

# CITY OF BASTROP SOLID WASTE AND RECYCLING SERVICES CONTRACT

This Solid Waste and Recycling Services Contract ("Contract") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024 ("Effective Date"), between the City of Bastrop, Texas ("City"), acting by and through its duly authorized City Manager, and Texas Disposal Systems, Inc. (TDS) ("Contractor"), a Texas Corporation, acting by and through its duly authorized representative.

### WITNESSETH:

**WHEREAS**, City issued a Request for Proposals for Solid Waste and Recycling Services (the "RFP"); and

**WHEREAS**, Contractor timely submitted a proposal in response to the RFP on or before May 30, 2024; and,

**WHEREAS**, City received and evaluated proposals from vendors in response to the RFP; and,

**WHEREAS**, City has the power to execute this Contract; and,

**WHEREAS**, Contractor has the power to execute this Contract: and,

**WHEREAS**, City desires to hire Contractor to provide those services specified hereinafter; and,

**WHEREAS**, Contractor desires to provide those services specified hereinafter; and,

**NOW, THEREFORE**, in consideration of the premises and of the mutual obligations undertaken herein, the Parties hereby agree as follows:

1. **DEFINITIONS:**

As used herein, the capitalized terms, phrases, words, and their derivatives shall have the meanings as set forth herein.

1.1. **Acceptable Solid Waste:** Acceptable Solid Waste shall mean Solid Waste which is not Unacceptable Waste, and which shall be collected within the City pursuant to this Contract. Acceptable Solid Waste shall include Yard Trimmings.

1.2. **Applicable Law:** Applicable Law shall mean the terms and conditions of any required permits, licenses and approvals issued for or with respect to Contractor, equipment utilized by Contractor, properties (or any component thereof) utilized by Contractor, or the performance of Contractor's obligations hereunder, and any statute, law constitution, charter, ordinance, resolution, judgment, order, decree, rule, regulation,

directive, interpretation, standard or similarly binding authority, which in any case, is or shall be enacted, adopted, promulgated, issued or enforced by a

governmental body, regulatory agency and/or court of competent jurisdiction that relates to or affects City, Contractor, any of their equipment or any properties (or any component thereof) utilized by Contractor or the performance of Contractor's obligations hereunder.

- 1.3. **Bag:** Bag shall mean non-dissolvable plastic sack, Kraft bag or other sack with a capacity of up to approximately thirty-five (35) gallons designed or intended to store the contents with sufficient wall strength to maintain physical integrity when lifted by the top. Solid Waste shall be stored in a non-dissolvable sack. Total weight of a Bag and its contents shall not exceed fifty (50) pounds.
- 1.4. **Brush:** Brush shall mean Yard Trimmings exceeding two inches (2") in diameter each but not larger than six inches (6") in diameter or longer than four feet (4') in length. Brush does not need to be in Bags or Bundles.
- 1.5. **Bulk Waste:** Bulk Waste shall mean: (i) Acceptable Solid Waste composed of materials not easily contained in a Bag such as, but not limited to Brush, White Goods, furniture, mattresses and box springs, carpet and rugs, lawn equipment (drained of oil and gas), large toys (playhouses, swing sets, bicycles, etc.), large electronics, large appliances, large scrap metal, and other oversized Acceptable Solid Waste; and (ii) Yard Trimmings in Bags or Bundles.
- 1.6. **Bundle:** Bundle shall mean Yard Trimmings securely tied together forming a package that may be easily handled, not to exceed four (4) feet in length or forty (40) lbs. in weight.
- 1.7. **Business Day:** Business Day shall mean any day, Monday through Friday, from 8:00 AM, Central Time until 5:00 PM, Central Time, which is not a holiday designated as such in the Contract.
- 1.8. **Cart:** Cart shall mean a receptacle, whether purchased by the City or the Contractor, equipped with wheels, a lift bar, and lid, with a capacity of approximately ninety-six (96) gallons that can be mechanically dumped into a loader-packer type truck via a fully-automated truck arm (ANSI Z245.60 Type G) or semi-automated truck tipper (ANSI Z245.60 Type B). Carts, if purchased by Contractor, must be purchased with a ten (10) year manufacturer's warranty, and approved for use by City.
- 1.9. **Citizen Collection Station:** Citizen Collection Station shall mean any site designated by the City for drop-off of Acceptable Solid Waste. The City shall have the sole authority to add or eliminate Citizen Collection Stations.
- 1.10. **City Facility:** City Facility shall mean any City owned or operated facility

designated by the Contract Administrator as a City Facility to receive Solid Waste Services, Recycling Services, and/or other services via this Contract. The City has the sole authority to add or eliminate City Facilities.

- 1.11. **Collect or Collection:** Collect or Collection shall mean the act of removing acceptable Solid Waste or Bulk Waste for transport to a Disposal Site or the act of removing Program Recyclable Materials for transport to a Processing Facility.
- 1.12. **Contract:** Contract shall mean this document, including any written amendment thereto, as agreed upon by City and Contractor.
- 1.13. **Contract Year:** Contract Year shall mean the period beginning September 1<sup>st</sup> of each year and ending on August 31<sup>st</sup> of the subsequent year for the term of the Contract.
- 1.14. **Commencement Date:** Commencement Date shall mean August 31, 2024, the date on which the Contractor shall begin performing Solid Waste Services and Recycling Services in accordance with this Contract.
- 1.15. **Commercial Cart Service Unit:** Commercial Cart Service Unit shall mean a Commercial Service Unit which receives Solid Waste collection via Cart.
- 1.16. **Commercial Container:** Commercial Container shall mean Dumpsters and Roll- offs.
- 1.17. **Commercial Service Unit:** Commercial Service Unit shall mean all establishments other than Residential Service Units and City Facilities within the corporate limits of the City.
- 1.18. **Construction and Demolition Debris:** Construction and Demolition Debris shall mean waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to, paper, cartons, gypsum board, wood, excelsior, rubber, and plastics.
- 1.19. **Contamination:** Contamination shall mean the existence of any material or substance on or contained in Program Recyclable Materials other than Program Recyclable Materials.
- 1.20. **Contract Administrator:** Contract Administrator shall mean the person, or his designee, designated by the City to administer and monitor the provisions of this Contract.
- 1.21. **Contractor's Representative:** Contractor's Representative shall mean an employee of the Contractor designated in charge of Contractor's operations under the Contract and who is authorized to make decisions and act on Contractor's behalf.

- 1.22. **Curbside:** Curbside shall mean a location designated by the Contract Administrator for Collection of Solid Waste and Recyclable Materials from a Residential Service Unit. The location shall be within four (4) feet of the curb or traveled portion of any roadway, including an alley, and outside any fence.
- 1.23. **Customer:** Customer shall mean (i) the City or (ii) owner or tenant of a Residential Service Unit or Commercial Service 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 Contract.
- 1.24. **Dispose or Disposal:** Dispose or Disposal shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any Solid Waste or hazardous waste (whether containerized or uncontainerized) into or on any land or water so that such Solid Waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater. Contractor shall Dispose of materials at a Disposal Site.
- 1.25. **Disposal Site:** Disposal Site shall mean a Landfill or other Solid Waste management facility permitted under all applicable local, state, and federal laws and regulations for Disposal of Solid Waste. The Disposal Site shall be selected by Contractor.
- 1.26. **Dumpster:** Dumpster shall mean a metal receptacle with a tight-fitting lid and a minimum capacity of approximately two (2) cubic yard, a maximum capacity of ten (10) cubic yards, and designed to be lifted and emptied mechanically into a Collection vehicle. Dumpsters shall be for use only at Commercial Service Units. Contractor shall provide Dumpsters to Customers.
- 1.27. **Dumpster Compactor:** Dumpster Compactor shall mean any Dumpster, regardless of size, which has a compaction mechanism, whether stationery or mobile. Contractor shall provide Dumpster Compactors to Customers **on pricing and terms negotiated between Contractor and Customer.**
- 1.28. **Effective Date:** Effective Date shall mean the date set forth in the first sentence of this Contract.
- 1.29. **Eligible Disaster Debris:** Eligible Disaster Debris shall mean Solid Waste qualifying for and meeting the most current stipulated requirements for debris removal reimbursement as stipulated by Federal Emergency Management Agency.
- 1.30. **Garbage:** Garbage shall mean Solid Waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

- 1.31. **Hazardous Waste:** Hazardous Waste shall mean any Solid Waste identified or listed as a hazardous waste by the administrator of the Environmental Protection Agency under the Federal Solid Waste Disposal Act as amended by RCRA, 42 U.S.C. §6901, *et. seq.*, as amended.
- 1.32. **Landfill:** Landfill shall mean a Solid Waste management unit where Solid Waste is placed in or on land and which is not a pile, a land treatment unit, a surface impoundment, an injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.
- 1.33. **Marketing:** Marketing shall mean identification and development of end markets for Recovered Materials, mulch, and compost and the selling of Recovered Materials, mulch, and compost to end markets.
- 1.34. **May:** Something that is permissible but not mandatory.
- 1.35. **Medical Waste:** Medical Waste shall mean, as defined in 30 TAC § 326.3(23), treated and untreated special waste from health care-related facilities that is comprised of animal waste, bulk blood, bulk human blood, bulk human body fluids, microbiological waste, pathological waste, and sharps as those terms are defined in 25 TAC §1.132 (relating to Definitions) from the sources specified in 25 TAC §1.134 (relating to Application), as well as regulated medical waste as defined in 49 Code of Federal Regulations §173.134(a)(5), except that the term does not include medical waste produced on a farm or ranch as defined in 34 TAC §3.296(f) (relating to Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer), nor does the term include artificial, nonhuman materials removed from a patient and requested by the patient, including, but not limited to, orthopedic devices and breast implants. Health care-related facilities do not include: (A) single or multi-family dwellings; and (B) hotels, motels, or other establishments that provide lodging and related services for the public.
- 1.36. **Multi-family Property:** Multi-family Property shall mean a property (A) located within the City; (B) with more than four separate units for residential dwellings; and (C) designated by the City to receive Solid Waste Collection via Dumpster or Roll-offs.
- 1.37. **Party:** Party shall mean Contractor or City.
- 1.38. **Process or Processed or Processing:** Process or Processed or Processing shall mean recovery of Recyclable Materials, treatment into Recovered Materials, and marketing of Recovered Materials to end markets.
- 1.39. **Processing Facility:** Processing Facility shall mean a facility permitted under all applicable local, state, and federal laws and regulations for

Processing of Recyclable Materials. The Processing Facility shall be selected by the Contractor.

