

**FRANCHISE AGREEMENT BETWEEN THE CITY OF EUSTIS
AND WASTE MANAGEMENT INC. OF FLORIDA**

This Franchise Agreement (“Agreement”) is made and entered into this 6th day of February, 2025, between the City of Eustis, Florida (“City”), a Florida municipal corporation, and Waste Management Inc. of Florida (“Contractor”), a Florida corporation, which is authorized to do business in the State of Florida.

RECITALS

WHEREAS, the City issued RFP No. 011-24 for the Collection of Solid Waste Services within the City’s corporate boundaries; and

WHEREAS, Contractor submitted a proposal in response to the City’s RFP; and

WHEREAS, the City has relied upon Contractor’s proposal and its experience in previously providing Collection of Solid Waste Services to the City; and

WHEREAS, after evaluating all proposals that were submitted in response to the City’s RFP, the City Commission finds that Contractor has submitted the best proposal; and

WHEREAS, the City wishes to use and Contractor wishes to provide the City with Collection of Solid Waste Services, subject to the terms and conditions contained in this Agreement; and

WHEREAS, the City Commission finds that granting an exclusive franchise to Contractor subject to the terms and conditions contained in this Agreement, is in the best interests of the public and will protect public health, safety and welfare; and

WHEREAS, the City Commission finds that the franchise granted herein properly balances the City Commission’s desire to provide excellent, environmentally-sound Solid Waste Collection Services to the City’s residents and the City Commission’s desire to minimize the cost of such services.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Franchisee agree as follows:

**SECTION 1
DEFINITIONS**

For purposes of this Agreement, the definitions contained herein shall apply unless otherwise specifically stated. If a word or phrase is not defined in this section, the definition of such word or phrase as contained in the City Code, shall control. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

Agreement. This Franchise agreement between the City and Franchisee, together with all exhibits and other documents that are expressly incorporated by reference.

Acceptable Waste. Residential and Commercial Solid Waste which may be disposed of at City designated disposal facilities.

Bags. Non-dissolvable plastic trash bags.

Bed and Breakfast. A property designated by the City as a Bed and Breakfast. The use of such property shall be classified for collection and fee the same as such property is classified by the City for water and sewerage purposes.

Biohazardous, Biological or Biomedical Waste. The term is defined as set forth in the Florida Administrative Code, as amended from time to time.

Bulk Items. Those items that may require special handling and management including but not limited to, White Goods; any materials resulting from home improvements which are properly packaged for collection; and all household goods and furniture. Bulk Items must be usual to housekeeping and must be generated by the customer at the Dwelling Unit, wherein the Bulk Item is collected. Bulk Items do not include items herein defined as Exempt Waste.

Bundle. A package containing Yard Trash or Rubbish only, weighing not over fifty (50) pounds and not exceeding four (4) feet in its longest dimensions or six (6) inches in diameter; tied with cord or rope, or otherwise secured, in a manner to permit lifting and carrying of the full weight thereof without spillage or neatly stacked (in the case of limbs and palm fronds) so that such Yard Trash may be easily removed without further sorting.

Business. All retail, professional, wholesale, institutional or industrial facilities and any other commercial enterprises, including Hotels or Motels and licensed recreational vehicle parks, offering goods or services to the public.

Can Residential Solid Waste Collection Service. Collection of Residential Solid Waste from On-Service Dwelling Units in the Service Area whose Garbage is collected by means of a Garbage Can.

City Commission. The City Commission of the City of Eustis, Florida.

City Designated Facility. A Solid Waste Disposal Facility chosen by the City's Contract Administrator. Such facility may change from time to time.

Collection. The process whereby Residential or Commercial Solid Waste are removed and transported to a Designated Facility.

Commercial Property. All Businesses, including Hotels and Motels and licensed recreational vehicle parks in the Service Area.

Commercial Recovered Materials. Any metal, paper, glass, plastic, textile, or rubber materials that have a known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the Solid Waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not Solid Waste.

Commercial Solid Waste. Any Garbage, Rubbish or Yard Trash that is usual to the normal operation of stores, offices, Businesses or Commercial Properties. Commercial Solid Waste must be generated by the customer at the Commercial Property where the Commercial Solid Waste is Collected and does not include items defined herein as Bulk Items, Contractor-generated Waste, Exempt Waste or Commercial Recovered Materials.

Commercial Solid Waste Collection Service. Collection of Commercial Solid Waste from Commercial Properties in the Service Area. Such service shall include Containers, Compactors or Garbage Cans and shall include Roll-off Containers when such Containers are used for the Collection of Commercial Solid Waste but shall not include Roll-off Containers used for Roll-off Collection Services.

Compactor. Any Container which has a compaction mechanism, whether stationary or mobile.

Construction and Demolition Debris. This term shall be as set forth in the Florida Administrative Code, as amended from time to time.

Contractor-generated Waste. Rubbish, Yard Trash and/or Bulk Items generated by builders, building Contractors, privately employed tree trimmers and tree surgeons, landscape services and lawn or yard maintenance service and nurseries.

Container. Any Container, with a Capacity of one (1) cubic yard up to and including ten (10) cubic yards, designed or intended to be mechanically dumped into a loader-packer type garbage truck.

Containerized Residential Solid Waste Collection Service. The Collection of Residential Solid Waste from On-Service Dwelling Units in the Service Area whose Garbage is collected by means of a central or shared Container and not by means of a Garbage Can. This is a multifamily dumpster service.

Contractor. That person or entity that has obtained from the City a franchise or Agreement to provide the services set forth herein.

Contract Administrator. That person, or his designee, designated by the City to administer and monitor the provisions of this Agreement.

County. This term shall mean Lake County, Florida.

Curbside Residential Recycling Collection Service. INTENTIONALLY OMITTED.

Designated Facility. The place or places specifically designated by the City for the disposal or processing of Residential Solid Waste or Commercial Solid Waste.

Dwelling Unit. Any type of structure or building unit; intended for, or capable of being utilized for, residential living, other than those structures or building units included within the definitions of Commercial Property herein.

Exempt Waste. Biohazardous, Biomedical or Biological Waste, Contractor-generated Waste, Special Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid Batteries (except household batteries), used oil, Yard Trash which is four (4) feet or more in its longest length and/or six (6) inches or more in diameter and/or weighs more than fifty (50) pounds, any materials resulting from home improvements which are not properly packaged for collection, and/or any Residential or Commercial Solid Waste which is not legally permitted for disposal at the City's Designated Facility.

Garbage. All putrescible waste which generally includes, but is not limited to, kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with, or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities.

Garbage Can. Any commonly available light gauge steel, plastic or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handle(s) including waterproof plastic bags of heavy mill construction which can be safely and securely closed. A Garbage Can including properly packaged Yard Trash shall not exceed thirty-two (32) gallons in Capacity nor fifty (50) pounds in weight.

Gross Revenue. All Contractor revenue billed to the City for residential services, and all Contractor billed revenue for commercial and roll off services, including collection rates, disposal and franchise fees and other ancillary fees.

Hazardous Waste. Any Solid Waste which is defined as a Hazardous Waste by the State of Florida Department of Environmental Protection in the State of Florida Administrative Code, or by any future legislative action or, by federal, state or local law.

