f) customer references for similar services including: company name and address; name, title, email, and telephone number of the primary contact; and, a brief description of the service provided and period of service.

2.5 TECHNICAL APPROACH

The Proposal shall describe the plan and approach for accomplishing the work. The information provided shall be in enough detail to enable the City to ascertain the Proposer's understanding of the efforts and objectives to be accomplished and outline the steps in the total service proposed. The narrative shall include the following:

- (a) illustrate the understanding of the City's requirements and project schedule;
- (b) define how the Proposer will complete the scope of services, accomplish required objectives and meet the City's project schedule including number of vehicles, type and capacity of vehicles, number of routes, estimated stops per route and number of personnel by route; and,
- (c) describe how the Proposer will manage the project, ensure completion of the scope of services, and accomplish required objectives within the project schedule.

2.6 COST PROPOSAL

The Cost Proposal shall be completed on the required Cost Proposal Form (Attachment ___) and shall specifically record the exact cost amounts proposed in the space provided. Proposed cost shall incorporate all cost for the proposed scope of services for the total Contract period.

SECTION 3 EVALUATION AND SELECTION

3.1 PROPOSAL EVALUATION CRITERIA

An Evaluation Team will review and rank each Proposal based on the Proposers qualifications, experience, technical approach, and cost. The Contract will be awarded to the Proposer with the best combination of attributes, not necessarily the Proposer of least cost. The City reserves the right to seek clarification of any proposal submitted and to select proposals considered to best promote the public interest of Lakeland.

The City of Lakeland will not discriminate against any individual for any reason and will provide services to all citizens and contractors, both potential and current, in a nondiscriminatory fashion. It is the intent of the city to fully comply with the provision of Title VI and Title VII of the Civil Rights Act of 1964. The City is committed to a moral, ethical, and legal responsibility to ensure equitable employment practices and the delivery of city services regardless of an individual's race, color, religion, national origin, age, disability, gender or political affiliation. Interested certified Disadvantaged Business Enterprise (DBE) firms as well as other minority-owned and women-owned firms are encouraged to respond to all advertisements.

3.2 AWARD PROCESS

The formal recommendation will be presented to the Board of Commissioners for award of the contract on November 1, 2018.

II. SPECIFICATIONS

SECTION 4 DEFINITIONS

4.1 Agreement shall mean this Contract between the City and the Contractor for the purposes of this RFP, the term “Agreement” and “Contract” are interchangeable.

4.2 ANSI means the American National Standards Institute.

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

4.4 Automated Collection shall mean the collection of Solid Waste in Garbage, Recycling or Yard Cart by mechanical means, usually with a single-driver vehicle equipped with a side-loading arm.

4.5 Building shall mean any structure, whether temporary or permanent, built for the support, shelter or enclosure of people, chattel, or property.

4.6 Bags shall mean and include a bag made of plastic approximately two (2) feet in diameter and four (4) feet in length and be of sufficient strength to contain the weight of the contents without breaking open. Such plastic bags must be securely tied and shall contain only leaves and yard trimmings unless used as liners for standard containers.

4.7 Bulk Waste means large items of solid waste such as white goods, furniture, autos, or large auto parts, trees, branches, stumps and other oversize waste whose large size precludes or complicates their handling by normal collection, processing, or disposal methods as outlined herein.

4.3 Bundle Tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length or seventy-five (75) lbs. in weight, no component part being larger than 5" in diameter.

4.4 City - shall mean, depending on the context, either (a) the geographic area contained within the boundaries of the incorporated City or (b) the government of the City, acting through the Board or its designees..

- 4.5 Collection shall mean (a) the process of picking up Solid Waste and Recyclable Materials from a Person that generates such waste and materials and (b) the process of transporting and delivering the Solid Waste and Recyclable Materials to a Solid Waste Management Facility.
- 4.6 Collection Container shall mean Garbage Cans, Garbage Carts, Yard Carts, Recycling Containers, and Mechanical Containers.
- 4.7 Collection Plan shall mean the Contractor's written plan for providing Collection Service in compliance with the requirements in this Agreement.
- 4.8 Collection Service shall mean one or more of the various services provided by the Contractor for the Collection of Solid Waste and Recyclable Materials pursuant to this Agreement.
- 4.9 Commencement Date shall mean January 7, 2019, which is the date when the Contractor shall begin providing Collection Services to the Customer pursuant to the requirements of this Agreement.
- 4.10 Community Events shall mean civic events sponsored or co-sponsored by the City.
- 4.11 Compactor shall mean a stationary or mobile mechanism that is used to densify Solid Waste in a Mechanical Container.
- 4.12 Complaint shall mean any notification by a Customer including the "City" to the City or the Contractor that the applicable requirements of this Agreement were not satisfied by the Contractor.
- 4.13 Communication Plan shall mean the requirements outlined in Section 35.
- 4.14 Construction/demolition waste debris means waste, other than special wastes, resulting from construction, remodeling, repair, and demolition of structures and from road building. Such wastes include but are not limited to bricks, concrete and other masonry materials, soil, rock and lumber, road spoils, rebar, paving material.
- 4.15 Container A receptacle with a minimum capacity of ninety-six (96) gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting and having a tight-fitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a Container and its contents shall not exceed 200 pounds.
- 4.16 Contingency Plan shall mean the Contractor's plan for avoiding an interruption in Collection Service in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable.
- 4.8 Contract Documents Contractor's Proposal, Specifications, Performance Bond and any addenda or changes to the foregoing documents agreed to by the City and the Contractor.

4.17 Contractor shall mean the Person who agrees pursuant to the terms and conditions of a Contract between such Person and the City to perform the Collection Services on behalf of the City required by the Agreement.

4.18 Curbside shall mean that portion of the right-of-way adjacent to the curb, paved street, or traveled City roadway. Curbside also refers to the borders or edges of service alleys and parking areas that adjoin residences. Customer shall mean all Persons, including Residents, the City, and other entities receiving Collection Services under the terms of this Agreement.

4.19 Customer shall mean all Persons, including Residents, the City, and other entities receiving Collection Services under the terms of this Agreement.

4.20 Designated Facility shall mean the facility or facilities designated by the City for the Recycling or disposal of the Solid Waste and Recyclable Materials collected pursuant to this Agreement.

4.21 Disaster Debris shall mean debris that is produced or generated by a natural or human event which is declared a federal disaster. Disaster Debris includes but is not limited to Yard Waste, Construction and Demolition Debris, and Bulk Waste that is produced or generated by such a disaster.

4.22 Disaster Debris Contract shall mean the City's Contract(s) with one or more Contractors for the removal, hauling, processing, disposal, or Recycling of Disaster Debris.

4.23 Disposal Site - A Solid Waste depository including but not limited to sanitary landfills, transfer stations, incinerators, materials recycling facilities and waste processing/separation centers licensed, permitted or approved to receive for processing or final disposal of Solid Waste and Dead Animals by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals.

4.24 Dumpster shall mean a type of Mechanical Container that is a metal receptacle used in the collection of Solid Waste at City Facilities having a capacity of two (2) to eight (8) cubic yards.

4.25 Dwelling Unit shall mean any type of structure or Building, or a portion thereof, intended for or capable of being utilized for Residential living, except those structures or Buildings that are Commercial Property. A Dwelling Unit includes a room or rooms constituting a separate, independent living area with a kitchen or cooking facilities, a separate entrance, and bathroom facilities, which are physically separated from other Dwelling Units, whether located in the same structure or in separate structures.

4.26 Effective Date shall mean the date when this Agreement is signed and duly executed by the Board or its designee, which shall occur after the Agreement is signed and duly executed by the Contractor.

4.27 Electronic Waste - means any electronic device with a circuit board or cathode ray tube (CRT) that no longer is needed and has exceeded its desired or usable life and would be destined for disposal. This includes but not limited to CPU's, laptops, monitors, televisions, copiers, cell phones, uninterruptable power supply (UPS) systems, and game consoles.

4.28 Excess Trash shall mean and include any combination of Garbage, Rubbish and other refuse not in Collection Containers and Bulk Waste.

- 4.29 Exempt Waste shall mean materials that are exempt from collection by the Contractor under this Agreement.
- 4.30 Field Supervisor shall mean the Contractor's employee that is responsible for supervising the Contractor's Collection Services in the City.
- 4.31 First Operating Year shall mean the period beginning on January 7, 2019 (i.e., the Commencement Date) and continuing through and including January 6, 2024.
- 4.32 Garbage shall mean all kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.
- 4.33 Garbage Cart shall mean a container that is made with heavy-duty hard plastic or other impervious material, hot- stamped or stenciled with the City logo, with enclosed sides and a bottom, mounted on two wheels, equipped with a tight- fitting hinged lid, and used for the automated or semi-automated Collection of Garbage and Rubbish, and a capacity of ninety-six (96) gallons.
- 4.34 Holiday shall mean for purposes of the Contract the following days shall be celebrated as holidays when no services will be performed: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day.
- 4.35 Household Hazardous Waste (HHW) shall mean and include waste materials generated in the home or residence that are flammable, toxic, corrosive or reactive and are not acceptable in the CITY'S waste disposal landfill. These items include automotive or marine products such as batteries, oil, grease, antifreeze and gas; paint products such as oil-based paints, thinners, stains and varnishes; lawn and garden products such as pesticides, fertilizers and herbicides; other miscellaneous materials such as pool chemicals, medicines, aerosols and compressed gases. These items are typically only accepted at an official HHW site for proper disposal. Other unacceptable items include but are not limited to ammunition, explosives, medical waste and radioactive materials.
- 4.36 Improved Property shall mean any cleared, graded or drained real property upon which a Building or structure is erected and occupied or capable of being occupied (i.e., a Certificate of Occupancy has been issued) for Residential, commercial, institutional or industrial use.
- 4.37 Interest shall mean a payment by the City or the Contractor for the use of money, which shall be set at the maximum rate allowed by law (not to exceed eighteen percent (18%) per annum) or at a rate determined pursuant to Tennessee Law, whichever is larger.
- 4.38 Load shall mean the Solid Waste, Recyclable Material, and other cargo that is collected and transported in a Collection vehicle.
- 4.39 Materials Recovery Facility shall mean a Solid Waste Management Facility that provides for the extraction from Solid Waste of Recyclable Materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

4.40 Mechanical Container shall mean a Dumpster, Roll-Off Container, Compactor, or other large container that is placed on and removed from a Person's Premises with mechanical equipment and used for the Collection of Solid Waste or Recyclable Materials.

4.41 Missed Collection shall mean any occasion when the Contractor fails to provide Collection Service to a Customer on a Scheduled Collection Day in accordance with the provisions of this Agreement.

4.42 Municipal Facilities means any governmental or institutional establishment and all other building or Premises owned, leased or otherwise controlled by the City.

4.43 Municipal Solid Waste (MSW) - means any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste and any other material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities which are required to be disposed of in a Class I landfill, as defined in regulations adopted pursuant to T.C.A. Title 68, Chapter 211; provided, that "municipal solid waste" does not include the following:

- (a) Radioactive waste;
- (b) Hazardous waste as defined in T.C.A. §68-212-104;
- (c) Infectious wastes;
- (d) Materials that are being transported to a facility for reprocessing or reuse provided further, that reprocessing or reuse does not include incineration or placement in a landfill; and
- (e) Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.

4.44 New Customer shall mean a Person that did not receive Solid Waste services from the City's Contractor before the Commencement Date.

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

4.46 Non-Conforming Material shall mean any material that is Set Out for Collection in a Recycling Container, but is not a Recyclable Material.

4.47 Operating Day shall mean a calendar day, except Sundays and Holidays, beginning January 7, 2019 and continuing throughout the term of this Agreement.

4.48 Operating Month shall mean a calendar month, beginning January 7, 2019 and each month thereafter throughout the term of this Agreement.

4.49 Operating Year shall mean each period of twelve (12) consecutive months, beginning on January 7 and ending on January 6, during the term of this Agreement.

4.50 Ordinances shall mean the City's Code of Ordinances, as amended from time to time.

4.51 OSHA shall mean the Occupational Safety and Health Act and all implementing rules and regulations.

4.52 Performance & Payment Bond shall mean the financial security furnished by the Contractor as a guarantee that the Contractor will perform its work and pay all lawful claims in compliance with the terms of this Agreement.

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

4.54 Plastic Bag shall mean a heavy-duty plastic trash bag that is securely tied at the top, with a capacity of thirty-three (33) gallons or less.

4.55 Premises shall mean Improved Property.

4.56 Proposal shall mean the complete set of documents required as part of the City's request for Proposals to be submitted by the dates identified by the City herein.

4.57 Producer shall be an occupant of a Residential Unit who generates Municipal Solid Waste.

4.58 Rates shall mean the fees and charges approved by the City for the Contractor's Collection Services.

4.59 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 Solid Waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste. Recovered Material does not include any material or substance that does not fit within one of the four categories described in this definition (metal, paper, glass or plastic). Among other things, unsorted Construction and Demolition Debris is not a Recovered Material.

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

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

4.62 Recycling Cart shall mean a container of approximately ninety-six (96) gallons that is made of heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the City logo, with enclosed sides and a bottom, mounted on two wheels, equipped with a tight-fitting hinged lid, and used for the automated or semi-automated Collection of Recyclable Materials.

4.63 Refuse shall refer to Residential Solid Waste not including Bulky Waste, Construction Debris and Stable Matter generated at a Residential Unit unless the context otherwise requires.

4.64 Resident shall mean a Person residing in a Dwelling Unit in the Service Area.

4.65 Residential Collection Service shall mean the Collection of Residential Waste from Residential Property pursuant to this Agreement.

4.66 Residential Customer List shall mean a list, as determined by the City, that identifies the Residential Property and the Dwelling Units that are entitled to receive Residential Collection Service from the Contractor.

4.67 Residential Waste shall mean Garbage, Rubbish, Yard Trash, Recyclable Materials, Construction and Demolition Debris, Excess Trash and Bulk Waste generated by a Customer upon the Customer's Residential Property.

4.68 Rubbish shall mean all printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Bulky Waste, Construction Debris, Garbage, Hazardous Waste or Stable Matter.

4.69 Scheduled Collection Day shall mean a day when the Contractor is scheduled to provide Collection Service to a Customer for Recyclable Materials or one of the various components of Residential Waste.

4.69 Service Area shall mean the incorporated area of the City.

4.70 Set Out shall mean the preparation and placement of Solid Waste, Yard Trash and Recyclable Materials for Collection at the Customer's Premises, in accordance with the requirements in this Agreement.

