

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE EXPANDING THE SERVICE AREA OF EXISTING RESIDENTIAL AND COMMERCIAL REFUSE AND RECYCLE SERVICE CONTRACT**

**AN ORDINANCE EXPANDING THE SERVICE AREA OF EXISTING RESIDENTIAL AND COMMERCIAL REFUSE AND RECYCLE SERVICE CONTRACT MADE BY AND BETWEEN THE CITY OF ANGLETON, TEXAS, AND WASTE CONNECTIONS OF TEXAS, LLC; PROVIDING FOR THE COLLECTION OF RESIDENTIAL REFUSE AND RECYCLABLES FROM ALL SINGLE-FAMILY UNITS LOCATED WITHIN THE WINDROSE GREEN SUBDIVISION; REQUIRING COMPLIANCE WITH ALL REGULATORY ORDINANCES OF THE CITY; AND PROVIDING FOR OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.**

**Section 1.** The Parties agree and acknowledge that the facts contained in the recitals of and preamble to this Contract have been found to be true and correct and are incorporated herein by reference and expressly made a part hereof, as if copied herein verbatim.

**Section 2.** The Contract has been attached to this Agreement as Exhibit A for reference.

**Section 3.**

**ADDENDUM TO RESIDENTIAL AND COMMERCIAL REFUSE AND RECYCLE SERVICE CONTRACT**

**THIS ADDENDUM TO RESIDENTIAL AND COMMERCIAL REFUSE AND RECYCLE SERVICE CONTRACT** (this “Addendum”) is attached and incorporated into that certain *Residential and Commercial Refuse and Recycle Service Contract* (the “Contract”) made by and between **Waste Connections of Texas, LLC**, a Delaware limited liability company (the “Contractor”), and the **City of Angleton, Texas**, a Texas home rule municipality (the “City”). Collectively, the Contractor and the City may be referred to herein as the “Parties.”

The following modifications and supplemental provisions are hereby incorporated into the Contract as if set forth therein verbatim, and all terms used herein which have a defined meaning in the Contract shall have the same meaning herein unless expressly stated to the contrary. To the extent of any conflict between the terms of the Contract and the terms of this Addendum, the terms of this Addendum shall control.

The City and the Contractor agree to the following:

**RECITALS**

**WHEREAS**, the City and the Contractor entered into a *Residential and Commercial Refuse and Recycle Service Contract*, dated January 1, 2018 (as amended, the “Contract”), for the provision of the collection, processing, and disposal of (a) residential refuse and recyclables collected from

all single family residential units and (b) commercial refuse collected from every commercial unit and industrial unit (the “Services”), under the terms of which the Contractor agreed to provide the City with such Services; and

**WHEREAS**, in the Contract, the City granted a nonexclusive right, privilege, and franchise to the Contractor pursuant to Section 9.02 of the Home Rule Charter of the City of Angleton, Texas, which provides that the City Council of the City of Angleton, Texas, shall have the power, by Ordinance, to grant, renew, extend, or amend all franchises of all public utilities of every character operating within the city; and

**WHEREAS**, in accordance with Section 552.002(d) of the Texas Local Government Code, the City desires to expand the Contractor’s franchise granted in the Contract and the Services performed thereunder by the Contractor specifically to the Windrose Green subdivision, located in the City’s extraterritorial jurisdiction, as a part of the Rancho Isabella Municipal Utility District (“Windrose Green”) as agreed in Section 4.07 of the *Strategic Partnership Agreement by and between the City of Angleton, Texas, and Rancho Isabella Municipal Utility District*, dated March 10, 2020 (as amended, the “SPA”), with such work to include the collection, processing, and disposal of residential refuse and recyclables collected from all single family residential units in Windrose Green; and

**WHEREAS**, the City and the Contractor have determined that they are authorized by the laws of the State of Texas to enter into this Addendum and agree to the terms, provisions, and conditions hereof.

**NOW, THEREFORE**, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and the Contractor agree to as follows:

1. The Parties hereby agree and intend to **expand the single-family residential unit service area** of the Contract by amending **Section 1.3 of the Contract** to read as follows:

For any commercial unit, industrial unit, or other physical location (including any individual, business, or entity), the CITY’s service area shall be within the city limits of the City of Angleton, Texas. For any single-family residential unit, the CITY’S service area shall be within:

- a. The city limits of the City of Angleton, Texas, as both the present and future boundaries exist; or
  - b. The limits of the subdivision known as Windrose Green, located in the City’s extraterritorial jurisdiction, as a part of the Rancho Isabella Municipal Utility District (“Windrose Green”).
2. As such, the work to be done by CONTRACTOR pursuant to the Contract consists of the collection, processing, and/or disposal of (a) residential refuse and recyclables collected from all single-family residential units as well as (b) commercial refuse collected from every commercial unit and industrial unit along with the furnishing of all labor, methods,

processes, tools, equipment, and disposal necessary to meet the requirements of the Contract and this Addendum.

3. The City and Contractor agree that collection, processing, and disposal within the expanded single-family residential unit service area, as described in above in this Addendum, shall be in accordance with Article V – Single Family Residential Unit Collection of the Contract.
4. The Parties agree that the City shall provide a Resident List, as that term is defined in Section 18.9 of the Contract, to the Contractor for Windrose Green and shall update the Windrose Green Resident List in accordance with the requirements of Section 18.9 of the Contract, as is applicable.
5. Within thirty (30) days of the effective date of this Addendum, pursuant to and in accordance with Section 11.2 of the Contract, the Contractor shall provide to the City certificates of insurance to the effect that such insurance, as required by Section 11.4 of the Contract, has been procured and is in force and said certificates name the City as an additional insured.
6. Prior to the effective date of this Addendum, pursuant to and in accordance with Section 11.5 of the Contract, the Contractor shall provide to the City an updated faithful annually renewable performance bond in the amount of \$1,762,000.00 with such bond being made payable to the City, or as may otherwise be provided by law, and shall be subject to approval of the City.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Addendum to be effective as of the Effective Date of the Contract. This Addendum and the Contract may be executed in multiple counterparts, each of which shall be deemed an original and which, taken together, constitute one instrument. The City and the Contractor further agree that this Addendum and the Contract shall become binding upon them by the delivery of an original or upon transmission by facsimile or other electronic transmission or otherwise to the other party or such party's counsel of copies of their respective signatures upon this Addendum and the Contract. Duplicate electronic or paper copies of duly executed counterparts of the Contract and this Addendum shall have the same full force and effect as originals and may be relied upon as such.

**Section 4.** Except as herein amended, which amendments are effective as of the effective date of this Agreement, the terms of the Contract remain in full force and effect and are hereby confirmed.

**Section 5.** **Power to Grant Amendment.** Pursuant to Section 9.02 of the Home Rule Charter of the City of Angleton, Texas, the City Council of the City of Angleton, Texas, shall have the power by ordinance to grant, renew, extend, and amend all franchises of all public utilities of every character operating within the City.

**Section 6.**     **Government Function.** All of the regulations and activities required by the Contract and this Addendum are hereby declared to be governmental and for the health, safety, and welfare of the general public.

**Section 7.**     **Severability.** If any provision, section, subsection, sentence, clause, or phrase of this Ordinance and, as appears thereunder, this Addendum is for any reason held to be unconstitutional, void, or invalid or for any reason unenforceable, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent the City of Angleton, in adopting this Ordinance and Addendum, that no portion hereof or provision hereof shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation and, to this end, all provisions of this Ordinance are declared to be severable.

**Section 8.**     **Repeal.** All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

**Section 9.**     **Governmental Function.** All of the regulations and activities required by this Ordinance are hereby declared to be governmental and for the health, safety, and welfare of the general public.

**Section 10.**   **Effective Date.** This Ordinance shall become effective and in full force immediately upon its adoption.

**PASSED, APPROVED, and ADOPTED** this, the \_\_\_\_\_ day of July, 2022.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
\_\_\_\_\_,  
*City Secretary*

\_\_\_\_\_  
**Jason Perez, *Mayor***

**ACKNOWLEDGED, APPROVED, AND AGREED:**

**CONTRACTOR:**

**WASTE CONNECTIONS OF TEXAS, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**RESIDENTIAL AND COMMERCIAL  
REFUSE AND RECYCLE SERVICE CONTRACT  
CITY OF ANGLETON, TEXAS  
AND  
WASTE CONNECTIONS OF TEXAS, LLC**

Effective Date: January 01, 2018

## RESIDENTIAL AND COMMERCIAL REFUSE AND RECYCLE SERVICE CONTRACT

This RESIDENTIAL AND COMMERCIAL REFUSE AND RECYCLE SERVICE CONTRACT (this "Agreement") is made and entered effective as of 01 day of January, 2018, by and between the **CITY OF ANGLETON, TEXAS**, a Texas home rule municipality, hereinafter referred to as the "CITY", and **WASTE CONNECTIONS OF TEXAS, LLC**, a Delaware limited liability company, its successors and assigns, hereinafter referred to as "CONTRACTOR".

Parties. The **CITY OF ANGLETON, TEXAS**, herein called the CITY, a municipal corporation created under Title 28 of the Texas Revised Civil Statutes, hereby grants the nonexclusive right, privilege, and franchise herein stated to **WASTE CONNECTIONS OF TEXAS, LLC**, its successors and assigns, herein called CONTRACTOR.

Power to Grant Franchise. Pursuant to the Home Rule Charter of the City of Angleton, Texas, Sec. 9.02, the City Council shall have the power by ordinance to grant, renew, extend and amend all franchises of all public utilities of every character operating within the city. No franchises shall be for an indeterminate period, and no franchise shall be granted for a term of more than 30 years from the date of grant, renewal or extension.

Grant not to be Exclusive. Pursuant to the Home Rule Charter of the City of Angleton, Texas, Sec. 9.03, no grant or franchise to construct, maintain, or operate a public utility and no renewal or extension of any such grant shall be exclusive.

Right to Regulate. To the extent permitted by state law and pursuant to Home Rule Charter of the City of Angleton, Texas, Sec. 9.07, "every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the City Council: (1) to forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and a reasonable opportunity to correct the default; (2) to establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates; (3) to impose reasonable regulations to insure safe, efficient and continuous service to the public; (4) to examine and audit at any time during regular business hours the records of any such utility which are relevant to the city's right of regulation, and to require annual and other reports including reports of operation within the city; (5) to require such compensation and rental as may be permitted by the laws of the State of Texas."

Government Function. All of the regulations and activities required by this Franchise Agreement are hereby declared to be governmental and for the health, safety and welfare of the general public.

### I SCOPE OF WORK AND AGREEMENT

1.1. The work to be done by CONTRACTOR pursuant to this Agreement consists of collection, processing and/or disposal of: (a) residential refuse and recyclables collected from all single family residential units, and (b) commercial refuse collected from every commercial unit

and **industrial unit**, and, all located within the city limits of the **CITY as the present and future boundaries exist** and the furnishing of all labor, methods or processes, tools, equipment and transportation and disposal necessary to meet the requirements of this Agreement.

1.2. All collections and disposal contemplated hereunder shall be done and performed by CONTRACTOR promptly and in a good, thorough, workmanlike, safe and efficient manner to the reasonable satisfaction of the CITY.

1.3. The CITY's service area shall be any commercial unit, industrial unit, single family residential unit, or other physical location (including any individual, business, or other entity) within the city limits of the City of Angleton, Texas.