Hotel or Motel. A structure or building unit(s) capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven (7) days or less. To meet this definition, the Hotel or Motel must be licensed to operate as such. "Transient" has the meaning as defined in Chapter 509, Florida Statutes, or its successor law.

On-Service Dwelling Unit. A Dwelling Unit located within the Service Area subscribing to Residential Solid Waste Collection Service which is not included within the definition of Excluded Property.

Recycling Container. INTENTIONALLY OMITTED.

Residential Solid Waste Disposal Fee. The fee charged for Solid Waste Disposal.

Residential Recyclable Materials. INTENTIONALLY OMITTED.

Residential Solid Waste. Any Garbage, Rubbish, Yard Trash or Bulk Item that is usual to housekeeping. Residential Solid Waste must be generated by the customer at the On-Service Dwelling Unit wherein the Residential Solid Waste is Collected and does not include items defined herein as Contractor-generated Waste or Exempt Waste.

Residential Solid Waste Collection Service. Cart Residential Solid Waste Collection Service and Containerized Residential Solid Waste Collection Service.

Roll-off Containers. Non-compactor Containerized Residential or Commercial Solid Waste storage and Collection equipment or device with a Capacity of ten (10) cubic yards or greater which is normally loaded onto a motor vehicle and transported to a disposal facility for dumping.

Roll-off Collection Service. The Collection and disposal of Roll-off Containers containing materials, including but not limited to, building or demolition contractor-generated Waste or Special Waste, which are not herein defined as Residential Waste or Commercial Solid Waste.

Rubbish. All refuse, accumulation of paper, excelsior, rags, wooden or paper boxes and containers, sweep-ups and all other accumulations of a nature other than Garbage, which are usual to housekeeping and/or to the operation of stores, offices, Businesses and other Commercial Property; also, any bottles, cans or other containers not containing Garbage. Rubbish does not include items herein defined as Exempt Waste.

Service Area. The geographical area of the municipal boundaries of the City of Eustis served by Contractor pursuant to this Agreement, as may be amended during the term of this Agreement subject to pre-existing contracts, areas annexed into City, or pursuant to law.

Sludge. The accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, pipes, or similar disposal appurtenances or any other such waste having similar characteristics or effects.

Special Waste. Tires, Construction and Demolition Debris, Land Clearing Debris, Hazardous Waste, Hazardous Material or any other unusual material for which the City collects a separate disposal charge.

Yard Trash. Vegetative matter resulting from routine and periodic yard and landscaping maintenance which is less than four (4) feet in length or more in its longest dimension and/or less than six (6) inches or more in diameter and/or weighs less than fifty (50) pounds. Yard Trash does not include items herein defined as Exempt Waste.

White Goods. Discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White goods must be generated by the customer at the On-Service Dwelling Unit wherein the White Goods are Collected.

Rollout Cart. A 64-gallon or 96-gallon Rollout Cart made of heavy plastic with wheels and a hinged top capable of being collected in an automated or semi-automated manner. Residential Solid Waste collection shall be accomplished with a 64-gallon or 96-gallon cart.

Rollout Cart Residential Solid Waste Collection Service. The Collection of Residential Solid Waste from On-Service Dwelling Units in the Service Area whose Garbage is collected by means of a Rollout Cart.

SECTION 2 TERM OF THE AGREEMENT

The initial term of this Agreement shall be for a period of five (5) years, commencing March 1, 2025, and ending on February 28, 2030. The parties have the option to extend this Agreement for up to three (3) additional five-year terms. Both parties must agree, in writing, to any subsequent extension.

SECTION 3 CONTRACTOR'S FRANCHISE

3.1 Exclusive Franchise Granted. Contractor is granted an exclusive franchise to provide Residential and Commercial Solid Waste Collection Service within the Service Area. Roll-off Collection Service shall not be exclusive to Contractor for Construction and Demolition Debris but shall be exclusive to Contractor for garbage and other waste materials not deemed to be Construction and Demolition Debris. Exempt Waste Collection and Commercial Recovered Material Collection services shall not be exclusive to Contractor.

3.2 Service Provided. Contractor shall provide Residential and Commercial Solid Waste Collection Service in the Service Area.

3.3 Manner of Collection. Contractor shall provide Residential and Commercial Solid Waste Collection Services with as little disturbance as possible and shall leave any Garbage Can or Container at the same point it was collected. Where Container service is provided, Contractor shall replace the Container to its original or agreed upon position.

3.4 Carts Supplied by Contractor. Contractor has previously supplied one 64-gallon and one 96-gallon Rollout Cart to each On-Service Dwelling Unit, either or both of which may be utilized for Cart Residential Solid Waste Collection Service. All carts shall remain Contractor's property. Contractor shall maintain the Rollout Carts and provide replacements for carts damaged by Contractor or those worn by normal wear and tear. Lost, stolen or otherwise damaged carts will be replaced by Contractor at no cost to the resident.

**SECTION 4
WASTE COLLECTION SERVICE AREA**

4.1 Description of Service Area. The Service Area includes all the land within the incorporated areas of the City.

4.2 Adjustments to Service Area. The boundaries of the Service Area may be adjusted if lands are added or removed from the City pursuant to annexation, interlocal agreement or similar change. In such cases, the rights of Contractor may be revised in accordance with Section 171.062, Florida Statutes, or other applicable laws.

The annexation of lands after the Effective Date of this Agreement may require Contractor to provide collection services to the annexed property. Contractor shall provide its services to the annexed property for the rates established in this Agreement unless otherwise agreed to in writing by both parties. The City shall promptly notify Contractor of any changes to the Service Area which require Contractor's services.

**SECTION 5
RESIDENTIAL COLLECTION SERVICE**

5.1 Residential Solid Waste Collection Service. Contractor shall provide Rollout Cart Residential Solid Waste Collection Service.

5.2 Frequency of Solid Waste Collection. Residential Garbage, Rubbish and Yard Trash Collection shall be collected once per week. In the event a regularly scheduled day falls on a holiday, the Collection shall occur on the next scheduled workday.

5.3 Frequency of Residential Bulk Collection. Residential Bulk items shall be set out and collected within seventy-two (72) hours from the day the customer requests a bulk pick-up service (excluding Saturdays, Sundays and holidays).

5.4 Conditions for Solid Waste Collection. All Residential Solid Waste shall be properly containerized in Contractor provided Rollout Carts, Bundled or otherwise prepared for Collection. Should there be more Residential Garbage than can be safely contained in the Rollout Cart, customers may use additional approved containers to place the excess Residential Garbage for collection and it must be placed next to the Rollout Cart provided.

5.5 Cart Accessibility for Solid Waste Collection. All Residential Solid Waste shall be placed within three (3) feet of the curb, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Contractor and customer, that will provide safe and efficient accessibility to Contractor's collection crew and vehicle. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the pickup location. For Rollout Carts, the cart shall be placed in such an orientation that the automated or semi-automated collection vehicle may access the cart and collect the waste therein in a safe and efficient manner.

5.6 Off-Street Service. Contractor shall provide Off-Street Residential Solid Waste Collection Service as follows:

- a. **Disabled Persons.** Notwithstanding any term or definition set forth in this Agreement, Off-Street Residential Solid Waste Collection from a Residential On-Service Dwelling Unit shall be required if all adult occupants residing therein are disabled and if a request for Off-Street Service has been made to, and approved by, the Contract Administrator in the manner required by City. The Contract Administrator shall notify Contractor in writing of any customers requiring Off-Street Service. No additional monies shall be due to Contractor for the provision of Off-Street Service to disabled customers.
- b. **Non-Disabled Persons.** Off-Street Residential Solid Waste Collection service is available to non-disabled persons, for an additional fee as provided in the Exhibits.