4.71 Solid waste means garbage, trash, refuse, abandoned material, spent material, byproducts, scrap, ash, sludge, and all discarded material include solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and agricultural operations, and from community activities. Solid waste includes, without limitation, recyclable material when it is discarded or when it is used in a manner constituting disposal. Solid waste does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act (compiled at 33 U.S.C. Section 1342).

4.72 Solid Waste Management Facility means any Solid Waste disposal area, volume reduction plant, transfer station, Materials Recovery Facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of Solid Waste.

4.73 Stable Matter means all manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

4.74 TDEC shall mean the Tennessee Department of Environment and Conservation

4.75 Tipping Fee shall mean a fee that must be paid for the disposal of a Solid Waste or Recyclable Material.

4.76 Transition Period shall mean the period of time between the Effective Date and the Commencement Date.

4.77 Transition Plan shall mean a document describing in detail the activities that will be undertaken, and the schedule that will be followed, by the Contractor to ensure that the Contractor provides Collection Service in compliance with this Agreement beginning on the Commencement Date.

4.78 Unacceptable Waste means such Hazardous, Infectious, Liquid, Medical Waste, motor oil, batteries, gasoline, paint, rubber tires or other solid or liquid waste specifically prohibited for disposal at a State Approved Disposal Facility by TDEC or any other regulatory agency having jurisdiction over such landfill or Designated Facility, in accordance with applicable law.

4.79 Unit Count shall mean the number of single-family Dwelling Units receiving sanitation Collection Services as indicated in the City's utility billing system. Such Unit Count will include single-family Dwelling Units and certain High-Density Dwelling Units such as townhouses, condominiums and duplexes and may include some vacant homes. Excluded from the Unit Count will be certain Multi-Family Dwellings such as apartments, residences under construction and commercial establishments.

4.76 Yard Waste means debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

4.77 Yard Cart shall mean a container that is made of heavy-duty hard plastic or other impervious material, enclosed sides and a bottom, mounted on two wheels, equipped with a tight-fitting hinged lid, hot-stamped with "Yard Waste" or other approved language to clearly identify to the Resident and the Collector that the contents are designated for Yard Waste disposal. Cart should be compatible with and the automated or semi-automated Collection of Yard Waste.

SECTION 5 GENERAL SCOPE OF SERVICES

The Contractor's services will provide for the collection of solid waste materials including (1) Garbage/Rubbish (2) Recyclable Materials, and/or (3) Yard Waste from Residential Units, Municipal Facilities, and other locations designated by the City. Collection service will be performed one (1) time per week for each Customer on a regular route or time schedule.

Per the specifications contained herein, the Contractor shall:

- (a) provide and maintain Garbage Carts, Recycling Carts and Yard Carts to Residential Customers;
- (b) provide and maintain Mechanical Carts, Garbage Carts and Recycling Carts to City Facilities;
- (b) provide Residential Collection Service;
- (c) provide Collection Service at Municipal Facilities;
- (c) deliver Solid Waste and Single Stream Recyclable Materials to the Designated Facilities;
- (d) comply at all times with the requirements in this Agreement and Applicable Law;
- (e) provide all labor, services, supervision, materials, and equipment necessary to accomplish the Contractor's work under this Agreement; and
- (f) perform all its work under this Agreement at Contractor's sole expense, in exchange for the payments by the City and Customers of the Rates authorized herein.

The City will provide the Contractor with a Residential Customer List based on the utility billing system and shall be subject to additions or deletions deemed appropriate by the City.

All collected Solid Wastes will be transported to a Designated Facility approved by the City and in a safe, orderly and timely fashion. The City will not provide any disposal sites or staging /transfer areas within the City for the Solid Waste collected.

The Contractor will be responsible for all costs related to the collection of the specified Solid Wastes and its transportation to the Designated Facilities specified by the City. The City will be responsible for the cost of disposal (Tipping Fees) for Garbage, Rubbish, and other Solid Waste, Yard Trash and Recyclable Materials.

5.1 RESIDENTIAL COLLECTION SERVICE

The Contractor shall provide the following Residential Collection Services to each Customer that resides in a single-family dwelling unit, high-density dwelling, or other improved property according to the Residential Customer List.

5.1.1 The Contractor shall collect each Residential Customer's garbage and rubbish one (1) time per week at the Curbside by automated or semi-automated equipment and garbage carts.

5.1.2 The Contractor shall collect each Residential Customer's Single Stream Recyclable Materials at the Curbside once each week. The Contractor shall provide this service by using automated or semi-automated equipment and Recycling Carts.

5.1.3 The Contractor shall collect each Residential Customer's Yard Trash at the Curbside once each week. Yard Trash may be set out in Yard Carts, plastic bags or biodegradable/Kraft bags. Collection of Yard Trash shall be unlimited. Plastic bags shall not exceed 50 lbs. in weight.

5.1.4 Backdoor service shall be provided for Customer's with disabilities where they are unable to move the cart to and from the curb. This service shall be provided at the same rate as standard residential service for each type of waste.

5.1.5 Except as otherwise provided herein, the Contractor shall collect all of the Garbage, Rubbish, Yard Trash, Excess Trash and Single Stream Recyclable Materials that are Set Out by each Customer per the limits outlined in this Agreement.

5.1.6 The Scheduled Collection Day for the Collection of a Customer's Yard Trash shall be the same day as the Scheduled Collection Day each week for the Collection of that Customer's Garbage. Recyclables may be collected on a separate day.

5.1.7 The Contractor shall perform Collection Services utilizing a scheduled collection route whereas garbage, yard trash and recyclables are collected on the same scheduled weekday and by the end of the workday.

5.1.8 The City shall notify the Contractor promptly after a request for new Collection Service. Upon receiving notification, the Contractor shall provide Residential Collection Service and carts within five (5) Operating Days.

5.1.9 The City shall notify the Contractor upon termination of Residential Collection Service. Upon receiving notification, the Contractor shall pick up carts and discontinue Collection Service within five (5) Operating Days.

5.1.10 The Contractor shall thoroughly empty the Collection Containers and return them to a location behind the curb or edge of paved street (not blocking any driveway or mailbox) and in an upright position with the lid closed. Garbage and Rubbish which falls on the ground during the Collection process is considered litter and shall be collected and disposed of appropriately.

5.1.11 The Contractor shall not collect any material that is unacceptable or prohibited from disposal at the designated disposal sites. Such materials include, but are not limited to, Hazardous Waste and Household Hazardous Waste. Likewise, other identified waste materials that are specifically excluded under this Agreement will not be collected by the Contractor including, without limitation, Unacceptable Waste. Notwithstanding anything herein to the contrary, title to and liability for any Unacceptable Waste shall remain with the Customer from whom the Unacceptable Waste was collected, even if the Contractor inadvertently collects or disposes of Unacceptable Waste, unless such collection or disposal shall have resulted from the Contractor's negligence.

5.2 MUNICIPAL FACILITIES

The Contractor shall provide Collection Services at Municipal Facilities. The Contractor shall be solely responsible for all costs and expenses associated with these services, including the cost of Collection, Tipping Fees (except as otherwise explicitly set forth herein), and the cost of purchasing, delivering, and using Collection Containers. The Contractor shall supply, deliver, and maintain collection containers as designated in the list below.

FACILITY	SERVICE	QTY	CONTAINER	FREQUENCY
City Hall	Garbage	1	6-yard bin	3/week
	Recycle	2	96-gallon cart	1/week
	Garbage	2	96-gallon cart	1/week
	Yard Waste	1	30-yard bin	As needed
IH Clubhouse	Garbage	1	3- yard bin	2/week (Mon & Fri)
	Recycle	1	96-gallon cart	1/week
Wastewater Treatment Plant	Garbage	1	3- yard bin	1/week
	Special Waste	1	20-yard bin	As needed

SECTION 6 SCHEDULES AND ROUTES FOR COLLECTION SERVICES

6.1 Collection Service shall not start before 7:00 a.m. or continue after 7:00 p.m. on the same day. The hours and days of Collection Service may be extended or modified (a) when such change is requested by the Contractor and approved in advance by the City or (b) when the City determines that such change is necessary or otherwise appropriate.

6.2 The Contractor shall establish Collection routes and schedules that satisfy the requirements of this Agreement and maximize the efficiency of the Contractor's operations. The Contractor's schedule shall identify the Scheduled Collection Days for Garbage and Rubbish, Recyclable Materials, and Yard Trash, respectively, for each Residential Customer and Municipal Facility. The Contractor shall submit its proposed Collection routes and schedules to the City as part of the Contractor's Collection Plan. The Contractor's Collection Plan, including the proposed Collection routes and schedules, shall be subject to the City's approval.

6.3 When a Customer's Scheduled Collection Day for Garbage falls on a Holiday, the Contractor shall delay the Collection of the Customer's Garbage until the first Scheduled Collection Day for Garbage following the Holiday. The same procedure shall be used to delay the Collection of other material following a Holiday.

6.4 The Contractor shall not change a Collection route, a Collection schedule, or the method of providing Collection Service unless the Contractor receives the City's written approval for the proposed change. The Contractor shall submit a description of all proposed route, schedule, and operational changes at least thirty (30) calendar days prior to the implementation of such changes. Contractor shall provide all affected Customers with a written notice of the change.

6.5 The Contractor shall inform the City about any event (e.g., disabled trucks, accidents, or shortage of staff) that will cause delays in the Contractor's normal Collection Schedule and the Contractor shall provide such notice to the City within two (2) hours of the event.

6.6 If the City notifies the Contractor about a Missed Collection, the Contractor shall return to the Customer's Premises as set forth hereinafter and collect all of the Residential Waste or Recyclable Material that has been set out for Collection. If the Contractor is notified before 12 P.M. (noon), the Collection shall be completed before the end of that day. If the Contractor is notified after noon, the Collection shall be completed before noon on the next Operating Day.

SECTION 7 PROTECTION OF PRIVATE AND PUBLIC PROPERTY

7.1 The Contractor's employees shall not trespass on private property, except and only to the extent necessary to provide Collection Service in compliance with this Agreement. The Contractor's employees shall not loiter on or meddle with any property of any other Person.

7.2 The Contractor's employees shall not damage any public or private property, including but not limited to roads, driveways, sidewalks, utilities, trees, flowers, shrubs, grass, and Collection Containers. City warrants that the City's pavement, curbing, or other driving surface or any right of way reasonably necessary for Contractor to provide the services described herein are sufficient to bear the weight of all of Contractor's equipment and vehicles reasonably required to perform such services. Contractor will not be responsible for damage to any such pavement, curbing, driving surface or right of way which results solely from the weight of Contractor's vehicles providing service in the City.

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

7.4 The Contractor shall be solely responsible for all damages, costs, and liabilities associated with the repair, restoration, or replacement of any property that has been damaged by the Contractor's equipment, employees, or agents. The Contractor shall promptly investigate and respond to any claim concerning property damage. The Contractor shall promptly repair any damage within three (3) Operating Days, unless the Contractor requests and the City grant approval of an extension of time. Any disputes concerning the Contractor's obligations for the repair of property damages shall be resolved by the City in his or her reasonable discretion. In the event it is determined by the City that the Contractor is responsible for the repair of such property damage, the Contractor shall restore the public or private property to a condition that is at least equal to the condition that existed before the damage occurred.

SECTION 8 SPILLAGE AND LITTER

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

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

8.3 Contractor's vehicles shall not release or cause litter in violation of the Tennessee Litter Law (Title 39, Chapter 14, Part 5) or the Ordinances. If litter is released or falls from Contractor's vehicle for any reason, the Contractor shall immediately stop the vehicle and retrieve the litter.

8.4 Contractor shall immediately clean up any oil, hydraulic fluid, or other liquid that leaks or spills from Contractor's vehicles and the Contractor shall repair any associated damage. Contractor shall

provide an emergency clean-up plan and the contact information for the employee responsible for emergency clean-up.

SECTION 9 SAFETY

9.1 The Contractor shall develop, implement and maintain a written safety plan for all of its operations under this Agreement prior to the Commencement Date. The safety plan shall comply with the requirements in OSHA and similar Applicable Laws. A written copy and an electronic copy of the safety plan shall be provided to the City for informational purposes. The City's receipt of the safety plan shall not constitute the City's approval of the plan or the City's acquiescence concerning the appropriateness of such plan. The Contractor shall comply with its safety plan at all times.

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

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

9.4 The Contractor shall follow all OSHA regulations and Applicable Laws regarding personal protective equipment.

9.5 The Contractor's employees shall be trained and instructed to drive in a safe, defensive manner. Among other things, the drivers of the Contractor's Collection vehicles shall operate vehicles or equipment while distracted (i.e. phone, text, email).

SECTION 10 COLLECTION PLAN

10.1 The Contractor shall prepare a Collection Plan to be submitted to the City that describes in detail how the Contractor will provide Collection Service in compliance with the requirements in this Agreement. At a minimum, the Collection Plan shall identify and describe the vehicles, equipment, personnel, routes, and schedules the Contractor will use for each type of Collection Service. The Collection Plan shall include a legible map for each Collection route, identifying the Operating Days when Collection Service will be provided, the starting and ending points for the route, and the type of Collection Service that will be provided on the route on each Scheduled Collection Day.

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

10.3 The Collection Plan shall identify the procedures that will be used by the Contractor to ensure that the City is not billed inappropriately for the Collection, disposal, or Recycling of Solid Waste or other materials. Among other things, the Collection Plan shall identify the procedures that will be used by the Contractor to ensure that each Designated Facility is fully informed whenever the Contractor delivers

Solid Waste or other material (e.g. material collected under the Supplemental Collection Service) for which the Contractor, rather than the City, must pay the applicable Tipping Fee.

10.4 The Collection Plan shall include the manufacturer's specification sheets for the Collection Containers provided by the Contractor under this Agreement.

10.5 An updated Collection Plan shall be submitted to the City whenever the Contractor changes the plan.

10.6 The Collection Plan and all revisions to the plan are subject to the City's prior written approval.

SECTION 11 COLLECTION CONTAINERS

11.1 The Contractor shall purchase at its' expense, assemble and deliver at least one (1) new Garbage Cart, one (1) new Recycle Cart, and one (1) new Yard Waste Cart for each Residential Customer receiving Curbside Collection Service. Customers who currently have more than one container per type of waste shall receive the same number of containers upon initial delivery.