## II DEFINITION OF TERMS

2.1. Whenever in this Agreement the following terms are used, they shall be defined as follows:

(a) Bags – Plastic sacks designed to store Residential Refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed fifty (50) pounds.

(b) Brush – Plants or grass clippings, leaves or tree trimmings.

(c) Bulky Waste – Waste measuring in excess of forty-eight (48) inches in length or fifty (50) pounds in weight, including, without limitation, refrigerators, freezers, air conditioners (note: all must have certification of Freon reclamation), stoves, water tanks, washing machines, dryers, freezers, other white goods, appliances, hot water heaters, couches, furniture, bicycles, large volumes of containerized Yard Waste and similar items that might be found in or around the home. Bulky Waste shall include household move-in cartons when collapsed and tied.

(d) Bundles – Trees, shrub and brush trimmings or newspapers and magazines neatly stacked, forming an easily handled package not exceeding five feet (5') in length or fifty (50) pounds in weight, and eighteen inches (18") in diameter. Total amount "bundled" material set out for collection each week shall not exceed two (2) cubic yards.

(e) CITY – City of Angleton, Texas.

(f) Commercial Handpick Unit – Any Commercial Unit served by a Ninety-Five (95) Gallon Cart because it does not generate enough Commercial Refuse to justify a Dumpster or there is not enough room on the property to place a Dumpster.

(g) Commercial Refuse - All Garbage, Rubbish, and Bulky Waste generated by a commercial or industrial unit, excluding Hazardous Waste and Construction and Demolition Waste, except for such incidental quantities as are regulatory acceptable and are agreed to by Contractor.

(h) Commercial Refuse Collection – Non-Residential Refuse collected from commercial or industrial establishments.

(i) Commercial Unit – any commercial or industrial facility that generates and accumulates Commercial Refuse during, or as a result of, its business, including, without limitation, stores, offices, restaurants, manufacturing facilities, warehouses, and other similar facilities.

(j) Construction and Demolition Waste – Waste building materials resulting from construction, remodeling, repair, tree removal, landscaping or demolition operations that are directly or indirectly the by-products of construction work or that result from demolition of building or other structures including, but not limited to, lumber, plywood, drywall, carpeting and other flooring material, tile, roofing material, stumps, and soil.

(k) CONTRACTOR – Waste Connections of Texas, LLC

(l) Customer – The owner or tenant of a Residential Unit, Commercial Unit and/or Industrial Unit, as the case may be, located within the CITY, and identified by the CITY as being eligible for and in need of the services provided by the CONTRACTOR under this Agreement.

(m) Dumpster - a metal container of at least two (2) cubic yards in size, with an attached lid, and specifically designed for use with a front-end loading packer truck.

(n) Franchise Fee – A fee retained by the CITY pursuant to Section 18.1 below.

(o) Force Majeure Event -- means: (i) an act of God, landslide, lightning, earthquake, fire, explosion, hurricane, tornado, storm, flood, storm surge or similar natural disaster or occurrence; (ii) riots, wars, sabotage, civil disturbances, acts of terrorism or insurrection; (iii) any act of any federal, state, county or local court, administrative agency or governmental office or body that stays, invalidates, or otherwise materially affects this Agreement or any permits or licenses of CONTRACTOR with respect to the acceptance and/or disposal of any waste; (iv) the denial, loss, suspension, expiration, termination, failure of renewal, or the attainment of any maximum disposal amounts within any applicable time period, of any permit, license or other governmental approval required to dispose of and/or accept any waste; (v) the adoption or change (including a change in interpretation or enforcement) of any federal, state, county, or local law, rule, permit, regulation or ordinance after the date of this Agreement, applicable to CONTRACTOR's obligations under this Agreement, including, without limitation, such changes that have a substantial, material and adverse effect on the cost of performing the contractual obligations of CONTRACTOR set forth in this Agreement; (vi) strikes, lockouts and other labor disturbances excluding CONTRACTOR'S employees; or (vii) the institution of a legal or administrative action, or similar proceeding, by any person or entity which delays or prevents any aspect of the acceptance and/or disposal of Waste.

(p) Garbage – All normal and usual household and institutional waste products that are placed in approved containers for collection purpose and are usually a mixture of putrescible, non-putrescible, and incombustible materials, such as organic wastes from food

preparation and consumption, wrapping and packaging materials, metal, glass and plastic containers and other items.

(q) Handicapped Residential Unit – Any Residential Unit that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place Residential Refuse at the curbside, and that generates and accumulates Residential Refuse. The identities of the members of a Handicapped Residential Unit shall be certified by the CITY, and agreed to by CONTRACTOR. The CITY adheres to the definition of disability in the American Disabilities Act and the Texas Human Resources Code.

(r) Hazardous Waste – Any chemical compound, mixture, substance or article which is designated by any governmental authority, whether before or after the date of this Agreement, including, without limitation, the United States Environmental Protection Agency or any agency of the State of Texas, as “hazardous” or “toxic” as the term is defined by or pursuant to federal, state or local laws or ordinances. Hazardous Waste shall also include all medical waste items.

(s) Industrial Unit/Facility – All industrial businesses and establishments, including manufacturing facilities, premises, locations or entities, public or private, within the corporate limits of the CITY.

(t) Medical Waste – Waste generated by health care related facilities and associated with health care activities, including but not limited to blood products, microbiological waste, pathological waste and sharps.

(u) Multi-Family Residential Unit – Any Residential Unit that is designed for and inhabited by multiple family units and that generates and accumulates Residential Refuse.

(v) Ninety-Five (95) Gallon Cart – The CONTRACTOR provided polyethylene receptacle designed for the collection of solid waste material, with a minimum ninety-five (95) gallon capacity, equipped with a tight fitting hinged overlapping lid with two (2) oblique handles on the front corners for easy opening, two (2) 12 inch plastic molded/snap on wheels rated for 200 pounds per wheel, in-molded, integral hand grips for pushing/pulling the cart. After waste is removed, CONTRACTOR shall leave containers at point of origin. CONTRACTOR shall supply one (1) ninety-five (95) Gallon Cart for each occupied Residential Unit for Residential Refuse and one (1) ninety-five (95) Gallon Cart or each occupied Residential Unit for Recyclables.

(w) Processing Fee – A fee the CITY assesses per month per Residential Unit Customer account, added to the Base Rate that may be retained by the CITY as a processing fee for billing and collection services to Residential Units under this Agreement and pursuant to Section 18.1 below.

(x) Refuse – Non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish, including paper, rags, cardboard, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves and similar materials; noncombustible rubbish, including glass, crockery, tin cans, aluminum cans.

metal furniture and like materials which will not burn at ordinary incinerator temperatures (1600° to 1800°F).

(y) Residential Refuse – All Garbage, Rubbish, and all other items that may be deposited in a sanitary landfill as generated by an occupant of a Residential Unit, excluding Hazardous Waste.

(z) Residential Unit – A dwelling within the corporate limits of the CITY occupied by a person or group of persons. A Residential Unit shall be deemed occupied when either water and sewer or domestic light and power services are being supplied thereto.

(aa) Rubbish – All wood waste, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, waste paper and other products such as those used for packaging or wrapping, crockery and glass, ashes, floor sweepings, and mineral or metallic substances.

(bb) Single Family Residential Unit – any Residential Unit that is designed for, and inhabited by, a single person or family unit and that generates and accumulates Residential Refuse, Bulky Waste, Bundles, and/or Yard Waste. For purposes of this Agreement, Single-Family Residential Unit shall include duplexes, churches, and non-profit organizations.

(cc) Severe Weather Conditions – An act of God, landslide, lightning, earthquake, fire, explosion, hurricane, tornado, storm, flood, storm surge or similar natural disaster or occurrence.

(dd) Solid Waste – Municipal Solid Waste as that term is defined in Section 363.004, Texas Health and Safety Code.

(ee) Street – The surface of any public street, road, highway, alley, bridge, or other public place or way now or hereafter held by the CITY for the purpose of public travel and shall include other easements or rights-of-way now held, or hereafter held by CITY which, within their proper use and meaning, entitle CITY and CONTRACTOR to the use thereof for the purpose of collecting and transporting recyclables, and garbage and trash for ultimate disposal.

(ff) Waste – All Residential Refuse, Bulky Waste, Yard Waste, Bundles, Commercial Refuse and Industrial Refuse to be collected by CONTRACTOR pursuant to this Agreement. The term "Waste" specifically excludes "Excluded Waste" as described in Section 5.10.

(gg) Yard Waste – All tree trimmings, grass cuttings, plants, weeds, leaves, sawdust, limbs less than one inch (1") in diameter, brush or clippings.

### **III EQUIPMENT AND PERSONNEL**

3.1 CONTRACTOR shall furnish a sufficient number of all metal, packer and roll-off container type trucks with sufficient operators and workers for each, to collect and dispose of



Waste collected within the CITY from Residential Unit Customers, and Commercial Unit and Industrial Unit Customers, and a sufficient number of recycling-type trucks, with sufficient operators and workers for each, to collect Recyclables in the CITY from Residential Unit Customers, and adequate equipment to process said Recyclables. All equipment must be in good working order and equipment shall bear the name of CONTRACTOR and CONTRACTOR's local telephone number which shall be displayed on such equipment in a clear, legible manner. All collection equipment shall be maintained in an efficient working condition throughout the term of this Contract. All collection vehicles shall be equipped with flashing and audible back-up lights. CONTRACTOR's vehicles shall be maintained and painted as often as necessary to preserve and present a well kept appearance, and CONTRACTOR shall have a regular preventive maintenance program. CONTRACTOR's collection equipment shall not be allowed to scatter any Waste within the limits of the CITY nor while in route to the Disposal Site. CONTRACTOR shall immediately clean up all leakage, spillage and blown debris resulting from CONTRACTOR's vehicle. CONTRACTOR shall operate all vehicles and equipment and vehicles in compliance with all applicable laws, and in accordance with manufacturer's specifications.

3.2 All Dumpsters and Roll-Off Bins requested by Commercial Unit and Industrial Unit Customers shall be maintained by CONTRACTOR in good condition. Dumpsters will be changed as needed to maintain all health and safety concerns free of charge. All other container movement will be as agreed by the CONTRACTOR and such Customer.

3.3 CONTRACTOR shall clean up all Waste that has been littered by CONTRACTOR in the area of collection before leaving such area. CONTRACTOR shall immediately clean up all Waste from Bags torn by CONTRACTOR, in the general area of such Bags.

3.4 All CONTRACTOR personnel on the service trucks must wear uniforms identifiable as CONTRACTOR employees, save and except during emergency situations (such as during a Force Majeure Event or immediately after a holiday when trash volumes may run especially high and require the addition of temporary personnel in order to complete routes in a timely manner). CONTRACTOR shall provide each employee with appropriate safety equipment and assure that all employees or contract laborers are properly trained in safe operations and have sufficient skill, ability, and experience to properly perform the duties to which they are assigned. CONTRACTOR will assure the presence of at least one English-speaking employee on each service truck. CONTRACTOR's employees will not take breaks or lunch in the CITY's subdivisions. CONTRACTOR shall assure that employees serve the public in a courteous, helpful and impartial manner. The CITY shall have the right, using reasonable discretion, to request that an employee be barred from further work for the CONTRACTOR in connection with this Agreement for reasons including: wanton, discourteous, belligerent or unsafe behavior. The CITY'S request shall be in writing and shall describe the reasons for the request. Upon receipt of the CITY'S request, the CONTRACTOR shall comply immediately by removing the individual from duties within the CITY.