SECTION 6 MULTIFAMILY CONTAINERIZED COLLECTION SERVICE

6.1 Containerized Residential Solid Waste Collection Service. Contractor shall provide Containerized Residential Solid Waste Collection Service to those Dwelling Units subscribed to services which utilize Containers for the accumulation and storage of Residential Solid Waste. Containers, when requested by customer, shall be provided by Contractor within forty-eight (48) hours from when the request is made (excluding Sundays and holidays).

6.2 Conditions and Frequency of Solid Waste Collection. All Residential Solid Waste shall be properly Containerized by the customer. Residential Garbage, Rubbish and Yard Trash shall be Collected as deemed necessary and as determined between Contractor and the customer, but such Collection service shall be received no less than one (1) time per week with no exception for holidays as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between Contractor and customer as long as the minimum frequency requirement is met.

Container size and Collection frequency (above the minimum) shall be determined between Contractor and customer. However, size and frequency shall be sufficient to provide that no Residential Garbage, Rubbish, Yard Trash or Bulk Items (excluding White Goods) need to be placed outside the Container.

6.3 Container Accessibility for Solid Waste Collection. All Containers shall be readily accessible to Contractor's crew and vehicles and not blocked.

6.4 Provision of Containers for Collection Service. Contractor shall provide Containers at the approved rates; however, customers may own their Container provided that the customer shall be completely responsible for its proper maintenance and provided that such Container is of a type that can be serviced by Contractor's equipment.

6.5 Collection Container Damage. Any Container Contractor damages shall be repaired or replaced, at Contractor's expense and at no cost or inconvenience to the customer, within forty-eight (48) hours, excluding Sundays and holidays. Any Contractor-owned Container damaged by the customer shall be repaired or replaced by Contractor at the customer's expense and at no cost to Contractor, within forty-eight (48) hours, excluding Sundays and holidays.

SECTION 7 COMMERCIAL COLLECTION SERVICE

7.1 Commercial Solid Waste Collection Service. Contractor shall Collect and dispose of all Commercial Solid Waste generated by customers subscribing to Commercial Solid Waste Collection Service. It is the intent of the City that all Commercial Solid Waste generated in the Service Area be Collected by Contractor.

7.2 Frequency of Solid Waste Collection. Commercial Solid Waste Collection Service shall be provided as deemed necessary and as determined between Contractor and the customer, but such service shall be received no less than one (1) time per week with no exception for holidays (this does not apply to compactor service) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between Contractor and the customer as long as the minimum frequency requirement is met.

7.3 Container Service Option. Service may be provided by Container at the option of the customer. Container size and Collection frequency (above the minimum) shall be determined between Contractor and customer. However, size and frequency shall be sufficient to provide that no Commercial Solid Waste need be placed outside the Container.

7.4 Accessibility for Solid Waste Collection. All Containers, Compactors, or Garbage Cans shall be readily accessible to Contractor's crew and vehicles and not blocked.

7.5 Provision of Containers for Collection Service. Contractor shall provide Containers at the approved rates; however, customers may own their Container provided that the customer shall be completely responsible for its proper maintenance and provided that such Container is of a type that can be serviced by Contractor's equipment. Contractor shall provide Containers requested by customers within forty-eight (48) hours of the request (excluding Saturday, Sunday and Holidays).

7.6 Collection Container Damage. Any Container Contractor damages shall be repaired or replaced, at Contractor's expense and at no cost or inconvenience to the customer, within forty-eight (48) hours, excluding Sundays and holidays. Any Contractor-owned Container damaged by the customer shall be repaired or replaced by Contractor at the customer's expense and at no cost to Contractor within forty-eight (48) hours from when the request is made (excluding Sundays and holidays).

7.7 Compactors. Contractor may provide Compactors; however, customers may own or lease Compactors provided that the customer shall be completely responsible for its proper maintenance and provided that such Compactor is of a type that can be serviced by Contractor's equipment. Compactor collection frequency shall be sufficient to contain the Commercial Solid Waste without spillage, or unsanitary or unsafe conditions.

**SECTION 8
HOURS AND DAYS FOR COLLECTION SERVICE**

8.1 Can Residential Solid Waste Collection Service. Can Residential Solid Waste Collection Service be provided between the hours of 6:00 a.m. and 8:00 p.m., Monday through Friday, excluding Saturdays, Sundays and holidays. Collection hours and/or days may be extended due to extraordinary circumstances with the Contract Administrator's prior written consent.

8.2 Multi-Family Containerized Residential Solid Waste Collection Service. Containerized Residential Solid Waste Collection Service shall be provided between the hours of 6:00 a.m. and 8:00 p.m. Monday through Saturday, excluding Sundays and holidays. Collection hours and/or days may be extended due to extraordinary circumstances with the Contract Administrator's prior written consent.

8.3 Residential Adjacent Commercial Solid Waste Collection Service. Contractor shall provide collection services between the hours of 6:00 a.m. and 8:00 p.m., Monday through Friday, excluding Saturdays, Sundays and holidays. Collection hours and/or days may be extended due to extraordinary circumstances with the Contract Administrator's prior written consent.

8.4 Non-Residential Adjacent Commercial Solid Waste Collection Service. Contractor shall provide collection services between the hours of 4:00 a.m. and 8:00 p.m., Monday through Saturday, excluding Sundays and holidays. Collection hours and/or days may be extended due to extraordinary circumstances with the Contract Administrator's prior written consent.

**SECTION 9
HOLIDAYS**

Contractor shall not be required to provide Residential or Commercial Solid Waste Collection Services or maintain office hours on Thanksgiving, Christmas, New Year's Day, Memorial Day, the 4th of July, and Labor Day. Residential Solid Waste (Garbage, Rubbish, or Yard Waste) which is scheduled for pick up, but which is not collected on the holiday shall be collected on the next scheduled workday. Collection service regularly scheduled for that workday will be serviced the following workday through the end of the week. Example: if a holiday falls on a Wednesday, regular Wednesday collection will be performed on Thursday, regular Thursday collection will be performed on Friday, and regular Friday collection will be performed on Saturday. It shall be the responsibility of Contractor to notify the City of alternative holiday collection days.

**SECTION 10
COLLECTION SERVICE SCHEDULES AND ROUTES**

Contractor shall provide the Contract Administrator schedules for all Residential and Commercial Solid Waste Collection Service routes and shall always keep such information current. If any changes to the Collection route days occur, the Contract Administrator shall be immediately notified in writing. In the event of a permanent change in routes or schedules that will alter the day of pick-up, at least two (2) weeks prior to the schedule change, Contractor shall immediately notify the affected customer(s), in writing or by other manner approved by the Contract Administrator.

SECTION 11

RESIDENTIAL RECYCLING COLLECTION SERVICE NOT PART OF AGREEMENT

Curbside Residential Recycling Collection Service is not provided under this Agreement. However, should the City desire to include this service and Contractor can provide such service, the parties agree to participate in good faith negotiations to amend this Agreement for the inclusion of such service.