- 1.40. **Program Introduction Notice:** Program Introduction Notice shall mean a public education notice developed by Contractor, approved by City, and printed and distributed by Contractor.
- 1.41. **Program Recyclable Materials:** Program Recyclable Materials shall include, at a minimum the following Recyclable Materials:
- a) **Paper:** Any corrugated cardboard and boxboard containers, food boxes (such as dry food boxes and frozen food boxes), soda and beverage boxes and carriers, shoe boxes, newspaper including slick paper inserts, magazines, catalogs, telephone books, wrapping paper, sticky notes, paperback books, paper bags, Kraft paper, chipboard, junk mail, junk mail inserts, residential mixed paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper including continuous-formed perforated white bond or green bar paper, book paper, cotton fiber content paper, duplicator paper, form bond, paper envelopes, facsimile paper, manila folders), and other Recyclable Materials of a similar nature.
  - b) **Plastic:** Any plastic containers #1 through #7 such as bottles, cups, jugs, jars, tubs, bowls, plastic eating utensils, other rigid plastics (such as buckets, baskets, carriers, crates, toys, laundry baskets, lawn furniture, pots and trays, dish drainers, trash cans, etc.), and other Recyclable Materials of a similar nature. Excludes plastic bags and expanded polystyrene.
  - c) **Aluminum and Other Metal:** Any metal beverage container, food can, durable baking tins, empty aerosol cans, , metal or bi-metal container, and other Recyclable Materials of a similar nature with or without paper labels, rings, and caps/lids.
  - d) **Glass:** Any glass bottles, jars, and other Recyclable Materials of a similar nature with or without paper labels, rings, and caps/lids. Excludes window glass, porcelain, china, ceramics, and light bulbs.
- 1.42. **Recovered Materials:** Recovered Materials shall mean Recyclable Materials which have been Processed to market specifications.
- 1.43. **Recyclable Material:** Recyclable Material shall mean a material that has been recovered or diverted from the non-hazardous waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable Material is not Solid Waste. However, Recyclable Material may become Solid Waste at such time, if any, as it is abandoned or Disposed of rather than recycled,

whereupon it will be Solid Waste, with respect to the person actually abandoning or Disposing of such material.

- 1.44. **Recycling:** Recycling shall mean a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or Processed and returned to use in the form of raw materials in the production of new products. Except for mixed municipal solid waste composting, that is, composting of the typical mixed solid waste stream generated by residential, commercial, and/or institutional sources, recycling includes the composting process if the compost material is put to beneficial use.
- 1.45. **Recycling Services:** Recycling Services shall mean the Collection and Processing of Program Recyclable Materials.
- 1.46. **Refuse:** Refuse shall mean Rubbish.
- 1.47. **Residential Service Unit:** Residential Service Unit shall mean a residential dwelling within the service area of the City occupied by a person or group of persons excluding separate units on Multi-Family Properties. A Residential Service Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto.
- 1.48. **Roll-off:** Roll-off shall mean a metal receptacle with a minimum capacity of approximately ten (10) cubic yards, intended for high-volume generation of Solid Waste, including but not limited to Construction and Demolition Debris, and designed to be transported to a Disposal Site by loading of receptacle onto rear of transporting vehicle. Contractor shall provide Roll-offs.
- 1.49. **Roll-off Compactor:** Roll-off Compactor shall mean any Roll-off, regardless of size, which has a compaction mechanism, whether stationary or mobile. Contractor shall provide Roll-off Compactors to Customers.
- 1.50. **Rubbish:** Rubbish shall mean nonputrescible Solid Waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible Rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, Yard Trimmings, or similar materials; noncombustible Rubbish includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).
- 1.51. **Scheduled Collection Day:** Scheduled Collection Day shall mean the specific day or days of the week on which Collection shall be provided by Contractor to Customer.
- 1.52. **Set-out:** Set-out shall mean material(s) placed by a Customer for Collection by Contractor.

- 1.53. **Shall:** Something that is mandatory and not discretionary.
- 1.54. **Single Stream:** Single Stream shall mean commingled Recyclable Material and not required to be sorted by the Customer prior to Collection.
- 1.55. **Solid Waste:** Solid Waste shall mean Garbage, Rubbish, Refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:
- a) Solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Texas Water Code, Chapter 26;
  - b) Solid, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvement; or
  - c) Waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the administrator of the EPA under the federal Solid Waste Disposal Act, as amended by RCRA, as amended (42 USC, §§6901 *et seq.*).
- 1.56. **Solid Waste Services:** Solid Waste Services shall mean the Collection and Disposal of Acceptable Solid Waste.
- 1.57. **Special Event:** Special Event shall mean events sponsored or co-sponsored by the City.

**Special Waste:** Special Waste shall mean any Solid Waste or combination of Solid Wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and Disposal to protect the human health or the environment. If improperly handled, transported, stored, Processed, or Disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment. Special wastes are: (A) hazardous waste from conditionally exempt small-quantity generators that may be exempt from full controls under Title 30 Texas Administrative Code Chapter 335, Subchapter N of Title 30 (relating to Household Materials Which Could Be



Classified as Hazardous Wastes); (B) Class 1 industrial nonhazardous waste; (C) untreated medical waste; (D) municipal wastewater treatment plant sludges, other types of domestic sewage treatment plant sludges, and water-supply treatment plant sludges; (E) septic tank pumpings; (F) grease and grit trap wastes; (G) wastes from commercial or industrial wastewater treatment plants; air pollution control facilities; and tanks, drums, or containers used for shipping or storing any material that has been listed as a hazardous constituent in 40 Code of Federal Regulations (CFR) Part 261, Appendix VIII but has not been listed as a commercial chemical product in 40 CFR §261.33(e) or (f); (H) slaughterhouse wastes; (I) dead animals; (J) drugs, contaminated foods, or contaminated beverages, other than those contained in normal household waste; (K) pesticide (insecticide, herbicide, fungicide, or rodenticide) containers; (L) discarded materials containing asbestos; (M) incinerator ash; (N) soil contaminated by petroleum products, crude oils, or chemicals in concentrations of greater than 1,500 milligrams per kilogram total petroleum hydrocarbons; or contaminated by constituents of concern that exceed the concentrations listed in Table 1 of 30 TAC §335.521(a)(1) (relating to Appendices); (O) used oil; (P) waste from oil, gas, and geothermal activities subject to regulation by the Railroad Commission of Texas when those wastes are to be processed, treated, or disposed of at a solid waste management facility authorized under this chapter; (Q) waste generated outside the boundaries of Texas that contains: (i) any industrial waste; (ii) any waste associated with oil, gas, and geothermal exploration, production, or development activities; or (iii) any item listed as a special waste in this paragraph; (R) lead acid storage batteries; and (S) used-oil filters from internal combustion engines.

- 1.58. **Unacceptable Set-out:** Unacceptable Set-out shall mean a Set-out for Collection that does not comply with the requirements of the Contract.
- 1.59. **Unacceptable Set-out Notice:** Unacceptable Set-out Notice shall mean a public education notice developed by Contractor, approved by City, and printed and distributed by Contractor.
- 1.60. **Unacceptable Waste:** Unacceptable Waste shall mean any Solid Waste, the acceptance and handling of which by Contractor would cause a violation of any permit or regulatory requirement, including, but not limited to, Hazardous Waste (except waste Contractor is authorized to Collect and Dispose), Special Waste (except from the City Waste Treatment Plant or as otherwise provided herein), manure (except for incidental quantities), untreated Medical Waste, dead animals (except dead animals intended for human consumption), solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit.
- 1.61. **White Goods:** White Goods shall mean refrigerators which have CFCs removed by a certified technician, stoves and ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

1.62. **Yard Trimmings:** Yard Trimmings shall mean any cuttings or trimmings from trees, shrubs, or lawns, and similar materials. Yard Trimmings specifically excludes Eligible Disaster Debris.

## 2. **GRANT OF FRANCHISE AND PROHIBITED SERVICES:**

Contractor is hereby granted for the term of this Contract, as defined in Section 3 unless sooner terminated, the exclusive right and privilege and sole obligation within the corporate limits of the City to operate and conduct business for the following:

- (a) Collection and Disposal of Acceptable Solid Waste for Residential Service Units excluding Collection via Roll-offs of less than twenty (20) cubic yards;
- (b) Collection and Processing of Program Recyclable Materials for Residential Service Units;
- (c) Collection and Disposal of Acceptable Solid Waste for Commercial Service Units;
- (d) Collection and Disposal of Acceptable Solid Waste for City Facilities; and
- (e) Collection and Processing of Program Recyclable Materials for City Facilities

Contractor is hereby granted for the term of this Contract, as defined in Section 3 unless sooner terminated, a nonexclusive right and privilege within the corporate limits of the City to conduct business for the following:

- (a) Collection and Disposal of Acceptable Solid Waste for Residential Service Units via Roll-offs of less than twenty (20) cubic yards; and
- (b) Collection and Processing of Program Recyclable Materials for Commercial Service Units.

Contractor is hereby prohibited for the term of this Contract, as defined in Section 3 unless sooner terminated, within the corporate limits of the City to conduct business for the following:

- (a) Collection and Disposal of Acceptable Solid Waste for Customers which City offers such services.

## 3. **TERM:**

3.1. **Initial Term:** Unless sooner terminated in accordance with the Contract, the initial term of this Contract shall be for five (5) years, and shall commence August 31, 2024 at 12:00 AM, Central Time, ("Commencement Date") and shall continue in effect until August 31, 2029 at 11:59 PM, Central Time.

3.2. **Optional Renewal Terms:** City may renew this Contract for up to three (3)

additional one (1) year optional renewal terms. Contractor shall provide notice to the City twelve (12) months preceding the scheduled date of expiration of the expiration of the initial term or the then current optional renewal term of this Contract. Contractor may prohibit City from exercising an optional renewal term by providing written notice to the Contract Administrator of Contractor's election to reject a renewal term on or before twelve (12) months preceding the scheduled date of expiration of the initial term or the then current optional renewal term of this Contract. If Contractor does not provide such written notice to the Contract Administrator on or before twelve (12) months preceding the scheduled date of expiration of the initial term or the then current optional renewal term of this Contract prohibiting City from exercising the optional renewal term, City may upon written notice to Contractor not later than ninety (90) calendar days preceding the scheduled date of expiration of the initial term or the then current optional renewal term of this Contract exercise such optional renewal term by such notice. This provision in no way limits City's right to terminate this Contract at any time during the initial term or any optional renewal term thereof pursuant to the provisions in this Contract.

- 3.3. **Transition Period:** At least thirty (30) calendar days prior to the Commencement Date, Contractor shall cooperate with the City to develop and implement a transition plan, approved by the City's Contract Administrator, to ensure a smooth transition in services from the current provider of services within the City to the Contractor under this Contract.

