

RESOLUTION NO. 2014-143

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE AN AMENDED AND RESTATED FRANCHISE AGREEMENT FOR THE COLLECTION AND TRANSPORTATION OF RESIDENTIAL WASTE, ON BEHALF OF THE COUNTY, WITH ADVANCED DISPOSAL SERVICES OF JACKSONVILLE, LLC; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**RECITALS**

**WHEREAS**, on February 14, 2003, St. Johns County ("County") issued a request for proposals ("RFP") from private companies for the collection and transportation of certain types of solid waste that are generated by the County's residents; and

**WHEREAS**, Advanced Disposal Services of Jacksonville, LLC ("Contractor"), submitted a proposal in response to the County's RFP; and

**WHEREAS**, on May 28, 2003, the Board of County Commissioners ("Board") held a public hearing to evaluate the proposals it received in response to the County's RFP; and

**WHEREAS**, the Board concluded that the Contractor's proposal was the best and most responsive proposal and, accordingly, the Board selected the Contractor to provide its services in certain designated areas of the County; and

**WHEREAS**, on August 1, 2003, the Board entered into "Franchise Agreement for the Collection and Transportation of Residential Waste in St. Johns County" ("Contract") with the Contractor; and

**WHEREAS**, on March 4, 2010, the County executed a "Franchise Extension Agreement for the Collection and Transportation of Residential Waste in St. Johns County" with the Contractor, which extended the term of the parties' Contract until July 31, 2017; and

**WHEREAS**, the County wishes to continue to receive the services provided by the Contractor, and the Contractor wishes to continue to provide the services needed by the County, subject to the terms and conditions set forth in the "Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste" ("Agreement") that is attached hereto and incorporated herein by reference; and

**WHEREAS**, after considering the relevant issues at a public hearing, the Board has

concluded that the Agreement provides significant economic and other benefits to the public and, therefore, it is in the public interest to enter into the Agreement with the Contractor.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:**

**Section 1.** The recitals set forth above are incorporated into the body of this resolution and are adopted as findings of fact.

**Section 2.** The County Administrator, or his designee, is authorized to execute the Agreement with Advanced Disposal Services of Jacksonville, LLC, on behalf of the County, for the purposes mentioned above.

**Section 3.** If any provision of this resolution shall be held or deemed to be illegal, inoperative or unenforceable, the same shall not affect any other provision or cause any other provision to be invalid, inoperative or unenforceable to any extent whatsoever.

**Section 4.** To the extent that there are typographical or administrative errors or omissions in the Agreement that do not change the tone, tenor, or concept of this resolution, the Agreement may be revised without subsequent approval of the Board of County Commissioners.

**Section 5.** This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 20 day of May, 2014.

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

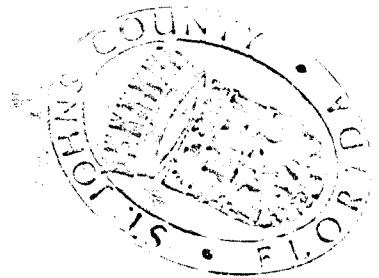
John H. Morris, Chair

ATTEST: Cheryl Strickland, Clerk

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

Deputy Clerk

RENDITION DATE 5/22/14



**AMENDED AND RESTATED  
FRANCHISE AGREEMENT**

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**FOR THE COLLECTION  
AND TRANSPORTATION  
OF RESIDENTIAL WASTE**

**BETWEEN**

**ST. JOHNS COUNTY, FLORIDA**

**AND**

**ADVANCED DISPOSAL SERVICES  
OF JACKSONVILLE, LLC**

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**EXHIBITS**

Exhibit A	Map of St. Johns Service Areas
Exhibit B	Legal Description of St. Johns County Service Areas (dated February 16, 2010)
Exhibit C	List of Recyclable Materials
Exhibit D	Contractor's Rates
Exhibit E	Specifications for Recycling Carts

AMENDED AND RESTATED  
FRANCHISE AGREEMENT  
FOR THE COLLECTION AND TRANSPORTATION  
OF RESIDENTIAL WASTE

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This "Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste" ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 ("Effective Date"), by and between St. Johns County, a political subdivision of the State of Florida ("County"), and Advanced Disposal Services of Jacksonville, LLC, a Delaware limited partnership, which is authorized to do business in Florida ("Contractor").

WHEREAS, on February 14, 2003, the County issued a request for proposals ("RFP") from private companies for the collection and transportation of Residential Waste in the County; and

WHEREAS, on May 28, 2003, the Board of County Commissioners ("Board") held a public hearing to evaluate the proposals it received in response to the County's RFP; and

WHEREAS, the Board selected the Contractor to provide its services in certain designated areas of the County; and

WHEREAS, on August 1, 2003, the Board entered into a "Franchise Agreement for the Collection and Transportation of Residential Waste in St. Johns County" ("Contract") with the Contractor; and

WHEREAS, on March 4, 2010, the County executed a "Franchise Extension Agreement for the Collection and Transportation of Residential Waste in St. Johns County" ("Extension Contract") with the Contractor, which extended the term of the Parties' contract until July 31, 2017; and

WHEREAS, the County wishes to continue to receive the services provided by the Contractor, and the Contractor wishes to continue to provide the services needed by the County, subject to the terms and conditions set forth in this Agreement; and

WHEREAS, on May \_\_\_\_\_, 2014, the Board held a public hearing and concluded that it is in the public interest to enter into this Agreement with the Contractor.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and the other good and valuable consideration provided by the Parties to each other, the receipt and sufficiency of which are hereby acknowledged, the County and the Contractor

agree to be bound by and comply with all of the terms and conditions of this Agreement, as set forth below.

## 1. TERM

### 1.1 Term of this Agreement

The initial term of this Agreement shall begin on the Effective Date and end on July 31, 2017. At the end of the initial term, this Agreement shall be renewed and extended automatically, without any further action by the County or the Contractor. The renewal term shall begin on August 1, 2017 and end on July 31, 2024, unless this Agreement is terminated earlier.