11.2 All Garbage Carts, Recycle Carts, and Yard Waste Carts shall: (a) have a nominal rated capacity of approximately ninety-six (96) gallons; (b) be hot-stamped or labeled in accordance with the specifications provided by the City, and (c) be compatible with the hydraulic lifting and dumping mechanism mounted on the Contractors Collection vehicles. Each cart shall have a flat area on the top (outside) of the lid suitable for the placement of informative stickers or decals. Each Cart shall be equipped with a Radio Frequency Identification ("RFID") tag. Each type of cart and each size shall be uniform with regard to color, volumetric capacity, dimensions, finished surfaces, and hot stamping/labeling. Each cart shall be constructed to prevent the intrusion of water and animals, with covers that are free from sharp edges, and without any inside structures that prevent the discharge of its contents. Carts should be constructed so that water does not accumulate on the lid. All Garbage Carts, Recycle Carts, and Yard Waste Carts shall comply with the Specifications for Carts (Attachment 3) included in this RFP.

11.3 All Garbage Carts, Recycle Carts and Yard Waste Carts purchased by the Contractor shall become the property of the City when the carts are delivered to a Customer or the City. Upon termination or expiration of this Agreement, the Garbage Carts, Recycling Carts, and Yard Waste Carts held in the Contractor's inventory for the City (e.g., carts that are hot-stamped or labeled with the City's name or logo) shall be delivered to and become the property of the City. Additional carts ordered by a Customer shall be hot-stamped with the City logo, shall be the property of the City and remain at that Dwelling Unit.

11.4 During the term of this Agreement the Contractor shall maintain an adequate inventory to meet the demand for the delivery of Garbage Carts, Recycle Carts, and Yard Waste Carts for New Customers and the replacement or exchange of these carts for Customers. At a minimum, the Contractor shall maintain at all times an inventory of no less than fifty (50) Garbage Carts, fifty (50) Recycling Carts, and fifty (50) Yard Waste Carts.

11.5 The Contractor shall procure, and maintain at all times, an adequate supply of spare parts (e.g., wheels, lids) for the Garbage Carts, Recycle Carts, and Yard Carts it provides for use in the Service Area. The Contractor shall be responsible for maintaining such carts in good working condition. The Contractor shall repair or replace a Garbage Cart, Recycle Cart, or Yard Waste Cart (a) promptly if the Contractor observes that the cart is defective or (b) within three (3) Operating Days after the Contractor is informed by the Customer or the City that the Cart needs to be repaired.

11.6 The Contractor shall supply mechanical containers to each of the Municipal Facilities listed in Section 5.2. Mechanical Containers shall have attached lids, unless the City approves a different design for a particular use or they are open top Roll-Off Containers. Mechanical Containers shall have solid, durable sides and bottoms. Each Mechanical Container (except open top Roll-off Containers) shall have a heavy-duty removable plug in the bottom.

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

11.8 The Contractor shall label each one of its Mechanical Containers with the Contractor's name and telephone number, and the identification number for the Mechanical Container. The labels shall be comprised of letters and numbers that are at least four (4) inches high. The labels shall be placed on at least two (2) sides of each Mechanical Container. At least one label must be readily visible when the Mechanical Container is placed at the Customer's site.

SECTION 12 VEHICLES AND COLLECTION EQUIPMENT

12.1 The Contractor shall provide and maintain a dedicated fleet of vehicles and equipment necessary to provide Collection Service in compliance with the approved Collection schedules and otherwise promptly and efficiently comply with the requirements in this Agreement. The Contractor's vehicles and equipment shall be compatible (in size and weight) with, and appropriate for, the areas where such vehicles and equipment are utilized. The front-line vehicles used to provide Collection Services under this Agreement shall not be used to collect Solid Waste or Recyclable Materials outside of the Service Area, unless the Contractor receives the City's prior written approval for such activity.

12.2 The Contractor shall monitor, maintain and repair its Collection vehicles and equipment to prevent fuel, lubricants, and other liquids from leaking or spilling. Oil and hydraulic systems, and waterproof seals and enclosures, on the Contractor's vehicles and equipment shall be kept in good repair at all times to prevent leaks and spills. At a minimum, the Contractor shall maintain each Collection vehicle in compliance with the manufacturer's recommendations.

12.3 Each Collection vehicle shall have waterproof seals and shall be watertight to a depth sufficient to prevent the discharge or leaking of liquids that have accumulated in the vehicle's cargo area during loading and transport operations.

12.4 Each Collection vehicle shall fully enclose the Contractor's Load to prevent the Contractor's Load from blowing out of the vehicle. A Collection vehicle shall have a fully enclosed metal top, a tarpaulin, or a net cover with mesh openings not greater than one and one-half (1½) inches in size. The top, tarpaulin, or cover shall be kept in good working condition and shall be free from tears and holes.

12.5 All Collection vehicles shall be painted a uniform color.

12.6 Advertising shall not be allowed on the Contractor's vehicles, Collection Containers, or equipment used to provide Collection Service in the City.

12.7 Vehicles used for the Collection of Recyclable Materials shall be designed to collect the Recyclable Materials in a "single stream" and deliver them to a Materials Recovery Facility that is equipped for "single stream" Recycling.

12.8 At the start of this Agreement, none of the Collection vehicles used by the Contractor under this Agreement shall be more than three (3) years old, unless it is used only as a reserve vehicle. After the second Operating Year, the average age of the vehicles used shall not be more than five (5) years old and no vehicle older than seven (7) years shall be used. Reserve vehicles shall not be more than ten (10) years old. Within six (6) months after the effective date of any renewal period, Contractor's fleet of vehicles shall be updated so that none of the Collection vehicles used by the Contractor under this Agreement shall be more than three (3) years old, unless it is used only as a reserve vehicle. After the second Operating Year of any renewal term, the average age of the vehicles used shall not be more than five (5) years old and no vehicle older than seven (7) years shall be used. Reserve vehicles shall not be more than ten (10) years old.

12.9 All vehicles used to provide Collection Services under this Agreement shall be equipped at all times with: (a) all safety equipment required by Applicable Laws; (b) a fire extinguisher; (c) a shovel and broom; (d) a spill response kit; and (e) an audible back-up warning device. The spill response kit shall be suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from Contractor's Collection vehicles.

12.10 All vehicles used to provide Collection Services under this Agreement shall be equipped with a two-way radio, cellular telephone, or other equipment appropriate for communications between the vehicle operator, the Field Supervisor, and the District Manager. The proposed communications system is subject to approval by the City and should be included in the Collection Plan.

12.11 Contractor's vehicles shall be equipped with a system such as Radio Frequency Identification ("RFID") systems that allow the Contractor to monitor the locations and usage of all Carts provided by the Contractor pursuant to this Agreement unless an alternative system is approved by City in his or her sole discretion. The data obtained with the RFID systems, or other approved system, shall be compiled and maintained in an electronic (digital) format. The Contractor shall provide a software system to the

City that allows the City to access and monitor the database from the City's office. The minimum requirements for the RFID system and software are set forth in Attachment 3.

12.12 The Contractor's vehicles shall be equipped with a service verification system in the trucks that incorporates GPS, real time communication and possibly other systems like RFID tag system to give operators, supervisors, managers and customer service personnel real-time access to information and work as the operators perform their jobs. Operators should be able to immediately identify situations such as addresses where the Collection Container is not out to be serviced, Collection Containers that are unserviceable, or other situations and immediately transmit that data back to operations personnel. The system should allow for work orders to be transmitted to the operator electronically. Integrated digital cameras or approved comparable systems that allow the operator to safely document conditions, proof of service, late Set Outs, etc. are required. The service verification system must be maintained throughout the term of the Contract and through any renewal term.

12.13 The Contractor shall have sufficient reserve vehicles and equipment available to complete daily Collection routes according to the schedules established pursuant to this Agreement. The use of reserve vehicles and equipment shall include, but not be limited to occasions when front-line vehicles and equipment are out of service, or when delays will prevent front-line vehicles and equipment from completing their Collection route(s) within the established hours of Collection. The reserve vehicles and equipment shall be ready to go into service within two (2) hours of any breakdown or delay experienced by a front-line vehicle.

12.14 The Contractor shall keep all Collection vehicles and equipment cleaned and painted to present a pleasing appearance at all times. All Collection vehicles used primarily for the Collection of Garbage shall be washed thoroughly and sanitized with a suitable disinfectant and deodorant at least once each week, unless the City approves an alternate cleaning schedule.

12.15 The Contractor's name and telephone number shall be displayed at all times, in letters at least four (4) inches high, on the driver's side and the passenger's side of each one of the Contractor's Collection vehicles. Truck identification numbers shall be displayed at all times, in letters/numbers at least four (4) inches high, on all four (4) sides of all Collection vehicles.

12.16 All of the Contractor's Collection vehicles shall display information identifying the type of material (e.g., Solid Waste or Recyclable Materials) being collected. The information shall be displayed at all times, on the driver's side and the passenger's side of the vehicle body, in letters at least four (4) inches high.

12.17 The City at his or her sole discretion may inspect the Contractor's vehicles, equipment, licenses, and registrations at any reasonable time. The City reserves the right to inspect each Collection vehicle, each day, prior to its use in the City.

12.18 The City shall at his or her sole discretion have the authority to require the Contractor to immediately remove from service any Collection vehicle or equipment that is leaking or spilling fluids, Solid Waste, or Recyclable Materials. The City also may require at his or her sole discretion any Collection vehicle, Collection Container, or other equipment to be cleaned, washed, painted, repaired, or maintained immediately. In such cases, the Contractor shall comply with the City's request within one

(1) Operating Day or the Contractor shall take the vehicle, container, or equipment out of service until the requested work can be completed.

12.19 The Contractor shall provide a storage yard, garage, and maintenance facility that enables all-weather, year-round maintenance operations for the vehicles and equipment used pursuant to this Agreement. The storage yard, garage, and maintenance facility shall be located within 30 miles of City Hall (10001 Highway 70, Lakeland TN 38002). The Contractor shall not use City property to store, wash, repair, or maintain any vehicles or equipment.

SECTION 13 CONTRACTOR'S PERSONNEL

13.1 The Contractor shall use competent, qualified personnel to provide the services required by this Agreement. The Contractor shall devote sufficient personnel, time and attention to its operations under this Agreement to ensure that its performance will be satisfactory to the City.

13.2 Contractor shall appoint an employee to serve as the District Manager. The District Manager shall be the Contractor's primary point of contact with the City for all technical and administrative matters pertaining to this Agreement. The District Manager must have at least five (5) years of prior managerial experience with programs of this nature and size. The District Manager shall have the authority to make significant decisions relevant to the day-to-day operation of Contractor's program under this Agreement. The District Manager shall have direct access to the Contractor's management for resolving problems beyond the District Manager's authority. At all times during the term of this Agreement, the City shall have immediate access to the District Manager by telephone and electronic mail. The District Manager shall be responsible for overseeing and implementing the Contractor's performance under this Agreement.

13.3 The Contractor shall designate one or more Field Supervisors, who shall oversee the Collection Service provided under this Agreement. The Field Supervisor(s) shall have immediate access to an automobile or truck between 6:00 A.M. and 7:00 P.M., every day. At all times during the term of this Agreement, the City shall have immediate access to the Field Supervisor(s) by telephone and electronic mail.

13.4 The Contractor's personnel shall maintain a courteous and respectful attitude toward the public at all times. The Contractor shall require its employees to avoid loud or profane language during the performance of their duties under this Agreement. Contractor's employees shall not cause any disturbance, interference, or delay to any work or service rendered to the City or by the City. Contractor's employees shall not conduct themselves in a negligent, disorderly or dishonest manner.

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

13.6 Employees and subcontractors of the Contractor shall wear proper attire at all times when providing services for the City under this Agreement. Proper attire shall consist of appropriate pants or shorts, a shirt with the Contractor's name or logo, and boots or similar footwear.

13.7 The City shall have the right in his or her sole discretion to disapprove and/or require the removal of any Contractor's employees/subcontractor personnel assigned to the City's work. Notwithstanding the foregoing, the Contractor shall not be required to take any action with regard to the Contractor's personnel that would violate any Applicable Law. The Contractor shall defend, save, and hold the City harmless from and against legal actions by any employees so removed.

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

13.9 At all times when operating vehicles or equipment pursuant to this Agreement, the Contractor's employees shall carry a valid driver's license for the type of vehicle or equipment being operated. The City may request the Contractor's employees to produce their driver's license for inspection at any time when the employee is on duty.

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

13.11 A Person employed by the Contractor shall have no right or claim to any pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to the City's officers and employees. The Contractor shall have the sole responsibility for paying any wages and providing any employment benefits to such Person. No dual employer relationship is created either implicitly or explicitly as a result of this Agreement.

SECTION 14 CUSTOMER RELATIONS

14.1 The Contractor shall maintain a local customer service/dispatch office. The Contractor's office shall be open for business from 8:00 A.M. to 5:00 P.M., Monday through Friday and on weekend days when Collection Service has been delayed by Holiday.

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

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

machine or service shall give Customers the telephone number that the Customers may use to report an emergency.

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

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

14.6 Contractor's Office shall be equipped with web-based customer notification system.

14.7 The City shall provide notice of Complaints from Customers via the Contractor's electronic tracking system pursuant to Section 12.2 and Contractor shall respond to Complaints in accordance to the guidelines outlined in this Agreement.

14.8 The District Manager or their designee shall initially review a Customer's Complaint. If there is a dispute with the Customer or uncertainty, the City in its sole discretion, shall review the Complaint and make the final decision on the action required by the Contractor. Complaints include but are not limited to:

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

14.9 The Contractor shall take whatever steps are reasonably necessary to promptly remedy the cause of a Complaint. If the Contractor is informed about a Complaint before noon on a Scheduled Collection Day, the Contractor shall remedy the complaint before the end of that day. If the Contractor is notified about a Complaint after noon on a Scheduled Collection Day, or at any time on a Sunday or Holiday, the Contractor shall remedy the complaint before noon on the next Scheduled Collection Day. The Contractor may request, and the City grant additional time to remedy a Complaint when the Contractor uses its best efforts to correct the problem but is unable through no fault of the Contractor to do so within the time provided herein.

14.10 The Contractor shall establish a real-time system for tracking Complaints. The Contractor shall enter all Complaints into the Contractor's electronic tracking system within one hour after the Contractor receives the complaint; however, if Complaints are received when the Contractor's local office is closed, the complaint shall be entered into the electronic tracking system within two (2) hours after the office reopens on the next Operating Day. A web-based system that allows the City to (a) access the system

and monitor the Complaints from the City's computers, (b) identify the locations of the Customer Complaints in real time on a street map, and (c) compare current and historical Complaints, by type of complaint and by location is preferred but not mandatory. However, the City shall be granted the ability to enter or delete data in the electronic tracking system. The format of the information collected in the electronic tracking system shall be subject to the City's approval. The electronic tracking system may be used as the Contractor's complaint log.