SECTION 12

RATES FOR CONTRACTOR'S SERVICES

12.1 Can Residential Solid Waste Collection Rates. The Rates that shall be charged for Can Residential Solid Waste Collection and any additional charges under this Agreement are listed in the Exhibits.

12.2 Containerized Residential Solid Waste Collection Rates. The Rates that shall be charged for Containerized Residential Solid Waste Collection under this Agreement are listed in the Exhibits.

12.3 Can Commercial Solid Waste Collection Rates. The Rates that shall be charged for Can Commercial Solid Waste Collection under this Agreement are listed in the Exhibits.

12.4 Containerized Commercial Solid Waste Collection Rates. The Rates that shall be charged for Containerized Commercial Solid Waste Collection and any additional charges under this Agreement are listed in the Exhibits.

12.5 Annual Adjustments to Collection Component of Rates. Subject to compliance with all provisions in this Section, each year Contractor shall receive an annual adjustment in the collection and other non-disposal portions of Residential and Commercial Solid Waste Collection Rates as set forth in the attached Exhibits.

Effective January 1, 2026, and each January 1 thereafter during the term of this Agreement, the Rates shall be adjusted by the percentage change in the Waste & Trash Collection CPI (BLS CUSR0000SEHG02) (referred to as the "Garbage & Trash Index") from the base month, which shall be September of the prior year, through September of the current year.

On or before October 31 of each year during the term of this Agreement, Contractor shall deliver to the City a printout of the September Garbage & Trash Index with new proposed Rate Exhibits. Should the September Garbage & Trash Index be unavailable by October 15, the parties agree that Contractor may utilize the August Garbage & Trash Index for submission to the City. If Contractor fails to submit the requisite information due to extraordinary circumstances as demonstrated by Contractor, the City may still consider the request for the annual Garbage & Trash CPI rate adjustment if it so chooses.

12.6 Adjustments to Disposal Charges. The City shall pay for any increase in the rate charged by the applicable disposal facility. Contractor shall provide City with documentation and advance notice, when possible, of such increase. The parties shall adjust the Disposal charges in the Exhibits accordingly.

12.7 Residential Disposal. The Waste collected in connection with the Residential Solid Waste Collection Service shall be brought for disposal to the Reworld Waste-To-Energy Plant. Should the Reworld Waste-To-Energy Plant become unavailable for a period of 90 days or more, Contractor shall notify the City as soon as reasonably possible. During the time Reworld Waste-To-Energy Plant is unavailable, Contractor shall transport the collected matter to its Wildwood Transfer Station at the Disposal rate currently in effect under the terms of this Agreement. During the 90-day period, the parties agree to negotiate, in good faith, the terms of this Agreement. Failure to reach an agreement 90 days from the date Contractor notified the City in writing of this occurrence, or by a date mutually agreed to, in writing, by the parties, the Agreement may be terminated by either party.

12.8 Rate Adjustments for Changes in Law. State Sales or Service Tax. In the event the State of Florida requires Contractor to begin paying sales or service tax on Residential or Commercial Solid Waste Collection Services, Contractor shall be allowed to pass on to the customer the tax to the extent of actual sales or service taxes paid. The City shall approve the pass on charge within sixty (60) days the Contract Administrator receives the request and all supporting information, or the date the sales or service tax is implemented, whichever is later.

12.9 Other Costs. Contractor may petition the City at any time for an additional rate adjustment on the basis of extraordinary and unusual changes in the costs of operation that could not reasonably be foreseen by a prudent operator and which, by all reasonable expectations, will continue. Contractor's request shall contain substantial proof and justification to support the need for the rate adjustment. The City may request from Contractor such further information as may be reasonably necessary in making its determination. The City shall approve or deny the request, in whole or in part, within sixty (60) days of receipt of the request and all other additional information required by the City. In the event the request is approved the adjustment will be effective when such costs can reasonably be passed on to customers.

SECTION 13 SERVICE RATES AND CHARGES COLLECTION

13.1 Residential Service Charges. The City shall be responsible for the billing of all collection and disposal fees for Residential Solid Waste Collection Services (excluding Multifamily Containerized Residential Collection Service which shall be billed by Contractor).

13.2 Commercial and Containerized Residential Service Charges. Contractor shall be responsible for the billing of all collection and disposal fees for all Commercial Solid Waste Collection Service and for Containerized Residential Collection Service.

13.2.1 Level, Type and Disclosure of Rates. Prior to providing Commercial Solid Waste Collection Services, Contractor and the customer shall agree as to the level and type of service to be provided. The rate shall be the rates prescribed by the City and as set forth in the Exhibits.

13.3 Additional Services. At the customer's request Contractor may provide additional services for an additional fee as outlined in the Exhibits. Arrangements for billing and collection for such additional services shall be solely between Contractor and the customer.

SECTION 14 FRANCHISE FEE

14.1 Franchise Fee. A franchise fee equal to seven (7%) percent of the gross residential revenues and ten (10%) percent of gross commercial/roll off revenues collected from all customers in the Service Area shall be retained by or paid to the City monthly. The franchise fee shall be a separate line on each invoice.

14.2 Payment Acceptance Non-Waiver. Acceptance by the City of Contractor's payment of the franchise fee is not a waiver of the City's right to audit Contractor's records to confirm accuracy of said payment.

14.3 Fee Collection Reporting and Error Remedy. The City shall be entitled to quarterly reports to be delivered to the Contract Administrator by Contractor showing all necessary data to ascertain franchisee fee payment accuracy. Should underpayment be discovered within one year of the City's receipt of said quarterly report, the Contract Administrator shall notify Contractor in writing and allow Contractor a period of thirty (30) days to review the error and remit payment to the City for any outstanding amount. This period shall be known as a cure period and may be extended by the parties, in writing, if mutually agreeable. Failure to rectify the underpayment may result in Contractor being found in breach of this Agreement warranting termination and interest at the highest rate allowable by law being charged to Contractor from the date the error occurred.

SECTION 15 PAYMENTS

No later than the fifteenth (15th) day following the month this Agreement becomes effective, and each month thereafter during the term of this Agreement, the City will prepare and deliver to Contractor and Contractor shall prepare and deliver to City a Monthly Payment Form as set forth in the Exhibits. The amount due will be payable no later than the tenth (10th) day of the following month.

SECTION 16 CONTRACTOR SERVICES FOR THE CITY

16.1 Community Cleanups. Contractor agrees to perform at least four (4) community cleanups within the Service Area each calendar year. The times and locations of the community cleanup shall be selected by the Contract Administrator after coordinating with Contractor. Contractor shall provide appropriate containers during each community cleanup at no cost to the City. During the community cleanup, Contractor shall collect only Garbage, Trash, Yard Trash, and Bulk Trash. Contractor shall transport these materials for disposal at no cost to the City.

16.2 Collection for City-Sponsored Events. Contractor shall provide collection services at designated City facilities at no cost to the City, at least six (6) times per calendar year. The times and locations of the City events shall be selected by the Contract Administrator after coordinating with Contractor.

16.3 Yellow Recycling Containers. Contractor agrees to continue to provide yellow recycling containers within the City's commercial area, as designated by the City, for use by all residents wishing to drop recycling. Contractor shall dispose of the recycling at no cost to the City.