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### 1.2 Termination of the Extension Contract

The Extension Contract between the County and the Contractor shall be and hereby is terminated on the Effective Date of this Agreement. On and after the Effective Date, the Parties shall be governed by this Agreement.

## 2. DEFINITIONS

The capitalized words and phrases used in this Agreement are defined in this Section 2. With regard to words that are not defined herein, the definitions in Section 2 shall be supplemented by the definitions in the County Code, Chapter 403, Florida Statutes, and Chapter 62-701, Florida Administrative Code. However, if any definition contained herein conflicts with a definition in any local, state, or federal law, the definition contained herein shall prevail when construing this Agreement.

- 2.1 **Agreement** means this Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste.
- 2.2 **Applicable Law** means any local, state or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive, policy, standard or similar binding authority, or a judicial or administrative interpretation of any of the same, which is in effect or is enacted, adopted, promulgated, issued or enforced by a governmental body during the term of this Agreement, and applies or relates in any manner to the performance of the County or the Contractor under this Agreement.
- 2.3 **Biomedical Waste** means any solid waste or liquid waste which may present a threat of infection to humans, including, but not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste that contain human disease-causing agents; discarded disposable sharps (e.g., needles); human blood, human blood products and body fluids; and other materials that present a significant risk of infection to persons outside the generating facility, as determined by the Florida Department of Health or other local, state, or federal regulatory agencies.

- 2.4 **Board** means the Board of County Commissioners of St. Johns County, Florida.
- 2.5 **Bulky Waste** means large items of Residential Waste that cannot be placed for collection in a Garbage Receptacle because of their size, shape or weight. Bulky Waste includes, but is not limited to, White Goods, toilets, sinks, bicycles, mattresses, carpet, fencing, large household furnishings, car and boat seats and steering wheels, and other interior car and boat components. Bulky Waste does not include car or boat engines, tires, boats, cars, trucks or other vehicles.
- 2.6 **Change in Law** means (a) the adoption, promulgation, or modification of any Applicable Law after the Effective Date or (b) the imposition of any condition in connection with the issuance, renewal, or modification of any permit, license or approval after the Effective Date, which in the case of either (a) or (b) establishes one or more requirements that directly and substantially affect the Contractor's or the County's performance under this Agreement. A change in any tax law or workers compensation law shall not be a Change in Law. A change in the amount of any fuel tax shall not be a Change in Law.
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- 2.7 **Commencement Date** means the date when the Contractor shall be required to use Recycling Carts to collect Source Separated Recyclable Materials pursuant to this Agreement. The Commencement Date shall be February 2, 2015, or a later date that is mutually acceptable to the Contractor and Contract Administrator.
- 2.8 **Construction and Demolition Debris** means discarded materials generally considered to be not water-soluble and non-hazardous in nature, including, but not limited to steel, glass, brick, concrete, asphalt, roofing material, pipe gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations of a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of Construction and Demolition Debris with other types of Solid Waste will cause the resulting mixture to be classified as other than Construction and Demolition Debris.
- 2.9 **Contractor** means Advanced Disposal Services of Jacksonville, LLC.
- 2.10 **Contract Administrator** means the person designated by the County Administrator to serve as the County's primary representative in the County's dealings with the Contractor under this Agreement.
- 2.11 **County** means, depending upon the context, either (a) the geographic area contained within the unincorporated portions of St. Johns County, Florida, or (b) the government of St. Johns County, acting through its Board, employees, agents, or designees.
- 2.12 **County Administrator** means the chief executive officer of the County or that person's designee.

- 2.13 **County Code** means the laws, ordinances, policies, regulations, resolutions and other requirements adopted by the Board, as amended.
- 2.14 **Curbside Collection Point** means the location where the Contractor shall pick up the Residential Waste discarded by a Customer. The Curbside Collection Point shall be established pursuant to Section 5.10, below.
- 2.15 **Customer** means a person that lives in the Service Area and is entitled to have their Residential Waste collected by the Contractor under this Agreement, as determined by the Contract Administrator.
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- 2.16 **Effective Date** means the date when the Board or the Board's authorized representative signs this Agreement.
- 2.17 **Exclusive Franchise** means the County's grant of authority to a single company to collect and transport Residential Waste generated by Customers within the Service Area.
- 2.18 **Force Majeure** means an act, event, or condition, that has a direct, material and adverse effect on the performance of the County or Contractor under this Agreement, and prevents the County or Contractor from fulfilling its duties and obligations under the Agreement, and is not the result of negligence or lack of reasonable diligence, and is not reasonably within the Party's control, and is not reasonably foreseeable or, if foreseeable, not reasonably avoidable. A Force Majeure event may include but is not limited to a fire, explosion, lightning, tornado, flood, or hurricane.
- 2.19 **Garbage** means all kitchen and table food waste, and all animal or vegetable waste that is attendant with or results from the storage, preparation, cooking or handling of food materials.
- 2.20 **Garbage Receptacle** means a Garbage can or similar container commonly used to collect, contain and store Residential Waste, which has an enclosed bottom and sides, a tight fitting lid or top, handles on the sides, and a maximum capacity of approximately thirty-three (33) gallons. A Customer may use a heavy duty, securely tied, plastic bag in lieu of a Garbage Receptacle. A Customer also may use a cardboard box if the contents are contained in the box and the weight of the contents does not cause the box to rip, tear, or collapse. Cardboard boxes are not acceptable during wet weather conditions.
- 2.21 **Hazardous Waste** means a Solid Waste, or a combination of Solid Wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. Hazardous Waste includes all materials regulated as hazardous substances or Hazardous Waste under Chapter 62-730, Florida Administrative Code, or any Applicable Law.