3.5 The relationship of the CONTRACTOR to the CITY shall be that of an independent contractor, and no principal-agent or employer-employee relationship between the parties is created by this Agreement. By entering into this Agreement with the CITY,

CONTRACTOR acknowledges that it will, in the performance of its duties under this Agreement, be acting as an independent contractor and that no officer, agent or employee of the CONTRACTOR will be for any purpose an employee of the CITY and that no officer, agent or employee of the CONTRACTOR is entitled to any of the benefits and privileges of a CITY employee or officer under any provision of the statutes of the State of Texas or the Charter and ordinances of the CITY.

3.6 Alcohol and Drug Free Policy. The employees of CONTRACTOR must be drug and alcohol free during performance of these services provided to the CITY.

#### **IV**

#### **OFFICE HOURS; ROUTES; COMMUNICATIONS; ANNEXATION**

4.1. CONTRACTOR shall maintain and staff an office Monday through Friday, 8:00 a.m. to 5:00 p.m. for the CITY or individual Customers, to communicate, discuss and refer any complaints arising in connection with such collection and disposal service. CONTRACTOR's office is located at 10310 FM 523, Angleton, TX 77515.

4.2. Collection routes shall be established by the CONTRACTOR, and reasonably approved by the CITY. Should a routing change be necessary, CONTRACTOR shall notify the CITY at least thirty (30) days prior to the implementation of any such change in collection route. The CITY's approval of such routing change shall not be unreasonably withheld. CONTRACTOR shall notify residents in the affected area of the change in of routing. Notification shall be by mailed notice to affected Residential Units.

4.3. CONTRACTOR shall notify the CITY by 6:00 a.m. on day of service or day before if known, if service will not be provided due to a "Force Majeure" event. If CONTRACTOR begins service and then makes a determination to stop service mid-day due to Force Majeure, then CONTRACTOR will provide notification to the CITY as soon as possible. As soon as practical after such Force Majeure event, CONTRACTOR shall advise the CITY when it is anticipated that normal routes and schedules can be resumed.

4.4. All dealings between CONTRACTOR and the CITY shall be directed by CONTRACTOR to the City Manager or his/her designee.

4.5. If the CITY annexes additional land into its corporate limits during the term of this Contract, then CONTRACTOR'S rights, duties and obligations under this Contract shall include the annexed land in accordance with the terms hereof.

#### **V**

#### **SINGLE FAMILY RESIDENTIAL UNIT COLLECTION**

5.1. CONTRACTOR shall, prior to commencement of service under this Agreement and prior to any alteration in the collection schedule as allowed hereunder, notify each Customer of the CITY of the collection schedule (or alteration thereof) and the address and telephone number of CONTRACTOR.



5.2. CONTRACTOR will provide each Single Family Residential Unit within the CITY with a Ninety-Five (95) Gallon Cart for Residential Refuse at the Rates set forth in Section 18.1, as such may be adjusted from time to time. Title to the refuse containers shall remain with CONTRACTOR.

5.3. CONTRACTOR shall collect and properly dispose of all Residential Refuse from all Single Family Residential Units used for residential purposes located within the CITY, twice each week, curbside with Ninety-Five (95) Gallon Cart service on the day or days selected by CONTRACTOR and communicated to the CITY and Customers, except when a holiday, as set forth in Section 21 hereof, occurs on such service day, in which event the pick-up scheduled for that day will be postponed until the next regularly scheduled collection day, and except for emergencies resulting from a Force Majeure Event. CONTRACTOR reserves the right to change or alter the times and routes of collection, provided that the CITY is given prior written notification of the changes. CONTRACTOR may change or alter the days of collection only after receiving prior consent from the CITY, which consent shall not be unreasonably withheld, conditioned or delayed. CONTRACTOR shall bear the cost to notify the Customers of any changes in service days, if applicable.

5.4. All Residential Refuse from Single Family Residential Units must be placed in the Ninety-Five (95) Gallon Cart and be placed within three feet (3') of the roadway, as close as practicable without interfering with or endangering the movement of vehicles or pedestrians. Except as provided in Section 5.8, CONTRACTOR shall have no obligation to: (i) collect any Residential Refuse, Yard Waste, Bulky Waste, or Bundles that contains Excluded Waste, (ii) collect any Residential Refuse that is not placed in the Ninety-Five (95) Gallon Cart, or (iii) empty any Ninety-Five (95) Gallon Cart that is not placed out for collection in accordance with the provisions of this Article V. In the event a Single Family Residential Unit generates more Residential Refuse than will fit in a Ninety-Five (95) Gallon Cart, the Customer at such Single Family Residential Unit may request that CONTRACTOR provide to such Customer, at the Rates provided for in Section 18.1, such additional Ninety-Five (95) Gallon Carts as may be necessary to accommodate all Residential Refuse generated by such Single Family Residential Unit.

5.5. CONTRACTOR shall collect and properly dispose of all Yard Waste, Bulky Waste and Bundles, once weekly, on the day selected by CONTRACTOR and communicated to the CITY and customers, except when a holiday, as set forth in Section 21 hereof, occurs on such service day, in which event the pick-up scheduled for that day will be postponed until the next business day, except for emergencies resulting from a Force Majeure Event (such service is hereinafter referred to as "Bulky Waste Collection").

5.6. All Yard Waste, Bulky Waste, and Bundles shall be placed within three feet (3') of the roadway, as close as practicable without interfering with or endangering the movement of vehicles or pedestrians. If construction work is being performed in the right-of-way, Bulky Waste Bags, Bundles or other items of Bulky Waste shall be placed as close as practicable to an access point for the collection vehicle. CONTRACTOR may decline to collect any waste material that: (i) contains any Excluded Waste, (ii) is not placed out for collection in accordance with the provisions of this Article V, or (iii) that is not in an approved container, Bag, or Bundle. A tied plastic Bag with adequate strength to support the contained waste shall be considered an

approved container. Notwithstanding anything contained herein to the contrary, each Customer shall only be entitled to place out for collection up to two (2) cubic yards (by volume) of Bulky Waste, Yard Waste, and Bundles, collectively, as part of Bulky Waste Collection per week.

5.7. CONTRACTOR will collect Residential Refuse, Bulky Waste, and Yard Waste from all Residential Units within the CITY's service area and whose collection services have not been terminated by the CITY pursuant to Section 18.6.

5.8. Putrescible waste material shall have priority collection should the community suffer the consequences of Severe Weather Conditions. Normal collection of non-putrescible waste will commence once the initial health threat has been addressed. The collection of structural debris, uprooted trees, roofing material and other debris or waste materials generated by Severe Weather Conditions or any unusual natural occurrence is outside the services contracted for in this Agreement. The parties agree that if a Severe Weather Condition is not declared an emergency/disaster by the State/Federal government and therefore not subject to FEMA or other governmental rules/regulations and reimbursement occurs and impacts Residential Unit Customers, CONTRACTOR, at the CITY'S request, would provide service at mutually agreed upon rates outside of the parameters of this Agreement, and response time and level of service would be agreed upon on a case by case basis

5.9. It shall be the responsibility of the Customers to place Residential Refuse, Bulky Waste, Yard Waste, and Bundles at the proper location at or before 7:00 a.m. on a regularly scheduled collection day.

5.10. Customers shall not place the following items in Ninety-Five (95) Gallon Carts, or otherwise out for collection by CONTRACTOR (collectively, "Excluded Waste");

(a) All waste, except as otherwise provided in this Agreement, which is not placed in the appropriate container provided at the curbside;

(b) Concrete, dirt, bricks, batteries, cross ties, rocks, tires and logs and stumps over six inches (6") in diameter;

(c) Construction and Demolition Waste (such materials should be removed by people performing work). If minor repair work is completed by Customers themselves, small amounts of materials will be collected if meet general guidelines regarding lengths, weights, etc., are met. Such amounts must be reasonable – not exceeding the Bulky Waste Collection limits set forth above;

(d) Demolition waste from vacant or improved properties prior to occupancy;

(e) Sizable amounts of trees, brush, or debris cleared from properties, including, but not limited to, clearing in preparation for construction;

(f) Household hazardous waste, including, but not limited to, pool chlorine and other chemicals, fertilizer, pesticides, paint, oil or other petroleum products and medical sharps or waste. Refrigerator items, air conditioning units, or any items containing Freon must have CFCs recovered and be tagged by a certified specialist prior to disposal; and

(g) Hazardous Waste.

5.11. In the event a Residential Unit generates Excluded Waste that requires collection, transportation and/or disposal, the Customer shall contact CONTRACTOR to separately arrange for the collection of such Excluded Waste at rates to be separately agreed-upon by the Customer and CONTRACTOR. In the event CONTRACTOR elects to not collect such Excluded Waste, CONTRACTOR shall provide the Customer with the names of licensed service-providers whom the Customer may then contact to collect such Excluded Waste.

5.12. CONTRACTOR will make no residential collections before 7:00 a.m. or after 7:00 p.m. unless the designated representative of the CITY has been notified and has given approval.

5.13. Should CONTRACTOR be unable to collect the trash at any CITY residential address, CONTRACTOR shall leave a tag at the address, indicating the reason for non-collection.

5.14. CONTRACTOR shall pick up any Residential Refuse resulting from spillage occurring in the loading of Residential Refuse into the truck regardless of the area in which such spillage occurs.

5.15. If the Customer damages a Ninety-Five (95) Gallon Cart, normal wear and tear excluded, the Customer shall be responsible for the replacement charge of a Ninety-Five (95) Gallon Carts. The replacement cost is herein established at \$75.00 per cart. If a cart is stolen or vandalized by an unknown party, CONTRACTOR will replace said cart at no charge following receipt of an official Police Report indicating said cart was stolen and/or vandalized.

5.16. Notwithstanding anything to the contrary contained herein, CONTRACTOR agrees to assist Handicapped Residential Units with house-side collection of their containers, provided that CONTRACTOR receives prior written notice from the Handicapped Residential Unit of such special need. CONTRACTOR shall not be responsible for any modifications and accommodations required by the Americans with Disabilities Act, or any other applicable law or regulation in connection with the services provided hereunder to Handicapped Residential Units.

## **VI**

### **MULTI-FAMILY RESIDENTIAL UNIT COLLECTION**

6.1. CONTRACTOR shall collect and properly dispose of all Residential Refuse from all Multi-Family Residential Units upon the terms and conditions set forth in this Agreement. CONTRACTOR and each Multi-Family Residential Unit shall enter into a separate agreement which shall govern the provision of such Residential Refuse services. Residential Refuse collection from Multi-Family Residential Units shall be made by the use of two (2), three (3), four (4), six (6), and eight (8) cubic yard Dumpsters, or twenty (20) or forty (40) cubic yard roll-off container / compactors. All Dumpsters and roll-offs provided herein shall be supplied by CONTRACTOR. CONTRACTOR's local telephone number shall be displayed on such equipment in a clear, legible manner. All dumpsters and roll-offs shall be maintained in good and nuisance free condition.