4. **RESIDENTIAL SERVICE UNIT COLLECTION:**

- 4.1. **Acceptable Solid Waste Collection:** Contractor shall Collect, once per week on a Scheduled Collection Day from Monday through Thursday, from each Residential Service Unit all Acceptable Solid Waste contained in one Acceptable Solid Waste Carts. Upon the receipt of a written work order from the Contract Administrator for collection of additional Acceptable Solid Waste Cart(s) in excess of the one (1) Acceptable Solid Waste Cart from a Residential Service Unit, Contractor shall Collect, once per week on the same Scheduled Collection Day as the Collection of the initial Acceptable Solid Waste Cart, the quantity of additional Acceptable Solid Waste Cart(s) as identified by the Contract Administrator from the respective Residential Service Unit. Upon the receipt of a written work order from the Contract Administrator, Contractor shall discontinue services for the identified additional Acceptable Solid Waste Cart(s) for the respective Residential Service Unit.
- 4.2. **Program Recyclable Materials Collection:** Contractor shall Collect, once per week on the same Scheduled Collection Day as Acceptable Solid Waste Collection is provided to such Residential Service Unit, from each Residential Service Unit all Program Recyclable Materials in, under, or adjacent to that Residential Service Unit's Recycling Cart per Scheduled Collection Day. Upon the receipt of a written work order from the Contract Administrator for collection of

additional Recycling Cart(s) in excess of the one (1) Recycling Cart from a Residential Service Unit, Contractor shall Collect, once per week on the same Scheduled Collection Day as the Collection of the initial Recycling Cart, the quantity of additional Recycling Cart(s) as identified by the Contract Administrator from the respective Residential Service Unit. Upon the receipt of a written work order from the Contract Administrator, Contractor shall discontinue services for the identified additional Recycling Cart(s) for the respective Residential Service Unit.

- 4.3. **Bulk Waste Collection:** Contractor shall Collect, once per week on the same Scheduled Collection Day as Acceptable Solid Waste Collection is provided to such Residential Service Unit, from each Residential Service Unit, from each Residential Service Unit (i) all Yard Trimmings and (ii) the greater of one item or maximum of four (4) cubic yards of other Bulk Waste. If Contractor does not Collect all Bulk Waste Set-out by a Residential Service Unit, Contractor shall (i) leave a Bulk Waste Collection Notice and (ii) Collect the remaining Bulk Waste, excluding Construction and Demolition Debris in excess of one (1) cubic yard, on or before the next Scheduled Collection Day for such Residential Unit. Contractor shall not be required to Collect more than one (1) cubic yard of Construction and Demolition Debris per Residential Service Unit per seven (7) calendar days commencing on the initial Scheduled Collection Day such materials were Set-out. City and Contractor may mutually agree in writing to amend this Contract to provide for separate Collection of Yard Trimmings and other Bulk Waste.
- 4.4. **Roll-off Collection:** Upon request of a Residential Service Unit Customer, Contractor shall provide Roll-off Collection in accordance with Commercial Service Unit Collection described in Section 5.1(c).

## 5. **COMMERCIAL SERVICE UNIT COLLECTION:**

- 5.1. **Acceptable Solid Waste Collection:** The service level, including, but not limited to, the type of Cart/Container, number of Carts/Containers, frequency of Collection, and Scheduled Collection Days, shall be sufficient to ensure all materials are contained in Carts/Containers. The Contractor Administrator reserves the right to designate the service level.
- a) Commercial Cart Service Unit: Contractor shall Collect from each Commercial Cart Service Unit, all Acceptable Solid Waste contained in Acceptable Solid Waste Carts. Contractor and Customer shall mutually decide on the number and location of Carts. In addition, Contractor and the Customer shall mutually decide on the frequency of Collection and Scheduled Collection Days.
- b) Commercial Service Units Dumpster Collection: For Commercial Service Units requesting Acceptable Solid Waste Collection via Dumpster(s), Contractor shall Collect, on a Scheduled Collection Day(s), all Acceptable Solid Waste in Dumpsters per Scheduled

Collection Day. Contractor and Customer shall mutually decide on the number, size, and location of Dumpsters. In addition, Contractor and the Customer shall mutually decide on the frequency of Collection and Scheduled Collection Days.

- c) **Commercial Service Units Roll-off Collection:** For Commercial Service Units requesting Acceptable Solid Waste Collection via Roll-off(s), Contractor shall Collect, on a Scheduled Collection Day(s) or upon request of Customer, all Acceptable Solid Waste in Roll-offs. Contractor and Customer shall mutually decide on the number, size, and location of Roll-offs.

- 5.2. **Program Recyclable Material Collection:** Upon Request of a Commercial Service Unit, including but not limited to Multi-family Property, Customer, Contractor shall Collect, on a Scheduled Collection Day(s), all Program Recyclable Materials in, under, or adjacent to Recycling Carts or in Recycling Commercial Containers. Contractor and Customer shall mutually decide on the number, size, and location of Recycling Carts, Dumpsters and/or Roll-offs. In addition, Contractor and the Customer shall mutually decide on the frequency of Collection and Scheduled Collection Days.

## 6. CITY SERVICES

- 6.1. **No Cost City Services.** The Contractor shall provide City Services at the sole cost of Contractor and shall not bill the City or other person for City Service unless explicitly authorized in this Section. The service level, including, but not limited to, the type of Cart/Container, number of Carts/Containers, frequency of Collection, and Scheduled Collection Days, shall be sufficient to ensure all materials are contained in Carts/Containers. The Contractor Administrator reserves the right to designate the service level.

- a) **City Facilities Solid Waste Collection:** For all City Facilities excluding City Wastewater Treatment Plant and Citizens Collection Station, Contractor shall Collect, on a Scheduled Collection Day(s), all Acceptable Solid Waste in Commercial Containers per Scheduled Collection Day. Contractor and Customer shall mutually decide on the number, size, and location of Dumpsters or Roll-offs. In addition, Contractor and the Customer shall mutually decide on the frequency of Collection and Scheduled Collection Days.
- b) **City Facilities Program Recyclable Material Collection:** For all City Facilities, Contractor shall Collect, on a Scheduled Collection Day(s), all Program Recyclable Materials in, under, or adjacent to Recycling Carts or in Recycling Commercial Containers per Scheduled Collection Day. Contractor and Customer shall mutually decide on the number, size, and location of Recycling Carts, Dumpsters and/or Roll-offs. In addition, Contractor and the Customer

shall mutually decide on the frequency of Collection and Scheduled Collection Days.

- c) **City Yard Trimming Roll-off.** Contractor shall Collect, on a Scheduled Collection Day(s) or upon request of Customer, all Yard Trimmings in a Roll-off for use by the City. Customer shall solely decide on the size and location of the Roll-off. In addition, the Customer shall solely decide on the frequency of Collection and Scheduled Collection Days.
- d) **City Clean-up Events Solid Waste Roll-off.** Contractor shall Collect, on a Scheduled Collection Day(s) or upon request of Customer, all Acceptable Solid Waste in Roll-offs at two (2) City Clean-up Events per year. Each City Clean-up Event shall be for up to seven (7) consecutive calendar days. For each City Clean-up Event, Contractor shall provide unlimited Collection for twelve (12) Roll-offs of forty (40) cubic yards. Customer shall solely decide on the location of Roll-offs. In addition, the Customer shall solely decide on the frequency of Collection and Scheduled Collection Days.
- e) **City Special Events.** Upon request of Customer, Contractor shall Collect and Dispose of Solid Waste and Collection and Process Program Recyclable Materials from up to five (5) City Special Events per year, provided that Customer gives Contractor written notice of such request at least four (4) weeks prior to the City Special Event, including specification of the level of service needed for the City Special Event.

6.2. **Other City Services.** Upon request of the Contract Administrator, the Contractor shall provide City Services at the reduced rate schedule as reflected in Exhibit 1 for the following City Services.

- a) City Wastewater Treatment Plant(s) Solid Waste Collection (including, but not limited to sludge);
- b) Citizens Collection Station Solid Waste and Bulk Waste Collection;
- c) Non-City Special Events Solid Waste and Program Recyclable Materials Collection, Disposal and Processing, provided that Customer gives Contractor written notice of such request at least four (4) weeks prior to the non-City Special Event, including specification of the level of service needed for the non-City Special Event; and,
- d) City Code Enforcement activities Solid Waste Collection.

Contractor and Customer shall mutually decide on the number, size, and location of Dumpsters or Roll-offs. In addition, Contractor and the Customer shall mutually decide on the frequency of Collection and Scheduled Collection Days.

## 7. EXCEPTION TO RESIDENTIAL SERVICES SET-OUT RESTRICTIONS:

The Contractor shall Collect all Acceptable Solid Waste, including excess Bags, from each Residential Service Unit for the following days:

- a) first Collection following a holiday as defined by Section 17.2;
- b) first Collection following a move-out or move-in; and
- c) Monday of last full week in December to Saturday of first full week in January.

## 8. COLLECTION LOCATIONS:

8.1. **Residential Service Unit Collection:** Contractor shall Collect Solid Waste, Program Recyclable Materials, and Bulk Waste Curbside for Residential Service Units excluding Residential Service Units that qualify for special service. Curbside shall not be located in an alley for Bulk Waste Collection. For Residential Service Units that qualify for special service, Contractor shall Collect Solid Waste and Program Recyclable Materials at a location designated by the Contract Administrator. For special service, Contractor's employees shall not be required to enter any gated areas for Collection of Solid Waste and Program Recyclable Materials. The Contract Administrator shall determine who qualifies for special service. Contractor shall return Carts to approximately original location.

8.2. **Commercial Service Unit Collection:** The Commercial Container shall be located at a location reasonably acceptable to Contractor and Customer and subject to approval by Contract Administrator. Contractor shall open the enclosure for the Commercial Container and unlock the Commercial Container prior to Collection. Upon completion of Collection, Contractor shall return all Commercial Containers to approximately original location, lock the Commercial Containers, and close the enclosure for such Commercial Containers.

## 9. DISPOSAL AND PROCESSING SERVICES:

9.1. **Disposal of Contractor Collected Materials.** Excluding Roll-off, Contractor agrees that the then-current rate schedule as reflected in Exhibit 1 includes the costs for Disposal of Acceptable Solid Waste Collected by Contractor. Disposal of material Collected via Roll-off from Customers other than the City shall be in accordance with the then current Disposal Fee as reflected in Table in Exhibit 1. Unless explicitly authorized in this Contract, Contractor agrees Contractor shall be solely responsible for the costs for Disposal of Acceptable Solid Waste, including but not limited to Bulk Waste, Collected from City Services by Contractor.