- 2.22 **Holiday** means New Year's Day, Thanksgiving Day, Christmas Day, and any other day that is designated as a Holiday by, and with the mutual consent of, the County and the Contractor.
- 2.23 **Industrial Waste** means the Solid Waste generated by manufacturing and industrial processes, but does not include Hazardous Waste.
- 2.24 **Land Clearing Debris** means trees, tree trunks, limbs, stumps, bushes, vegetation, rocks, soil, and other materials resulting from a land clearing or lot clearing operation.
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- 2.25 **Major Storm** means a hurricane, tropical storm, tornado, or other weather conditions that produce high winds and generate greater than normal volumes of Yard Waste and other vegetative debris.
- 2.26 **Multifamily Residential Property** means a building or complex of buildings on a single parcel of land that is divided horizontally or vertically and designed for and occupied by more than four (4) single-family dwelling units.
- 2.27 **New Customer** means the first Person to receive Regular Service on a parcel of Residential Property or in a dwelling unit in St. Johns County that did not receive Regular Service from the Contractor before the Effective Date.
- 2.28 **Parties** mean the County and the Contractor.
- 2.29 ~~Party~~ means, depending upon the context, either the County or the Contractor.
- 2.30 **Person** means any and all persons, natural or artificial, including but not limited to: any individual, firm, partnership, joint venture, or other association, however organized; any municipal or private corporation organized or existing under the laws of the State of Florida or any other state; any city or municipality; and any governmental agency of any state or the federal government.
- 2.31 **Rate** means the amount that the Contractor may charge each month for the collection of Residential Waste from a Customer.
- 2.32 **Recovered Materials** means materials that are removed from Solid Waste and recovered for reuse or resale.
- 2.33 **Recyclable Materials** or **Recyclables** means all of the materials identified in Exhibit C, which is attached to this Agreement.
- 2.34 **Recycling** means any process by which materials that would otherwise have been Solid Waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

- 2.35 **Recycling Bin** means a rectangular bin that is made of heavy-duty hard plastic or other impervious material and used by Customers for the collection of Recyclable Materials generated on Residential Property.
- 2.36 **Recycling Cart** means a container that is made of heavy-duty hard plastic or other impervious material, with enclosed sides and a bottom, mounted on two (2) wheels, equipped with a tight-fitting hinged lid, and used for the automated or semi-automated collection of Recyclable Materials from Customers.
- 2.37 **Regular Service** means the collection of Residential Waste in compliance with Section 5 of this Agreement.
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- 2.38 **Rejects** means materials in Residential Waste, other than Residue, that cannot be Recycled and cannot be processed into Recovered Materials.
- 2.39 **Residential Property** means real property located within the Service Area that is used or designed for use as a residence, dwelling, or habitat for one or more people, whether occupied or not. Residential Property shall include but not be limited to: single family residences; real property improved to accommodate mobile homes and the mobile homes, if any, located thereon, regardless of whether such mobile homes are registered as vehicles or assessed as real property; duplex homes; triplex homes; quadraplex homes; quintex homes; apartment buildings, time share buildings, and condominium buildings comprising five (5) units or less; and premises occupied as a residence or dwelling that are located on commercially zoned property.
- 2.40 ~~**Residential Waste**~~ shall mean Garbage, Rubbish, Recyclable Materials, Yard Waste, and Bulky Waste produced at or generated on Residential Property as a result of the normal housekeeping activities of a residence. Residential Waste includes discarded materials from "do it yourself" repairs, renovations and projects, provided that such materials do not exceed one (1) cubic yard per week per Customer. Residential Waste does not include sludge, Industrial Waste, Hazardous Waste, Land Clearing Debris, radiological waste, waste tires, lead-acid batteries, Solid Waste from farming operations, or wrecked, scrapped, ruined or dismantled vehicles, boats, aircraft or their parts. Residential Waste also does not include Construction and Demolition Debris
- 2.41 **Residue** means the portion of the Recyclable Materials collected by the Contractor that is not converted to Recovered Materials due to breakage or due to transportation or processing inefficiencies.
- 2.42 **Rubbish** means waste material (other than Garbage, Yard Waste, and Bulky Waste) resulting from normal housekeeping activities on Residential Property. Rubbish includes but is not limited to discarded trash, rags, sweepings, packaging, Recyclable Materials that are not source separated, and similar materials.

- 2.43 **Scheduled Collection Day** means a day when the Contractor is scheduled to provide collection service to a Customer for Recyclable Materials or one of the various components of Residential Waste.
- 2.44 **Service Area** means the geographic area of the County that is to be served by the Contractor under this Agreement. The Service Area is depicted in Exhibit A (Map of St. Johns County Service Areas) and described in Exhibit B (Legal Description of St. Johns County Service Areas (dated February 16, 2010)), which are attached to this Agreement and incorporated herein by reference. More specifically, the Service Area is depicted and described in these exhibits as the South Franchise Area.
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- 2.45 **Severe Weather Conditions** shall mean unusual or extreme weather conditions that affect the Service Area in a manner that results in the need for additional equipment and manpower to remove Storm Debris. The County Administrator shall determine whether Severe Weather Conditions have occurred.
- 2.46 **Solid Waste Management Facility** means any Solid Waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, Recycling, processing, or storage of Solid Waste. The term does not include Recovered Materials processing facilities which meet the requirements of Section 403.7046, Florida Statutes, except the portion of such facility, if any, that is used for the management of Solid Waste.
- 2.47 ~~**Source-Separated Recyclable Materials** means Recyclable Materials that are separated from the Solid Waste at the location where they are generated (e.g., Residential Property) and then set out for collection by the Contractor at the Curbside Collection Point.~~
- 2.48 **Special Service** means the collection of Solid Waste and Recyclables by the Contractor in response to a Customer's request, at times, locations, or in quantities that are different than those required in this Agreement for Regular Service on a Scheduled Collection Day.
- 2.49 **Special Waste** means Solid Waste that can require special handling and management, including, but not limited to tires, used oil, lead-acid batteries, computers and or computer monitors, Construction and Demolition Debris, ash residue, and Biomedical Waste.
- 2.50 **Storm Debris** means vegetative debris generated by a Major Storm, including: tree limbs, trunks, branches and stumps; palm fronds; bagged or containerized vegetative debris; and other debris. Storm Debris does not include Yard Waste generated by the normal care and maintenance of lawns or landscaping of Residential Property. Storm Debris does not include any Solid Waste that cannot be accepted for disposal in an approved Yard Waste disposal facility.
- 2.51 **White Goods** means discarded refrigerators, ranges, water heaters, freezers, and other similar, large, domestic appliances.