16.4 Tire Disposal. Contractor agrees to provide a Roll-off container to the City for used tires collected by City Public Works. As needed, Contractor will transport the Roll-off container and dispose tires at Global Tire Recycling in Wildwood Florida at no cost to the City.

SECTION 17 PUBLIC NOTICES AND EDUCATIONAL SERVICES

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

SECTION 18 SPILLAGE AND LITTER

Contractor shall not litter premises in the process of making Collections but shall not be required to Collect any Residential Solid Waste, or Commercial Solid Waste that have not been either placed or prepared in any manner as set forth herein. Contractor shall transport all Residential Solid Waste or Commercial Solid Waste in such a manner as to prevent the spilling or blowing from Contractor's vehicle. Contractor shall promptly clean up all spillage it causes.

SECTION 19 CONTRACTOR'S PERSONNEL

Contractor shall assign qualified persons to be in charge of the operations within the Service Area and shall provide the names of those persons in writing to the Contract Administrator. Contractor shall employ and assign qualified personnel to perform all services set forth herein. Contractor shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position. The City may request the transfer of any employee of Contractor who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties. Each driver of a Collection vehicle shall at all times carry a valid Florida commercial driver's license and all other required licenses for the type of vehicle that is being operated.

SECTION 20 COLLECTION EQUIPMENT

Contractor shall always have on hand, in good working order, Solid Waste Collection equipment as shall permit Contractor to adequately and efficiently perform the duties specified in this Agreement. Solid Waste Collection equipment shall be of the enclosed, loader-packer type. All equipment shall always be kept in good repair and appearance and in a sanitary, clean condition. Contractor shall always have available to it reserve equipment which can be put into service and operation within two (2) hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by Contractor to perform the contractual duties. Contractor's name, office telephone number and other identifying symbols as may be prescribed by the City shall be properly displayed on all collection vehicles.

SECTION 21 EXEMPT WASTE

Contractor shall not be required to collect and dispose of Exempt Waste but may offer such services. Collection and disposal of Exempt Waste is not required under this Agreement, but if provided by Contractor, it shall be in strict compliance with all federal, state and local laws and regulations.

SECTION 22 OFFICE

Contractor shall maintain an office where complaints can be received, and which provides toll-free telephone access for customers living in Lake County. Such office shall be equipped with sufficient telephones and shall have responsible persons in charge during Collection hours and shall be open during normal business hours, 8:00 a.m. to 5:00 p.m. on those days that Contractor provides Residential Solid Waste Collection Services. Contractor shall provide either a telephone answering service or mechanical device to receive customer inquiries during those times when the office is closed. Contractor shall provide the Contract Administrator with an emergency phone number where it can be reached at all times.

SECTION 23 SERVICE INQUIRIES AND COMPLAINTS

23.1 Customers Billed by the City. All customers billed directly by the City for Solid Waste Collection shall contact the City's Utility Department Customer Service for all service-related inquiries and complaints.

23.2 Customers Billed by Contractor. All customers billed directly by Contractor for Solid Waste Collection and additional services shall contact Contractor for all service-related inquiries and complaints. Contractor shall provide written notice in a format approved by City to all customers, served by Contractor, about complaint procedures, rules and regulations including office hours, telephone number and mailing address.

23.3 Contractor Complaint Handling. Contractor shall handle all service complaints in a prompt and efficient manner. Complaints received before 12:00 p.m. (noon) of a working day shall be addressed and resolution attempted that day; complaints received after 12:00 p.m. shall be addressed and resolution attempted no later than the next working day. When the next working day is a Sunday, the complaint shall be addressed and resolution attempted on Monday. When the next working day is a holiday, the complaint shall be addressed and resolution attempted on the next working day. In the case of a dispute between a Contractor and a customer, the matter will be reviewed and a decision made by the Contract Administrator.

23.4 Contractor Complaint Records Retention. Contractor will maintain a written record of all inquiries and complaints in a manner prescribed by the City. The following information will be provided for each inquiry or complaint: Date; time of call; person calling; address of person calling; telephone number of person calling; reason for inquiry or complaint; and action taken by Contractor. Contractor will, by the tenth (10th) day of each month, file with the Contract Administrator a copy of the completed forms for all inquiries and complaints received by Contractor during the preceding month.

23.5 Contract Complaint Reporting. Contractor shall provide the Contract Administrator with a report on the disposition of any unresolved complaint involving a claim of damage to private or public property as a result of the actions of Contractor's employees, agents or subcontractors.

23.6 Immediate Notification of Certain Complaints. Contractor shall immediately notify the Contract Administrator if Contractor receives a complaint involving a claim of personal injury, death, or property damage resulting from Contractor's actions in the City. Contractor shall provide the Contract Administrator with a written report about any such matters within three (3) calendar days after Contractor receives the complaint.

SECTION 24 QUALITY OF PERFORMANCE OF CONTRACTOR

It is the intent of the City to ensure that Contractor provides quality Collection services. To this end, all complaints shall be promptly resolved pursuant to the provisions of this Agreement. In the event legitimate complaints, as determined by the Contract Administrator, exceed two (2%) percent of Contractor's total customers within its Residential Service Area during any applicable fiscal year, or one-half of one percent (.5%) of Contractor's total customers within its Residential Service Area during any one calendar month, the Contract Administrator may levy administrative charges of \$100.00 per incident for those actions related to service as listed below. There shall be \$25.00 per occurrence per day administrative charge assessed against Contractor for failure to appropriately respond to a failure to pick up allegation within twenty-four (24) hours of verbal notification by the City or the consumer of the failure to pick up.

1. Failure to clean up spillage caused by Contractor.
2. Failure to replace damaged Containers in the required time-period (forty-eight (48) hours except for Sundays or holidays).
3. Failure to replace Containers in designated location, crossing planted areas, or similar violations.
4. Failure to repair damage to customer property.

The Contract Administrator may also levy administrative charges for all other infractions of this Agreement in an amount of \$100.00 per day per incident without regard to the percentage of customer complaints including:

1. Failure to maintain equipment in a clean, safe and sanitary manner.
2. Failure to have vehicle operators properly licensed.
3. Failure to maintain office hours as required by this Agreement.
4. Failure to maintain and/or submit to the City all documents and reports required under the provisions of this Agreement.
5. Failure to properly cover materials in Collection vehicles.
6. Failure to display Contractor's name and phone number on Collection vehicles.
7. Failure to comply with the hours of operation as required by this Agreement.

The administrative charge for failure or neglect to complete each route on the regular scheduled pick-up day shall be \$1,000.00 per route for each day the route is not completed. The administrative charge may be waived at the sole discretion of the Contract Administrator in

the event of unusual or extraordinary circumstances. Changing route days without proper notification will result in an administrative charge of \$1,000.00 per incident.

Failure to deliver any Residential or Commercial Solid Waste to the Designated Facility will result in the following administrative charges:

- First Offense - \$1,000.00 administrative charge.
- Second Offense - \$2,500.00 administrative charge.
- Third Offense – termination of Agreement.