9.2. **Processing of Contractor Collected Materials.** Customers may Set-out Single Stream Program Recyclable Materials for Collection. Contractor agrees that the then-current rate schedule as reflected in Exhibit 1 includes the costs for Processing of Program Recyclable Materials, including Single

Stream Program Recyclable Materials, Collected by Contractor. Contractor agrees Contractor shall be solely responsible for the costs for Processing of Program Recyclable Materials Collected from City Services by Contractor.

- 9.3. **Disposal and Processing Capacity:** Contractor shall have and maintain during the term of the Contract, adequate Disposal and Processing capacity for the City's needs.

## 10. **DISPOSAL AND PROCESSING LOCATIONS:**

The Contractor shall deliver materials Collected to the following locations selected by Contractor and operated in compliance with Applicable Law including rules stipulated by the local, state, and federal laws and regulations including Texas Commission of Environmental Quality and/or the U.S. Environmental Protection Agency:

- a) Acceptable Solid Waste to a Disposal Site; and,
- b) Program Recyclable Materials Collected to a Processing Facility for Program Recyclable Materials.

Contractor shall ensure locations operate and maintain adequately sized truck scales and computerized record-keeping systems for weighing and recording all incoming vehicles at the Disposal Sites and Processing Facilities. Contractor shall ensure locations maintain a record containing the gross weight, tare weight, net weight, date, time, and vehicle identification of each vehicle entering and exiting the Disposal Site and Processing Facility. Contractor shall ensure locations weigh, record, and tabulate materials from the City and other generators separately. Contractor shall ensure locations test the scales as required by Applicable Law. At a minimum, Contractor shall ensure locations test the scales every six (6) months. If the scales are unavailable during hours of operation, Contractor shall use the average weight for the route and load of the day from the previous calendar month. Failure of Contractor to meet the requirements set forth in this section of the Contract is a breach of this Contract and may result in termination by City of this Contract with Contractor.

## 11. **PROCESSING REQUIREMENTS:**

Contractor shall utilize Processing subsystems at the Processing Facility capable of complying with product specifications of secondary materials buyers including, but not limited to, product form, size, weight, density, and degree of Contamination. In addition, Contractor shall utilize processing subsystems at the Processing Facility capable of Processing a minimum of ninety-five percent (95.0%) by weight of Program Recyclable Materials into Recovered Materials monthly. Failure of Contractor to meet the requirements set forth in this section of the Contract is a breach of this Contract and may result in, at City's option, administrative charges and/or termination by City of this Contract.

## 12. **ADDITION AND DELETION OF PROGRAM RECYCLABLE MATERIALS:**



City reserves the right to add other Recyclable Materials to the program if (i) Processing Facility Processing Program Recyclable Materials Collected via this Contract accepts such material, (ii) Processing Facility Processing Program Recyclable Materials Collected from the City of Austin accepts such material, or (iii) the Parties agree it is economically and technically feasible. In addition, City reserves the right to delete Recyclable Materials from the program if the Parties agree it is economically and technically prohibited.

Parties agree that no increase in fees shall be allowed for the addition of other Recyclable Materials to the program due to the Processing Facility Processing Program Recyclable Materials Collected via this Contract accepting such material. Addition or deletion of Program Recyclable Materials for reasons other than the Processing Facility Processing Program Recyclable Materials Collected via this Contract accepting such material, an increase or decrease in fees, if any, for addition or deletion of Recyclable Materials may be negotiated and implemented as a change in rate schedule by an amendment to this Contract.

13. **COMMINGLING OF MATERIALS PROHIBITED:**

Except, when approved in writing by the Contract Administrator, Contractor shall not commingle Program Recyclable Materials with Solid Waste or other material. Commingling of materials in violation of this section of the Contract is a breach of this Contract and may result in, at City's option, administrative charges and/or termination by City of this Contract.

14. **DISPOSAL OF PROGRAM RECYCLABLE MATERIALS PROHIBITED:**

Contractor shall not Dispose of any Program Recyclable Materials or market Program Recyclable Materials to markets that Contractor knows or reasonably should have anticipated will Dispose of the Program Recyclable Materials except when approved in writing by the Contract Administrator. Disposal of such materials or marketing of such materials to markets that Contractor knows or reasonably should have anticipated will Dispose of such materials, except when approved in writing by the Contract Administrator, is a breach of this Contract and may result in administrative charges and/or termination by City of this Contract with Contractor. Failure of Contractor to meet the requirements set forth in this section of the Contract is a breach of this Contract and may result in, at City's option, administrative charges and/or termination by City of this Contract.

15. **INSPECTION OF SET-OUTS AND UNACCEPTABLE SET-OUTS:**

15.1. **Contractor's Right to Inspect Set-Outs:** Contractor may inspect each Set-out prior to Collection for compliance with the requirements of this Contract.

15.2. **Unacceptable Set-outs:** Prior to Collection of the Set-out, Contractor may designate a Set-out as an Unacceptable Set-out for the following reasons:

- (a) A Set-out exceeds the Set-out limits as established in this Contract; or
- (b) A Set-out of Program Recyclable Materials contains more than twenty-five percent (25%) of non-Recyclable Materials by weight.

Contractor may not designate a Set-out as an Unacceptable Set-out for any reason other than those identified in this section.

If Contractor designates a Set-out or a portion of a Set-out as an Unacceptable Set-out for any of the reasons set forth in this section, Contractor shall:

- (a) Collect the portion of the Set-out that is properly Set-out; and
- (b) Immediately provide an Unacceptable Set-out Notice to the Customer stating the reason the Set-out or portion of the Set-out was designated as an Unaccepted Set-out.

For all Unacceptable Set-outs, Contractor shall provide a written report of the Unacceptable Set-outs including the address, reason Set-out was an Unacceptable Set-out, and other information as requested by Contract Administrator to the Contract Administrator by 10:00 AM, Central Time the next Business Day. If Contractor fails to provide a written report in accordance with this section, Contractor shall be subject to administrative charges as set forth in this Contract.

## 16. RESIDENTIAL SERVICE UNITS COLLECTION ROUTES:

Contractor shall submit Residential Service Units Collection routes to the Contract Administrator for approval a minimum of thirty (30) calendar days prior to the Commencement Date. Contractor shall not amend, change, or alter the route without Contract Administrator's approval.

## 17. HOURS OF OPERATION AND HOLIDAYS:

17.1. **Hours of Operation:** Contractor shall provide Collection to Residential Service Units from Monday through Thursday. Collection from Residential Service Units and all other Customers adjacent to Residential Service Units shall begin no earlier than 7:00 AM, Central Time, except that such Collections for schools may begin earlier if authorized by the Contract Administrator. Contractor shall provide Collection for schools as directed by the Contract Administrator. Collection from other Customers shall begin no earlier than 6:00 AM, Central Time. Collections from any Customer shall not occur later than 7:00 PM, Central Time, without approval from Contract Administrator. No Collection shall be made on Sunday, unless requested by a Customer and agreed to by Contractor and Contract Administrator. Contractor Administrator reserves the right to restrict the hours of operation based on complaints.

17.2. **Holidays:** The following shall be holidays for purposes of this Contract: New Year's Day, Memorial Day, Independence Day, Labor Day,

Thanksgiving Day and Christmas Day. Contractor shall observe all of the above-mentioned holidays by suspension of Collection on the holiday. If a holiday occurs on a Scheduled Collection Day for a Residential Service Unit, Contractor shall perform the Collection for the holiday and the remainder of the week ending on Thursday on the next calendar day after the Scheduled Collection Day. If a holiday occurs on a Scheduled Collection Day for a Commercial Service Unit, the Contractor shall perform the Collection for such Customer at the sole discretion of each Customer on the holiday or the next business day (including Saturdays) after the holiday.

18. **DAMAGE TO PROPERTY:**

Contractor shall take all necessary precautions to protect public and private property during the performance of this Contract. Contractor shall repair or replace any private or public property which is damaged by Contractor's negligence. Contractor shall notify the Contract Administrator of damage to private or public property within twenty-four (24) hours of the earlier of knowledge or notice to Contractor of such damage. In addition, Contractor shall contact the Customer of the private or public property which is damaged within forty-eight (48) hours of the earlier of knowledge or notice to Contractor of such damage. Such property damages shall be resolved by Contractor either by repair or replacement, at no charge to the property owner, within a reasonable amount of time agreed upon by property owner, City and Contractor, and any replacement of property shall be accomplished with property of the same or equivalent value at the time of the damage.

If Contractor fails to address the repair or replacement of damaged property within agreed upon timeframe, the Contract Administrator may, but shall not be obligated to, repair or replace such damaged property, and the cost of doing so shall be deducted from any payment to be made to Contractor by City.

Within fifteen (15) Business Days of the Effective Date, Contractor shall submit for approval to the Contract Administrator a procedure for management of property damage consistent with the requirements set forth in this Contract.

19. **COMPLAINTS AND OFFICE:**

19.1. **Complaints:** Customer complaints shall be directed to City, and City shall notify Contractor via email of such complaints. Contractor shall promptly resolve such complaint based on the nature of the complaint. Contractor shall be responsible for maintaining a log of complaints and shall provide the City, on a weekly basis, with copies of all complaints indicating the date and hour of the complaint, nature of the complaint, and the manner and timing of its resolution. Any alleged missed pickups will be investigated and, if such allegations cannot be disproved, Contractor shall arrange for Collection on the next Business Day after receipt of such complaint.

19.2. **Local Office:** Contractor shall maintain an office within seventy (70) street miles of City Hall (the "Local Office"). Contractor shall ensure the Local Office may be contacted by telephone without charge. The Local Office shall be equipped with sufficient telephones and shall have a responsible person in charge between the hours of 8:00 AM, Central Time and the later of 5:00 PM, Central Time or completion of Collection from Residential Service Units, Monday through Friday. For after office hours, the Local Office must have a voicemail system. Voicemails from Customers shall be returned on the next Business Day.

20. **EQUIPMENT AND CONTRACTOR'S REPRESENTATIVE:**

20.1. **Carts for Residential Service Units:** The City maintains the right to purchase the Carts for Residential Service Units separate from this Contract; however, the Contractor would maintain responsibility for distribution, storage, ongoing repair, replacement, warranty issues, and other requirements for the Carts if the City elects to purchase the Carts separate from this Contract. The City's shall provide the Contractor written notice of the City's election to purchase Carts separate from this Contract at least thirty (30) calendar days before the Commencement Date. If the City does not elect to purchase the Carts separate from this Contract, then Contractor shall, at its sole cost and expense, agrees to purchase all new Carts necessary to adequately, efficiently, and properly provide the services to Customers in accordance with this Contract. Carts, if purchased by Contractor, must be purchased with a ten (10) year manufacturer's warranty, and approved for use by City. Carts for Customers, including new Customers and existing Customers, shall meet the following requirements:

- (a) Approximate capacity of 96 gallons;
- (b) Blue in color for Acceptable Solid Waste Carts (as approved by Contract Administrator);
- (c) Green in color for Recycling Carts (as approved by Contract Administrator);
- (d) Contractor logo or other information;
- (e) Full-color in-mold label or decal (as approved by Contract Administrator) of Program Recyclable Materials and non-Program Recyclable Materials, with a minimum size of area of 100 square inches, on Recycling Cart or other methods as approved by Contract Administrator;
- (f) Full-color in-mold label or decal (as approved by Contract Administrator) of Holidays, with a minimum size of area of 100 square inches, on Acceptable Solid Waste Cart or other methods as approved by Contract Administrator;
- (g) Comply with ANSI Standards Z245.30 and Z245.60 (shall be both Type B and Type G complaint);
- (h) Lift bar (replaceable if damaged); and
- (i) Either injection model with high density polyethylene (HDPE) or rotational molded with linear medium density polyethylene (MDPE).