2.52 **Yard Waste** means vegetative matter resulting from landscaping and yard maintenance and beautification projects, such as leaves, grass cuttings, palm fronds, and shrubbery and tree trimmings. Yard Waste does not include Land Clearing Debris.

### 3. GENERAL SCOPE OF CONTRACTOR'S FRANCHISE

This Section 3 contains a general overview of the work that is to be completed by the Contractor under this Agreement. The general requirements set forth in Sections 3.1 through 3.9 shall be read in conjunction with and supplemented by the more detailed requirements contained in the other sections of this Agreement.

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#### 3.1 Grant of Exclusive Franchise

Subject to the terms and conditions in this Agreement, the County hereby grants an Exclusive Franchise to the Contractor for the collection and transportation of Residential Waste generated by Customers within the Service Area.

#### 3.2 Collection of Residential Waste

The Contractor shall collect and transport Residential Waste in accordance with the requirements of this Agreement and Applicable Law.

#### 3.3 Contractor's Billings

The Contractor shall not bill or collect any money from Customers for the Regular Service the Contractor provides under this Agreement. The Contractor shall bill and collect its fees from Customers that receive Special Services, subject to the limitations contained in Section 19 of this Agreement. The Contractor shall perform all of its work under this Agreement at Contractor's sole expense, in exchange for the payments to the Contractor that are authorized herein.

#### 3.4 Disposal Fees

The Contractor shall not be required to pay any disposal or processing fee for the disposal of Residential Waste collected from Customers in the Service Area, provided the Contractor delivers the Residential Waste to the County's Stratton Road Transfer Station, which is located at 250 North Stratton Road, St. Augustine, Florida 32095 or the County's Tillman Ridge Transfer Station, which is located at 3005 Allen Nease Road, Elkton, Florida 32033. The Contractor shall not be required to pay any disposal or processing fee for the disposal of Yard Waste collected from Customers in the Service Area, provided the Contractor delivers the Yard Waste to one of the independent contractors that manage Yard Waste for the County, either at the Nine Mile Road Landfill, which is located at 445-A International Golf Parkway, St. Augustine, Florida 32095, or at the facility operated by Indianhead Exploration, LLC, which is located at 1700 Adams Acres Road, St. Augustine, Florida 32084.

### 3.5 Contractor's Responsibilities

The Contractor shall provide any and all services and supplies necessary to satisfy the requirements of this Agreement, including but not limited to labor, supervision, vehicles, machines, equipment, bonds, permits, licenses, registrations, taxes, and franchise fees. The Contractor shall be solely responsible for paying all costs and expenses associated with the provision of such services and supplies.

### 3.6 Designated Facilities

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The Contractor shall deliver all of the Residential Waste it collects from Customers in the Service Area to the Solid Waste Management Facility or facilities designated by the Contract Administrator. The designated facilities are identified in Section 14.1, below.

### 3.7 Self-Hauling

Notwithstanding anything else contained in this Agreement, the County may allow non-profit organizations and other Persons to collect and transport their own Residential Waste to a Solid Waste Management Facility.

### 3.8 Limits on Franchise

This Agreement does not convey any rights or remedies to the Contractor that are not expressly identified herein. Among other things, this Agreement does not give the Contractor any right to collect, transport, process or dispose of: Industrial Waste; Construction and Demolition Debris; Land Clearing Debris; Special Waste; Hazardous Waste; or any type of Solid Waste generated by commercial, not-for-profit, governmental, or institutional entities or businesses.

### 3.9 Annexations

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

The annexation of lands after the Effective Date may require the Contractor to provide collection services in the annexed area or, in the alternative, such area may be served by another Person. In either case, the Contractor shall provide its services to the County (with or without the annexed area) for the Rates established in this Agreement. There shall be no change in the Contractor's Rates if collection service in the annexed area is provided by another Person.

#### 4. CONTRACTOR'S MINIMUM OBLIGATIONS

- 4.1 This Agreement establishes the minimum standards and requirements for the Contractor's performance. All of the Contractor's activities must be performed safely, in strict compliance with the requirements of this Agreement and all Applicable Law, and in accordance with the highest professional standards and best management practices for the Solid Waste industry.
- 4.2 Subject to the provisions in this Agreement, the Contractor shall collect all of the Residential Waste that is generated in the Service Area and placed at Curbside Collection Points by Customers.
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#### 5. COLLECTION SCHEDULES AND PRACTICES

5.1 Frequency of Collection for Garbage, Recyclables, and Yard Waste

The Contractor shall provide at least three (3) separate collection services for each Customer each week. At least once each week, the Contractor shall provide each Customer with: (a) a separate collection service for Garbage, Rubbish, refuse, and similar materials; (b) a separate collection service for Yard Waste; and (c) a separate collection service for Source Separated Recyclable Materials. Each one of these three (3) collection services shall be provided on a regularly scheduled basis each week (i.e., on a Scheduled Collection Day), but all of the collection services do not need to be provided on the same day.

5.2 Frequency of Collection for Bulky Waste

The Contractor shall collect White Goods and other Bulky Waste generated by the Customers in the Service Area. The Contractor's vehicle operators shall promptly notify their supervisor if they see any Bulky Waste placed at a Customer's Curbside Collection Point. The Contractor shall collect the Bulky Waste within (a) two (2) days after the Contractor receives a request from a Customer or the County or (b) five (5) days after the materials are placed at the Curbside Collection Point, whichever occurs first.

5.3 Collections on Sundays and Holidays

The Contractor may collect Residential Waste in the Service Area every day of the year, except Sundays and Holidays. Collections on Sundays and Holidays shall be allowed if the Contract Administrator determines such collections are necessary for the protection of the public health, safety or welfare. If a Holiday coincides with a Customer's Scheduled Collection Day, the Contractor shall collect the Customer's Residential Waste on an alternate day, immediately before or after the Holiday. The Contractor shall provide advance written notice to each affected Customer concerning any alternate collection days.