For the purpose of this section, the Contract Administrator may deduct any administrative charges from payments due or to become due to Contractor. The Contract Administrator may assess administrative charges, pursuant to this Section, on a monthly basis in connection with this Agreement and shall, at the end of each month during the term of this Agreement, notify Contractor in writing of the administrative charges assessed and the basis for each assessment. Contractor shall pay the assessment within thirty (30) days of the date of the notice. In the event Contractor wishes to contest such assessment it shall, within five (5) days after receiving such monthly notice, request in writing that the Contract Administrator request a hearing date before the City Commission to present its defense to such assessment. The administrative charge shall be abated during the contest period. In the event the charge is upheld, the City Commission may apply the administrative charge retroactively from the date it became effective for each day the incident continued unresolved. The City Commission shall notify Contractor in writing of any action taken with respect to Contractor's claims and the decision of the City Commission shall be the final administrative action.

SECTION 25

FILING OF REQUESTED INFORMATION AND DOCUMENTS

25.1 In addition to any other requirements of this Agreement, Contractor shall be required to file statistical and other pertinent information pertaining to Residential and Commercial Solid Waste Collection Services as may be requested by the City to comply with the provisions of Section 403, Florida Statutes, as amended, other pertinent rules, laws and regulations and any interlocal agreements the City has or may enter into during the term of this Agreement.

25.2 Contractor shall file and keep current with the City all documents and reports required by this Agreement. Prior to September 1 of each year this Agreement is in effect, Contractor, based on a list provided by the City, shall ensure and certify to the City that all required documents such as, but not limited to, certificates of insurance, performance bond, route schedules and maps, driver's license certifications, and lists of Collection equipment vehicles are current and on file with the City.

25.3 The assessment or payment of any administrative charges imposed upon Contractor by virtue of this entire section shall not constitute a defense to Contractor nor an election of remedies by the City or an estoppel against the City nor prevent the City from testing this Agreement.

25.4 The election of the City to refrain from assessing administrative charges, suspending or terminating this Agreement, or seeking any other relief for any Contractor failure shall not constitute a waiver on the part of the City of its right to pursue a remedy for future failure to perform by Contractor.

**SECTION 26
PUBLIC RECORDS RETENTION**

To the extent doing so will not violate any federal law relating to confidentiality of records, Contractor shall comply with the Florida Public Records Law, Chapter 119, Florida Statutes by:

- a. Keeping and maintaining all public records required by the City to perform the service.
- b. Providing to the City, upon request from the City's Custodian of Records, a copy of any requested records or allowing such records to be inspected or copied within a reasonable time at a cost that does not exceed the cost allowable under Chapter 119, Florida Statutes, or as otherwise provided by law.
- c. Ensuring all public records that are exempt or confidential and exempt from disclosure under Chapter 119, Florida Statutes, are not disclosed except as otherwise authorized by law for the duration of the Agreement and following completion of the Agreement if Contractor does not transfer the records to the City.
- d. Upon completion of the Agreement, either (1) transferring to the City, at no cost to the City, all public records in Contractor's possession and destroying any duplicate copies of public records that are exempt or confidential and exempt from disclosure under Chapter 119, Florida Statutes, or (2) continuing to keep and maintain all public records required by the City to perform the service in accordance with all applicable requirements for retaining public records. All records stored electronically by Contractor must be provided to the City in a format that is compatible with the City's information technology systems.

Notwithstanding anything contained herein to the contrary, failure to comply with the above provisions shall constitute a default and material breach of the Agreement by Contractor and shall give the City the option, but not the obligation, to immediately terminate the Agreement without penalty.

CONTRACTOR SHALL DIRECT ALL QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT TO THE CITY'S CUSTODIAN OF RECORDS AT (352) 483-5430 OR CITYCLERK@EUSTIS.ORG OR 10 N. GROVE ST., EUSTIS, FL 32726.

**SECTION 27
EMERGENCY SERVICE PROVISIONS**

In the event of a hurricane, tornado, major storm, natural disaster, or other such event, the Contract Administrator may grant Contractor a variance from regular routes and schedules. As soon as practicable after such an event, Contractor shall advise the Contract Administrator when it is anticipated that normal routes and schedules can be resumed. The Contract Administrator shall make an effort through the local news media to inform the public when regular services may be resumed. The clean-up from some events may require that Contractor hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. Contractor shall receive additional compensation, above the normal compensation as stated in the Exhibits to this Agreement for such an occurrence, provided Contractor has first secured written authorization and approval from the City.

**SECTION 28
PERMITS AND LICENSES**

Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect.

**SECTION 29
PERFORMANCE BOND**

Prior to commencing service under this Agreement, Contractor shall furnish to the City, and keep current, an irrevocable letter of credit or a Performance Bond for the faithful performance of this Contract and all obligations arising hereunder in the amount of \$2,000,000.00 in a form acceptable to the City Attorney. The Performance Bond shall be executed by a surety company licensed to do business in the State of Florida; having an "A-" or better rating by A.M. Best or Standard and Poors; and included on the list of surety companies approved by the Treasurer of the United States.

**SECTION 30
INSURANCE**

Contractor shall provide, pay for, and maintain in force at all times during the term of this Agreement, such insurance as will assure to City the protection contained in this Agreement, including Indemnification, undertaken by Contractor. Such policy or policies shall be issued by companies authorized to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida. Contractor shall provide the following:

A. **Workers Compensation and Employers Liability Insurance.** Workers' Compensation and Employers Liability Insurance to apply for all employees in compliance with federal and state law. In addition, the policies shall include a limit of Three Million Dollars (\$3,000,000.00) per accident and per employee for disease.

B. **General Liability Insurance.** General Liability Insurance with minimum limits of Five Million Dollars (\$5,000,000.00) per occurrence, \$6,000,000.00 aggregate, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the General Liability Policy, without restrictive

endorsements, as filed by the Insurance Services Offices and must include:

1. Premises and/or Operations.
2. Independent Contractors.
3. Broad Form Property Damage.
4. Broad Form Contractual Coverage applicable to this specific Agreement, including the indemnification section.
5. Personal Injury Coverage.
6. Product and Completed Operations.
7. Bodily injury and property damage liability for promises, operations, products, and completed operations, independent contractors, and property damage resulting from explosion, collapse or underground explosions.
8. Include City and the City Commission as "Additional Insureds" with respect to liability arising out of operations performed for City by or on behalf of Contractor or acts or omissions of Contractor in connection with such operation.

C. **Business Automobile Liability Insurance.** Business Automobile Liability Insurance with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the insurance Services Office and must:

1. Cover all owned, non-owned and hired vehicles used by Contractor.
2. Include City and the City Commission as "Additional Insureds" with respect to liability arising out of operations performed for City by or on behalf of Contractor or acts or omissions of Contractor in connection with such operation.

D. **Subcontractor's Insurance.** Adequate insurance for all subcontractors shall be Contractor's responsibility. Contractor shall ensure that subcontractors are properly insured to meet the above requirements before subcontractors are permitted to commence work pursuant to this Agreement.

E. **Certificate of Insurance.** Contractor shall provide to City a Certificate of Insurance required by this Section. All endorsements and certificates shall state that City shall be given thirty (30) days written notice prior to expiration or cancellation of the policy.

SECTION 31 INDEMNITY

31.1 The City has provided certain concessions and otherwise given good and valuable consideration, the sufficiency of which is acknowledged by Contractor, and for said consideration, Contractor agrees as follows:

- a. Contractor shall indemnify and save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission negligent act of Contractor, its agents, servants or employees in the performance of services under this Agreement. The City reserves the right

to retain counsel of its own choice at its own expense, or, in the alternative, to approve counsel obtained by Contractor.