6.2. Multi-Family Residential Unit Customers shall not deposit in CONTRACTOR's equipment or place for collection by CONTRACTOR any Excluded Refuse. Notwithstanding any other term contained herein, CONTRACTOR shall have no obligation to collect any waste which is, or which CONTRACTOR reasonably believes to be, Excluded Refuse. Title to and liability for any Excluded Refuse shall remain with Multi-Family Residential Unit Customer, even if CONTRACTOR inadvertently collects and disposes of such Excluded Refuse. If CONTRACTOR finds what reasonably appears to be discarded Excluded Refuse, CONTRACTOR shall notify the Multi-Family Residential Unit Customer, that CONTRACTOR may not lawfully collect such Excluded Refuse and leave a tag specifying the nearest location available for appropriate disposal.

6.3. Any changes in the policies and procedures described in the preceding section shall be submitted to the CITY and all Multi-Family Residential Unit Customers in writing not less than thirty (30) days prior to the effective date of such change.

6.4. Any and all Multi-Family Residential Unit Dumpsters / containers shall be located at a place mutually convenient and safely serviceable as agreed upon by CONTRACTOR and the Multi-Family Residential Unit Customer.

6.5. Dumpster / containers shall not be filled with debris in a manner so that the lid or cover will not close as designed. CONTRACTOR may decline to empty an overloaded Dumpster / container until the Customer unloads the Dumpster / container to the point where the lid or covers will close, and the Dumpster / container is not over weight, or until other mutually agreeable arrangements have been made.

## VII SPECIAL COLLECTION SERVICES TO CITY

7.1 In the event of an emergency situation affecting the CITY, CONTRACTOR agrees to use commercially reasonable efforts to assist the CITY in the collection and disposal of waste on such terms and conditions as are mutually agreed upon between CONTRACTOR and the CITY.

7.2 At no cost to the CITY, CONTRACTOR shall regularly collect and dispose of Garbage, Rubbish, and Recyclables which is generated in the normal course of municipal operations at municipal locations in the CITY; provided, however, this service will not include the collection of Bulky Waste, or collection of any waste stream from roll-off containers..

7.3 At no cost to the CITY, CONTRACTOR shall also provide special collection and disposal services for two (2) citywide cleanups and six (6) community events annually. CONTRACTOR will provide temporary trash receptacles, and large clear drum liners per event or citywide cleanup. The CITY shall inform CONTRACTOR of the logistics and required services at least thirty (30) days before the city event or community-wide clean up.

7.4 At no cost to the CITY, CONTRACTOR shall provide Ninety-Five (95) Gallon Carts for recycling for all CITY facilities, and collect the Recyclables from CITY facilities once per week, at no cost to the CITY.



7.5 CONTRACTOR shall provide an annual One Thousand and 00/100 Dollars (\$1,000.00) sponsorship for the Freedom Fireworks display each year for the term of this Franchise Agreement.

7.6 CONTRACTOR agrees to provide a Recycling and Solid Waste truck and drivers at public outreach and education events at no cost to the CITY, up to two (2) events during any rolling twelve (12) month period. The CITY shall provide CONTRACTOR at least thirty (30) days' notice prior to the events.

7.7 CONTRACTOR will provide ten (10) roll-off containers and hauls as designated by the CITY for demolition of structures or other debris removal as requested, at no charge to the CITY.

## VIII RECYCLING COLLECTION

8.1 CONTRACTOR will provide each Residential Unit within the CITY with a ninety-five (95) gallon recycling container at the Rates set forth in Section 18.1, as such may be reduced from time to time. Title to the recycling containers shall remain with CONTRACTOR. If the Customer damages a recycling container, normal wear and tear excluded, the Customer shall be responsible for the replacement charge of a new recycling container. The replacement cost is herein established at \$75.00 per cart. If a cart is stolen or vandalized by an unknown party, CONTRACTOR will replace said cart at no charge following receipt of an official Police Report indicating said cart was stolen and/or vandalized.

8.2 CONTRACTOR will collect plastics of grades #1 through #5, and #7, newspaper, and aluminum, tin, or metal cans from the curbside of each Residential Unit, and such other materials as CONTRACTOR may add, from time to time, pursuant to Section 8.6.

8.3 Prior to the commencement of the recycling program and continuing through the Term of this Agreement, CONTRACTOR will provide information to the CITY's Customers about the program, including the specific types of materials to be collected and the collection days. Thereafter, throughout the term of this Agreement, CONTRACTOR will inform the Customers of the CITY promptly of any changes in the recycling program and such changes will not take effect until such notice has been provided to the Customers of the CITY.

8.4 Recycling shall be collected from the CURBSIDE once every week on the day selected by CONTRACTOR and communicated to the CITY and the Customers, except when a holiday, as set forth in Section 21 below, occurs on such service day, in which event the pick-up scheduled for that day will be postponed until the next regularly scheduled collection day, and except for emergencies resulting from a Force Majeure Event. CONTRACTOR reserves the right to change or alter the days, times and routes of collection, provided that the CITY is given prior written notification of the changes.

8.5 CONTRACTOR will transport the collected recyclable materials to a processing center. CONTRACTOR will obtain title to the recyclable materials upon collection from each Residential Unit and shall be responsible for the sale of such recyclable materials. CONTRACTOR shall be entitled to receive and retain all revenues from the sale of recyclable

materials received by CONTRACTOR pursuant to this Agreement. CONTRACTOR shall donate \$500.00 per month to the CITY'S Keep Angleton Beautiful Fund.

8.6 CONTRACTOR reserves the right, from time to time, to add or delete items from recycling collection, for which no secondary market continues to exist or may be created. CONTRACTOR has no control on market values of items collected and represents no assurance of the future viability of secondary markets.

8.7 CONTRACTOR reserves the right and has the duty under law to inspect recyclable materials put out for collection and to reject recyclable materials observed to be contaminated with Residential Refuse, Yard Waste, Bulky Waste, or Excluded Waste.

## IX COMMERCIAL COLLECTION

9.1 CONTRACTOR shall provide the collection, processing and/or disposal of all Commercial Refuse upon the terms and conditions set forth in this Agreement. The CONTRACTOR and each Commercial Unit shall enter into a separate agreement which shall govern the provision of such Commercial Refuse services. Commercial Refuse collection shall be made by the use of two (2), three (3), four (4), six (6), and eight (8) cubic yard Dumpsters, or twenty (20) or forty (40) cubic yard roll-off container / compactors. All Dumpsters and roll-offs provided herein shall be supplied by CONTRACTOR. CONTRACTOR's local telephone number shall be displayed on such equipment in a clear, legible manner. All dumpsters and roll-offs shall be maintained in good and nuisance free condition.

9.2 CONTRACTOR will provide each Commercial Handpick Unit within the CITY with a ninety-five (95) gallon container for Commercial Refuse at the Rates set forth in Section 18.1, as such may be adjusted from time to time. Title to the refuse containers shall remain with CONTRACTOR.

9.3 CONTRACTOR shall collect and properly dispose of all Commercial Refuse from all Commercial Handpick Units used for commercial purposes located within the CITY, twice each week, curbside with Ninety-Five (95) Gallon Cart service on the day or days selected by CONTRACTOR and communicated to the CITY and Customers, except when a holiday, as set forth in Section 21 hereof, occurs on such service day, in which event the pick-up scheduled for that day will be postponed until the next regularly scheduled collection day, and except for emergencies resulting from a Force Majeure Event. CONTRACTOR reserves the right to change or alter the times and routes of collection, provided that the CITY is given prior written notification of the changes. CONTRACTOR may change or alter the days of collection only after receiving prior consent from the CITY, which consent shall not be unreasonably withheld, conditioned or delayed. CONTRACTOR shall bear the cost to notify the Customers of any changes in service days, if applicable.

9.4 All Commercial Refuse generated from Commercial Handpick Units must be placed in the Ninety-Five (95) Gallon Cart and be placed within five feet (5') of the roadway, as close as practicable without interfering with or endangering the movement of vehicles or pedestrians. CONTRACTOR shall have no obligation to: (i) collect any Commercial Refuse

that contains Excluded Waste, (ii) collect any Commercial Refuse generated from Commercial Handpick Units that is not placed in the Ninety-Five (95) Gallon Cart, or (iii) empty any Ninety-Five (95) Gallon Cart that is not placed out for collection in accordance with the provisions of this Article IX. It shall be the responsibility of the Commercial Handpick Unit Customers to place Commercial Refuse at the proper location at or before 7:00 a.m. on a regularly scheduled collection day.

9.5 Commercial Customers shall not deposit in CONTRACTOR's equipment or place for collection by CONTRACTOR any Excluded Refuse. Notwithstanding any other term contained herein, the CONTRACTOR shall have no obligation to collect any waste which is, or which CONTRACTOR reasonably believes to be, Excluded Refuse. Title to and liability for any Excluded Refuse shall remain with Commercial Customer, even if CONTRACTOR inadvertently collects and disposes of such Excluded Refuse. If CONTRACTOR finds what reasonably appears to be discarded Excluded Refuse, the CONTRACTOR shall notify the Commercial Customer, that CONTRACTOR may not lawfully collect such Excluded Refuse and leave a tag specifying the nearest location available for appropriate disposal.

9.6 Any changes in the policies and procedures described in the preceding section shall be submitted to the CITY and all Commercial Customers in writing not less than thirty (30) days prior to the effective date of such change.

9.7 Any and all Commercial Dumpsters / roll-off containers shall be located at a place mutually convenient and safely serviceable as agreed upon by CONTRACTOR and the Commercial Customer.

9.8 Dumpster / containers shall not be filled with debris in a manner so that the lid or cover will not close as designed. CONTRACTOR may decline to empty an overloaded Dumpster / container until the Customer unloads the Dumpster / container to the point where the lid or covers will close, and the Dumpster / container is not over weight, or until other mutually agreeable arrangements have been made.

## **X USE OF STREETS/PROPERTY DAMAGE**

10.1 No surface of any street shall be cut or damaged by CONTRACTOR by the negligent or reckless operation of its collection and transportation equipment. The surface of any street cut or damaged by CONTRACTOR in the negligent or reckless operation of any such equipment shall be replaced or repaired to its original condition to the reasonable satisfaction of the CITY. Should CONTRACTOR'S negligent or recklessness cause damage to any street, CONTRACTOR shall be liable to the CITY for any such damage, and failure by CONTRACTOR to reimburse the CITY for any sums required to be expended by the CITY for any costs of repair shall constitute an event of default. Notwithstanding the foregoing, the 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 the services hereunder; and that CONTRACTOR will not be responsible for damage to any such pavement, curbing, driving surface or right of way to the extent resulting from the

weight of CONTRACTOR's equipment and vehicles (except to the extent such equipment or vehicle's weight is in excess of legal weight limits).

10.2 CONTRACTOR shall be liable for any damage or destruction to private property occurring as a result of negligent or reckless performance of services hereunder. In the event any such damage or destruction shall occur, CONTRACTOR shall cause such repair or replacement as shall be reasonably necessary to restore such damaged or destroyed private property to its condition prior to such damage or destruction.

## **XI BONDS AND INSURANCE**

11.1 CONTRACTOR shall maintain in full force and effect during the term of the Agreement, worker's compensation insurance in accordance with the workers compensation statutes of the State of Texas, automobile liability, general liability, employer's liability and property damage insurance, including contractual liability coverage for the indemnity provisions of the Agreement in a form acceptable to the CITY ATTORNEY for the benefit of the third person who may be injured or damages as a result of any negligent operations or other wrongful conduct of said CONTRACTOR in the performance of his work under the Agreement.