#### 5.4 Hours of Collection

The Contractor may collect all types of Residential Waste from 6:00 a.m. until 6:00 p.m., Monday through Friday, and from 7:00 a.m. until 2:00 p.m. on Saturday, except Holidays. The Contractor may extend the hours of collection for Yard Waste and Bulky Waste until 8:00 p.m., Monday through Friday, during the months of April through September. The Contractor must comply with these limitations on the hours of collection. Notwithstanding these limitations, the Contractor may extend its hours of operation when necessary to respond to Severe Weather Conditions, a Major Storm, a Force Majeure, or other extraordinary circumstances, if the Contractor has received the prior approval of the Contract Administrator.

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#### 5.5 Timely Collections

The Contractor shall collect the Residential Waste from each Customer on the Scheduled Collection Day, unless the Contract Administrator approves a deviation from the schedule due to Severe Weather Conditions, Force Majeure, or other extraordinary circumstances.

#### 5.6 Quantities to be Collected

The Contractor shall collect all of the Residential Waste, including all of the Yard Waste, each Customer in the Service Area places at the Curbside Collection Point.

#### 5.7 No Collection Required for Certain Materials

Notwithstanding the other provisions herein, the Contractor is not obligated to collect: (a) the Solid Waste in any filled Garbage Receptacle if it weighs more than fifty (50) pounds; (b) whole trees; (c) Land Clearing Debris; (d) any single piece of Yard Waste that weighs more than fifty (50) pounds or is more than six (6) feet in length; or (e) leaves, twigs, or small pieces of Yard Waste, unless such materials have been bagged, bundled, tied, or placed in a Garbage Receptacle. If these or other inappropriate materials are placed at the Curbside Collection Point, the Contractor may refuse to collect them, but in all such cases the Contractor shall leave a notice (e.g., red tag) pursuant to Section 5.28, explaining why the materials were not collected.

#### 5.8 No Collection Required for Vacant Lots and Residential Construction

The Contractor is not required under this Agreement to remove any Solid Waste or other material accumulated on vacant property or resulting from the construction of new homes or buildings.

#### 5.9 Inadequate Service

The Contract Administrator may require the Contractor to revisit part or all of a collection route when the Contract Administrator determines that the Contractor provided

inadequate service on that route. If the Contract Administrator or a Customer notifies the Contractor that the Contractor failed to provide collection service on the Scheduled Collection Day, the Contractor shall promptly return to the Customer's Residential Property and collect the Residential Waste that has been set out for collection. If the Contractor is notified before 12:00 p.m. (noon), the Contractor shall collect the Customer's waste before the end of that day. If the Contractor is notified after noon, the Contractor shall provide collection service before noon on the next day (except Sundays and Holidays).

#### 5.10 Curbside Collection Point

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Except as otherwise provided herein, the Curbside Collection Point shall be selected by the Customer. The Curbside Collection Point may be located anywhere along the front property line of a Residential Property, within six (6) feet of the edge of a public or private roadway that allows reasonable access by the Contractor's waste collection vehicles. If the roadway has swales or open ditches, the Curbside Collection Point shall be located on the roadway side of the swale or open ditch. If a Residential Property is relatively large (i.e., in excess of one (1) acre), the Curbside Collection Point shall be near or adjacent to the Customer's driveway. If a Residential Property is located in a manner that makes curbside collection unduly difficult for the Contractor's employees or vehicles, an alternate location for the placement of the Customer's Residential Waste may be established by the Customer and the Contractor, at no extra cost to the Customer or the County.

#### 5.11 Physical Disability

When the Contractor is notified by the Contract Administrator that a Customer is physically unable to place their Garbage Receptacle, Recycling Bin, or Recycling Cart at the Curbside Collection Point, the Contractor shall collect the Customer's Residential Waste at a location that is more convenient for the Customer. The Contractor shall provide this service at no extra cost to the Customer or the County. The Contractor and the Customer shall work together to identify the alternate collection point. The Contract Administrator shall resolve any dispute between the Contractor and the Customer relating to this issue.

#### 5.12 Solid Waste Collection and Handling

The Contractor shall perform its duties under this Agreement with a minimum of noise and disturbance to the public. Residential Waste shall be collected carefully, in a timely manner, during the Scheduled Collection Days. Each Garbage Receptacle and Recycling Cart shall be emptied and returned to its original location, in an upright manner, with the cover on or adjacent to the receptacle or cart. The Contractor shall place a notice (e.g., red tag) on any materials that were not collected, pursuant to Section 5.28, explaining why the materials were not collected.

### 5.13 Spillage

The Contractor shall not cause or allow any litter or spillage of Solid Waste or other materials to occur in the County as a result of the Contractor's activities. When the Contractor is transporting Solid Waste or other materials, the materials shall be contained, tied, or enclosed so that leaking, spilling and blowing are prevented. The Contractor shall immediately clean up any litter, leakage, or spillage caused by the Contractor's activities. If spillage occurs with oil, hydraulic fluids, leachate, or other liquids, the Contractor shall immediately clean up the spill and then report the time, location, and other relevant details to the Contract Administrator.

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### 5.14 Commingling of Materials Prohibited

When collecting or transporting Solid Waste or Source Separated Recyclables, the Contractor shall not commingle: (a) Source Separated Recyclables with Garbage, Yard Waste or other types of Solid Waste; (b) Yard Waste with Garbage, Bulky Waste, or other types of Solid Waste; (c) Residential Waste with Solid Waste or other materials collected or generated outside of the County; or (d) Residential Waste with Solid Waste or other materials collected at or generated on any property that is not Residential Property. Different types of Recyclable Materials may be commingled.

### 5.15 Hazardous Waste Prohibited

The Contractor shall not collect any item or material that is a Hazardous Waste. If Hazardous Waste is placed at a Customer's Curbside Collection Point, the Contractor shall leave a notice pursuant to Section 5.28, informing the Customer that the Hazardous Waste cannot be collected by the Contractor and providing the phone number for the County facilities that will assist the Customer with the proper handling and disposal of the Customer's materials. The Contractor also shall promptly provide the County with the Customer's address and photographs of the Customer's waste materials so that the County can notify the Customer about the proper disposal methods for the Customer's materials.