14.11 It is expected that the Contractor, through the service verification system described in Section 12.12 provides contemporaneous notification of issues related to Collection. Such information may be used to determine if a Complaint submitted by the Customer is without merit. If such determination is made, the Complaint will not be included in the assessment of liquidated damages as outlined in Section 20 below. Collection Service shall be provided to the Customer regardless of fault for the Complaint unless the request violates procedures in this Agreement.

14.12 DISPUTE RESOLUTION PROCESS FOR CUSTOMERS

(a) The Contractor shall promptly notify the City whenever the City needs to resolve a dispute between a Customer and the Contractor, including but not limited to disputes concerning the proper interpretation and implementation of this Agreement and the Ordinances. The Contractor also shall promptly notify the City about any disputes with a Customer that the Contractor has not been able to resolve within two (2) Operating Days after receiving the Customer's complaint.

(b) The City shall evaluate the facts concerning such disputes and shall make a fair and impartial determination about such matters. The City shall notify the Contractor and the Customer in writing concerning the City's decision about the disputed issues. The Contractor and Customer shall have three (3) Operating Days to comply with the City's decision or, in the alternative, provide the City with a written request for a hearing before the City Administrator.

(c) If a request is filed, the City shall act upon such request within twenty (20) Operating Days. The City shall provide the parties an opportunity to present their arguments and evidence concerning the relevant issues. The City shall notify the Customer and the Contractor in writing concerning the City's decision.

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

SECTION 15 RECORD KEEPING AND REPORTING

15.1 The Contractor shall be solely responsible for keeping all of the records and documents necessary to demonstrate that Contractor has performed its duties in compliance with the requirements in this

Agreement. The Contractor's records shall be accurate, well-organized and up-to-date at all times. The Contractor's records concerning its performance under this Agreement shall be kept in the Contractor's local office or in another location in for at least three (3) years following the termination of this Agreement.

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

15.3 The Contractor shall prepare the logs identified below. All logs shall be maintained in an electronic database that is compatible with the City's software systems. The database shall be available for inspection by the City at any time during normal business hours. Upon request, the information in the logs shall be provided to the City within five (5) Operating Days.

(a) Collection Service Log – The Contractor shall maintain records and a log concerning all of the Collection Services the Contractor provides to each Customer in the Service Area. At a minimum, the records shall identify: the type of service provided to each Customer; the date(s) when service was provided; and the Collection Services (e.g., Supplemental Collection Services), if any, for which the Customer paid a fee directly to the Contractor. The Contractor shall maintain the same records with the same information for all of the Collection Services that the Contractor provides to the City pursuant to Section 36. The Contractor shall provide City with reports that include addresses not collected and the reason for non-collection on a daily basis. Pursuant to 14.10, Contractor should maintain a service verification software program that provides the required information in the collection service log. Specifications for this system should be included in the Proposal and Collection Plan submittals.

(b) Solid Waste Disposal Log – The Contractor shall maintain records and a log concerning all of the Solid Waste collected in the Service Area. The records shall identify the amounts of Solid Waste collected and the locations where the Solid Waste was taken for disposal, as documented by scale house tickets and receipts. The records shall address each Load of Solid Waste for each Collection vehicle for each Operating Day. These records shall be summarized in a log in digital format. City shall be provided with copies of the original scale house tickets. Tickets shall be provided to the City on a weekly basis at minimum.

(c) Recyclable Materials Log – The Contractor shall maintain records and a log concerning all of the Recyclable Materials collected in the Service Area, including the materials collected at Municipal Facilities and Community Events. The records shall identify the amounts of Recyclable Materials collected and the locations where the Recyclable Materials were taken for processing, as documented by scale house tickets and receipts. The records shall address each Load of Recyclable Materials for each Collection Vehicle for each Operating Day. These records shall be summarized in a log in digital format. City shall be provided with copies or the original scale house tickets. Tickets shall be provided to the City on a weekly basis at minimum.

(d) Complaint Log – The Contractor shall maintain records and a log of all complaints. The log shall include: the date and time when the Contractor was notified by the City or Customer; the Customer's

street address; a description of the Complaint; the date and time when the Complaint was resolved; and a description of how the complaint was resolved.

(e) Property Damage Log – The Contractor shall maintain records and a log concerning all accidents and events when Contractor's employees, vehicles, or equipment caused an injury to any Person or domestic animal, or damage to any public or private property. At a minimum, the log shall include: the date and time when the event occurred; the address where the event occurred; the name of the Person that reported the event; a description of the event; the vehicle or equipment number, and/or the name of the employee involved in the event; the name and address of the Person suffering the injury or damage; a description of the injury or damage suffered; and a description of how and when the matter was resolved.

(f) Cart Log – The Contractor shall maintain records and a log concerning the Garbage Carts, Yard Carts and Recycling Carts that are provided by the Contractor pursuant to this Agreement. At a minimum, the log shall identify: the location of the Residential Property occupied by each Customer that received a Garbage Cart, Yard Cart or Recycling Cart; and the location of the Residential Property occupied by each Customer that received a replacement cart.

15.4 QUARTERLY REPORT

The Contractor shall submit a quarterly report to the City no later than the fifteenth (15th) day of each calendar quarter (i.e., January 15; April 15, July 15; October 15). At a minimum, the quarterly report shall contain the following information for the previous quarter: (a) the total quantity of each type of Residential Waste delivered to each Designated Facility pursuant to this Agreement; (b) the total quantity of Recyclable Material delivered to Designated Facilities; (c) the amount of Solid Waste and Recyclable Material (if any) delivered to other facilities; (d) the number of Missed Collections; (e) a summary of each accident involving personal injuries or property damage; (f) the total number of Complaints; and (g) any information requested by the City to ensure compliance with Applicable Laws or TDEC regulations concerning Recycling rates, Recycling goals, Solid Waste management programs, or similar matters.

15.5 ANNUAL REPORT

Contractor shall submit an annual report to the City no later than forty-five (45) calendar days after the end of each Operating Year. At a minimum, the annual report shall include the following information: (a) annualized information for all items required in the quarterly reports; (b) updated lists of all vehicles and equipment used to provide Collection Service under this Agreement; (c) a description and inventory of the equipment, facilities, manpower, and other resources available for emergency conditions; (d) a trend analysis and overall evaluation of the number and types of Complaints received by the Contractor on a monthly and annual basis during the term of this Agreement; (e) a corrective action plan for systemic and chronic problems, if any; (f) an updated Collection Plan; (g) an updated Contingency Plan; (h) an updated Safety Plan; (i) a summary of all accidents and Complaints involving personal injuries or damage to public or private property during the prior year; and (j) a list of the vehicles, if any, that will be replaced in the upcoming year to comply with the requirements in Section 12.8 herein.

SECTION 16 PUBLIC NOTICES AND EDUCATIONAL SERVICES

16.1 The Contractor shall provide the following notices and educational services to help inform the public about the City's Solid Waste management system. The Contractor shall work closely with the City when preparing the notices, educational materials, and promotional information. The design and content of the notices, educational materials, and promotional information shall be subject to the City's approval. The Contractor shall be responsible for all expenses associated with the notices and educational services required herein.

16.2 NOTICE FOR COMMENCEMENT OF SERVICE

At least ten (10) calendar days before the Commencement Date, the Contractor shall design, print, and deliver a notice to each Customer concerning the Contractor's Collection Service and schedules. The notice shall be delivered by the U.S. Postal Service or hand delivered via door hangers. At a minimum, the notice shall (a) identify each of the Scheduled Collection Days for the Customer receiving the notice, (b) summarize the applicable Set Out requirements, and (c) include other educational and promotional information provided to the Contractor by the City. The notice also shall provide other relevant information concerning the Contractor's services.

16.3 NOTICES FOR NEW CUSTOMERS

The Contractor shall prepare a cart hanger notice to be delivered with each Garbage, Recycle or Yard Cart to New Customers receiving carts. Notice shall include, (a) identify each of the Scheduled Collection Days for the Customer receiving the notice, (b) summarize the applicable Set Out requirements, and (c) include other educational and promotional information provided to the Contractor by the City.

16.4 NOTICES CONCERNING CHANGES IN COLLECTION SCHEDULES

The Contractor shall design, print, and deliver a notice to each Customer that will be affected by a change in the Scheduled Collection Days. The notice shall be delivered to the Customers at least ten (10) calendar days before the Contractor changes its Scheduled Collection Days.

16.5 COMMUNITY CLEAN-UP EVENTS

The Contractor shall provide at no charge (including disposal fees) up to sixteen (16) Roll-Off Containers Collection Service for two (2) Community Clean-up Events per Operating Year if such Collection Service is requested by the City. The City reserves the right to adjust the number of Collection Containers per event but will not exceed a maximum of sixteen (16) Roll-Off Containers in an Operating Year. Each haul shall be counted as one (1) container, e.g. four (4) Roll-Offs are delivered for a Community Event and they must be emptied one extra time during the event then that shall count as eight (8) towards the total.

SECTION 17 CONTRACTOR'S EMERGENCY SERVICES

17.1 COLLECTION OF GARBAGE AFTER A DISASTER

Following a, tornado, earthquake or other natural or human event that is declared a federal disaster, the Contractor shall use its best efforts to immediately collect, by any means available, all of the Garbage and Rubbish that is Set Out by Customers. This shall be the Contractor's primary responsibility until the Contractor is able to provide Collection Services on a routine basis, as determined by the City. The Contractor shall use its best efforts to resume its Collection Services for Excess Trash Yard Trash, and Recyclable Materials on the Scheduled Collection Days as soon as possible after the disaster. The Contractor shall not, however, be required to undertake such efforts to the extent that they can reasonably be expected to endanger the safety of its employees and/or equipment.

17.2 EMERGENCY VARIANCES IN ROUTES AND SCHEDULES

In the event of a tornado, earthquake or other natural or human event that is declared a federal disaster, the City may grant the Contractor a variance from the Contractor's regular routes and schedules. Requests for a variance shall be submitted in writing to the City. If the Contractor's request is granted, the Contractor shall furnish a map depicting the revised routes and shall provide the revised schedules in writing. Thereafter, the Contractor shall contact the City on a daily basis and describe the status of the Contractor's efforts to provide Collection Service and resume the use of normal routes and schedules. The Contractor shall provide the City with any requested information so that the City can evaluate and respond to the disaster.

17.3 COLLECTION OF DISASTER DEBRIS

This Agreement does not give the Contractor the right to collect Disaster Debris. The City will enter into a separate contract with the Contractor if the City wishes to utilize the Contractor's services for the Collection of Disaster Debris. Nothing herein shall require the City to utilize the services of Contractor, or prevent the City from hiring another Person, to collect Disaster Debris. Among other things, the City may utilize the City's Disaster Debris Contract in accordance with the City's emergency management plan, or the City may utilize City personnel and equipment, for the Collection of Disaster Debris.

17.4 CONTRACTOR'S CONTINGENCY PLAN

Contractor shall develop a Contingency Plan, which shall describe the Contractor's plan of action in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable. The Contingency Plan shall describe the steps that the Contractor shall take to avoid interruptions or reductions in Collection Service under such circumstances. The Contingency Plan shall be submitted to the City before the Commencement Date. The Contingency Plan shall be updated annually and resubmitted to the City (a) with the Contractor's annual report and (b) within five (5) Operating Days after the plan is revised by the Contractor. The Contingency Plan and all revisions to the plan are subject to the City's approval.

SECTION 18 RATES FOR CONTRACTOR'S SERVICES

18.1 UNIFORM RATES FOR ALL COLLECTION SERVICES

The Rates in Attachment 4 Cost Proposal are the maximum amounts that shall be charged for any Collection Services provided by the Contractor pursuant to this Agreement. The Rates shall be applied

uniformly to all Customers receiving Collection Services from the Contractor within the City after the Effective Date as determined by the Unit Count. Contractor shall utilize the Rates in Attachment 4, and no others, when billing Residential Customers or the City.

The Rate for Residential Collection Service shall apply to each Customer that receives such service, regardless of the number of Garbage Carts, Recycling Carts or Yard Carts or other Collection Containers that are used by the Customer.

SECTION 19 PAYMENTS TO CONTRACTOR FOR COLLECTION SERVICES

19.1 GENERAL BILLING AND PAYMENT PROVISIONS

The City and the Customers shall have no obligation to pay any fee, charge, cost, or other sum to the Contractor unless such payment is explicitly required in this Agreement and the fee is identified in Attachment 4 Cost Proposal. The Rates for Collection Services in Attachment 4 shall constitute full and complete compensation to the Contractor for the services provided by the Contractor under this Agreement.

19.2 PROHIBITIONS ON PAYMENTS FROM CUSTOMERS TO CONTRACTORS

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

19.3 PAYMENTS FROM CITY FOR COLLECTION SERVICE

Subject to the conditions and exceptions contained herein, the City shall pay the Contractor for the Residential Collection Service and Municipal Facilities that is provided by the Contractor in compliance with this Agreement. The City's payments to the Contractor for Residential Collection Service and Collection of Municipal Facilities shall be made on a monthly basis, in arrears, for the Collection Service provided by the Contractor during the previous Operating Month. The amount of the City's payments to the Contractor shall be calculated by:

- (a) multiplying the monthly Rate for Residential Collection Service (Back Door or Curbside) times the number of Dwelling Units that were reported under the Unit Count on the first day of the Operating Month for which payment is being made;
- (b) adding the fees for the monthly collection of Mechanical Containers, Recycling Carts and Garbage Carts at Municipal Facilities
- (c) deducting any Liquidated Damages, or other sums that are due and owed to the City from the Contractor.

(d) adding any other fees for services that were agreed to by the City.

The City's payments shall be sent to the Contractor within thirty (30) calendar days after the end of the month when the Contractor's Collection Services were performed, provided that the invoice is received within five (5) days following the end of the month.

19.4 CITY'S UNDERPAYMENTS AND OVERPAYMENTS TO CONTRACTOR

If the City pays the Contractor in error, for whatever reason, the Contractor shall promptly notify the City to rectify the mistake. The City shall make appropriate adjustments to the Contractor's payments under this Agreement to off-set past underpayments and overpayments resulting from any error.