11.2 All insurance shall be written by an insurance company and for policy limits reasonably acceptable to the CITY. Prior to the commencement of the Agreement, CONTRACTOR agrees to furnish the CITY certificates of insurance, on an annual basis, to the effect that such insurance has been procured and is in force, and said certificates shall name the CITY as an additional insured.

11.3 Notice of cancellation of such policy shall be given to the CITY not less than thirty (30) days prior to the cancellation date.

11.4 For the purpose of this Agreement, CONTRACTOR shall carry the following types of insurance in the minimum limits as specified below:

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Workers Compensation	Statutory
General Liability	
Bodily Injury & Property Damage	\$3,000,000
Aggregate	\$3,000,000
Employer's Liability	\$2,000,000
Automobile Liability	
Bodily Injury & Property Damage	\$2,000,000 combined single limit



Bodily Injury & Property Damage	\$5,000,000 each occurrence
	\$5,000,000 aggregate

The above insurance policies should provide the following:

- a. Any subcontractors hired by CONTRACTOR shall maintain insurance coverage equal to that required of CONTRACTOR. It is the responsibility of CONTRACTOR to assure compliance with this provision. The CITY accepts no responsibility arising from the conduct or lack of conduct, of subcontractors of CONTRACTOR.
- b. The CITY shall be named as an additional insured with respect to GL and Auto Liability, subject to CONTRACTOR's indemnities set forth herein.
- c. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
- d. A waiver of subrogation in favor of the CITY shall be contained in the WC's and all liability policies.
- e. CONTRACTOR shall notify CITY of any material change in the insurance coverage within thirty (30) days of such material change.
- f. All insurance policies shall be endorsed to the effect that the CITY will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.
- g. All insurance policies, which name the CITY as an additional insured, must be endorsed to read as primary coverage to the extent of CONTRACTOR's indemnity obligations herein, regardless of the application of other insurance.
- h. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- i. Insurance must be purchased from insurers having a minimum AmBest rating of "A7".

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting the following:

Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.

Shall specifically set forth the notice-of-cancellation or termination provisions to the City of Angleton.

Upon request, CONTRACTOR shall furnish the CITY with a Certificate of Insurance and copies of all applicable endorsements.

A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the CITY prior to the effective date of this Agreement by CONTRACTOR's insurance agent of record or insurance company.

11.5 Prior to the effective date of this Agreement, CONTRACTOR shall furnish and maintain a faithful annually renewable performance bond during the full term of this Agreement in the amount of \$1,762,000, which can be adjusted by mutual consent during the faithful performance of the Agreement. CONTRACTOR shall pay the premiums for such bond. Said bond shall be issued by a corporate surety company duly authorized to do business in the State of Texas. Said bond shall be made payable to CITY or as may be provided by law and shall be subject to approval of the CITY. Said bond shall remain in force for the entire length of this Agreement.

## **XII INDEMNITY**

CONTRACTOR SHALL INDEMNIFY AND SAVE THE CITY HARMLESS FROM ANY AND ALL LIABILITY OR DAMAGES THE CITY MAY SUFFER (EXCLUDING THOSE RESULTING FROM THE CITY'S NEGLIGENCE, WILLFUL MISCONDUCT, FAILURE TO CONFORM TO THE STATUTES, ORDINANCES OR OTHER REGULATIONS OR REQUIREMENTS OF ANY GOVERNMENTAL AUTHORITY OR BREACH OF THIS AGREEMENT) AS A RESULT OF CLAIMS, DEMANDS, COSTS, OR JUDGMENTS AGAINST THE CITY TO THE EXTENT ARISING OUT OF THE PERFORMANCE BY CONTRACTOR OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

## **XIII REPORTS**

13.1 CONTRACTOR shall be required to keep complete and accurate books of account and records of its business and operations in connection to this Agreement. The CITY may require the keeping of additional records or accounts, which are reasonably necessary for purposes of identifying, accounting for, and reporting revenues and expenses.

13.2 The CITY may review CONTRACTOR's records and reports as they specifically relate to this Agreement during regular office hours. CONTRACTOR shall provide the CITY with access to examine, audit, review, and/or obtain copies of papers, books, accounts, documents, and other records of CONTRACTOR directly pertaining to this Agreement; provided, however, CITY shall have no right to examine, audit, review, or copy any of CONTRACTOR's proprietary or privileged information.

13.3 CONTRACTOR shall submit the following reports to the City Manager of the CITY by the end of the month for the immediately preceding month:

- a. Performance Report, summarizing the number of customer complaints, commodities recycled at curbside in tons, green waste recycled at curbside in tons, solid waste

disposed of in a landfill in tons. The CITY may periodically request the back-up documentation, such as by cycle/route or neighborhood, if available.

- b. Customer Complaint Report, listing complaints received by CONTRACTOR from Customers or forwarded by the CITY via email to CONTRACTOR's commercial or residential route manager, district manager, public relations representative, and Director of Governmental Affairs, and the resolution thereto.
- c. Name of each Commercial Unit and Industrial Unit Customer, the address thereof, and the type of service provided

13.4 Annually, in April, CONTRACTOR and the CITY will mutually conduct an audit of the Customers serviced hereunder.

#### **XIV DEFAULT; TERMINATION**

14.1. Except as otherwise provided herein, if either party defaults in the performance of any of the covenants or conditions contained herein, and fails to cure such default within thirty (30) days after the non-defaulting party has given the defaulting party written notice of such default (or if such default is of a nature that it cannot be cured within such thirty (30) day period, the defaulting party fails to commence the curing of such default within such thirty (30) day period, and fails to thereafter diligently pursue the curing thereof) (the "Cure Period"), the non-defaulting party may: (a) terminate this Agreement as of any date which the non-defaulting party may select, provided said date is at least thirty (30) days after the expiration of the Cure Period; (b) cure the default at the expense of the defaulting party; and/or (c) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right to all damages or losses suffered as a result of such termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default. The following, by way of example, but not of limitation may be considered grounds for declaration of default:

- (i) Failure of CONTRACTOR to perform or observe any of the obligations, covenants, agreement, and conditions required to be performed or observed by herein,
- (ii) Failure of CONTRACTOR to commence work operations within the time specified in the Agreement,
- (iii) Failure of CONTRACTOR to provide and maintain sufficient labor and equipment to properly execute working operations,
- (iv) Evidence that CONTRACTOR has abandoned the work,
- (v) Evidence that CONTRACTOR has become insolvent, bankrupt, or otherwise financially unable to carry out the work satisfactorily,

- (vi) Failure on the part of CONTRACTOR to comply with the terms of this Agreement or any requirements given by the CITY provided for in this Agreement document; or
- (vii) Indication that CONTRACTOR has made an unauthorized assignment of the Agreement or any funds due therefrom for the benefit of any creditor or for any other purpose.

14.2. Upon the effective date of termination as contained in the notice, CONTRACTOR shall, unless the notice directs otherwise, immediately discontinue all service in connection with this Agreement.

14.3. Within thirty (30) days after the date of termination, CONTRACTOR shall submit a statement to the CITY showing in detail the services performed under this Agreement to the date of termination. The CITY agrees to compensate CONTRACTOR for that portion of the prescribed charges for which the services were actually performed under this Agreement and not previously paid.

14.4. In addition to, or in lieu of, the termination procedure set forth above, if the CITY determines, and notifies CONTRACTOR, that such default poses an immediate threat to the health or safety of any person or to any property interest, and if CONTRACTOR has not cured such default within twenty-four (24) hours after receipt of such notice, the CITY shall have the right to perform or cause to be performed all or part of the work necessary to cure such default. In the event that the CITY performs such work, or caused it to be performed, the CONTRACTOR shall compensate the CITY for the reasonable costs thereof. The CITY shall have the right to deduct any such compensation due to the CITY from any sums otherwise due and owing to CONTRACTOR.

14.5 Upon the effective date of termination as contained in the notice, the Performance Bond is immediately available.

14.6 The performance of this Agreement may be suspended and the obligations of either party excused in the event of and during the period that such performance is prevented or delayed by a Force Majeure occurrence. In the event that a Force Majeure Event continues unabated for a period of thirty (30) days and renders CONTRACTOR unable, wholly or in part, to carry out any material part of its obligations under this Agreement, then CONTRACTOR shall have the right to terminate this Agreement and shall not have any liability to the CITY due to such Force Majeure Event or such termination. The CITY shall not be responsible for payment to CONTRACTOR during any such period of non-performance by CONTRACTOR due to a Force Majeure Event.

## XV COMPLIANCE WITH ALL LAWS

15.1 CONTRACTOR agrees to conform to and abide by all of the federal, state, and local rules, regulations, laws and ordinances governing the collection, hauling and disposal of Residential Refuse, Commercial Refuse, Yard Waste, Bulky Waste, and Bundles.

15.2 CONTRACTOR agrees to conform to and abide by all of the valid rules, regulations and ordinances of any city or other jurisdiction through which Residential Refuse, Commercial Refuse, Yard Waste, Bulky Waste, and Bundles may be hauled, or disposed of, governing the collection, hauling and disposal of said Residential Refuse, Commercial Refuse, Yard Waste, Bulky Waste, and Bundles.

15.3 CONTRACTOR agrees, when Residential Refuse, Commercial Refuse, Yard Waste, Bulky Waste, and Bundles is hauled to or through the unincorporated territory of any county, to conform to and abide by all rules, regulations and ordinances of any county governing the collection, hauling and disposal of said Residential Refuse, Commercial Refuse, Yard Waste, Bulky Waste, and Bundles.

15.4 CONTRACTOR agrees to abide by all applicable federal laws, including, without limitation, the Occupational Safety and Health Act, and the laws of the State of Texas.

15.5 CONTRACTOR shall obtain and pay for all licenses, permits, and certificates required by any statute, ordinance, rule, or regulation of any regulatory body having jurisdiction over the conduct of the CONTRACTOR's operations herein.

15.6 CONTRACTOR shall identify and provide the CITY with a list of the designated Disposal Sites that will be accepting Waste and Recyclables collected under the terms of this Agreement. Each Disposal Site and processing facility shall be legally authorized and permitted under all applicable federal, state and local laws.

15.7 The charge for disposal or processing shall be included in the Base Rates.

15.8 The CONTRACTOR shall pay any and all fines or penalties assessed against the CITY by any organization having jurisdiction for the CONTRACTOR's violations of applicable laws, codes, regulations or orders arising in connection with CONTRACTOR's performance of services hereunder.

## **XVI CONTRACTOR'S DUTIES; PERFORMANCE MONITORING**

For and in consideration of the payments and agreements herein mentioned to be made and performed by the CITY, CONTRACTOR agrees with the CITY, the CITY's obligation, agreed as follows:

- a. CONTRACTOR will be actively involved with the CITY in the City-wide Clean Up Days, "Keep Angleton Beautiful" program, Recycle Bowl and Waste in Place Training.
- b. CONTRACTOR's Public Sector Services Representative will be actively involved in the Keep Angleton Beautiful programs throughout the year.
- c. CONTRACTOR shall be responsible for supervising and monitoring all work specified in this Agreement for compliance with specifications.