### 5.16 Processing Recyclable Materials, Rejects, and Residue

After the Contractor collects a Customer's Source Separated Recyclable Materials, the Contractor shall deliver the Source Separated Recyclable Materials to a Solid Waste Management Facility or other facility for Recycling. The Contractor shall deliver the Source Separated Recyclable Materials only to those facilities that have been approved in advance by the Contract Administrator, and the Contractor shall not change facilities without receiving the Contract Administrator's prior written approval. The Contract Administrator shall approve a facility only if and only for so long as the Contractor can demonstrate that the facility can and will Recycle or beneficially reuse the County's Source Separated Recyclable Materials. The Source Separated Recyclable Materials collected in the Service Area shall not be disposed of in a landfill or elsewhere, unless the Contractor receives the County Administrator's prior written approval for such disposal.

However, the Contractor may dispose of Rejects and Residue in a landfill or other appropriate facility. The Contractor shall be solely responsible for paying the costs of processing and marketing Recyclable Materials, and the costs of removing and disposing any Rejects, Residue, or other contaminated or unacceptable materials. The County does not make and affirmatively disclaims any warranties or representations concerning the quantity or quality of the materials that Customers will set out for collection in Recycling Bins or Recycling Carts.

#### 5.17 Recycling Bins

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The County will provide Recycling Bins to the Contractor until the Commencement Date or such earlier time as the County deems appropriate. Until the Commencement Date or an earlier date selected by the County, the Contractor shall deliver one (1) new Recycling Bin to each New Customer within five (5) days after the New Customer is added to the County's Customer list. The Contractor also shall provide one (1) additional Recycling Bin or one (1) replacement Recycling Bin when requested to do so by a Customer or the Contract Administrator. The Recycling Bin shall be delivered on or before the next regularly Scheduled Collection Day for Recyclable Materials or within five (5) days of the request, whichever occurs later. The size, color, and technical specifications of the Recycling Bins shall be determined by the Contract Administrator. The County shall pay the cost of procuring the Recycling Bins that are distributed pursuant to this Section 5.17. ~~All of the costs associated with the storage and distribution of the Recycling Bins shall be paid by the Contractor.~~

#### 5.18 Recycling Carts

Before the Commencement Date, the Contractor shall purchase, assemble, and deliver one (1) new Recycling Cart to each Residential Property in the Service Area. On and after the Commencement Date, the Contractor shall deliver one (1) new Recycling Cart to each New Customer within five (5) days after the Customer is added to the County's Customer list. The Contractor also shall deliver one (1) additional Recycling Cart anytime a Customer requests an additional cart for the collection of the Customer's Recyclables. The Contractor shall be responsible for the procurement, storage, assembly, and distribution of the Recycling Carts and for all costs associated with these activities.

The Contractor shall prepare and maintain an up-to-date list of all of the Customers and Residential Property that receive a Recycling Cart. The list shall identify the date, time, and address of: (a) each delivery of a new or replacement Recycling Cart under this Agreement; (b) each cart exchange pursuant to Section 5.25, below; and (c) each cart repair pursuant to Section 5.21, below. The general format and content of the list shall be subject to the approval of the Contract Administrator. The list shall be provided to the Contract Administrator in an electronic format (e.g., Excel spreadsheet) on the Commencement Date. An updated list shall be provided to the Contract Administrator every six (6) months thereafter.

5.19 Technical Specifications for Recycling Carts

In general, the Recycling Carts shall: (a) have a nominal rated capacity of approximately thirty-two (32) or ninety-six (96) gallons, as applicable; (b) be hot-stamped in accordance with the specifications provided by the Contract Administrator; and (c) be compatible with the hydraulic lifting and dumping mechanism mounted on the Contractor's automated or semi-automated collection vehicles. Each Recycling Cart shall have a flat area on the top (outside) of the lid, which shall be at least eight (8) inches by sixteen (16) inches in size and suitable for the placement of informative stickers or decals. Each Cart in each size category shall be uniform with regard to color, volumetric capacity, dimensions, finished surfaces, and hot-stamping and labeling. Each Cart shall be constructed to prevent the intrusion of water and animals, with covers that are free from sharp edges, and without any inside structures that prevent the discharge of its contents. The Contractor must obtain the Contract Administrator's prior written approval of the color of the Recycling Carts, before the carts are ordered by the Contractor.

The Recycling Carts also shall comply with the specifications in Exhibit E.

5.20 Title to Recycling Carts

Title to the Recycling Carts shall be held by the Contractor until July 31, 2024. At that time, title to the Recycling Carts shall automatically transfer to and vest in the County, without further action by either Party.

If this Agreement is terminated before July 31, 2024, the County shall notify the Contractor if the County wishes to purchase some or all of the Recycling Carts from the Contractor. At its option, the County shall have the right to purchase the carts by paying the fair market value of the Recycling Carts at the time when the Agreement is terminated. The fair market value of the Recycling Carts may be determined by using any method that is mutually agreeable to both Parties. If the Parties cannot agree, the Contractor shall provide the County with an invoice or other document identifying the purchase price per cart that was actually paid by the Contractor. For the purposes of this Section 5.20, the fair market value of a Recycling Cart shall be the price per cart actually paid by the Contractor, reduced from the Commencement Date to the date of termination, based on a straight-line amortization of the purchase price over seven (7) years.

5.21 Maintenance and Replacement of Recycling Carts

The Contractor shall procure, and maintain at all times, an adequate supply of spare parts (e.g., wheels, lids) for the Recycling Carts it provides for use in the Service Area. The Contractor shall be responsible for maintaining the Recycling Carts in good working condition. The Contractor shall repair or replace a Recycling Cart within five (5) days if (a) if the Contractor observes that the Cart is defective or (b) the Contractor is informed by the Customer or the Contract Administrator that the Recycling Cart needs to be repaired or replaced.