19.5 PAYMENTS FOR GARBAGE CARTS, YARD CARTS AND RECYCLING CARTS

The Contractor shall provide each Residential Customer with unlimited of their Garbage Cart, Recycling Cart and Yard Cart if the Customer's cart is stolen or damaged beyond repair. Except for these replacement carts, the Contractor may charge a reasonable fee to a Residential Customer that wishes to obtain an additional Garbage Cart, Recycle Cart, or Yard Cart. The Contractor's fee for the additional cart(s) for a Residential Customer shall not exceed Fifty Dollars (\$50.00). The Contractor shall be solely responsible for billing and collecting the fees, for providing and delivering the additional Garbage Carts, Recycling Carts and Yard Carts.

19.6 RECYCLING REVENUES FOR CITY

The City shall receive all of the revenues derived from the sale of the Recyclable Materials that are collected by the Contractor. If Contractor sells any such materials, Contractor shall submit the sales proceeds to the City within thirty (30) days.

19.7 PAYMENT OF TIPPING FEES

Subject to the conditions and limitations contained herein, the City shall pay the Tipping Fees for the disposal of the Garbage, Rubbish, Recyclable Materials, and Yard Trash that is collected by the Contractor and then delivered to a Designated Facility. The City shall pay the applicable Tipping Fees directly to the owner or operator of each Designated Facility.

When the Contractor delivers any Solid Waste to a Designated Facility, the Contractor shall tell the scale house operator whether the Tipping Fees shall be paid by the Contractor or the City. The Contractor shall use its best efforts to ensure that the scale house operator is properly informed so that the Disposal Facility will charge the City for Tipping Fees only when such charges are appropriate. Among other things, the Contractor shall not tell the scale house operator to charge the City for the disposal of any Solid Waste (a) that was generated outside of the Service Area; (b) that was generated by a Person who is not a Residential Customer; or (c) when the Contractor is obligated by this Agreement to pay the Tipping Fees.

19.8 VERIFICATION OF PAYMENT AMOUNTS

The City's acceptance of any payment from the Contractor, or the City's deduction of any amount from any payment due to the Contractor, shall not be construed as an accord that the amount paid is the correct amount, nor shall it be construed as a release of any claim the City may have for additional sums payable from the Contractor. At any time, the City may recalculate and collect any amounts that are payable to the City under this Agreement, plus Interest, and all costs of collection, including attorneys' fees and court costs.

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

SECTION 20 LIQUIDATED DAMAGES

20.1 BASIS FOR LIQUIDATED DAMAGES

The parties acknowledge that it would be difficult and/or impossible to determine the resulting costs/damages to the City in the event of certain breaches by the Contractor, therefore the liquidated damages amounts set forth below are stipulated and agreed under the circumstances, to be a fair and reasonable estimate of the City's potential cost/damages at the time the parties have entered into this Contract, and shall not be construed or otherwise considered a penalty. Said liquidated damages are solely to address the matters set forth below, and therefore, shall be in addition to all other legal and equitable remedies of the City whether arising under this Agreement or otherwise.

Complaints received from Customers are considered Complaints for purposes of this Agreement, unless the Contractor can prove to the City's satisfaction, in its sole discretion, that the complaint is not warranted.

20.2 PROCEDURE FOR ASSESSING LIQUIDATED DAMAGES

On a monthly basis the City shall review the performance of the Contractor and the assessment of any liquidated damages based on that performance. The City shall provide written notice to the Contractor regarding such liquidated damages. Upon receipt of the written notice, Contractor shall have ten (10) Operating Days to file a written letter of protest with the City. Such letter shall include verification and/or supporting documents regarding such protest. If a protest or petition is not timely filed by the Contractor, or if the City concludes that liquidated damages should be assessed, the City shall deduct the liquidated damages from the City's monthly payments to the Contractor.

20.3 LIQUIDATED DAMAGES BEFORE COMMENCEMENT DATE

The City shall assess liquidated damages for Contractor's actions during the Transition Period in the amounts set forth in Sections 44.3.1 through 44.3.5, below:

(a) Failure to mail or deliver the City-approved brochures and informational materials to all Customers by December 14, 2018. For each calendar day of delay, One Thousand Dollars (\$1,000) shall be assessed against the Contractor.

(b) Failure to have the necessary Collection vehicles delivered to the Contractor's equipment yard and ready for service (e.g., registered, licensed, and tagged) by December 28, 2018. For each calendar day of delay, Two Thousand Dollars (\$2,000) shall be assessed against the Contractor.

(c) Failure to deliver new Garbage Cart, new Yard Waste Cart and new Recycling Cart by January 4, 2019 to each Customer. For each customer that does not receive all carts by January 4, 2019, Fifty Dollars (\$50) per cart per Customer shall be assessed against the Contractor for each day of delay.

(d) Any exception to the dates above must be presented in writing no later than seven (7) working days prior to the deadline. The City in his or her sole discretion will make the final decision.

20.3 LIQUIDATED DAMAGES DURING TERM OF AGREEMENT

On the Commencement Date and throughout the remainder of the term of the Agreement, the City will assess the liquidated damages itemized below. The Complaints outlined in this section shall be assessed One Hundred Dollars (\$100) for each occurrence. Complaints include, but are not limited to:

(a) Failure to collect the Garbage, Rubbish, Yard Waste, Excess Trash or Recyclable Material that was properly Set Out for Collection by a Customer on the Scheduled Collection Day. Liquidated damages are assessed when Complaints in an Operating Month exceed the totals in the table below:

Garbage, Rubbish, Excess Trash	30 Complaints
Recycle Materials	25 Complaints
Yard Waste	25 Complaints

Liquidated Damages for this type complaint will be waived for a period of sixty (60) days from the Commencement Date

(b) Failure to respond to a Complaint, within the time frame specified herein. Each additional Operating Day of delay shall be treated as a separate Complaint;

(c) Failure to replace or repair a damaged Collection Container, or failure to replace a stolen Collection Container, failure to exchange a Collection Container, or failure to deliver a new Collection Container within the deadlines specified in this Agreement;

(d) Failure to clean up spilled liquids or fluids, Solid Waste, litter, or other material in compliance with the requirements in this Agreement, within the deadlines set forth herein;

(e) Failure to return or properly place a Collection Container in the location specified.

(f) Failure to repair damage to a Customer's property within the deadlines set forth in this Agreement, after receiving notification;

(g) If the Contractor notifies the City that a Complaint has been resolved, when the Complaint has not been resolved;

In addition, pursuant to the requirements of this Agreement, the following items will result in the assessment of liquidated damages as outlined below:

(h) Mixing Recyclable Materials with Solid Waste, or mixing any other materials that are required to be collected separately, shall result in the assessment of Five Hundred Dollar (\$500) per occurrence;

(i) Failure to timely file any report, plan, or other document required herein shall result in the assessment of a One Hundred Dollar (\$100) per occurrence;

(j) Collections outside of the hours specified in this Agreement, without prior approval of the City, shall result in a One Hundred Dollar (\$100) assessment per incident per calendar day.

(k) Failure to correct chronic Collection problems shall result in a Two Hundred Dollar (\$200) assessment. Chronic shall mean four (4) or more Complaints at the same Premises for the same issue within a twelve (12) month period. The first assessment shall be made for the fourth Complaint with additional assessments made for each Complaint thereafter;

(l) Leaving Collection Containers where they block driveways, mailboxes, streets, or roads shall result in a Fifty Dollar (\$50) assessment per incident;

(m) Damage to public or private roadways, including but not limited to spills of oil and hydraulic fluids, shall result in a Two Hundred Fifty Dollar (\$250) assessment per occurrence.

All violations of the terms of this Agreement as outlined in this Section and Complaints received from Customers (via email, phone, text, web, personal visit, etc.), through visual inspection or obtained through other means shall be considered in the assessment of liquidated damages. In the event that the Contractor is able to provide documentation through the service verification system, as described in Section 12.12, that demonstrates the Complaint is without merit, such documentation shall be reviewed by the City who in his or her sole discretion, shall make a determination on the inclusion of the Complaint in the assessment of liquidated damages.

SECTION 21 PAYMENTS WITHHELD FROM CONTRACTOR

The City shall withhold part or all of any payment otherwise due to the Contractor from the City for the following: (a) The amount of liquidated damages due by the Contractor; (b) The amount due by Contractor to any subcontractor which shall have resulted in a claim against the City; and (c) Should the Contractor refuse or fail to comply with its obligations set forth in this Agreement including, but not limited to, (a) and (b) above; completion of Collection Services on the scheduled day and response to Complaints after receipt of written notice or verbal request by the City that the Contractor correct defective workmanship; furnish additional forces, plant or equipment and/or work additional hours overtime operations, Sundays or Holidays for completion of scheduled routes on the

scheduled collection day, the City may proceed to hire an additional contractor or use its own employees or resources to assist with the correction of unsatisfactory work, completion of the routes or Complaints and all costs occasioned in the performance of such corrective work shall be withheld and deducted from any payments due the Contractor.

SECTION 22 INTERIM OPERATIONS

In the event that this Agreement is terminated before the end of any term, the Contractor shall continue its operations for an interim period of up to one hundred eighty (180) calendar days if requested to do so by the City. The Contractor shall be paid for its services during said interim period at the rates in effect prior to issuance of the notice of termination.

SECTION 23 OPERATIONS DURING DISPUTE

If a dispute arises between the City, the Contractor, or any other Person concerning the Contractor's performance, rights, or compensation under this Agreement, the Contractor shall continue to perform its duties in strict compliance with the requirements of this Agreement, regardless of the pending dispute.

SECTION 24 CONTRACTOR'S OBLIGATIONS PRIOR TO TERMINATION OF THIS AGREEMENT

24.1 SCHEDULE FOR TERMINATION OF CONTRACTOR'S SERVICE

Prior to the termination of this Agreement, Contractor shall work with the City to ensure that there is no interruption or reduction of service when the Contractor ends its services to the City. If a new Agreement is awarded to a Person other than the Contractor, the Contractor shall coordinate and cooperate with the newly selected hauler, as well as the City, to minimize any disruptions in the service provided to the public.

24.2 CITY'S RIGHT TO PROCURE NEW SERVICES

At any time during the term of the Contract including any extensions, the City may issue an RFP, or commence negotiations with a Person other than the Contractor, or take any other step deemed necessary by the City to obtain the services of a Person who will collect Solid Waste for the City after this Agreement expires or is terminated.

ATTACHMENT 1

MAP OF SERVICE AREA WITH COLLECTION DAYS

ATTACHMENT 2

ACCEPTABLE RECYCLABLE MATERIAL PROTOCOL

Acceptable Material Single Stream Residential Mix:

Aluminum food and beverage containers

aluminum soda and beer cans, cat food cans, etc.

Glass food and beverage containers

Flint (clear)

Amber (brown)

Emerald (green)

Ferrous Cans

soup, coffee cans, etc.

P.E.T. plastic containers with the symbol #1

no microwave trays

H.D.P.E. natural plastic containers with the symbol #2

milk jugs and water jugs containers only (narrow neck containers)

H.D.P.E. pigmented plastic containers with the symbol #2

detergent, shampoo, bleach bottles without caps (narrow neck containers)

LDPE plastic food and beverage containers symbol #4

butter and margarine tubs

Polypropylene plastic food and beverage containers symbol #5

yogurt containers

Other plastic food and beverage containers symbol #7

mixed plastic containers

Old Newspaper (ONP)

Sunday inserts are acceptable paper.

Kraft Paper Bags

Old Corrugated Containers (OCC)

no wax coated.

Magazines (OMG)

Coated magazines, catalogues and similar printed materials, junk mail, and soft cover books.

Aseptic Cartons

Juice boxes, gable top milk and juice containers, soy milk and soup cartons.

Materials Not Acceptable:

No Plastic Bags or bagged material (newsprint may be placed in a Kraft bag)

Mirrors, window or auto glass, light bulbs, ceramics, any plastic containers with #3 or #6 on them or no # at all, oil or antifreeze containers, plastic bags, coat hangers, paint cans, or any household items (such as toasters, cooking pots or pans, etc.)

Hard cover books

ATTACHMENT 3

SPECIFICATIONS FOR GARBAGE, RECYCLE AND YARD CARTS

1. **INSTRUCTIONS:** The following specifications describe the minimum acceptable features and performance requirements for the Garbage Carts, Yard Carts and Recycling Carts the Successful Proposer(s) will purchase for the City.

Each Proposal must be submitted on the following form. Each Proposer shall place a check mark (√) in the appropriate place in the following column (Yes/No) to indicate whether their carts will comply with the City's specifications. If an item is left blank, the City will assume the Proposer cannot meet the specifications and may reject the Proposal.

By checking any of the "NO" spaces, the Proposer states that the carts being proposed do not conform to that specification. All variations from or exceptions to the specifications must be identified, referencing applicable paragraph(s), and explained in detail on a separate page titled "Exceptions". If the City determines that exceptions exist which were not identified on such list, then the Proposal may be disqualified as non-responsive. If exceptions are listed, the City may reject the Proposal as non-responsive. If no exceptions are taken, the City will assume that the Proposal meets all specifications as stated.

The Proposer must submit the information requested below when the Proposer submits its response to this RFP and if requested must supply a sample of the actual cart.

2. **MANUFACTURING PROCESSES AND MATERIALS:** Each cart shall consist of a body, lid, wheels, axle, and necessary accessories. The plastic resin material and the finished cart must meet the minimum specifications herein.