- d. CONTRACTOR shall promptly address all complaints, including, but not limited to missed collections, complaints of property damage, poor service, and discourteous service.
- e. The CITY shall have the right, on at least forty-eight (48) hours prior written notice to CONTRACTOR, to reasonable monitoring or inspection of all collection, transportation, and processing/disposal operations pertaining to this Agreement.
- f. CONTRACTOR shall have a representative available to meet with the CITY staff as needed to discuss performance, problems, and resolutions.
- g. CONTRACTOR shall provide, within three (3) working days after a request by the CITY, explanations of non-compliance and action taken to rectify any alleged Agreement issue.
- h. The CITY shall notify Contractor of Customers to be added or dropped from CONTRACTOR services, or of any change in Customer service.
- i. The CITY shall timely inform CONTRACTOR of complaints made by Customers.

## **XVII COMPLAINTS**

17.1. All complaints shall be made directly to CONTRACTOR and shall be given prompt and courteous attention. In the case of alleged Missed Collection, CONTRACTOR shall investigate and, if such allegations are verified, shall arrange for the collection of waste not collected within ONE (1) business day after the complaint is received. CONTRACTOR shall maintain a log of calls, including inquiries, Missed Collections and complaints, that includes the date and time of notification, the manner of resolution, and the general timing of resolution of such matter. A Missed Collection shall exclude Waste not properly set out for collection, including, but not limited to, (i) the Customer's failure to timely set out such waste, or the setting out of waste in excess of limitations set forth in this Agreement, (ii) waste not required to be collected by CONTRACTOR under this Agreement, and (iii) Excluded Waste. CONTRACTOR'S failure to remedy a complaint shall be deemed an event of default hereunder, subject to the provisions of Section 14.

17.2. CONTRACTOR shall maintain a log of all Customer calls relating to Missed Collections and complaints, including (i) date and time of notification, (ii) manner and resolution of such issue, and (iii) general timing of resolution and on a monthly basis, provide the CITY copies of all complaints described in the log.

## **XVIII COMPENSATION**

18.1 CONTRACTOR is authorized to charge, and shall receive from the CITY, the following rates for services rendered under this Agreement, subject to adjustment as set forth in Section XVIII below ("Base Rates"):

(a) The CITY agrees to pay CONTRACTOR for the collection of Residential Refuse, Yard Waste, Brush, Bundles and Bulky Waste as follows:

<u>Service</u>	<u>Base Rate</u>
Residential Refuse Collection twice per week; and Recyclables Collection once per week; and Bulky Waste and Yard Waste and Bundles Collection once a week	\$16.00 per month*

\*This rate includes the collection of one (1) Ninety-Five (95) Gallon Cart for Residential Refuse, and one (1) Ninety-Five (95) Gallon Cart for Recyclables. A Customer may request additional Ninety-Five (95) Gallon Carts for \$10.00 per cart per month (whether for Residential Refuse or Recyclables). In addition, this rate includes fuel cost, subject to the fuel surcharge adjustment provided for in Section 18.8 below.

(b) The CITY shall retain (i) a Processing Fee not included in the Base Rate, plus (ii) five (5%) percent of the Base Rate per month collected from Residential Unit Customers, as a Franchise Fee.

(c) CONTRACTOR shall be entitled to receive the Base Rates set forth as Schedule "A" for services rendered to Commercial Unit and Industrial Unit Customers. The CITY shall retain five percent (5%) of the gross collections to Commercial Unit and Industrial Unit Customers as a Franchise Fee.

(d) The parties agree that the CITY may seek to negotiate with CONTRACTOR to modify the Residential Unit and Commercial Unit rates during the term of the Agreement.

18.2. CONTRACTOR shall bill the CITY for services on a monthly basis for all services rendered to Residential Units, Commercial Units and Industrial Units, except as set forth in Section 18.3 below. CONTRACTOR shall bill the CITY for services on a monthly basis. Payment shall be remitted by the CITY for all amounts collected by the CITY within forty-five (45) days from receipt of invoice (save and except the Processing Fee and Franchise Fee).

18.3. CONTRACTOR shall directly bill Customers for provision of temporary Roll-Off Bins utilized in the collection of construction and/or remodeling debris or recyclable cardboard compactor containers. None of these charges assessed or revenues collected under this subsection shall be subject to any Franchise Fee.

18.4 For purposes of this Section 18, the term "Taxes and Fees" shall mean any adoption of, or changes to, any federal, state, or local laws, rules or regulations by any governmental authority or agency that results in an increase in CONTRACTOR's costs,

including but not limited to the imposition of new or the increase to existing governmental taxes, fees, surcharges (*e.g.*, fuel, etc.).

18.5 The CITY agrees to bill and collect the Rates on a monthly basis. Each month, the CITY will remit to CONTRACTOR the Rates owed to CONTRACTOR and actually collected by the CITY for the services provided in the immediately preceding month. Such remittances shall be made within forty-five (45) days of receipt of invoice from CONTRACTOR. The CITY shall provide CONTRACTOR with a monthly statement with each monthly remittance indicating the service type, size, location, and rate for all services, as well as any accounts that have failed to pay. CONTRACTOR shall be entitled to immediately suspend service for any and all Customers who have not timely submitted payment to the CITY. Nothing herein shall prohibit the CITY from collecting sums in addition to those sums called for herein.

18.6 Upon the receipt of written instructions from the CITY, CONTRACTOR shall discontinue the collection of waste from a Customer identified in such instructions. Upon further instruction by the CITY, CONTRACTOR may resume the collection of waste from such Customer on the next regularly scheduled collection day.

18.7 Notwithstanding the foregoing or anything else to the contrary set forth in this Agreement, by mutual agreement, CONTRACTOR and the CITY may agree to adjust the Rates in the event that a Force Majeure Event arises which materially affects CONTRACTOR's costs or revenues under this Agreement. CONTRACTOR shall submit to the CITY all substantiating documentation, via certified mail, thirty (30) days prior to any proposed Rate increase. CONTRACTOR agrees to use commercially reasonable efforts to inform the CITY at the earliest possible moment when CONTRACTOR learns of the impending change that could affect this Section. Under no circumstances shall CONTRACTOR have the right to assess any increases pursuant to this Section until the CITY has consented to same. If the CITY and CONTRACTOR cannot agree on a proposed increase in Rates, CONTRACTOR shall have the right, with thirty (30) days' written notice, to terminate the Agreement.

18.8 The Rates include an initial base fuel cost of \$2.41. Every calendar quarter, the Rates shall be subject to a fuel adjustment as follows: an increase or decrease, as applicable, of one percent (1%) for every twenty-five cent (\$0.25) increase or decrease in the price of diesel fuel at, above and below \$2.41 per gallon (with a one percent (1%) fuel surcharge adjustment beginning at \$2.66 per gallon and an additional one percent (1%) fuel surcharge adjustment at \$2.91 per gallon, etc.; alternatively, there shall be a one percent (1%) fuel reduction adjustment beginning at \$2.90 per gallon and an additional one percent (1%) fuel reduction adjustment beginning at \$2.65 per gallon). In no event shall there be any fuel surcharge adjustment applied to the Rates if and while the price of diesel fuel, after any adjustment, shall be below \$2.41 per gallon. The diesel fuel price shall be as determined by reference to the Energy Information Administration of the US Department of Energy ("EIA/DOE")'s Weekly Retail On Highway Diesel Prices for the Gulf Coast. The EIA/DOE currently publishes these prices on their website at the following location: <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>. The determination of the price of diesel fuel for the purposes of this Section shall be obtained from the aforesaid website, and shall be that price published for the Monday prior to the end of the quarter (or the first business day thereafter if such Monday is a Federal Holiday). CONTRACTOR shall



provide to the CITY written notice of any fuel surcharge adjustment. In no event shall such fuel surcharge adjustment take effect until CONTRACTOR has provided such notice.

The above fuel surcharge is based on the assumption that all CONTRACTOR trucks used to service the CITY under this Agreement operate on diesel fuel. If, during the Agreement term, CONTRACTOR begins using trucks that operate on an alternate fuel source, such as natural gas, CONTRACTOR agrees to renegotiate the above fuel surcharge clause with the City to take into account the decrease in trucks being used to service the CITY that operate on diesel fuel. The parties further agree that to the extent CONTRACTOR's entire fleet of diesel fuel vehicles are replaced with vehicles that operate on an alternate fuel source, the parties agree to replace the fuel surcharge language above with a more appropriate index based on the type of alternate fuel source being used. CONTRACTOR agrees to give the CITY at least sixty (60) days written notice prior to replacing all or part of the diesel fuel trucks assigned to service this Agreement with vehicle(s) that operate on alternate fuel. Both parties agree to cooperate and work in good faith to reach mutually acceptable language should the fuel surcharge need to be renegotiated or replaced.

18.9 Notwithstanding anything to the contrary contained in this Agreement, this Agreement shall not become effective and CONTRACTOR shall have no obligation to commence providing collection services hereunder until thirty (30) days after CONTRACTOR has received from the CITY a resident list of the number of active Single Family Residential Units, Multi-Family Residential Units, Commercial Units, and Commercial Handpick Units (the "Resident List"). Thereafter and during the entire term of this Agreement, the CITY shall deliver to CONTRACTOR, on a monthly basis, an updated Resident List. Each Resident List delivered to CONTRACTOR shall contain the name of each Customer and the address and telephone number of the Customer.

## IXX ESCALATION CLAUSE

19.1 CONTRACTOR shall hold firm the current Rates set forth in this Agreement during the first two (2) years of this Agreement, with annual increases or decreases in the third (3rd) and subsequent years of this Agreement. The Rates for all services shall escalate or decrease at a rate equal to the rise or fall of the Consumer Price Index for All Urban Consumers (published by the United States Bureau of Labor Statistics, Consumer Price Index, U.S. City Average, All Urban Consumers, Garbage and Trash Collection, Not Seasonally Adjusted, Based Period December 1999 = 100) for each subsequent year remaining in the term of this Agreement: provided, however, that the Rates shall not fall below the initial Rates specified in Section 18.1 herein, and if the CPI-U falls over one year below the initial Rates and subsequently rises the next year, the Rates shall only escalate in an amount equal to the net increase above the initial Rates, taking the decrease and increase both into account. The annual increases or decreases shall be applied on each anniversary date of this Agreement, so long as this Agreement is in effect; provided, however, that no such increase shall be effective sooner than forty-five (45) days following written notice (which notice shall include evidence of such rise in the CPI-U) to the CITY in order that the CITY may adjust the Rates accordingly. The rise or fall of the CPI-U (Consumer Price Index, U.S. City Average, All Urban Consumers, Garbage and Trash Collection, Not Seasonally Adjusted, Based Period December 1999 = 100) shall be determined

by calculating the percentage increase or decrease of said index over the past year, using the "annual" data, if available, or, in the absence of such "annual" data, using a rolling twelve month average based upon the most recent data readily available at the time CONTRACTOR provides written notice to the CITY of such increase.

## **XX TERM**

20.1 The initial term of this Agreement shall be for a ten (10) year period commencing on and including the 1st day of January, 2018, and expiring on the 31st day of December, 2027.

20.2 Following the aforementioned expiration date, this Agreement can be extended for two (2) one (1) year periods if mutually agreed upon by the CONTRACTOR and CITY.

## **XXI HOLIDAYS**

21.1 The following shall be holidays for the purposes of this Agreement:

- (a) New Year's Day;
- (b) Memorial Day;
- (c) Fourth of July;
- (d) Labor Day;
- (e) Thanksgiving Day; and
- (f) Christmas Day.