All plastic resin must be UV stabilized.

Contractor shall store all additional and replacement Carts at Contractor's local office to ensure that extra or replacement Carts can be provided upon the request of Contract Administrator. Contractor shall, at its sole cost and expense, assemble and distribute 96 gallon Cart(s) to each Customer prior to the Commencement Date and within two (2) Business Day(s) of the request of the Customer or Contract Administrator. Upon the written work order from the Contract Administrator, Contractor shall exchange the 96 gallon Cart for a 64 gallon Cart for Customers identified in the Work Order within two (2) Business Day(s) of issuance of the Work Order by the Contract Administrator to the Contractor.

For Carts delivered by Contractor, Contractor shall attach a Program Introduction Notice to each Cart prior to delivery to Residential Service Unit or provide a method for the information to be provided as approved by the Contract Administrator.

Contractor's employees shall take care to prevent damage to Carts by unnecessary rough treatment. Contractor shall be solely responsible for the maintenance, including warranty issues, and replacement, including replacement of damaged, lost, or stolen Carts. Contractor shall provide a monthly report to Contract Administrator detailing the Carts delivered and maintenance provided to Carts and provide a monthly report to Contract Administrator for the term of the Contract.

Upon the request of a Customer, Contractor shall deliver, at Contractor's sole cost,

- (i) an additional 96 gallon Cart or
- (ii) swap out the Recycling Cart for a different size Cart that meets requirements of this Contract.

All Carts in the possession of Residential Service Units upon the expiration or termination of this Contract may, at no cost to the City or Customers, become the property of the City, at the City's sole discretion.

- 20.2. **Other Equipment:** Contractor, at its sole cost and expense, agrees to furnish all equipment, excluding equipment explicitly stated in this Contract to be provided by City. Equipment shall include, but is not limited to, trucks, machines, and labor which are reasonably necessary to adequately, efficiently, and properly provide the services in accordance with this Contract.

Excluding Roll-off Collection, Contractor shall provide Collection using sealed packer-type trucks, and such equipment shall not be allowed to leak nor scatter any materials.

For Roll-off Collection, Contractor shall provide Collection using vehicles

equipped with a cover which may be net with mesh not greater than one and one-half (1-1/2) inches, or tarpaulin, or fully enclosed metal top to prevent leakage, blowing or scattering of materials. Contractor shall maintain such cover in good order and use such cover when going to and from the Disposal Site, during loading operations, or when parked if contents are likely to be scattered. Contractor shall not overload Collection vehicles as to scatter material.

Contractor shall maintain all vehicles and Collection equipment in a safe and efficient working condition throughout the term of this Contract. Contractor shall maintain, including sanitizing and painting, all vehicles and Collection equipment as often as necessary to preserve and present a clean, professional, and well-kept appearance, and Contractor shall have a regular preventative maintenance program. No third-party advertising shall be permitted on Contractor's vehicles or Collection equipment.

All Collection vehicles must be equipped with back-up cameras and spill kits for oil and hydraulic fluids. All Collection vehicles shall be less than eight (8) years old throughout the term of the Contract. All Collection vehicles shall be clearly marked with the Contractor's name, telephone number and unit number legible from 150 feet. Contractor shall maintain Collection vehicles in a neat and sanitary condition; at minimum, Collection vehicles are to be washed on the inside and sanitized with a suitable disinfectant and deodorant a minimum of once a month.

City may inspect Contractor's equipment at any time to ensure compliance with this Contract. Upon notification from the City, Contractor shall be required to repair or replace equipment that is no longer in acceptable condition for their intended purpose. Contractor shall, upon notification from the City, sanitize or repaint equipment that is unsightly.

- 20.3. **Contractor's Representative:** Contractor shall provide a Contractor's Representative that is qualified, competent, and reliable and authorized to be in charge of operations under this Contract and to make decisions and act on behalf of the Contractor. Contractor shall provide Contract Administrator with twenty-four (24) hour access to Contractor's Representative via a non-toll call from City. Contractor shall not change the Contractor's Representative from the Effective Date until after ninety (90) calendar days after the Commencement Date without request of Contract Administrator or written approval of Contract Administrator. Contractor shall notify City within forty-eight (48) hours of Contractor's knowledge of upcoming change to Contractor's Representative. Contractor shall develop a transition process, subject to the approval of the Contract Administrator, for management of Contractor's Representative's duties during change in Contractor's Representatives.

## 21. SPILLAGE AND LEAKAGE, LITTER, AND ODOR

- 21.1. **Spillage and Leakage:** Contractor shall clean up any materials including

leakage of fluids spilled from Carts, Containers, and Contractor's vehicles, or by Contractor's employees or subcontractors while performing services pursuant to this Contract. During transport, all materials shall be contained, covered, and enclosed so that leaking, spilling, and blowing of materials does not occur. Contractor shall be responsible for the cleanup of any spillage or leakage caused by Contractor, Contractor's vehicles or Contractor's employees or subcontractors while performing services pursuant to this Contract. Contractor shall perform all clean-ups within two (2) hours of the earliest of either the (i) notification of spillage or leakage or (ii) knowledge of spillage or leakage by Contractor or Contractor's employees or subcontractors.

- 21.2. **Litter:** Contractor shall be required to pick up any and all litter caused by the provision of services in connection with this Contract.
- 21.3. **Odor:** Contractor shall maintain equipment used for purposes of this Contract in a manner that eliminates odors. Contractor shall routinely clean equipment used for purposes of this Contract by Contractor in a manner that reduces odors.

## 22. RECORDS AND REPORTS:

Contractor agrees to maintain at the Local Office adequate records relating to the performance of their respective duties under this Contract. Such records shall be made available at any time during reasonable business hours for inspection by the City. At a minimum, Contractor shall create, maintain, and make available records as defined herein and/or required by Applicable Law, and any reports as are reasonably necessary to:

- (a) Document services provided by type of service, Container type, Container size, Collection frequency, fees charges, and other information as requested by Contract Administrator.
- (b) Document number of Residential Service Units Set-outs by Program Recyclable Materials and other information as requested by Contract Administrator.
- (c) Document deliveries of materials by type of material, time delivered to facility, tonnage of material delivered, and other information as requested by Contract Administrator. If materials from City are commingled with materials from other areas, Contractor shall develop a process, subject to the approval of the Contract Administrator, for estimating the tonnage of material delivered from City.
- (d) Document missed Collections, Unacceptable Set-outs, and Bulk Waste Collection Notices on a daily basis by address, time and date for each and the reason and notice for Unacceptable Set-outs.
- (e) Document ownership and maintenance records of all vehicles used to perform the services provided under this Contract.
- (f) Document spills and property damage by date and time of incident, description of incident, date and time of resolution, description of resolution, and other information as requested by Contract

Administrator.

- (g) Customer list by customer name, contact information, address, type of service, Container type, Container size, Collection frequency, and other information as requested by Contract Administrator
- (h) Such other documents and reports as City may reasonably require to verify compliance with the Contract or to meet City's reporting requirements.

Contractor shall provide the City with a monthly report within seven (7) calendar days following the end of the month and an annual report within thirty (30) calendar days following the end of the calendar year summarizing the above information.

### 23. **INSPECTION RIGHTS:**

- 23.1. **City's Right to Inspect Records, Books, Data and Documents:** City shall have access, within one (1) Business Day of advanced written notification to Contractor, to all books, records, electronic files, data and documents related to this Contract of Contractor for inspection, and audit, at City's own expense.
- 23.2. **City's Rights to Inspect Facilities and Equipment and Audit Performance:** City shall have access, within twenty-four (24) hours of advanced written notification to Contractor, to inspect Contractor's facilities and equipment as City deems reasonably necessary to determine whether the services required to be provided by Contractor under this Contract conform to the terms hereof. Additionally, City may perform field audits, including but not limited to route audits, without prior notice to Contractor, to assure that services required to be provided by Contractor under this Contract are conducted in compliance with the terms of this Contract, if applicable. City shall conduct the inspection of facilities and equipment and field audits, including route audits, during regular hours of operation. Contractor shall make available to City all reasonable facilities and assistance to facilitate the performance of inspections of facilities and equipment and field audits by City.

### 24. **PUBLIC EDUCATION AND OUTREACH AND FRANCHISE FEE:**

- 24.1. **Public Education and Outreach:** Contractor shall provide the following services associated with public education and outreach at no cost to the City or the Customer. Contractor will at no time place public education and outreach notices inside customers' mailboxes. Contractor shall not distribute any public education and outreach notices to Residential Service Units without prior written approval from Contract Administrator.
  - (a) Development, Printing and Distribution of Program Introduction Notice. Contractor shall develop, print, and distribute, at Contractor's own expense, a Program Introduction Notice for each Residential



Service Unit for which Contractor delivers a Cart. The Program Introduction Notice shall be approved by the Contract Administrator. Contractor shall attach Program Introduction Notice via a non-adhesive means to each Cart delivered to a Customer or picked up by a Customer at the Contractor's office.