## 5.22 Collections with Recycling Bins and Recycling Carts

Prior to the Commencement Date, the Contractor shall collect all of the Source Separated Recyclable Materials that each Customer places at their Curbside Collection Point in or adjacent to Recycling Bins.

From the Commencement Date until May 8, 2015, the Contractor shall continue to collect all of the Source Separated Recyclable Materials a Customer places at the Curbside Collection Point in or adjacent to a Recycling Bin; however, during this period of time, the Contractor shall leave a notice on the Customer's Recycling Bin, informing the Customer that the Contractor will not collect the Customer's Recyclable Materials in the future unless the Recyclable Materials are placed in a Recycling Cart. The design and content of the notice shall be developed by the Contractor, but shall be subject to the prior approval of the Contract Administrator.

On and after the Commencement Date, the Contractor shall collect all of the Source Separated Recyclable Materials that each Customer places at their Curbside Collection Point in Recycling Carts.

After May 8, 2015, the Contractor is not obligated to collect Source Separated Recyclable Materials that are placed at the Curbside Collection Point unless the Source Separated Recyclable Materials are placed in a Recycling Cart. After May 8, 2015, if a Customer places Source Separated Recyclable Materials at the Curbside Collection Point in a Recycling Bin or a Customer fails to place their Source Separated Recyclable Materials in a Recycling Cart, the Contractor may refuse to collect such material, but the Contractor shall place a non-collection notice on the Recycling Bin or Recyclable Materials, in compliance with Section 5.28, below.

## 5.23 Contractor's Transition Plan

The Contractor shall ensure that there is no disruption experienced by Customers when the Contractor begins to provide its services with Recycling Carts. Accordingly, the Contractor shall prepare and provide the Contract Administrator with a transition plan within thirty (30) days after the Effective Date. At a minimum, the transition plan shall demonstrate that the Contractor will obtain and train the necessary personnel, and procure the necessary vehicles and equipment, prior to the Commencement Date. The transition plan shall explain how and when the Contractor will provide Recycling Carts to Customers prior to the Commencement Date. The transition plan shall be subject to the approval of the Contract Administrator. If requested, the Contractor shall provide additional information to the Contract Administrator concerning the transition plan.

## 5.24 Milestones in Transition Plan

The transition plan shall include the following milestones:

- (a) By September 1, 2014, the Contractor shall provide the Contract Administrator with documentation demonstrating that all necessary collection vehicles, equipment, and Recycling Carts have been ordered and will be delivered to the Contractor's equipment yard no later than January 16, 2015.
  - (b) By October 1, 2014, the Contractor shall provide the Contract Administrator with a plan for the assembly and distribution of the Recycling Carts that will be provided to the Customers. The Contractor's plan shall describe the timing, staffing, staging locations, distribution methods, and distribution schedule for the Recycling Carts.
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- (c) By November 3, 2014, the Contractor shall provide the Contract Administrator with an electronic (digital) copy of the notice that the Contractor intends to publish in the local newspapers concerning the commencement of the Contractor's collection services with Recycling Carts. By November 3, 2014, the Contractor shall provide the Contract Administrator with an electronic (digital) copy of the brochures and informational materials that the Contractor intends to provide to Customers concerning the use of the Recycling Carts. The Contractor's notices shall be subject to the Contract Administrator's prior approval.
  - (d) By January 16, 2015, the Contractor shall confirm in writing to the Contract Administrator that all of the vehicles and equipment necessary to provide collection service with Recycling Carts have been delivered to the Contractor's equipment yard. In addition, the Contractor shall confirm in writing to the Contract Administrator by January 16, 2015, that all of the Recycling Carts necessary to provide collection service have been delivered to the Contractor's equipment yard or will be delivered in accordance with the Contractor's approved schedule for the assembly and distribution of the Recycling Carts.
  - (e) By January 16, 2015, the Contractor shall provide the Contract Administrator with three thousand (3,000) copies of the brochures and informational materials that were approved by the Contract Administrator for distribution to the public concerning the use of the Recycling Carts.
  - (f) By January 23, 2015, the Contractor shall publish notice in the local newspaper concerning the commencement of the Contractor's collection services with Recycling Carts. By January 23, 2015, the Contractor also shall deliver brochures and informational materials to all Customers concerning the Contractor's services with Recycling Carts. The notices, brochures, and informational materials shall be subject to the Contract Administrator's approval and shall be provided in compliance with the requirements in Section 12, below.
  - (g) By January 28, 2015, the Contractor shall confirm in writing to the Contract Administrator that: (1) the Contractor has published the County-approved notices in the local newspaper; (2) the Contractor has delivered the County-approved

brochures and informational materials to all of the Customers; and (3) Contractor has delivered Recycling Carts to all of the Customers in compliance with this Agreement.

5.25 Exchanging Recycling Carts

The Contractor shall offer Recycling Carts that are approximately thirty-two (32) gallons and ninety-six (96) gallons in size. The Contractor shall deliver a different Recycling Cart to any Customer that wishes to exchange its Cart for one that is a different size. The Contractor shall deliver the requested Cart within five (5) days after receiving the Customer's request.

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A Customer shall be allowed to exchange their Recycling Cart for a different size, without charge, one (1) time before May 8, 2015. The Contractor may charge and collect a delivery fee from the Customer if (a) the Contractor exchanges a Customer's Recycling Cart, at the Customer's request, on or after May 8, 2015 or (b) the Customer exchanges its Recycling Cart more than once. However, the Contractor shall not charge or collect a delivery fee if a Customer delivers their Recycling Cart to the Contractor's local office for exchange. The Contractor also shall waive the delivery fee if the Contract Administrator instructs the Contractor to provide a smaller Recycling Cart to a Customer because the Customer is physically disabled and there are no able bodied people residing with the Customer. The Contractor's delivery fee shall not exceed Twenty-Five Dollars (\$25.00). The Contractor shall be solely responsible for billing its delivery fee and collecting the fee from the Customer.