		YES	NO
2.1	<p>MANUFACTURING PROCESS: Each cart body must be manufactured by a rotational or injection process. Please indicate below which process is being submitted:</p> <p>Rotational molding _____</p> <p>Injection molding _____</p>		
2.2	<p>PLASTIC MATERIAL: Base plastic resin must be first quality linear polyethylene, high-density polyethylene (HDPE) or medium-density polyethylene (MDPE) supplied by a national petrochemical producer. Off-spec material is not acceptable.</p> <p>Proposer must submit technical data sheet(s) from the resin producer.</p>		

2.3	<p>RESIN ADDITIVES: All plastic parts shall be specifically prepared to be colorfast so that the plastic material does not alter or fade appreciably in normal use. The plastic resin must be enhanced with color pigment and ultraviolet inhibitor, which must be used at a rate that is no less than 1.5% by weight, and which must be uniformly distributed throughout the finished cart. To ensure thorough distribution of these additives, the resin and additives must be mixed in a molted state using a hot-melt blending process. Proposer must submit a statement certifying that all of the plastic resin and additives will be hot-melt blended.</p>		
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3. CART REQUIREMENTS: The carts must be compatible with standard American semi-automated bar-locking lifters (ANSI type B) as well as automated arm lifters (ANSI type G) and function as follows:

		YES	NO
3.1	<p>ANSI CONFORMANCE: Carts must meet the requirements of ANSI Z245.30-2008 and ANSI Z245.60-2008 standards for “Type B/G” carts.</p> <p>Each Proposer must submit independently certified copies of all ANSI test results with their Proposal. Test results must state the load (in pounds) under which the tests were conducted. The load under which the tests were conducted must be the same as the load rating stated in the cart manufacturer’s sales literature and specifications. The ANSI Appendix D test for “Loading and Unloading Test for Carts” must clearly state that the required 520 dump cycles under the cart’s full rated load were performed on both a Semi-Automated Cart Lifter <u>and</u> a Fully Automated Grabber Arm.</p>		
3.2	<p>LOAD RATING: Carts must be designed to regularly receive and dump the following amount of waste material, excluding the weight of the cart, without permanent damage or deformation. The load rating must conform with ANSI Standard Z245.30-2008.</p> <p style="text-align: center;">96 Gallon –336 pounds</p> <p>Each Proposer must submit a normal printed color sales brochure which shows the exact products being proposed and the corresponding load ratings. Proposer must mark the location of the load ratings on the brochure with bold red arrows so as to aim directly at the load ratings. The load rating in the sales literature must match the specifications and ANSI certification submitted with Proposer’s Proposal, and the load rating permanently marked on the cart.</p> <p style="text-align: center;">96 Gallon: STATE LOAD RATING - _____ pounds</p>		
3.3	<p>RESIN WEIGHT: The carts must be manufactured to achieve a minimum resin weight as follows:</p> <p style="text-align: center;">96 Gallon – 30 pounds minimum</p> <p style="text-align: center;">STATE RESIN WEIGHT OF EACH CART –</p> <p style="text-align: center;">96 Gallon - _____ pounds</p>		

		YES	NO
3.4	<p>CAPACITY: The total capacity of the carts, excluding the lid, 96 U.S. gallons (+/- 3%), respectively. Proposer must include independent test results according to ANSI Z245.30, Appendix A (Volume Test), certified by an accredited professional engineer, showing the exact capacity of the cart body (to the nearest 0.1 U.S. gallon), for each size.</p> <p>96 Gallon: STATE BODY CAPACITY - _____ U.S. Gallons</p>		
3.5	<p>DIMENSIONS: The exterior dimensions of the completely assembled carts shall be approximately as follows:</p> <p>96 Gallon –</p> <p>Height: 45.00" STATE HEIGHT - _____"</p> <p>Depth: 33.00" STATE LENGTH - _____"</p> <p>Width: 28.50" STATE WIDTH - _____"</p>		
3.6	<p>WALL THICKNESS:</p> <p>The carts must have a minimum nominal wall thickness of 0.154" throughout the body of the cart, and, if an injection molding cart, a minimum wall thickness of 0.185" inches in the critical wear points (i.e. the cart bottom, handle, and lift mechanism). The minimum wall thickness of the lid must be 0.14".</p> <p>96 GALLON:</p> <p>STATE BODY WALL THICKNESS: _____ inches</p> <p>STATE CRITICAL WEAR POINT THICKNESS: _____ inches</p> <p>STATE LID WALL THICKNESS: _____ inches</p>		
3.7	<p>MANEUVERABILITY: The Proposer must state the average tipping force required to maneuver a fully loaded cart when tilted to the roll position. The Proposer must also submit documentation that conforms to ANSI Z-245.60 (Force To Tip) testing that clearly defines the cart's maximum average tipping force. The results of this testing may not exceed a maximum average force of 120 pounds when loaded with a standard load of 3.5 pounds of material per gallon capacity. Any cart that the City deems too difficult to tilt when loaded to maximum capacity may be disqualified.</p> <p>96 Gallon Carts</p> <p>STATE MAXIMUM AVERAGE FORCE: _____ pounds</p>		
3.8	<p>RIM OF BODY: The upper rim of each cart body must have a closed tubular design or be molded with a reinforced rim for maximum strength during collection. The rim must also include a ledge or other built-in feature that creates a tight seal between the body and lid.</p>		

3.9	HANDLES: Each cart must be equipped with a minimum of one handle, with a minimum of 1" diameter. The handle(s) and handle mounts must be an integrally molded part of the cart body. The handles shall be designed to afford the user positive control of the loaded cart at all times. The handles must not have the ability to rotate on their own axis at any time. Handles which are molded as part of the lid are unacceptable. Bolted-on handle mounts or bolted-on handles are unacceptable.		
3.10	LID: The lid shall be of one-piece construction and manufactured of the same material used in the cart body. The lid shall be configured to ensure that it will not warp, bend, slump, or distort to such an extent that it no longer fits the cart properly or becomes otherwise unserviceable. The lid must be crowned in shape and designed to prevent the entry of rain when in the closed position. The lid must open from a closed position through a full 270° arc. Living hinges and lid counter weights are unacceptable. Lid latches are unacceptable.		
3.11	BOTTOM: The bottom of the cart must be impact resistant at all points (four corners and the center) of the base for durability. Screw-on, bolt-on, or pop-on wear guards are unacceptable.		
3.12	WHEELS: Wheels for 96-gallon carts shall be a minimum of 10" diameter and 1.75" wide. All wheels must be capable of supporting a minimum of 200 pounds per wheel.		
3.13	AXLE: The axle for 96-gallon carts shall be a minimum 5/8" (.625) diameter. All axles shall be zinc chromate plated or powder coated equivalent, solid high strength steel, and fully supported by the cart body. The axle must slide through two molded-in plastic journals in the cart bottom and must not be exposed to the contents inside of the cart. Each molded-in axle journal must be at least 1" wide. Axles attached by means of bolts or rivets are unacceptable.		
3.14	STABILITY: Each cart shall be stable and self-balancing when in the upright position, either loaded or empty. The carts must be designed to withstand winds averaging 25 mph when empty.		
3.15	LIFT SYSTEM: Each cart shall be equipped with attachment points which make it compatible with standard American semi-automated bar-locking lifters and fully-automated arm lifters. The upper lift point must be integrally molded into the body of the cart. All lower lift bars must be designed to withstand over ten (10) years of lifter attachment. The lower lift bar for 96 gallon carts shall be at least 1" diameter galvanized steel. The lower bar must be mounted in molded-in plastic bearings or held in place with pre-installed latch/push pins. The lower bar must be factory installed and cannot be attached by means of rivets, screws, bolts, or similar fasteners.		

		YES	NO
3.16	<p>COLOR: The cart body color shall be green, gray, brown, blue or black. Surface treatments painted or spray-on finishes, and materials that are not homogenous are not acceptable.</p> <p>Proposer must submit color chips or samples for all colors available. The City will select the colors for the carts.</p>		
3.17	<p>INTERIOR CONSTRUCTION: The interior surface of each cart must be smooth and free from crevices, recesses, projections, and other obstructions where material inside the cart could become trapped.</p>		

4. **MARKINGS:** Each cart must be permanently marked with letters/numbers, as follows:

		YES	NO
4.1	<p>SERIAL NUMBERS: Each cart must have a serial number hot stamped in white on the body. The serial number shall be preceded by a letter or number code which designates the year of manufacture. Serial numbers shall be in sequence beginning with a number designated by the City. The Proposer will maintain a file that identifies the date of manufacture by the serial number.</p>		
4.2	<p>CITY SEAL: The City Seal or logo shall be hot stamped onto both sides of the cart body.</p>		
4.3	<p>USER INSTRUCTIONS: Instructions for the safe use of the cart must be molded into each lid.</p>		
4.4	<p>LOAD RATING: The load rating of the cart must be raised-relief molded into the lid. Load rating shall be stated in both pounds and kilograms and in English and Spanish.</p>		

5. **IN-MOLD LABEL SPECIFICATIONS:** The In-Mold Label must comply with the following listed specifications:

		YES	NO
5.1	MANUFACTURING PROCESS: The in-mold label shall be permanently molded into the container lid. It should not wear or peel from normal uses. It shall have ultra-violet and other protection from the effects of the sun.		
5.2	COLOR AND GRAPHICS: The in-mold label shall be 4-color and contain the City of Lakeland logo including images and language representing recycling commodities deemed acceptable for the City's program. All proofs for the label shall be submitted to the City for approval and shall have a minimum size of 4"X 11".		

6. **RFID & BAR CODE INTEGRATION:** Each Recycling, Garbage and Yard Cart must be produced and shipped with a bar code and UHF RFID tag that have been pre-associated at the manufacturer's production facility:

		YES	NO
6.1	UHF RFID TAG: An Ultra High Frequency (UHF) RFID Tag shall be installed into the handle of the cart body at the factory.		
6.2	RFID & BAR CODE INTEGRATION: Each Recycling, Garbage and Yard Cart must be produced and shipped with UHF RFID tag that has been pre-associated at the manufacturer's production facility. If necessary for tracking, an optional bar code may be added. The RFID tag must be installed within the cart body, with no exposure to the outside elements. The bar code must also contain an 8-9 digit serial number that has been branded on the front of the cart. The serial number bar code must be the same number that is used to identify the cart for warranty purposes. Adhesive or sticker RFID tags and/or bar codes will not be acceptable. To avoid interference with the cart contents/materials, RFID tags placed inside of the cart are unacceptable.		
6.3	RFID TAG & BAR CODE ASSOCIATION: All Recycling, Garbage and Yard Carts must have a UHF RFID tag along with a bar code that has been pre-associated at the manufacturing facility. It is the responsibility of the cart manufacturer to provide and maintain a data base for the City which includes the association information. The data base must include each cart's RFID Tag, Serial Number, Date of Manufacture, Cart size and Cart Type. The manufacturer shall maintain this data base for the life of the Agreement and provide additional association information for future cart purchases. The City may at any time request this information and Proposer must provide the information within two business days of the request.		
6.4	RFID INLAY SPECIFICATIONS: The RFID inlay must be Gen2 passive UHF and have an optimal operating frequency of 860 - 960 MHz and have an operating temperature of -40°F to +149°F. The dry inlay must meet ISO/IEC 18000-6C and EPC global C1G2 protocol. The antenna dimensions must not exceed 3.741 in x 0.302 in. with a thickness over chip not to exceed 11 mills. The inlay substrate must be heat treated PET. The inlay must be sandwiched between a minimum of two-0.005" polyester material using a heavy duty P7 permanent adhesive.		

		YES	NO
6.5	RFID TAG TESTING: The RFID tag must be tested at the manufacturing facility to ensure that it is working properly prior to shipment.		
6.6	RFID EXPERIENCE: Please describe your experience in providing communities with RFID enabled carts. Among other things, please provide the following information: (a) the names of the three (3) communities where you provided RFID enabled carts most recently, but do not list more than three (3) names; (b) the approximate number of RFID enabled carts that you provided to each such community; (c) the approximate number of RFID enabled carts you have provided in total; and (d) for each community identified in (a), above, provide the name and telephone number of a local government employee that is familiar with your work in the community. Provide your answers on a separate sheet of paper and attach them to this document.		
6.7	The City will consider systems that provide the required Collection data instead of an RFID system, but the RFID chips should still be installed as part of the manufacturing process.		

7. DATA INTEGRATION

		YES	NO
7.1	The Contractor is responsible for migrating manufacturing data directly from the cart manufacturing facility to the asset management software that shall be provided by the Contractor to the City. The data included in the specified file format from the manufacturer needs to include information on each individual cart including but not limited to, cart size, color, type, serial number, RFID value, date of manufacture and plant of manufacture.		
7.2	Proposer must provide a complete asset tracking/inventory/work order system and data delivery program that seamlessly integrates with the RFID data capture delivery systems provided by the Proposer for collection data reporting.		

8. WORK ORDER MANAGEMENT AND REPORTING SYSTEM

		YES	NO
8.1	ASSET TRACKING SOFTWARE SUBSCRIPTION: Proposer shall provide a software application: <ul style="list-style-type: none"> • handles all aspects of a cart management and collection program, to include: Cart, Distribution/Association to Household Address, and Collection Service Verification Tracking • meets all other specifications as outlined below: • A web-based program is required and should be available 24/7/365 and requires only a browser and live internet to access 		

		YES	NO
8.2	<p>COLLECTION DATA MANAGEMENT: The software must integrate with and manage the data downloaded from the RFID truck hardware outlined in these specifications such as: (a) route number (b) cart RFID value (c) date, time and GPS coordinates of cart collection. This data will be associated with the system database to allow for collection data reporting that is accessible online.</p>		
8.3	<p>COLLECTION REPORTS: Upon request, Proposer shall provide reporting based on City's needs and reporting criteria. Reports to include but not limited to: participation/set out rates, non-participation, time between stops, cart movement based on service location. The reports must have the ability of being generated by the software automatically at a specific interval (daily, weekly, monthly, etc) and exported to various file formats, such as PDF and Excel files.</p>		
8.4	<p>STANDARD REPORTS: By customer address, cart size, cart type, date of service, cart serial number. All reports should have the ability to be created on-line using the web based software and exported to various file formats, such as PDF and Excel files .</p>		
8.5	<p>CART DATA MANAGEMENT: Software must manage the initial cart delivery, any work orders generated and/or completed, and any additional changes made during the course of the program.</p>		
8.6	<p>CART INVENTORY REPORTS: The software must have the ability to generate reports daily, weekly, or monthly based on cart activity, such as inventory reports, maintenance reports and work order reports. Reports should be able to be viewed in PDF format or downloadable in an Excel format.</p>		
8.7	<p>SOFTWARE FLEXIBILITY: The asset tracking software must act as a standalone system and have the ability to enter cart work orders and close out work orders via manual entry online.</p>		

9. ASSEMBLY, DISTRIBUTION AND TRACKING SERVICES FOR CARTS

		YES	NO
9.1	<p>The Proposer shall be responsible for coordinating the delivery of carts from the manufacturing plant, unloading loads of carts, assembling necessary parts, and distributing the carts to homes throughout the City of Lakeland.</p>		
9.2	<p>The Proposer shall unload all delivery trailers. Any damage to the carts during any phase of the delivery, unloading, assembly, distribution, or exchanging shall be the responsibility of the Contractor to replace in kind.</p>		
9.3	<p>The Proposer shall provide a qualified assembly and distribution staff. In addition to the District Manager, the Proposer shall provide supervisory level full-time employees to work directly with City staff to solve any problems resulting from distribution services while that service is being provided.</p>		

		YES	NO
9.4	Carts shall be assembled and placed at the Resident's curb.		
9.5	Each cart must include a plastic hanger bag that includes a pre-printed brochure describing the safe care and use of the carts for Residents.		
9.6	The Proposer will record the cart serial number and RFID tag (if any) for each and every address where the carts are delivered. The Proposer will keep an electronic file of the address assignments of carts by serial and RFID tag number and present it to the City in an acceptable electronic format upon completion of the delivery. The Proposer cannot use the RFID tag as a means of associating a cart to a specific address during the delivery process as accurate data capture is a vital component to the successful creation of the initial delivery database for future goals of the City to implement automated RFID collection data tracking. Verification of a specific cart being associated to a specific address is required. Contractors can propose their A&D address association process and the City will evaluate what is in their best interest. Barcode technology for scanning an accurate asset to an address is one methodology that is acceptable.		
9.7	The Proposer shall propose an electronic tracking system where the City can track the progress of cart distribution services. The tracking system shall be web-based and the City will be provided with access to reports detailing delivery of carts by address each day. The reports shall be as real time as possible. A one-day lag in report data shall be acceptable. The reports shall detail addresses delivered with associated cart size, serial number and RFID tag number (if any). The Proposer shall also propose a web based program where the City can investigate specific cart serial numbers and/or addresses upon request to see what cart was delivered during the rollout. Information must be made available in this system within 24 hours of delivery.		
9.8	Proposer must provide GPS coordinates (latitude and longitude) of each cart delivery at the point of drop off. These must be provided in an electronic file format within ten days after the Commencement Date and upon request thereafter. Proof of GPS capture must be submitted from the most recent A&D program the Proposer has completed.		