21.2 CONTRACTOR may observe any or all of the above-listed federally observed holidays by suspension of collection services on the above holidays. The collection scheduled for that day will be postponed until the next regularly scheduled service day.

## **XXII MISCELLANEOUS**

22.1 Assignment – This Agreement shall not be assigned or the work subcontracted without the prior written consent of the CITY, by adoption of an Ordinance by the City Council pursuant to requirements of the City Charter.

22.2 Disposal – Residential Refuse will be collected, transported, and deposited at Texas Commission on Environmental Quality (TCEQ) approved sanitary landfills. CONTRACTOR will not store or temporarily house garbage within the CITY for any reason.

22.3 Emergency Plan - CONTRACTOR'S Hurricane Operations Plan is attached hereto as Exhibit B and made a part hereof for all purposes.

22.4 Emergencies – CONTRACTOR agrees to use commercially reasonable efforts to assist the CITY in the event of an emergency situation on such terms and conditions as may be mutually agreed between CONTRACTOR and the CITY.

22.5 Hauling – All Residential Refuse hauled by CONTRACTOR shall be contained, tied or enclosed so that leaking, spilling or blowing is prevented.

22.6 Non-Discrimination – CONTRACTOR agrees to abide by all applicable federal and state laws with respect to nondiscrimination against any person because of race, sex, age, creed, color, religion or national origin.

22.7 Complaint Procedures - CONTRACTOR'S complaint procedures as outlined in Section XVII.

22.8 Notification – CONTRACTOR shall notify all Customers about complaint procedures, regulations and days for scheduled Residential Refuse collection.

22.9 Points of Contact – All dealings, contacts, etc., between CONTRACTOR and the CITY shall be directed by the CITY to the District Manager of CONTRACTOR. CONTRACTOR shall advise the CITY of the identity of its District Manager by supplying the name of said individual to the CITY, in writing, at the CITY's address. Communications from CONTRACTOR to CITY shall be directed to the City Manager or his/her designee.

22.10 Representations – CONTRACTOR represents and warrants that it has dedicated and made available, and at all times during the term of this Agreement shall keep available sufficient equipment and personnel to service adequately the collection requirements pursuant to this Agreement. CONTRACTOR shall maintain its current financial solvency and is not nor will engage in proceedings that will lead to filing for bankruptcy, and if any creditors shall force CONTRACTOR into bankruptcy proceedings, CONTRACTOR shall notify the CITY. CONTRACTOR hereby represents and warrants that it has all requisite corporate power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform all the terms and conditions hereof to be performed by it. The execution and delivery of this Agreement by CONTRACTOR, the consummation of the transactions contemplated hereby and the performance by CONTRACTOR of all the terms and conditions hereof to be performed by it have been duly authorized and approved by all requisite corporate action on the part of CONTRACTOR. The person signing this Agreement on behalf of CONTRACTOR warrants by his signature that he has full authority to enter into this Agreement on behalf of CONTRACTOR. The CITY represents that it has entered this Agreement and that the officers executing this Agreement are duly authorized to act on behalf of the CITY.

22.11 Title to Waste – Title to Residential Refuse, Commercial Refuse, Yard Waste, Bulky Waste, and Bundle shall pass to CONTRACTOR when placed in CONTRACTOR's collection vehicle, removed by CONTRACTOR from a container, or removed by CONTRACTOR from a Customer's premises, whichever last occurs. However, if CONTRACTOR later discovers wastes that Excluded Refuse has been illegally placed in any Residential Refuse, Commercial Refuse, Yard Waste, Bulky Waste, and Bundle collected by CONTRACTOR and the original owner of such Excluded Refuse can be positively identified,

then title shall continue in the owner and he will be responsible for the additional costs of special handling and proper disposal of the material and any material contaminated by that Excluded Refuse.

22.12 Enforcement of Rights - The CITY shall take action reasonably necessary to prevent any other solid waste collection company from conducting business in violation of the CITY ordinances and regulations.

### **XXIII NOTICES**

23.1 All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by telecopier or United States certified mail, postage prepaid, return receipt requested, addressed as follows:

When to the CITY:

City of Angleton, Texas  
Attn: City Manager  
121 S. Velasco  
Angleton, Texas 77515  
Facsimile: \_\_\_\_\_

When to CONTRACTOR:

Waste Connections of Texas, LLC  
2010 Wilson Road  
Humble, TX 77396  
Facsimile: \_\_\_\_\_  
Attention: Adam Gooderham, District Manager

With a copy to:

Waste Connections, Inc.  
3 Waterway Square Place, Suite 110  
The Woodlands, Texas 77380  
Facsimile: (832) 442-2290  
Attention: Legal Department

23.2 or to such other address as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed effective on the date personally served or sent by telecopier or, if mailed, three (3) business days from the date such notice is deposited in the United States mail.

### **XXIV TEXAS LAW TO APPLY; VENUE**

This Agreement shall be construed under and in accordance with the laws of the United States of America and the State of Texas, and any action concerning this Agreement shall be brought in the Texas State District Courts of Brazoria County, Texas.

## **XXV CONSTRUCTION**

Should any one or more of the provisions contained in this Agreement be held to be invalid, illegal or unenforceable in any respect for whatever reason, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid illegal or unenforceable provision had never been contained herein.

## **XXVI ATTORNEY'S FEES**

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

## **XXVII ENTIRE AGREEMENT**

This Agreement sets forth the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement, which is not contained herein, shall be valid or binding.

## **XXVIII WRITTEN AGREEMENT**

This Agreement/ Franchise may be amended only by an Ordinance duly adopted by the City Council of the City of Angleton.

## **IXXX PUBLICATION**

The City Secretary is hereby directed to publish notice of this Franchise in compliance with Section 9.04 of the Charter of the City of Angleton, Texas. CONTRACTOR shall pay all costs of publication of the full text of the Ordinance for the Agreement/Franchise.

## **XXX INDEPENDENT CONTRACTOR**

CONTRACTOR shall be deemed to be and is an independent contractor. The selection, number, compensation, and employment of personnel and all other matters relating to the employment of personnel by CONTRACTOR, the operation of necessary machinery and equipment, and all other matters relating to the performance of its duties and obligations under this Agreement shall be the sole responsibility of CONTRACTOR. Nothing in this Agreement

shall be deemed to constitute CONTRACTOR or any of CONTRACTOR's employees, subcontractors or agents to be agent, subcontractor, representative or employee of the CITY. No officer, agent or employee of the CONTRACTOR is entitled to any of the benefits and privileges of a CITY employee or officer under any provision of the statutes of the State of Texas or the Charter and ordinances of the CITY.

***[Remainder of Page Left Intentionally Blank; Signature Page Immediately Follows]***

IN WITNESS WHEREOF, the CITY and CONTRACTOR have executed this Agreement on the day and year first written above.

**CITY:**

CITY OF ANGLETON, TEXAS

By: Scott L. Albert  
Name: Scott L. Albert  
Title: City Manager

**CONTRACTOR:**

WASTE CONNECTIONS OF TEXAS, LLC

By: Robert A. Nieben, III  
Name: Robert A. Nieben, III  
Title: Regional Vice President



**EXHIBIT A - January 1, 2018**

Solid Waste Collection Franchise Agreement - Waste Connections

(Rate paid to Service Provider - does not include Franchise Fee or Processing Fee)

**Residential Rate**

Total Residential Monthly Cost	\$16.00
Extra Trash Cart(s) Monthly	\$10.00
Extra Recycle Cart(s) Monthly	\$10.00

**Rates for Hand Pick Commercial**

95 Gallon Monthly Container Fee - Times picked up per week

	1 time	2 times	3 times	4 times
First Container	\$20.58	\$31.71	\$42.84	\$53.96
Each Additional Container	\$10.02	\$20.03	\$30.05	\$40.06
Replacement of carts due to negligence by customer	\$75.00 each			

**Rates for Regular Commercial and Industrial**

Front Load Container Monthly Fee - Times picked up per week

	1 time	2 times	3 times	4 times	5 times	6 times
Two Yard Container	\$48.96	\$86.78	\$125.73	\$163.56	\$202.50	\$248.12
Three Yard Container	\$66.76	\$110.15	\$153.54	\$196.93	\$240.33	\$290.40
Four Yard Container	\$77.89	\$126.84	\$174.67	\$223.64	\$271.48	\$327.11
Six Yard Container	\$102.36	\$165.78	\$234.76	\$303.75	\$372.73	\$440.61
Eight Yard Container	\$120.17	\$211.40	\$303.75	\$394.99	\$487.34	\$578.57
Casters and Locking Devices	\$5.56 per item per month					

**Front Load Compactor Service**

	1 time	2 times	3 times	4 times	5 times	6 times	Monthly Rental
Two Yard Container	\$97.91	\$173.58	\$251.46	\$327.11	\$405.00	\$496.24	\$333.79
Three Yard Container	\$133.52	\$220.29	\$307.09	\$393.87	\$480.65	\$580.80	\$333.79
Four Yard Container	\$155.77	\$253.69	\$349.37	\$447.28	\$542.96	\$654.23	\$333.79
Six Yard Container	\$204.72	\$331.56	\$469.54	\$607.50	\$745.47	\$881.21	\$333.79
Eight Yard Container	\$240.33	\$422.80	\$607.50	\$789.98	\$974.67	\$1,157.14	\$333.79
Casters and Locking Devices	\$5.56 per item per month						

**Rates for Intermittent Commercial and Industrial**

Front Load Container

	2 Yard	3 Yard	4 Yard	6 Yard	8 Yard
Each Extra Pick Up	\$44.51	\$46.74	\$48.96	\$53.41	\$61.20
Delivery Charges and discontinued removals	\$55.61				

**Commercial Roll Off Container**

	Delivery	Day Rental	Haul	Deposit
20 Yard	\$111.27	\$3.35	\$294.85	none
30 Yard	\$111.27	\$3.35	\$333.79	none
40 Yard	\$111.27	\$3.35	\$361.61	none

Additional \$22.39 per ton for over 6 tons for all sizes

**Compactor Service**

	Delivery	Day Rental	Haul	Install	Deposit
28 Yard	\$111.27	\$12.99	\$328.23	TBD	none
30 Yard	\$111.27	\$12.99	\$344.93	TBD	none
35 Yard	\$111.27	\$12.99	\$372.73	TBD	none
40 Yard	\$111.27	\$12.99	\$344.93	TBD	none
42 Yard	\$111.27	\$18.35	\$372.73	TBD	none

**EXHIBIT A**





## SOUTH EAST TEXAS

### HURRICANE OPERATIONS PLAN

In the event of a hurricane the first concern is the safety of our employees and their families. Secondly it's the communities we serve as well as critical emergency services such as hospitals, police/fire/ems stations and shelters. This plan outlines our communications strategy as well as our emergency operations plans for each facility in SE Texas.

#### **Making the call:**

We will be holding conference calls 1 week prior to impact. Members of the management team at each site will get a calendar invite and discuss any expected service disruptions. At 5 p.m. the day before we expect the hurricane to hit we will know the expected impact. This will occur at least daily at this time during the event if not more frequently as conditions dictate. 1-800-747-5150 Passcode: 9167685624 Moderator: 1744.