- (b) Development, Printing and Distribution of Bulk Waste Collection Notice. Contractor shall develop, print, and distribute, at Contractor's own expense, a Bulk Waste Collection Notice. The Bulk Waste Collection Notice shall be approved by the Contract Administrator and shall include one (1) original with one (1) copy. The Bulk Waste Collection Notice shall include (a) the date (b) estimated date for Collection of remaining Set-out, and (c) Contractor's customer service telephone number, and (d) any other information the City requests. Contractor shall attach the original Bulk Waste Collection Notice to the Set-out. Contractor shall take a digital photo of entire Set-out and the Set-out remaining that receives a Bulk Waste Collection Notice. Contractor shall maintain copies of Bulk Waste Collection Notice and digital photos in a format so that Contractor can immediately retrieve a requested notice or photo by address and date. Contractor shall provide a monthly report of Bulk Waste Collection Notices as set forth in this Contract.
- (c) Development, Printing and Distribution of Improper Set-out Notice. Contractor shall develop, print, and distribute, at Contractor's own expense, an Improper Set-out Notice. The Improper Set-out Notice shall be approved by the Contract Administrator and shall include one (1) original with one (1) copy. The Improper Set-out shall include (a) the date (b) reason for non- collection, and (c) Contractor's customer service telephone number, and (d) any other information the City requests. Contractor shall attach the original Improper Set-out Notice via a non-adhesive means to the handle of the Cart. Contractor shall take a digital photo of set-out that receives an Improper Set-out Notice. Contractor shall maintain copies of Improper Set-out Notices and digital photos in a format so that Contractor can immediately retrieve a requested notice or photo by address and date. Contractor shall provide a monthly report of Improper Set-out Notices as set forth in this Contract.
- (d) Public Education and Outreach Video. Contractor shall develop one (1) Bastrop-specific video for the City's PEG Channel and the City's social media channels that promotes Recycling and provide information about the services provided to the City. Contractor shall update the video annually to reflect any focus areas for public education or any changes to service levels. Contractor shall also make available to the City other relevant Recycling and Solid Waste videos developed by Contractor for use by the City.

- 24.2. **Franchise Fee:** The City shall be entitled to receive a franchise fee (the "Franchise Fee") from the Contractor for services rendered within the City under this Contract. The Franchise Fee on the Commencement Date shall be five percent (5%) of gross **collections billings** for services rendered by Contractor hereunder for (i) Residential Service Units via Roll-off and (ii)

Commercial Service Units via any means. The Contract Administrator may increase or decrease the Franchise Fee with ninety (90) calendar days written notice. Contractor shall pay the City the Franchise Fee based on gross **collections billings** for services provided via the Contract within the City within thirty (30) calendar days after the last day of the month Contractor provided such services. For purposes of the Franchise Fee, gross **collections billings** excludes the Franchise Fee, **which may be passed through to Customers by Contractor.**

25. **BILLING:**

- (a) A minimum of thirty (30) calendar days prior to the Commencement Date, Contract Administrator will provide Contractor with a then-current Customer List for Residential Service Units identifying each by address. City shall update the list each month from the Commencement Date until expiration or termination of the Contract. Within five (5) Business Day(s) of receipt of a Customer List, Contractor will report in writing to the Contract Administrator the address of a Residential Service Unit where materials are placed at the curbside and that is not on the then current Customer List. Contract Administrator will thereafter update the Customer List as applicable. Regardless of the Customer List, Contractor shall provide services to all Residential Service Units in accordance with this Contract.
- (b) City shall provide billing and bill Base Services and extra Cart services for Residential Service Units during the term of this Contract. Contractor shall provide billing and bill services for all services to Commercial Service Units and services other than Base Services to Residential Service Units, such as additional Bulk Waste services and Roll-off Services.
- (c) Contractor shall bill City and Customers in accordance with Contract and then- current rate schedule as reflected in Exhibit 1 plus the then-current Franchise Fee.
- (d) Contractor agrees all costs for services provided on August 31, 2024, are included in fees for services provided in September 2024.
- (e) Contractor shall not bill City or Customers for any fees other than those specifically authorized in this Contract.
- (f) Within thirty (30) calendar days of the end of each month during which services are provided by Contractor hereunder, Contractor shall submit to the City an invoice setting forth sums due by the City to Contractor for Base Services for Residential Service Units for the prior month. The City shall remit to the Contractor payment, less any Franchise Fees, disputed amounts, administrative charges, and payments withheld in accordance with this Contract, for services rendered by Contractor to Residential Service Unit within thirty (30) calendar days after receipt of invoice.
- (g) Within thirty (30) calendar days of the end of each month during which

services are provided by Contractor hereunder, Contractor shall remit to the City payment for Franchise Fees and other payments in accordance with this Contract for services rendered by Contractor or payments due within thirty (30) calendar days after receipt of invoice.

26. **MODIFICATION TO RATES:**

Contractor shall submit a written request for modification to rates on or before June 1, 2025, and every June 1st thereafter. Requests for modification to rates are subject to the consideration and approval of the City Council. If Contractor fails to submit a written request for modification to rates on or before June 1st, Contractor waives the right for a modification to rates for that year.

All costs proposed in Exhibit B shall remain fixed from the execution of this Contract through October 1, 2025. On October 1, 2025, and every October 1st thereafter for the term of this Contract, all cost of collection services, excluding costs associated with Carts, costs associated with Containers, costs of disposal, and costs of processing and marketing, shall be adjusted, increases or decreased, according to this section. City shall not adjust the monthly cost of Carts during neither the initial term of the Contract nor any renewal term.

The annual adjustment shall be a composite of two indices, including the Consumer Price Index– All Urban Consumers (“CPI”) and the Diesel Fuel price index by the United States Department of Energy (DOE). A description of the indices and the weighting of each are as follows:

- (a) CPI – 80 percent  
The CPI adjustment shall be based on the most recent CPI, Houston-Galveston- Brazoria, TX, for All Urban Consumers, less energy, Not Seasonally Adjusted, Base Period December 1983 = 100 (published by the United States Bureau of Labor Statistics, Consumer Price Index) from the most recent April to the preceding April.
- (b) Diesel Fuel price index by the DOE – 20 percent  
The Diesel Fuel price index by the DOE adjustment shall be based on the most recent price as of April 1<sup>st</sup> and change from year ago for Diesel Fuel (cents per Gallon), U.S.

**Example: Assume that the CPI for 2016 is 105.5 and for 2015 if 110.5. Assume that the Diesel Fuel price index by the DOE for Diesel Fuel (cents per Gallon), U.S. in 2016 is 308.5 and change from a year ago was –21.5. The calculation is as follows:**

$$\frac{110.5-105.5}{105.5} \times .85 = 4.03\%$$

*then*

$$\frac{308.5-(308.5-(-21.5))}{(308.5-(-21.5))} \times .15 = -0.98\%$$

*then*

**4.03% + -0.98% = 3.05% annual rate adjustment**

The cumulative rate adjustment, the CPI plus the Diesel Fuel price index by the DOE, shall not exceed five percent (5%) per year **increase and zero percent per year decrease**.

**27. LICENSE AND PERMITS:**

Contractor shall obtain at its sole expense all licenses and permits required by the local, state, and federal government, and shall maintain same in full force and effect for the term of this Contract. Contractor shall display all licenses and permits as required by law.

**28. COMPLIANCE WITH LAWS:**

Contractor, its officers, agents, employees, contractors, and subcontractors, shall abide by and comply with Applicable Law including all existing laws and laws which may be enacted by the federal, state, and local governments. It is expressly agreed that nothing in this Contract shall be construed in any manner to abridge the right of City to pass or enforce necessary police and health regulation for the protection of its inhabitants. It is further agreed and understood that, if the City calls the attention of Contractor to any such violations on the part of the Contractor, its officers, agents, employees, contractors, or subcontractors, then Contractor shall immediately desist from such activity and correct such violation.

**29. ENFORCEMENT:**

City grants unto Contractor the right to seek an injunction against any third party which is believed and evidenced to be infringing on the rights of Contractor to this Contract, including Contractor's exclusive franchise rights granted herein. Furthermore, Contractor shall have all rights and remedies available to it under Texas law to collect delinquent payment of fees by City and/or Customers.

**30. ADMINISTRATIVE CHARGES:**

Contractor understands that if Contractor does not timely perform its obligations pursuant to the terms of this Contract or violates any provision of this Contract, City will suffer damages which are difficult to determine and adequately specify. Contractor agrees, in addition to any other remedies available to City, that City may withhold payment from Contractor in the amounts specified below as administrative charges for failure of Contractor to fulfill its obligations. The following acts or omissions shall be considered a breach of this Contract and City may require payment by Contractor of the charges set forth for each act or omission:

(a) Missed Collection

\$50 for each missed Collection in excess of two (2) missed Collections per day, to be assessed at the end of each Collection month. A missed Collection occurs when a resident reports a missed Collection, the address was not reported by Contractor as an Unacceptable Set-out, and Contractor cannot provide data demonstrating Collection vehicle traveled on street and

Collections occurred on street.

- (b) Missed Residential Service Unit block  
\$500 for each incident of Contractor failing to pick up material on a block containing Residential Service Units. A missed Residential Service Unit block is where three Residential Service Units on one side of a street between cross streets or an entire cul de sac report a missed Collection. A missed Residential Service Unit block occurs when the addresses reporting missed Collections were not reported by Contractor as Unacceptable Set-outs and Contractor cannot provide data demonstrating Collection vehicle traveled on street and Collections occurred on block.
- (c) Failure to provide Collection from Residential Service Units during normal hours of operation  
\$250 for each Contractor vehicle providing Collection to Residential Service Units after normal hours of operation without approval of the Contract Administrator.
- (d) Failure to complete 95% of the Collections on a given day  
Failure to complete 95% of Collections on a given day shall occur when Contractor fails to Collect or attempt to Collect from 95% of the total Residential Service Units to be serviced on the given day. \$2,500 each day that 95% of Collections are not made or attempted.
- (e) Failure to clean up material spillage, leakage, or litter by Contractor within two (2) hours of verbal or written notification  
Failure to clean up material spillage, leakage, or litter by Contractor within two (2) hours shall commence the earlier of when Contractor becomes aware of such spillage or leakage or Contract Administrator notifies Contractor of such spillage or leakage. \$250 each incident.
- (f) Failure to address damage to property in accordance with Contract and approved procedure for management of property damage  
\$250 each incident plus all costs for property damage.
- (g) Failure or neglect to Collect materials from a missed pickup location within the amount of time specified in this Contract  
Failure to address, as required by this Contract, a failure or neglect to Collect materials from a missed pickup location within the time specified in the Contract shall commence the earlier of when Contractor becomes aware of such missed pick- up or Contract Administrator or Customer notifies Contractor of such missed pick- up. \$250 each incident.

- (h) Failure to provide a complete report (including but not limited to weekly, monthly or annual reports)  
\$250 per Business Day thereafter per incident
- (i) Failure to return receptacles to approximately original location.  
\$25 each incident
- (j) Commingling of materials in violation of this Section 13 of this Contract  
\$1,000 each incident
- (k) Disposal of Program Recyclable Materials in violation of Section 14 of this Contract  
\$2,000 each incident
- (l) Failure to leave a public education notice for Unacceptable Set-outs  
\$100 each incident
- (m) Failure to distribute Program Introduction Notices  
\$100 each incident
- (n) Failure to respond to any Customer complaint within the amount of time specified in this Contract  
\$100 per Business Day thereafter per incident
- (o) Failure to provide City or its designee with the required resolved Customer complaint documentation  
\$50 per Business Day thereafter per incident
- (p) Failure to maintain scales in accordance with Contract.  
\$250 per day per scale
- (q) Failure to be prepared to perform services on and after the Commencement Date.  
\$3,000 each day
- (r) Failure to capture and convert a minimum of ninety-five percent (95%) by weight of Program Recyclable Materials into Recovered Materials, in

violation of Section 11 of this Contract, for any period of time determined by the Contract Administrator.