10. CART MAINTENANCE

		YES	NO
10.1	The Proposer must use a web-based asset and inventory tracking software that the City can access at any time.		
10.2	Each cart action shall be tracked using the bar code and RFID tag (if any) in the cart. The captured data from all cart deliveries, swap-outs (exchanges), repairs, or any cart maintenance transactions must be electronically transferred into the web-based asset and inventory tracking software, which must be accessible to the City at any time.		

		YES	NO
10.3	The City may generate a service work order and submit it electronically to the Contractor for processing. Proposer must be able to receive work orders from the City electronically into their web-based asset and inventory tracking system, and Proposer and City must have the ability to enter work orders online through this system.		
10.4	Completions of work orders shall be documented using cart ID's, household address, date, and time work is completed.		
10.5	The Proposer may repair all carts at the residence. All carts in need of repair shall be equipped with new parts.		

11. **WARRANTY:** Proposer must submit with its Proposal a document which clearly states the exact warranty of the Proposer. The warranty must be for no less than ten (10) full years and must specifically provide for no-charge replacement of any component parts which fail in materials of workmanship for a period of ten (10) years after installation. The Proposer's warranty is understood to include, whether stated in Proposer's warranty or not, the following coverage:

		YES	NO
11.1	Failure of the lid to prevent rain water from entering the cart when in the closed position.		
11.2	Damage to the cart body, lid, or any component parts through opening or closing the lid.		
11.3	Failure of the lower lift bar from damage during interface with lifters.		
11.4	Failure of the body and lid to maintain their original shape.		
11.5	Damage or cracking of the cart body through normal operating conditions.		
11.6	Failure of the wheels to provide continuous, easy mobility, as originally designed.		
11.7	Failure of any part to conform to the minimum standards as specified herein.		
11.8	Warranty specimen of exact warranty offered must be included with Proposal.		
11.9	Warranty must be transferable to another contractor or the City during the warranty period.		

ATTACHMENT 4

COST PROPOSAL

This Cost Proposal shall record below the exact cost amount(s) proposed in the appropriate space(s) as required herein. Said cost proposed must incorporate all cost for the proposed scope of services for the total contract period as specified in the RFP.

RATES FOR RESIDENTIAL COLLECTION SERVICE					
ITEMS	2019	2020	2021	2022	2023
Monthly Unit Price for Curbside Household Waste					
Monthly Unit Price for Curbside Yard Waste					
Monthly Unit Price for Curbside Recyclable Materials					
Unit Price for each additional 96-Gallon Cart					

RATES FOR MUNICIPAL FACILITY COLLECTION SERVICE					
ITEMS	2019	2020	2021	2022	2023
CITY HALL					
96-Gallon Garbage Cart One (1) time per week					
96-Gallon Recycle Cart One (1) time per week					
Six (6) Cubic Yard Container Three (3) times per week					
Thirty (30) Cubic Yard Container Per Collection/Disposal					
IH CLUBHOUSE					
Three (3) Cubic Yard Container Two (2) times per week					
96-Gallon Recycle Cart One (1) time per week					

WASTEWATER TREATMENT PLANT					
Three (3) Cubic Yard Container One (1) time per week					
One (20) Cubic Yard Container Per Collection/Disposal					

The proposed cost contained herein and the submitted Technical Proposal associated with this cost shall remain valid for at least ninety (90) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any resulting contract between the Proposer and the City of Lakeland.

Proposer Signature

Date

ATTACHMENT 5

INSURANCE

The **Contractor** shall purchase and maintain the insurance outlined below to provide protection from the **Contractor's** negligent acts. The **Contractor** shall provide this insurance as required by the Contract Documents. The negligence by any subcontractor, by anyone directly or indirectly employed by any of them, shall be considered a negligent act of the **CONTRACTOR**.

- (a) Comprehensive General Liability in the amount of \$1,000,000 per occurrence and must include Products/ Completed Operations, Explosion/Collapse/Underground Coverage and Contractual Liability. The City of Lakeland must be named Additional Insured using a CG 2010 (11/85) endorsement (or equivalent) and this must be noted on the Certificate of Insurance. The Insurance Company agrees to waive their Right of abrogation against The City of Lakeland and this must be noted on the Certificate of Insurance.
- (b) Auto Liability Insurance in the amount of \$1,000,000 Combined Single Limit. The City of Lakeland must be named Additional Insured and the Insurance Company agrees to waive their Right of Subrogation against The City of Lakeland and this must be noted on the Certificate of Insurance.
- (c) Statutory Workers Compensation with Employers Liability Limits of 100/500/100 - The Insurance Company agrees to waive their Right of Subrogation against The City of Lakeland and this must be noted on the Certificate of Insurance.
- (d) Umbrella Liability in the amount of \$2,000,000 per occurrence – the terms and conditions of the Umbrella must be following form to the primary insurance.
- (e) Transporter's Pollution Liability in the amount of \$1,000,000 per occurrence.
- (f) The Cancellation Clause on the Certificate of Insurance is amended to read: Should any of the described policies on the attached Certificate of Insurance be cancelled, non-renewed or reduced in coverage – the issuing Insurance Company will mail 30 days written notice to: The City of Lakeland, 10001 Highway 70, Lakeland, TN 38002, by registered mail, return receipt requested.
- (g) All Certificates should be issued with an Insurance Company (or Companies) maintaining an AM Best Rating of A or better and a Financial Size of IX or greater. All Insurance Companies shall be authorized to conduct business in The State of Tennessee.

ATTACHMENT 6

STANDARD FORM OF AGREEMENT

THIS CONTRACT FOR SERVICES AND/OR PRODUCTS (herein "Contract") is made and entered into this _____ day of _____ 2018 by and between the CITY OF LAKE LAND, TENNESSEE, a Tennessee municipal corporation, (herein the "City") and _____, a _____ (herein the "Contractor").

WITNESSETH:

WHEREAS, the City desires to contract with a provider of solid waste collection services (herein the "Contract Items"), and

WHEREAS, the Contractor has the requisite experience, abilities and resources to perform and/or furnish the foregoing, and

WHEREAS, the Contractor desires to enter into this Contract as an independent Contractor and is ready, willing and able to provide the services and/or furnish the products in strict accordance with the terms of and subject to the conditions in this Contract.

NOW, THEREFORE, for good and valuable consideration, received or to be received, the sufficiency of which the parties acknowledge, the parties agree as follows:

1.OO SCOPE OF CONTRACT

The Contractor is to furnish the services and/or products as specified in the Request for Proposal for SOLID WASTE COLLECTION SERVICES (herein the "Request for Proposal") issued by the City and subject to any amendments thereto. The Request for Proposal and any amendments thereto are attached hereto, incorporated by reference herein and made a part hereof. Unless otherwise specified herein, the Contractor is to furnish all materials, tools, equipment, manpower, and consumables necessary to complete the Contract Items. In addition, the parties expressly agree that the following documents are a part of this Contract and are incorporated by reference herein and made a part hereof:

- I. Contract
- II. Intent to Propose Letter Dated _____
- III. Request for Proposal
- IV. Addendum
- V. Proposal
- VI. Notice of Award
- VII. Performance and Payment Bonds

2.OO TERM OF CONTRACT

The period of this Contract shall be for Sixty (60) months, beginning January 7, 2019 and ending on January 6, 2024. This Contract may be extended by the City upon the same terms for one (1) additional successive sixty (60) month period or portions thereof, up to a cumulative total of One Hundred Twenty (120) months, by written notice to the Contractor given at least Ninety (90) days before the expiration of the term then in existence subject to earlier termination as provided in the Contract.

3.00 COMPENSATION

3.01 Amount of Compensation. The Contractor agrees to provide the services, equipment and products as specified in its Proposal to the City and to furnish all labor, equipment, materials, supplies, and other necessities required to perform the Contract Items and services (including unexpected overtime, additional equipment, or other needed resources) within the schedule or time period specified at the cost specified in said Proposal and amendments, if any, the Proposal and any amendments thereto being attached hereto and incorporated herein and made a part hereof.

a. The Contractor will be paid monthly by the City at the prices set forth in the Proposal hereof. The Contractor shall submit monthly billings to the City on a form approved by the City. Contractor shall bill in arrears and payment of the billing will be made no later than thirty (30) days from the date of receipt by the City. All invoices shall be directed to City of Lakeland, Accounts Payable Department, 10001 Highway 70, Lakeland, Tennessee 38002.

b. Subject to adjustments as provided in this Contract Document, monthly billings will be an amount equal to the applicable monthly unit prices multiplied by the Unit Count (the "Count"). The City reserves the right to partially pay any billing submitted by the Contractor for failure to complete collection routes or for failure to complete all collection services required during the collection route schedules. Such determination to be made in the sole and absolute discretion of the City.

3.02 Unit Count

a. Payment will be based on the Count that will include all single-family households receiving sanitation services as indicated in the City's utility billing system. Accordingly, such Count will include single-family Residential dwellings and certain high-density dwellings such as townhouses, duplexes, and condominiums. Excluded from the Count will be certain multi-family dwellings such as apartments, residences under construction, vacant homes, and commercial establishments.

b. An initial Count will be determined and established by the City as of January 1, 2019 for the initial calendar month of this Contract. Thereafter, a revised Count shall be determined at the beginning of every month during the term of this Contract to establish the Count to be used for all monthly billings.

c. The Count is not intended to be verified to an actual count that would identify vacant houses, recently constructed dwellings transferred from builders, or other structures not served by the City. The purpose of utilizing the Count method is to devise a reasonable and acceptable method of calculating the number of household collection points receiving services without the additional expense of performing a full actual count.

4.00 ADDITIONAL SERVICES

In the event the City requests the Contractor perform additional services and/or furnish additional products not covered by this Contract, the Contractor shall perform such additional services after the City and the Contractor enter into an equitable Agreement regarding the additional services and/or products.

5.00 NOTICE TO PROCEED

The Contractor shall commence to perform and/or furnish the Contract Items called for under this Contract upon the written Notice to Proceed issued by the City.

6.00 CONFLICT OF INTEREST

The Contractor declares that neither the Mayor, nor any Commissioner, nor any other City official or employee holds a direct or indirect interest in this Contract. The Contractor pledges that it will notify the City in writing should any City official become either directly or indirectly interested in this Contract. The Contractor declares that as of the date of this declaration that it has not given or donated or promised to give or donate, either directly or indirectly, to any official or employee of the City, or to pay anyone else for the benefit of any official or employee of the City any sum of money or other thing of value for aid or assistance in obtaining this Contract. The Contractor further pledges that neither it nor any of its owners, officers or employees will give or donate or promise to give or donate, directly or indirectly, to any official or employee of the City or anyone else for the benefit thereof any sum of money or other thing of value for aid or assistance in obtaining any change order to this Contract,

7.00 COMPLIANCE WITH LAWS

The Contractor agrees to observe and to comply at all times with all applicable Federal, State, and local laws, ordinances, and regulations in any manner affecting the provision of the Contract Items and to comply with all instructions and orders issued by the City regarding the Contract Items

8.00 TERMINATION

All terms and conditions of this Contract are considered material and failure to perform any of said terms and conditions on the part of the Contractor shall be considered a breach of this Contract. Should the Contractor fail to perform any of the said terms or conditions, the City shall have the right to terminate the Contract and all other rights available at law or in equity.

9.00 WARRANTY

The Contractor warrants that the Contract Items, including any equipment and products provided shall: in the case of services (i) conform to all applicable standards of care and practice in effect at the time the service is performed; (ii) be of the highest quality; and (iii) be free from all faults, defects or errors; and in the case of products meet the specifications in the Request For Proposal. The Contractor warrants that all equipment and products provided shall be furnished to the City in good and working condition. If the Contractor is notified in writing by the City of any faulty Contract Items furnished by the Contractor, the Contractor shall, at the City's option, either: (i) perform again the relevant Contract items to correct such fault, defect or error, at no additional cost to the City; or (ii) refund to the City the charge paid by the City which is attributable to such portions of the faulty, defective or erroneous Contract Items, including any costs for re-provision of the relevant Contract Items by other contractors. The Contractor warrants that all products provided by the Contractor shall be merchantable, be fit for the purpose intended and shall meet the specifications of the Request for Proposal. The Contractor shall be liable for secondary, incidental or consequential damages of any nature resulting from any work performed under this Contract.

10.00 FORCE MAJEURE

The obligations of the Contractor hereunder are defined as the following: "Force Majeure Event" means fire, flood, earthquakes, and elements of nature or acts of God, wars, riots, civil disorders, rebellions, revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party

except to the extent that the nonperforming party is at fault in failing to prevent or causing the default or delay, and provided that the fault or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike or labor dispute shall not excuse either party from its obligations under this Contract. Except as set forth in this section, any failure or delay by a party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only as for long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the City of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the City within one (1) day of the inception of the delay) that the Force Majeure Event has occurred and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in performance longer than forty-eight (48) hours, the City may, upon notice: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract in whole or in part, without further payment except for fees due and payable.