- **Employees:** If the decision is made to cease or run limited operations we will send out a call blast to our employees using One Call Now. Employees can also visit our website for operational updates at [www.wasteconnectionstexas.com](http://www.wasteconnectionstexas.com) or call 281-652-5730.
- **Commercial Customers:** Critical service customers will be contacted by the sales department to determine their needs during the event and schedule accordingly with operations. The after hours phone messages will be updated as well as the website to communicate our operating plan.
- **Municipal Customers:** Municipal customers including Angleton, Sweeny, Brazoria, Holiday Lakes, West Columbia, Surfside, Freeport and Oyster Creek will be contacted by the management team to discuss our operational plans.

## Exhibit B

---

### **All Facility operations:**

Electronics should be unplugged, moved off the floor, away from windows and covered with plastic bags. Generators should be filled up and ready to fire. Ensure all on-site fuel tanks are topped off.

### **Transfer Network:**

Our strategically located transfer network will be critical during a weather event. They currently are not covered by backup generators but for the most part can function without it. In the event of power loss, hand tickets will be made up with estimated weights. The manager at the TS facilities will stay in contact with our 3<sup>rd</sup> party hauler to ensure proper service levels.

### **Angleton & Houston Hauling:**

Critical services will be contacted in the days leading up to the storm event to ensure extra dumps have occurred. Route sheets and permanent roll off tickets need to be printed and ready for at least 1 week. If we are running a limited or full operation, priority will be as follows:

1. Emergency services and shelters
2. Hotels and other shelter type establishments
3. Municipal customers
4. Everyone else

### **Reference:**

Emergency Action Plan (HSP 30A)

## Saffir-Simpson Hurricane Scale

Category    Wind speed    Storm surge

mph

ft

(km/h)

(m)

**5****≥156****>18 (>5.5)****(≥250)****4****131–155****13–18****(210–249)****(4.0–5.5)****3****111–130****9–12****(178–209)****(2.7–3.7)****2****96–110****6–8****(154–177)****(1.8–2.4)****1****74–95****4–5****(119–153)****(1.2–1.5)**

## Additional classifications

**Tropical****39–73****0–3****storm****(63–117)****(0–0.9)****Tropical****0–38****0****depression****(0–62)****(0)**

# Exhibit B

## Hurricane Preparedness Job Aid

Category	10 - 5 days				72 hours		48 hours		24 hours or less	
	4 to 3 days				1. Communicate with municipalities when service will be suspended 24 hours prior to a Tropical Storm.		1. Disposal sites begin to shut down.		1. Secure vehicles and exterior and interior of facility employees are sent home. 2. End of day non-critical employees are suspended end of the day. 3. Commercial services may be suspended 12 hours prior to.	
Tropical Storm	1. Go through plan 2. Update employee and key customer phone numbers.				1. Communicate with municipalities when service will be suspended 48 hours prior to hurricane.		1. Monitor disposal sites plans to shut down 2. Top off bulk Diesel tanks. Contact fuel vendor for emergency operations plan. 3. Monitor fuel shortages state wide that will affect operations. 5. Begin to empty industrial open tops, (const. containers).		1. Disposal sites begin to shut down. 2. End of day non-critical employees are sent home. 3. Residential services are suspended end of the day. 3. Commercial services are suspended 24 prior to. 4. Only critical services are provided less than 24 hours.	
	1. Go through plan 2. Update employee and key customer phone numbers				1. Communicate with municipalities when service will be suspended 48 hours prior to hurricane.		1. Monitor disposal sites plans to shut down 2. Top off bulk Diesel tanks. Contact fuel vendor for emergency operations plan. 3. Monitor fuel shortages state wide that will affect operations. 5. Begin to empty industrial open tops, (const. containers).		1. Disposal sites begin to shut down. 2. End of day non-critical employees are sent home. 3. Residential services are suspended end of the day. 3. Commercial services are suspended 24 prior to. 4. Only critical services are provided less than 24 hours.	
3	1. Go through plan 2. Update employee and key customer phone numbers				1. Go through plan 2. Update employee and key customer phone numbers		1. Go through plan 2. Update employee and key customer phone numbers		1. Go through plan 2. Update employee and key customer phone numbers	
	1. Communicate with municipalities when service will be suspended 48 hours prior to hurricane. 2. Go through plan 3. Update employee and key customer phone numbers 4. Top off bulk Diesel tanks. Contact fuel vendor for emergency operations plan.				1. Monitor disposal sites plans to shut down. 2. Secure fuel depot for fleet. 3. Monitor fuel shortages state wide that will affect operations.		1. Disposal sites begin to shut down. 2. End of day non-critical employees are sent home. 3. Residential services are suspended. 4. Only critical services are provided less than 36 hours. 5. Begin to empty industrial open tops, (const. containers).		1. Secure vehicles and exterior and interior of facility. 2. Take pictures for insurance purposes. 3. Commercial services are suspended 36 prior to.	
3	1. Communicate with municipalities when service will be suspended 48 hours prior to hurricane. 2. Go through plan 3. Update employee and key customer phone numbers 4. Top off bulk Diesel tanks. Contact fuel vendor for emergency operations plan.				1. Monitor disposal sites plans to shut down. 2. Secure fuel depot for fleet. 3. Monitor fuel shortages state wide that will affect operations.		1. Disposal sites begin to shut down. 2. End of day non-critical employees are sent home. 3. Residential services are suspended. 4. Only critical services are provided less than 36 hours. 5. Begin to empty industrial open tops, (const. containers).		1. Secure vehicles and exterior and interior of facility. 2. Take pictures for insurance purposes. 3. Commercial services are suspended 36 prior to.	
	1. Monitor disposal sites plans to shut down. 2. Secure fuel depot for fleet. 3. Monitor fuel shortages state wide that will affect operations.				1. Disposal sites begin to shut down. 2. End of day non-critical employees are sent home. 3. Residential services are suspended. 4. Only critical services are provided less than 36 hours. 5. Begin to empty industrial open tops, (const. containers).		1. Secure vehicles and exterior and interior of facility. 2. Take pictures for insurance purposes. 3. Commercial services are suspended 36 prior to.		1. Monitor landfall via safe shelter.	

## Exhibit B

<p>1. Communicate with municipalities when service will be suspended 48 hours prior to hurricane.</p> <p>2. Go through plan</p> <p>3. Update employee and key customer phone numbers</p> <p>4. Top off bulk Diesel tanks. Contact fuel vendor for emergency operations plan.</p>	<p>1. Monitor disposal sites plans to shut down.</p> <p>2. Secure fuel depot for fleet.</p> <p>3. Monitor fuel shortages state wide that will affect operations.</p> <p>4. Begin to empty industrial open tops, (construction containers).</p>	<p>1. Disposal sites begin to shut down.</p> <p>2. End of day non-critical employees are sent home.</p> <p>3. Residential services are suspended.</p> <p>4. Only critical services are provided less than 36 hours.</p>	<p>1. Secure vehicles and exterior and interior of facility.</p> <p>2. Take pictures for insurance purposes</p> <p>3. Commercial services are suspended 36 prior to.</p>	<p>1. Monitor landfill via safe shelter.</p>
--	--	---	--	--

4 - 5

**EXHIBIT A**

## Exhibit B

### Are you prepared at home?

In the event that a natural disaster threatens or actually affects our area, it is of the utmost importance that special preparations are made to protect not only company assets, but also the lives and property of affected employees.

It is highly recommended that each employee have a personal plan for how they and their families will prepare for a disaster and review it annually. It should include evacuation plans as well as enough food and clothing for each family member for at least one week. Special disaster preparedness information pamphlets are usually available through various local resources, including the corporate Human Resources, and the American Red Cross.

#### **Your Supply Kit**

- ☐ 3-week supply of bottled water  
(one gallon per person per day)
- ☐ Batteries
- ☐ Portable radio and/or TV
- ☐ 3-week supply of non-perishable food
- ☐ 3-week supply of medication
- ☐ Blankets
- ☐ Pillows
- ☐ Clothing
- ☐ Flashlights
- ☐ Personal hygiene items
- ☐ Copies of important papers
- ☐ 3 weeks living expenses  
(in cash or traveler's checks)
- ☐ Mops
- ☐ Buckets
- ☐ Towels
- ☐ Baby food
- ☐ Diapers
- ☐ Plywood boards
- ☐ Tools
- ☐ Nails

#### **Evacuation Supplies**

- ☐ Spare eyeglasses
- ☐ Medicines (two week supply)
- ☐ Special dietary and baby foods
- ☐ Blankets and sleeping bags
- ☐ Flashlights with extra batteries
- ☐ Portable radio with extra batteries
- ☐ Emergency traveler's checks  
(ATM's are out during power failures)
- ☐ Extra clothing for one week
- ☐ Lightweight folding chairs and cots
- ☐ Items for entertainment such as games, toys, books
- ☐ Personal care items and toilet paper
- ☐ Heavy work type gloves
- ☐ Heavy boots or shoes
- ☐ Identification and important papers such as  
insurance, birth certificates, etc.

#### **First Aid Kit**

- ☐ Sterile adhesive bandages
- ☐ Sterile gauze pads
- ☐ Hypoallergenic adhesive tape
- ☐ Triangular bandages (3)
- ☐ Antibiotic ointment
- ☐ Scissors
- ☐ Tweezers
- ☐ Needle
- ☐ Moistened towelettes
- ☐ Thermometer
- ☐ Petroleum jelly
- ☐ Safety pins
- ☐ Cleansing agent/soap
- ☐ Latex gloves
- ☐ Sunscreen
- ☐ Aspirin

#### **Pet Safety**

With the exception of Seeing Eye dogs, evacuation shelters do not allow pets. Make arrangements now with your veterinarian, kennel or friends for boarding your pets during a disaster event.

- ☐ Make sure your pets are vaccinated regularly  
because most kennels require proof of vaccination
- ☐ Take a leash for your animal and make sure it is  
wearing an id/rabies tag
- ☐ Bring water and food bowls, carrier or cage and any  
medication
- ☐ If evacuating, take your pet with you. If you decide  
to leave your pet at home, make sure you leave  
plenty of water and food for them.
- ☐ After the event is over, use caution when allowing  
your pet outside. Downed power lines, debris, and  
stray animals may pose a danger.



## Exhibit B

---

### Angleton Hauling Emergency Telephone Numbers

---

City of Angleton	City Hall	979-849-4364
	Police Dept.	979-849-2383
	Fire Dept.	979-849-1265
City of Brazoria	City Hall	979-798-2489
	Police Dept.	979-798-2195
	Fire Dept.	979-798-2277
City Of Sweeny	City Hall	979-548-3321
	Police Dept.	979-548-3111
	Fire Dept.	979-548-3320
City of West Columbia	City Hall	979-345-3123
	Police Dept.	979-345-5121
	Fire Dept.	979-345-3311
City of Freeport	City Hall	979-233-3526
	Police Dept.	979-239-1211
	Fire Dept.	979-239-1211
City of Richwood	City Hall	979-265-2082
	Police Dept.	979-265-2222
	Fire Dept.	979-265-8113
Village of Jones Creek	City Hall	979-233-2700
	Police Dept.	979-233-3091
	Fire Dept.	979-233-3851
Surfside Beach	City Hall	979-233-1531
	Police Dept.	979-233-1151
	Fire Dept.	979-233-5926
Hazardous Spills		979-864-2392
Sheriffs Dept		979-849-2441
Waste Connections	Hauling Office	979-864-4600
Kevin Hathcoat Operations Manager		832-250-8830
Dave Mathews DM Landfill		330-635-4885