\$500 each day

City may impose administrative charges when the Contract Administrator determines that performance consistent with the provisions of the Contract has not occurred. The Contract Administrator shall notify Contractor in writing or electronically of each act or omission under the terms of this Contract reported to or discovered by City or its designee. It shall be the duty of Contractor to take whatever steps or action may be necessary to remedy the cause of the complaint.

City may deduct the full amount of any such charges from any payment due to Contractor. The remedy available to City under this paragraph shall be in addition to all other remedies which City may have under law, at equity, or pursuant to the terms of this Contract.

For the purposes of this Contract, Contractor shall not be deemed to be liable for such charges where its inability to perform Collection service is the result of an event of Force Majeure as set forth in this Contract, provided however, that Contractor shall obtain approval for the delay from the Contract Administrator prior to 3:00 PM, Central Time of the Scheduled Collection Day.

Contractor's obligations to make payments for such charges under this section occurring prior to the expiration or termination of this Contract shall survive termination or expiration of this Contract.

### 31. **TERMINATION:**

City may terminate this Contract without liability to Contractor and pursue all of its legal, contractual and equitable remedies for default upon Contractor. The City shall provide written notice to Contractor of intent to terminate for such default and allow the Contractor at least thirty (30) calendar days to cure such default to the satisfaction of the City. The following are an event of default upon Contractor:

- (a) The filing of a voluntary petition for bankruptcy by or on behalf of the Contractor, or the filing of an involuntary petition for bankruptcy relief against the Contractor, which is not dismissed or otherwise Disposed of to the City's satisfaction within thirty (30) calendar days thereafter.
- (b) The appointment of a receiver of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) calendar days thereafter.
- (c) Filing of a petition or an answer seeking bankruptcy, receivership, reorganization, or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.
- (d) Committing an act of default of a provision of this Contract.
- (e) Failing to timely and fully pay any or all impositions pursuant to this Contract.
- (f) As otherwise provided by this Contract.

This Contract shall terminate upon any one of the following:

- (a) The written agreement of the Parties.
- (b) The expiration of this Contract.

**32. DISPUTE RESOLUTION:**

- (a) The parties shall endeavor to settle all disputes under, or relating to, this Contract by amicable negotiations. Except as otherwise provided herein, any claim, dispute, disagreement or controversy that arises among the parties under or relating to this Contract that is not amicably settled shall be submitted to mediation. If the parties remain unable to resolve the controversy through mediation, then the claim, dispute, disagreement or controversy may be resolved by pursuing the action in the Courts. Venue for any action shall be in Bastrop County, Texas.
- (b) All attorneys' fees and costs of the mediation shall in the first instance be borne by the respective party incurring such costs and fees, unless fees are awarded by the Court.

**33. FORCE MAJEURE:**

Except for any payment obligation by either Party, if City or Contractor is unable to perform, or is delayed in its performance of any of its obligations under this Contract by reason of an event of Force Majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for City or Contractor to correct the adverse effect of such event of Force Majeure.

An event of Force Majeure shall mean the following events or circumstances to the extent that they delay the City or Contractor from performing any of its obligations (other than payment obligations) under this Contract:

- (a) Acts of God, tornadoes, hurricanes, floods, sinkholes, fires, and explosions (except those caused by negligence of Contractor, its agents, or assigns), landslides, earthquakes, epidemics, quarantine, and pestilence; and
- (b) Acts of public enemy, acts of war, terrorism, effects of nuclear radiation, blockades, insurrection, riots, civil disturbances, or national or international calamities.

In order to be entitled to the benefit of this Section, a Party claiming an event of Force Majeure shall be required to give prompt written notice to the other Party specifying in detail the event of Force Majeure and shall further be required to use its best efforts to cure the event of Force Majeure. The Parties agree that, as to this Section, time is of the essence. Notice of using this section will also require an estimate of the amount of time needed.

**34. PERFORMANCE BOND OR LETTER OF CREDIT**



Upon Contractor’s execution of this Contract, Contractor shall make, execute, and deliver to City a good and sufficient Performance Bond or Letter of Credit in a form approved by the Contract Administrator, to secure the full, complete and faithful performance of the terms and conditions herein. For the first Contract Year, Contractor shall make, execute, and deliver to City a good and sufficient Performance Bond or Letter of Credit in the amount equal to or greater than Contractor’s estimated amount of gross billings pursuant to this Contract from September 1, 2024, through August 31, 2025. For each Contract Year after the initial Contract Year, Contractor shall make, execute, and deliver to City a good and sufficient Performance Bond or Letter of Credit in the amount equal to or greater than the amount of gross billings pursuant to this Contract from September 1st through August 31st of the prior Contract Year. Contractor shall renew the Performance Bond or Letter of Credit in accordance with this Contract each year throughout the term of the Contract and any renewal periods. Contractor shall ensure the Performance Bond or Letter of Credit is signed by the president or authorized officer of Contractor, together with the signature of the corporate secretary and the imprint of the corporate seal. The surety shall be a surety company duly authorized to do business in the State, having an “A” or better rating by A.

M. Best or Standard and Poors, included on the list of surety companies approved by the Treasurer of the United States of America, and acceptable to City.

**35. INSURANCE:**

35.1. **No Insurance by City:** Contractor shall be solely responsible for any insurance required under the terms of this Contract and for any additional insurance it deems necessary. City does not and shall not carry insurance policies covering Contractor.

35.2. **Contractor Insurance Requirements:**

(a) Specific Insurance Requirements. Contractor and its subcontractors shall procure and maintain, during the term of this Contract and any extensions thereof the insurance coverage listed below. If Applicable Law requires a higher insurance limit, Contractor shall procure and maintain the policy limit as specified by the Applicable Law.

1. With written proof to the City that Contractor is a registered non- subscriber to the Texas Worker’s Compensation Act, then

Worker's Compensation or equivalent: as set forth in the Worker's Compensation Act.

or

Without written proof to the City that Contractor is a registered non-subscriber to the Texas Worker’s Compensation Act, then

Worker's Compensation: as set forth in the Worker's Compensation Act.

2. Commercial General: \$1,000,000 Each Accident/Occurrence.
3. Liability (Public): \$1,000,000 Aggregate  
\$1,000,000 Products & Completed  
Operations Aggregate.
4. Liability Insurance: \$1,000,000 aggregate
5. Excess/Umbrella Liability: \$1,000,000 per occurrence  
with drop down coverage
6. Automobile Bodily Injury Liability: \$300,000 each person,  
\$1,000,000 each occurrence
7. Automobile Property Damage Liability: \$300,000 each occurrence

The policies of insurance shall be primary and written on forms acceptable to City and placed with insurance carriers approved and licensed by the State and meet a minimum financial A.M. Best & Company rating of no less than "Excellent": VII.

The insurance policies provided herein shall be endorsed to provide that no policy shall be cancelled, changed or reduced in coverage, until after thirty (30) calendar days prior written notice has been delivered to City through certified mail as required in this Contract.

The cancellation clause on Contractor's insurance certificate must conform to the endorsement. Any conflict between the endorsement and the certification is a breach of this Contract and can result in retraction by City of the award of the Contract to Contractor or termination of this Contract.

The policies of insurance must include an endorsement from the insurer adding City as an additional insured to the policy.

Contractor shall file proof of insurance for it and its subcontractor(s) meeting the requirements as set forth herein with City prior to execution of this Contract. In addition, Contractor shall be solely responsible for assuring that all proofs of insurance are up to date as filed with City. Failure of Contractor to fully comply with the requirements set forth herein regarding insurance is a breach of this Contract and may be cause for termination by City of this Contract with Contractor.

No changes are to be made to these specifications without prior written approval by City.

Approval of the insurance by City shall not relieve or limit the liability of Contractor for any damages arising from Contractor's performance or nonperformance of services provided herein.

(b) General Requirements. Contractor's and its subcontractors' insurers

must be authorized to transact business in the State.

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing all required insurance before commencement of the work.

All policies required herein, unless specific approval is given by City, are to be written on an occurrence basis and the insurers shall agree to waive all right of subrogation against the City. Additionally, all policies other than Worker's Compensation policies shall name the City as additional insured.

Contractor shall ensure that the insurance coverage required under this Contract is obtained and maintained by Contractor or its subcontractors for its subcontractors to cover their work hereunder. Contractor shall be held responsible for any modification, deviation, or omissions in these insurance requirements as they apply to all subcontractors. Each insurance policy required by this Contract shall meet the following requirements:

1. Each policy shall apply separately to each insured against whom claim is made and suit is brought, except with respect to the limits of the insurer's liability.
2. Each policy shall include an endorsement by the insurer that coverage shall not be suspended, voided or canceled by insurer or insured, reduced in coverage or in limits except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to City.
3. City shall retain the right at any time to review coverage, form and amount of insurance.
4. The procuring of each required policy or policies of insurance shall not be construed to limit Contractor's liability to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, Contractor shall be obligated for the full and total amount of any

- damages, injury or loss caused by the action or inaction of Contractor or its subcontractors in connection with this Contract.
5. Contractor shall be solely responsible for payment of all premiums for insurance contributing to the performance of this Contract and shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not City is an insured under the policy.
  6. Claims made policies will be accepted for professional and hazardous materials liability coverage and such other risks as are authorized by City. All such policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided an option, Contractor agrees to purchase the extended reporting period coverage on cancellation or termination unless a new policy is effected with a retroactive date, including at least the last policy year.
  7. Certificates of Insurance evidencing claims made or occurrence form coverage and conditions to this Contract, as well as City's Contract and description of work, are to be received and approved by City upon execution of this Contract by Contractor and thirty (30) calendar days in advance of expiration of the insurance when applicable. All insurance certificates shall be received and approved by City before Contractor will be allowed to commence or continue work.
  8. Notice of Accident (occurrence) and notice of claim shall be given to the insurance company and the Contract Administrator as soon as practicable after notice to the insured of any incident (occurrence) or claim.

The obligations of Contractor pursuant to this Section shall survive expiration or termination of this Contract.

Failure to comply with any term of this Section is a breach of this Contract and may result in termination by City of this Contract at City's option.