11.00 DELAYS, DAMAGES

If the Contractor refuses or fails to prosecute the work with such diligence as will ensure its completion within the time specified in agreed to schedules hereinafter provided for, the City may terminate its rights hereunder. In such event, the City may require the surety to fully perform and complete the work in the manner required by the performance bond or the City may take over the work and prosecute the same for completion by Contract or otherwise and the Contractor and his surety shall be liable to the City for any excess cost occasioned thereby. If the Contractor's right to proceed is so terminated, the City may take possession of and utilize in completing the work all of the Contractor's materials, tools, appliances, plant, and equipment for the remaining term of the original Contract, subject to the provisions of Section 12.00 herein.

12.00 EQUIPMENT PURCHASE OPTION

Contractor grants to the City an option to purchase any or all of its equipment used in the performance of the Contract including, but without limitation, vehicles, mobile equipment, Collection carts, and Collection Containers at any time it is in default in its obligation under the Contract and during the thirty (30) days prior to the original or extended expiration date of the Contract. The City may exercise such option by providing written notice of its exercise to Contractor. Compensation shall be the fair market value of the equipment as determined by agreement of the parties or in lieu thereof by the Chancery Court for Shelby County. Title and possession shall transfer immediately upon exercise of the option. The parties shall cooperate in the execution of any documents that may reasonably be necessary to evidence and/or document transfer of ownership. Payment by City shall occur within thirty (30) days of the determination by the parties of the fair market value; if the purchase price cannot be agreed on and court proceedings are required for such purpose, the City shall have the equipment appraised by a competent appraiser and pay the amount so determined into court, and Contractor shall have the immediate right to withdraw such funds from the court upon execution of a document requiring Contractor to reimburse the City the difference between the amount paid into the court and the ultimate value of the property as determined by the court if such value is less. The court shall determine the fair market value of such equipment.

13.00 INSURANCE

13.01 Comprehensive Liability Insurance. The Contractor, at its own expense, shall keep in force and at all times maintain during the term of this Contract Comprehensive General Liability Insurance issued by a responsible insurance company and in a form acceptable to the City, coverage for Contractor on an occurrence basis against claims for bodily injury, death or property damage with combined single limits of not less than One Million Dollars (\$1,000,000) for Bodily Injury and Property Damage.

13.02 The Contractor, at its own expense, shall keep in force and at all times maintain during the term of this Contract Umbrella Liability in the amount of \$2,000,000 per occurrence - the terms and conditions of the Umbrella must be following form to the primary insurance.

13.03. Automobile Liability Insurance. The Contractor, at its own expense, shall keep in force and at all times maintain during the term of this Contract Automobile Liability coverage in the minimum amount of One Million Dollars (\$1,000,000) combined single limits for Bodily Injury and Property Damage.

13.04. Workers' Compensation Coverage. The Contractor, at its own expense, shall keep in force and at all times maintain during the term of this Contract full and complete Workers' Compensation Coverage as required by State of Tennessee law.

13.05. Pollution Liability Insurance. The Contractor, at its own expense, shall keep in force and at all times maintain during the term of the C&A, Transporters Pollution Liability Insurance coverage in the minimum amount of One Million Dollars (\$1,000,000) for environmental liabilities not otherwise covered by other liability insurance.

13.05. Certificates of Insurance. The Contractor shall provide the City with Certificates of Insurance on all the policies of insurance and renewals thereof in forms acceptable to the City. Said Comprehensive General Liability policy shall provide that the City be an additional insured. The City shall be notified in writing of any reduction, cancellation or substantial change of said policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the City and licensed and authorized to do business under the laws of the State of Tennessee.

14.00 PAYMENT & PERFORMANCE BONDS

Contractor will furnish payment and performance bonds as security for the faithful performance of this Contract, said bonds to be executed by a responsible and recognized surety company who is acceptable to the City and is licensed and authorized to do business in the State of Tennessee. Bonds will be provided and signed by the Contractor in the form included herein and made part of this Contract. The payment and performance bonds will be furnished to the City annually by the Contractor for each year of this Contract or renewal term and shall guarantee performance of this Contract and payment for all materials and labor by the Contractor. The amount of the bonds for the first year shall be equal to the monthly Curbside Collection Services unit price times the estimated Unit Count determined by the City. The amount of the payment and performance bonds for each of the following twelve (12) month periods shall equal 100% of the amount paid to the Contractor by the City during the twelve (12) month period immediately preceding such period.

15.00 CLAIMS, LIABILITY AND INDEMNITY

The Contractor shall assume all risk in connection with the performance of this Contract and shall be liable for any damages to persons or property resulting from the negligent, reckless or willful

acts, errors, or omissions of the Contractor, its agents, servants, and/or employees in connection with the prosecution and completion of the Contract Items covered by this Contract. The Contractor agrees that it will indemnify and hold the City, its elected officials and its employees harmless from all claims of any type and for any expenses and costs including attorney's fees and court costs which may be incurred by the City arising from the negligent, reckless or willful acts, errors, or omissions of the Contractor, its agents, servants and/or employees in the performance of this Contract, and the Contractor will carry sufficient general liability insurance to provide the above indemnification. The indemnities set forth herein shall survive the expiration or termination of this Contract.

16.00 ATTORNEY'S FEES

If any legal action or other proceeding is brought for the enforcement of this Contract or because of any alleged dispute, breach, default, or misrepresentation in connection with any provisions of the Contract and the City is successful therein either as a defendant or plaintiff, the City shall be entitled to recover from the Contractor reasonable attorney's fees, court costs and all expenses even if not taxable or assessable as court costs (including, without limitation, all such fees, costs and expenses incident to appeal) incurred in that action or proceeding in addition to any other relief to which the City may be entitled.

17.00 EQUAL EMPLOYMENT OPPORTUNITY

17.01. Non-discrimination. In carrying out the Contract Items under this Contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, disability national origin or sex. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, religion, disability, national origin or sex. Such action shall include, but not be limited to, the following: employing; upgrading; demoting; transferring; recruiting or paying recruitment compensation; and selecting for training, including apprenticeships.

17.02. Posting and Advertising. The Contractor agrees to post in conspicuous spaces available to employees and applicants for employment a notice setting forth the provisions of the non-discrimination clause contained in Paragraph 17.01 hereinabove. The Contractor shall, in all solicitations or advertisements for employees placed by, or on behalf of, the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, religion, disability, national origin or sex. The Contractor shall incorporate the foregoing requirements of this Paragraph 17.02 in all subcontracts, if any, for services or products covered by this Contract.

18.00 TRANSFER, ASSIGNMENT OR SUBLETTING

This Contract shall not be transferred or assigned or sublet in whole or in part without prior written consent of the City, which maybe held or granted in the sole discretion of the City. For the purposes of this section an assignment or transfer includes any change or control (whether direct or indirect) of Contract:

- i) a merger or consolidation with another entity;
- ii) transfer of more than fifty (50) percent of the Contractor's voting stock or equity interests
- iii) a change in the majority of the Contractor's Board of Directors or other governing body.

19.00 CONTRACT NOT A FRANCHISE

It is the understanding and intention of the parties hereto that this Contract shall constitute a contract for the collection and transportation of Solid Waste; that said Contract shall not constitute a franchise; nor shall the same be deemed or construed as such.

20.00 SAFETY MEASURES

The Contractor shall take all necessary precautions for the safety of the City's and Contractors employees and the general public and shall erect and properly maintain at all times all necessary vehicular and facility safeguards for the protection of workmen and the public. If necessary, the Contractor shall post signs warning against hazards in and around the site where the Contractor is furnishing Contract Items.

21.00 FAMILIARITY WITH THE CONTRACT ITEMS

The Contractor, by executing this Contract, acknowledges full understanding of the extent and character of the Contract Items required and the conditions surrounding the provision thereof. The City will not be responsible for any alleged misunderstanding of the Contract Items to be furnished or completed, or any misunderstanding of conditions surrounding the performance thereof. It is understood that the execution of this Contract by the Contractor serves as the Contractor's stated commitment to fulfill all the conditions referred to in this Contract.

22.00 ENTIRE AGREEMENT

This Contract and all exhibits hereto constitute the entire agreement and understanding between the parties relating to the subject matter herein and shall not be modified, altered, changed or amended unless in writing and signed on behalf of the parties. Each and every modification and amendment of this Contract must be in writing and signed by all of the parties hereto. Each and every waiver of any covenant, representation, warranty, or other provision of this Contract must be in writing and signed by each party whose interest is adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

23.00 PERMITS, LICENSES AND CERTIFICATES

The Contractor is to procure all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by federal, state and local laws, ordinances, rules, and regulations, for the proper execution and completion of the Contract Items under this Contract.

24.00 FIRE, THEFT, LOSS

The Contractor is responsible for all damage or loss by fire, theft or otherwise to materials, tools, equipment, and consumables left on City property by the Contractor unless such damage or loss is caused solely by the negligence of the City.

25.00 CONTRACTING AUTHORITY

The persons executing this Contract on behalf of the City and the Contractor hereby personally represent and warrant to all other parties that they have been duly authorized to execute and deliver this Contract.

26.00 GOVERNING LAW

This Contract is being executed and delivered and is intended to be performed in the State of Tennessee, and the laws (without regard to principles or conflicts of law) of such state, and of the United States of America shall govern the rights and duties of the parties hereto in the validity, construction, enforcement and interpretation hereof. Any litigation brought solely with respect to this Contract shall be brought in a court of competent jurisdiction in Shelby County, Tennessee and the Contractor hereby consents to the personnel and subject matter jurisdiction of such courts,

27.00 OPPORTUNITY FOR REVIEW

Each party has received and had the opportunity to review this Contract, and each party has had the opportunity, whether exercised or not, to have each respective party's attorneys review this Contract; and, accordingly, the normal rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Contract.

28.00 SECTION HEADINGS

The section headings contained in this Contract are for convenience of reference purposes only and are not intended to qualify the meaning of any section and shall not affect the interpretation of this Contract.

29.00 NOTICES

All notices, demands, and requests required or permitted by this Contract shall be in writing and shall be sent by facsimile transmission, air or other courier, or hand delivery as follows:

(i) To: City Manager
City of Lakeland
10001 Highway 70
Lakeland, TN 38002
Facsimile: (901) 867-2717

(ii) To:

Any notice, demand, or request sent by facsimile transmission shall be deemed given for all purposes under this Contract when properly transmitted by telecommunication device. Any notice, demand, or request which is hand delivered or sent by air or other courier shall be deemed given for all purposes under this Contract when received.

Any party to this Contract may change such party's address and/or telecopier number for the purpose of notices, demands and requests required or permitted under this Contract by providing written notice of such change of address to all of the parties, which change of address shall only be effective when notice of the change is actually received by the party who thereafter sends any notice, demand or request.

30.00 SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under present or future laws effective during the terms hereof, such provision shall be fully severable, and this Contract shall be construed and enforced as if such unlawful, invalid, or unenforceable provision were not

contained herein by its severance here from. In addition, in lieu of such unlawful, invalid or unenforceable provision, there shall be added automatically as a part hereof a provision as similar in terms to such unlawful, invalid, or unenforceable provisions as may be possible and may be lawful, valid or enforceable. Furthermore, if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other which would render the provision valid, then the provision shall have the meaning which renders it valid.

31.00 NO CONSENT TO BREACH

No consent or waiver, express or implied, by any party to this Contract to or of any breach or default by the other party to this Contract in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default of the same or any other obligations hereunder. Failure on the part of any party to this Contract to complain of any act or failure to act of any other party to this Contract, or to declare such party in default, irrespective of how long such failure continues, shall not constitute a waiver by the non-defaulting party of its rights hereunder.

32.00 FACSIMILE: PDF SIGNATURES

Execution and delivery of this agreement and all agreements entered into in connection with the transaction set forth herein (the "Collateral Agreements") by delivery of a facsimile or portable document format ("PDF") copy bearing the facsimile or PDF signature of any party hereto shall constitute a valid and binding execution and delivery of this agreement and Collateral Agreements by such party. Such facsimile and PDF copies shall constitute enforceable original documents.

33.00 OTHER INSTRUMENTS

The parties shall execute and deliver all other appropriate supplemental agreements and other instruments and take any other action necessary to make this Contract fully and legally effective, binding and enforceable as between the parties and as against third parties.

34.00 AGREEMENT CONTROLLING

To the extent that any provision hereof is inconsistent with a provision contained in the Proposal, the provision contained herein shall govern.

35.00 CITY'S RIGHT TO SET-OFF

The City shall have the right to withhold, set off or deduct any amounts that are due to the City by Contractor from any amounts that are or shall become due and payable to the Contractor under this Contract or any other agreement between the Contractor and City under which Contractor has a right to receive payments from the City. The City's right to satisfy its claims by offset shall be cumulative and in addition to all other legal and equitable remedies of the City whether arising under this Contract or otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in two (2) original copies on the day and year first above written.

APPROVED AS TO FORM:

(PROJECT: Municipal Solid Waste Collection and Disposal Services)

DATED this _____ day of _____, 2018

ATTEST:

CONTRACTOR:

By: _____

By: _____

Title: _____

Title: _____

ATTEST:

OWNER:
CITY OF LAKELAND, TENNESSEE
A Municipal Corporation

By: _____

By: _____

Jessica Millspaugh

Wyatt Bunker

Title: City Recorder

Title: Mayor

ATTACHMENT 7

PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

City of Lakeland
10001 Highway 70, Lakeland, TN 38002

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount: \$

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: None See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of

damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER (*Name and Address*):

City of Lakeland
10001 Highway 70, Lakeland, TN 38002

CONTRACT

Effective Date of Agreement:

Amount: \$

Description (*Name and Location*):

BOND

Bond Number:

Date (*Not earlier than Effective Date of Agreement*):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(Seal)
Contractor's Name and Corporate Seal

(Seal)
Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Provide execution by additional parties, such as joint venturers, if necessary.

Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.

With respect to Owner, this obligation shall be null and void if Contractor:

- 1.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
- 1.2 Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.

With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

Surety shall have no obligation to Claimants under this Bond until:

- 1.3 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
- 1.4 Claimants who do not have a direct contract with Contractor:
 - Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
 - Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 - Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.

If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.

Reserved.

Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.

No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

Definitions

- 1.5 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 1.6 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 1.7 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