- b. Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatever kind or nature arising out of any conduct or misconduct of Contractor not included in this Agreement and for which the City, its agent, servants or employees are alleged to be liable.
- c. This indemnification shall also include any claim or liability arising from, or in any way related to, actual or threatened damage to the environment, City costs of investigation, personal injury or death, or damage to property, due to a release or improper handling by Contractor of Hazardous Waste, Biohazardous Waste, Biological Waste, Infectious Waste or Sludge.
- d. The execution of this Agreement by Contractor shall obligate Contractor to comply with the foregoing indemnification provision, however, the collateral obligation of insuring this indemnity must be complied with as set forth in this Agreement.
- e. Contractor further agrees to indemnify, save harmless and defend City, its agents, servants and employees from and against any claim, demand or cause of action brought by any of Contractor's employees, agents or servants for job related injuries alleged to be caused by error, omission or negligent act.
- f. This indemnification shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

Notwithstanding the foregoing indemnifications, Contractor shall not be responsible for the negligent acts or omissions attributable to City. However, nothing in this Agreement shall be construed as the City waiving its sovereign immunity pursuant to Section 768.28, et seq., Florida Statutes, or any other sovereign or governmental immunity. This section shall survive the termination of this Agreement.

31.2 Contractor shall require all subcontractors who are engaged to perform Residential or Commercial Solid Waste Collection Services to enter into a contract containing the provisions set forth in the preceding subsection in which contract the subcontractor fully indemnifies the City in accordance with this Agreement. However, Contractor shall remain liable to the City should the subcontractor fail to comply with this provision and/or should the City determine, at its sole discretion, the subcontractor's indemnity is inadequate or insufficient.

SECTION 32 BOOKS AND RECORDS

32.1 Contractor shall keep records which are adequate to meet all requirements as set forth herein. Such records shall relate only to this Agreement and shall be kept separate and apart from all other records maintained by Contractor.

32.2 The City or its designee shall have the right to review all records maintained by Contractor, related to this Agreement, on three (3) days written notice. Financial schedules as specified by the City pertaining only to this specific Agreement and Service Area, shall be delivered to the City no later than September 1 of each year during the term of this Agreement.

32.3 Contractor will provide monthly reports to the City reflecting the number of residential tons delivered to the Reworld Waste-To-Energy Plant.

SECTION 33 POINT OF CONTACT

The day-to-day dealings between Contractor and the City shall be between Contractor and the Contract Administrator. Contractor shall designate in writing an employee to handle the day-to-day contact with City.

SECTION 34 NOTICE

All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing, and shall be, as elected by the person giving such notice, hand delivered by messenger or courier service, or mailed by registered or certified mail, return receipt requested, and addressed to:

If to the City

City Manager
City of Eustis
10 N. Grove Street
Eustis, FL 32727-0068

If to Contractor

Waste Management Inc. of Florida
1800 North Military Trail, Suite 201
Boca Raton, FL 33431

Or to such other address as any party may designate by written notice complying with the terms of this Section. Each such notice shall be deemed delivered, if by personal delivery via messenger or courier service, on the date delivered or, if mailed, on the date upon which the return receipt is signed or delivery is refused, or the notice is designated by the postal authorities as undeliverable.

SECTION 35 AGREEMENT DEFAULT

35.1 Except as otherwise provided below or where termination is provided for elsewhere in this Agreement, the City may cancel this Agreement by giving Contractor thirty (30) days advance written notice, to be served as provided in Section 34, upon the happening of any one of the following events:

- a. Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy court, or a petition or answer for an arrangement for its reorganization, or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States or any State thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

- b. By order or decree of a court, Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal Bankruptcy laws or under any law or statute of the United States or of any State thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of default shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or
- c. By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of Contractor, and such possession or control shall continue in effect for a period of sixty (60) days; or
- d. Contractor has defaulted by failing or refusing to pay in a timely manner the administrative charges or other monies due the City and said default is not cured within sixty (60) days of receipt of written notice by City to do so; or
- e. Contractor has defaulted by allowing any final judgment for the payment of money to stand against him unsatisfied and said default is not cured within thirty (30) days of receipt of written notice by City to do so; or
- f. In the event the monies due the City under subsection (4) above or an unsatisfied final judgment under subsection (5) above is the subject of a judicial proceeding, Contractor shall not be in default if the sum of money is bonded. All bonds shall be in the form acceptable to the City Attorney; or
- g. Contractor has defaulted, by failing or refusing to perform or observe the material terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the City pursuant thereto or has wrongfully failed or refused to comply with the lawful instructions of the Contract Administrator relative thereto and said default is not cured within thirty(30) days of receipt of written notice by the City to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by Contractor of written demand from the City to do so, Contractor fails to commence the remedy of such default within said thirty (30) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof, with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time. No notice to cure a default will be required if Contractor fails to perform under above subsections a, b or c. However, notwithstanding anything contained herein to the contrary, for the failure of Contractor to provide Collection services for a period of three (3) consecutive scheduled working days (excluding Force Majeure circumstances), the City may secure Contractor's billing records on the fourth (4th) working day in order to provide interim Collection services until such time as the matter is resolved and Contractor is again able to perform pursuant to this Agreement; provided, however, if Contractor is unable for any reason or

cause to resume performance at the end of fifteen (15) working days all liability of the City under this Agreement to Contractor shall cease and this Agreement may be deemed terminated by the City.

35.2 In the event of the aforesaid events specified in the above subsection and except as otherwise provided in said subsection, termination shall be effective upon the date specified in the City's written notice to Contractor and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of the City under this Agreement to Contractor shall cease, and the City shall have the right to call the performance bond or collect on the full amount of the irrevocable letter of credit and shall be free to negotiate with other Contractors for the operation of the herein specified services. For failure to perform Contractor shall reimburse the City all direct and indirect costs of providing interim Solid Waste and recycling collection services.

35.3 Contractor recognizes that the failure on its part to comply with the terms of this Agreement is likely to cause irreparable damage to the City and damages at law would be an inadequate remedy. Therefore, Contractor agrees that in the event of a breach or threatened breach of any of the terms of the Agreement by Contractor, the City shall be entitled to an injunction restraining such breach or to a decree of specific performance, or both without showing or proving any actual damage, together with recovery of reasonable attorney's fees and costs incurred in obtaining said equitable relief until such time as a final and binding determination is made by the court. The foregoing equitable remedy shall be in addition to, and not in lieu of, all remedies or rights which the City may otherwise have by virtue of any breach of this Agreement by Contractor.

35.4 The City shall be entitled to seek injunctive relief without the posting of any bond or security to obtain the entry of temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement. The City shall also be able to seek injunctive relief to prohibit any act or omission by Contractor or its employees that constitutes a violation of any applicable law, is dishonest or misleading. Contractor expressly consents and agrees that the City may, in addition to any other available remedies, obtain an injunction to terminate or prevent the continuance of any existing default or violation, or to prevent the occurrence of any threatened default by Contractor of this Agreement.