### 36. **INDEMNITY:**

The Contractor shall indemnify, defend and hold harmless the City against

any claims, actions, or suits, including court costs and reasonable attorneys' fees, to the extent caused by Contractor's negligent or willful misconduct in providing the services required by this Contract. Upon obtaining knowledge of any matter giving rise to possible indemnification, the City shall notify the Contractor immediately. The Contractor shall have the right to defend or contest any such claim or demand in the name of the City. The City shall provide such cooperation in connection therewith as the Contractor may reasonably request and shall make available to the Contractor or its representatives all records and other materials reasonably required in such defense. So long as the Contractor is contesting or defending any such claim or demand in good faith, no amount shall be deemed to be due hereunder unless the City has been required by order of any court to pay any sum arising from the subject matter of the suit.

37. **OWNERSHIP AND RISK OF LOSS:**

Title and risk of loss to Solid Waste and Program Recyclable Materials shall pass to Contractor when placed in Contractor's Collection vehicle. Title and risk of loss to Unacceptable Waste shall remain with the generator of such Unacceptable Waste.

38. **SEVERABILITY:**

Should any portion of this Contract be deemed invalid or unenforceable to any extent, the parties hereto agree that such provision shall be amended to the minimum extent necessary to make such provision enforceable, and the remainder of this Contract shall not be affected thereby.

39. **ATTORNEY'S FEES AND VENUE:**

In the event suit is filed by either party as a result of the performance or non-performance of the terms set forth in this Contract, subject to the provisions of Chapter 271, Subchapter I, of the Texas Local Government Code, the prevailing party shall recover, in addition to such other relief as the court may award, its attorney fees and court costs. Venue of any such action shall be in Bastrop County, Texas.

40. **NOTICES:**

All notices or other communications required or permitted to be given pursuant to this Contract shall be in writing and shall be considered as properly given (i) if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (ii) by delivering same in person to the intended addressee, (iii) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee, or (iv) by prepaid telegram, telex, or facsimile to the addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any

successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. Notwithstanding anything contained herein to the contrary, any notice of default under this Contract must be both (i) mailed by Certified Mail, Return Receipt Requested and (ii) faxed to the alleged defaulting party to constitute proper notice hereunder. For purposes of notice, the addresses of the parties shall be as set forth below; provided, however, that either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) calendar days' notice to the other party in the manner set forth herein.

If to the City, at: City of Bastrop  
Attn: Sylvia Carrillo-Trevino, City Manager  
1311 Chestnut Street  
Bastrop, Texas 78602  
Ph: (512) 332-8800  
Fax: (512) 332-8819  
scarrillo@cityofbastrop.org

With a copy to: City Attorney  
Alan Borjorquez  
11675 Jolleyville Road, Suite 300  
Austin, Texas 78759  
Ph: (512) 250-0411  
alan@texasmunicipallawyers.com

If to the Contractor at: Texas Disposal Systems, Inc.  
Attn: Jay Howard, Senior Sales Manager  
P.O. Box 17126  
Austin, Texas 78760  
Ph: (512) 584-6195  
jhoward@texasdisposal.com

with a copy to: NAME?

or such other addresses as the parties may hereafter specify by written notice delivered in accordance herewith.

**41. DISCRIMINATION PROHIBITED:**

Contractor, in the execution, performance, or attempted performance of this Contract, shall not discriminate against any person or persons because of sex, race, religion, color, or national origin. Contractor must be an equal opportunity employer.

**42. SOVEREIGN IMMUNITY:**

City and Contractor acknowledge that this Contract is subject to the provisions of Chapter 271 of the Texas Local Government Code, specifically including Subchapter I (§§ 271.151 through 271.160)). Subject to the agreements and modifications of the parties herein with respect to the City's waiver of immunity to suit, both parties agree that governmental or sovereign immunity is not a defense to suit or liability to enforce the terms of this Contract.

**43. ELIGIBLE DISASTER DEBRIS:**

Contractor and City understand and agree that also, in the event of a hurricane, tornado, major storm, or other natural disaster, Contractor shall have no obligation under this Contract to Collect any Eligible Disaster Debris resulting therefrom, except as set forth in Contract.

**44. STATE LAW VERIFICATIONS:**

44.1. *HB 1295 Compliance.* The Contractor will comply with Section 2252.908 of the Texas Government Code, which requires the Contractor to fill out a conflict of interest form ("Disclosure of Interested Parties") and file it with the City at the time the signed contract is submitted to the City. The City then files it with the Texas Ethics Commission. For further information please go to the Texas Ethics Commission website via the following link:  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

44.2. *No Boycott of Israel.* Pursuant to Section 2270.0002, Texas Government Code, the Contractor hereby verifies and represents that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott the State of Israel ("Israel") and, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, to the extent such applies to this Contract, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity

doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the and exists to make a profit.

- 44.3. *The Contractor is not a Terrorist Organization.* Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Contractor represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified as a terrorist or similar organization or nation-state on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:  
<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, to the extent such applies to this Contract, and to the extent such Section does not contravene applicable Federal law and excludes the Contractor and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Owner understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

- 44.4. *Verification Regarding Energy Company Boycotts.* To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2276.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session, renumbering a former Section 2274.002, Texas Government Code to eliminate duplicate numbering), the Contractor hereby verifies and represents that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2276.002, Texas Government Code, as amended, to the extent such applies to this Contract, and to the extent Section 2276.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall have the meaning assigned to the term “boycott energy company” in Section 809.001(1), Texas Government Code. The Contractor understands “affiliate” to mean an entity that controls, is controlled by, or is under



common control with the Contractor and exists to make a profit.

44.5. *Verification Regarding Discrimination Against Firearm Entity or Trade Association.* To the extent this Agreement constitutes a contract for the purchase of goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, the Contractor hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, (1) do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code to the extent such applies to this Contract, and to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by Senate Bill 19). The Contractor understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Contractor and exists to make a profit.

EFFECTIVE AS OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

**CITY:**

CITY OF BASTROP, TEXAS  
a Texas home-rule municipality

BY: \_\_\_\_\_  
Name: Sylvia Carrillo-Trevino  
Title: City Manager

**CONTRACTOR:**

Texas Disposal Systems, Inc.  
a Texas Corporation

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

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Ann Franklin  
City Secretary  
City of Bastrop, Texas

APPROVED:

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City Attorney  
Alan Bojorquez

DRAFT

**Exhibit 1  
CITY OF BASTROP  
RATE SCHEDULE EFFECTIVE MAY 1, 2024**

A13.08.015

Ord. No. 2022-22  
9/20/2022

Solid Waste

Residential Service monthly charge \$18.59  
Residential Additional Cart monthly charge \$6.08  
Residential Additional Recycling monthly charge \$2.43

**Progressive Waste Solutions directly invoices Commercial Customers for the following services:**

**Commercial Solid Waste Dumpster Services**

Container Size	Weekly Collection Frequency <sup>1</sup>						Extra Pickups
	1	2	3	4	5	6	
96-Gallon Cart	\$22.20	N/A	N/A	N/A	N/A	N/A	N/A
2 CY Dumpster	\$72.88	\$198.65	\$244.08	\$259.95	\$298.96	\$313.90	\$75.36
3 CY Dumpster	\$79.32	\$147.00	\$237.62	\$295.41	\$396.04	\$475.24	\$81.44
4 CY Dumpster	\$95.48	\$171.97	\$257.95	\$343.95	\$429.92	\$515.90	\$85.08
6 CY Dumpster	\$99.53	\$162.72	\$274.98	\$345.47	\$431.81	\$518.20	\$100.89
8 CY Dumpster	\$105.99	\$183.80	\$274.89	\$357.75	\$447.18	\$536.62	\$115.48
10 CY Dumpster	N/A	N/A	N/A	N/A	N/A	N/A	\$128.84

**Additional Fee Commercial Services**

Description of Service	Fee
Lock	\$13.38 per month
Set of casters	\$24.31 per month
Opening and closing of enclosures	No charge
Excessive maintenance	\$121.55 per swap more than 1x per year

1. These container sizes are exclusive only for Commercial Service Units. Temporary service for Residential Service Units is a non-exclusive service. Proposed fees for non-exclusive service represent the maximum allowable fee, but the Contractor may choose to offer the service for a lower fee.

**Temporary Refuse Roll-off Services (Maximum allowable fee)**

Roll-off Type and Size	Container Rental Fee <sup>1</sup> (Per Day)	Initial Delivery Fee (One-time)	Collection Fee (Per Pull)	Disposal Fee <sup>2</sup> (Per Ton)	Processing Fee <sup>3</sup> (Per Ton)
10 CY Roll-off	\$5.78	\$157.69	\$379.64	\$28.23	\$0.00
15 CY Roll-off	\$5.78	\$157.69	\$379.64	\$28.23	\$0.00
20 CY Roll-off	\$5.78	\$157.69	\$379.64	\$28.23	\$0.00
30 CY Roll-off	\$5.78	\$157.69	\$379.64	\$28.23	\$0.00
40 CY Roll-off	\$5.78	\$157.69	\$379.64	\$28.23	\$0.00

1. Container rental fee does not apply for the first 14 calendar days of service.
2. Based on actual tonnage hauled to the disposal location. Tonnage must be reported to the customer as part of the customer billing.
3. Recycling services are provided on a non-exclusive basis. Processing fee is based on actual tonnage hauled to the processing location. Tonnage must be reported to the customer as part of the customer billing.  
\*Could be subject to fees associated with contamination of materials.

**Permanent Refuse Roll-off Services (Maximum Allowable Fees)**

Roll-off Type and Size	Container Rental Fee (Per Month)	Compactor Rental Fee <sup>1</sup> (Per Month)	Collection Fee (Per Pull)	Disposal Fee <sup>2</sup> (Per Ton)	Processing Fee <sup>3</sup> (Per Ton)
10 CY Roll-off	\$121.55	N/A	\$379.64	\$28.23	\$0.00
15 CY Roll-off	\$121.55	N/A	\$379.64	\$28.23	\$0.00
20 CY Roll-off	\$121.55	N/A	\$379.64	\$28.23	\$0.00
30 CY Roll-off	\$121.55	N/A	\$379.64	\$28.23	\$0.00
40 CY Roll-off	\$121.55	N/A	\$379.64	\$28.23	\$0.00
25 CY Roll-off Compactor	N/A	\$364.65	\$379.64	\$28.23	\$0.00
30 CY Roll-off Compactor	N/A	\$395.04	\$379.64	\$28.23	\$0.00
40 CY Roll-off Compactor	N/A	\$425.42	\$379.64	\$28.23	\$0.00

1. Does not apply if the customer owns the compactor unit.
2. Based on actual tonnage hauled to the disposal location. Tonnage must be reported to the customer as part of the customer bill.
3. Recycling services are provided on a non-exclusive basis. Processing fee is based on actual tonnage hauled to the processing location.

Tonnage must be reported to the customer as part of the customer's billing.

- Container Rental fee only applies if the customer has less than a minimum of 2 pulls per month.
- Processing Fee may be subject to charges relating to contamination.