SECTION 36
AGREEMENT MODIFICATIONS DUE TO PUBLIC WELFARE,
CHANGE IN LAW OR CHANGE IN ORDINANCES OR REGULATIONS

36.1 The City shall have the power to make changes in this Agreement as the result of changes in law or of the City or County Code to impose new rules and regulations on Contractor under this Agreement relative to the scope and methods of providing Residential and Commercial Solid Waste Collection Services as shall from time-to-time be necessary and desirable for the public welfare. The City shall give Contractor notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Residential Solid Waste Collection Services and Commercial Solid Waste Collection Services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations and obligations, financial or otherwise, of Contractor.

36.2 The City and Contractor understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Contractor agrees that the terms and provisions of the City Code, as now exists or as may be amended in the future, shall apply to all the provisions of this Agreement and the customers of Contractor located within the Service Area. In the event any future change in the City Code materially alters Contractor's obligations, then Contractor shall be entitled to an adjustment in the Collection charges established under this Agreement and the City shall not unreasonably withhold such compensation. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law. The City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of public welfare or due to change in law. When such modifications are made to this Agreement, the City and Contractor shall negotiate in good faith, a reasonable and appropriate compensation for any additional services or other obligations required of Contractor due to any modification in the Agreement under this Section. Failure to reach an agreement under this Section shall allow either party, upon sixty (60) days' written notice to terminate service under this Agreement.

**SECTION 37
INDEPENDENCE OF AGREEMENT**

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners or a joint venture between the parties hereto, or as constituting Contractor as an agent, representative or employee of the City for any purpose whatsoever. Contractor is to be, and shall remain, an independent Contractor with respect to all services performed under this Agreement. Contractor shall be solely responsible for the acts and omissions of its officers, agent, employees, permitted Contractors and permitted subcontractors.

**SECTION 38
EMPLOYEE STATUS**

Persons employed by Contractor in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the City's officers and employees either by operation of law or by the City.

**SECTION 39
EQUAL OPPORTUNITY EMPLOYMENT**

Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age or national origin and will take affirmative steps to ensure that applicants are employed, and employees are treated during employment without regard to race, color, religion, sex, age or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising, layoffs or termination; rates of pay or other form of compensation; and selection for training, including apprenticeship.

**SECTION 40
FORCE MAJEURE**

40.1 Either party shall be excused from performance (except for each party's payment obligations hereunder) when its non-performance was caused directly or indirectly by an Event of Force Majeure. The affected party shall give to the other party prompt written notice of the Force Majeure reasonable full particulars concerning it. Thereupon the obligations of the party giving the notice so far as they are affected by the Force Majeure shall be suspended during, but no longer than the continuance of, the Event of Force Majeure and for a reasonable time thereafter required to remedy the physical damage and/or return to normal operations.

40.2 Any party excused from performing any obligation under this Agreement pursuant to this Section shall promptly, diligently and in good faith take all reasonable action required in order for it to be able to commence or resume performance of its obligations under the Agreement.

40.3 The party whose performance is excused due to the occurrence of an Event of Force Majeure shall, during such period, keep the other party duly notified of all such obligations under this Agreement.

40.4 No Event of Force Majeure shall excuse either party from its payment obligations hereunder and the City shall not be liable for any loss by Contractor due to an Event of Force Majeure.

**SECTION 41
RIGHT TO REQUIRE PERFORMANCE**

The failure of the City at any time to require performance by Contractor of any provision hereof shall in no way affect the right of the City thereafter to enforce same; nor shall waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

**SECTION 42
LAWS TO GOVERN**

This Agreement shall be governed by the laws of the State of Florida and the City both as to interpretation and performance. The parties agree that any suit, action or legal proceeding arising out of or relating to this Agreement shall be brought in the State of Florida Fifth Judicial Circuit Court located in Lake County.

**SECTION 43
COMPLIANCE WITH LAWS**

Contractor, its officers, agents, employees, and permitted subcontractors shall comply with all federal, state and local laws, ordinances, rules, and regulations.

**SECTION 44
SEVERABILITY**

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

**SECTION 45
TITLE TO WASTE**

Contractor shall have title to all Residential and Commercial Solid Waste Collection from Collection until delivery to the Designated Disposal Facility.

**SECTION 46
ASSIGNMENT OR SUBCONTRACT**

No assignment or subcontract of this Agreement or any right occurring under this Agreement shall be made in whole or in part by Contractor without the express written consent of the City Commission. Assignment shall include any transfer of twenty percent (20%) of stock or control in Contractor unless said transfer of stock or control is in a publicly held company. The City Commission shall have full discretion to approve or deny, with or without cause, any subcontract, any proposed assignment or assignments by Contractor. However, approval shall not be unreasonably withheld. Any assignment or subcontract of this Agreement made by Contractor without the express written consent of the City Commission shall be null and void and shall be grounds for the City to declare a default of this Agreement and immediately terminate this Agreement by giving Contractor written notice. Upon the date of such notice this Agreement shall be deemed terminated and upon such termination all obligations of the City under this Agreement to Contractor shall cease. The City shall be free to negotiate with other Contractors or any other person or company for the service which is the subject of this Agreement. When an assignment is approved by the City, the assignee shall fully assume all the terms, obligations, covenants and promises of Contractor provided for herein and shall so indicate in writing prior to the request for approval.

**SECTION 47
MODIFICATION**

This Agreement constitutes the entire agreement and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless contained in a written document executed with the same formality and of equal dignity herewith.

**SECTION 48
LOCAL IMPROVEMENTS**

The City reserves the right to construct any roadway improvement or to permit construction in any street, road or alley, which may have the effect of preventing Contractor from traveling its accustomed route or routes for Solid Waste Collection. The City shall communicate anticipated roadway improvements/closures to Contractor as promptly as possible. The Contract Administrator and Contractor shall work together to aid Contractor's continuation of Solid Waste Collection Services through an acceptable, passable, route to the same extent as though no interference existed upon the streets, roads or alleys formerly traversed. This shall be done without extra cost to the City.

**SECTION 49
REMEDIES CUMULATIVE**

Except as otherwise expressly provided herein, no remedy herein conferred upon any party is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

No provision of this Agreement is to be interpreted as a penalty upon any party to this Agreement. The parties hereby agree that the rights of the City in the event Contractor takes or fails to take certain actions pursuant to this Agreement, are reasonable, and that the parties desire such certainty with regard to such matters.

**SECTION 50
NO CONTINGENT FEE**

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee or agent working solely for Contractor to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee or agent working solely for Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach of violation of this provision, City shall have the right to terminate the Agreement without liability, at its discretion, to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

**SECTION 51
ENTIRE AGREEMENT**

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

**SECTION 52
LEGAL REPRESENTATION**

It is acknowledged that each party was represented by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that the Agreement shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

**SECTION 53
EFFECTIVE DATE**

This Agreement shall become effective on March 1, 2025.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: CITY OF EUSTIS through its City Commission, signing by and through its Vice-Mayor, authorized to execute the same by Commission action on the ____ day of February, 2025 and duly authorized to execute same.

CORPORATE SEAL

ATTEST:

CITY OF EUSTIS, FLORIDA

Christine Halloran, City Clerk

Willie Hawkins, Mayor/Commissioner

This document is approved as to form and legal content for use and reliance by the City Commission of the City of Eustis, Florida.

City Attorney

Date

CONTRACTOR:
WASTE MANAGEMENT INC.
OF FLORIDA

By: David M. Myhan
Title: President

ATTEST:

By: _____

Title: _____

Date: _____