5.26 Minimum Warranty for Recycling Carts

Each Recycling Cart shall be protected by a manufacturer's warranty of at least ten (10) years in duration. The warranty shall explicitly provide that it is transferable to the County and shall be enforceable by the County after the title to the Recycling Carts is transferred to the County. A copy of the manufacturer's warranty shall be provided to the Contract Administrator before the Recycling Carts are ordered by the Contractor.

5.27 Collection and Sale of Recycling Bins

When the Contractor delivers a Recycling Cart to a Customer's residence before the Commencement Date, the Contractor shall collect the Customer's Recycling Bin(s), if possible. The Contractor also shall collect all of the Recycling Bins that are set out at the Curbside Collection Point between the Commencement Date and May 8, 2015. Title to the Recycling Bins is held by the County and shall remain with the County until the County sells, discards, or recycles the Recycling Bins. At its option, the County may sell the Recycling Bins to the Contractor for a price that is mutually acceptable to both Parties. In the alternative, the County may require the Contractor to deliver the Recycling Bins to either the designated Recycling facility or a facility located in the County.

## 5.28 Non-Collection Notices

The Contractor shall place a notice on a Customer's Garbage Receptacle, Recycling Bin, or Recycling Cart if the Contractor refuses to collect the materials in the receptacle, bin, or cart. The design and content of the Contractor's non-collection notices shall be developed by the Contractor, but shall be subject to the approval of the Contract Administrator. At a minimum, the non-collection notices shall contain the following information: (a) the issuance date; (b) the Contractor's reason for not providing collection service; (c) information advising the Customer how to correct the problem; and (d) the telephone number to call if the Customer has any questions for the Contractor.

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## 6. REPAIR OF DAMAGED PROPERTY

- 6.1 The Contractor's employees shall not damage any public or private property, including but not limited to roads, driveways, sidewalks, utilities, trees, flowers, shrubs, grass, Garbage Receptacles, Recycling Bins, and Recycling Carts.
- 6.2 The Contractor shall promptly notify the Contract Administrator whenever the Contractor's activities cause any injury or damage to any Person or property.
- 6.3 The Contractor shall repair or replace any property that the Contractor damages in the Service Area. If the Contractor repairs any property, the repairs shall restore the property to a condition that is equal to or better than the condition that existed before the damages occurred. If a dispute arises between a Customer and the Contractor, the Contract Administrator has, and may elect to exercise, the authority to determine the Contractor's responsibility under this Agreement for repairing or replacing damaged property. In cases involving damages to County property, the County shall have the option of performing the repair or replacement itself, or using the services of a private contractor, or requiring the Contractor to repair the damages. In all cases, the Contractor shall be solely responsible for paying the cost of repairing or replacing the property it damaged.

## 7. CUSTOMER DISPUTES WITH CONTRACTOR

The Contract Administrator has the authority to resolve any disputes between a Customer and the Contractor concerning any matter arising under this Agreement, including but not limited to the location of the Curbside Collection Point, the service to be provided to the Customer, and the amount of any fees to be paid for Special Services.

## 8. TREATING COMMERCIAL AND MULTIFAMILY RESIDENCES AS RESIDENTIAL PROPERTY

- 8.1 Under this Agreement, the Contractor shall not collect and shall not be paid for the collection of Solid Waste from any commercial establishments, businesses, or industries.
- 8.2 The County may allow Multifamily Residential Property, condominiums, and subdivisions to change from commercial Solid Waste collection services to residential

collection service. If the County allows such changes to occur after the Effective Date, the Contract Administrator and the Contractor shall jointly account for and agree upon the number of New Customers that will receive collection services from the Contractor under this Agreement. If there is a dispute between the County and the Contractor about this issue, the Contractor initially shall be paid only for the number of Customers that both Parties agree upon. When the dispute is resolved, the Contractor shall be paid retroactively, if necessary, to make the Contractor whole for the services it has provided.

## 9. RATES, COMPENSATION AND FRANCHISE FEES

### 9.1 Payments by the County

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Except as otherwise provided herein, the County shall pay the Contractor for the services rendered by the Contractor in compliance with the terms and conditions of this Agreement. The Contractor shall be paid in accordance with the Rates set forth in Exhibit D, which is attached hereto and incorporated herein. The Rates set forth in Exhibit D shall be applied uniformly to all Customers, regardless of the number of Garbage Cans, Recycling Bins, or Recycling Carts used by any Customer.

### 9.2 CPI Adjustment

Once each year, the County shall adjust the Contractor's Rates, upward or downward, to reflect the percentage change in the consumer price index (CPI) that occurred during the preceding twelve months. However, the CPI adjustment shall not exceed four percent (4%) in any one year (i.e., the CPI adjustment shall not be greater than four percent (4%) of the Rate in effect immediately before the adjustment occurs). The CPI adjustments shall be based on the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics, for all items in the wage earners and clerical workers (CPI-W) category for the South Urban Area.

Each CPI adjustment shall take effect on October 1. There will be no CPI adjustment on October 1, 2014. The first CPI adjustment shall take effect on October 1, 2015. The CPI adjustment shall reflect the percentage change in the CPI, measured from April 1<sup>st</sup> in the previous calendar year to March 31<sup>st</sup> of the calendar year in which the adjustment will occur. The percentage change in the CPI shall be calculated by using the following formula:

PC equals CPI 1, divided by CPI 2, minus 1.0, multiplied by 100

Where:

PC is the percentage change in the CPI from one year to the next

CPI 1 is the CPI index number for the most recent April (e.g., April 2014)

CPI 2 is the CPI index number for April in the year before CPI 1 (e.g., April 2013)

Notwithstanding the foregoing provisions of this Section 9.2, the CPI adjustments that shall take effect on October 1, 2015, 2016, and 2017, shall be calculated in a different manner. The CPI adjustments for October 1, 2015, 2016, and 2017 shall be calculated in accordance with the normal procedures described above, and then the amount of the increase or decrease in the Rates shall be reduced by an additional two percent (2%). For example, if the CPI adjustment for October 1, 2015 is calculated to increase the Rates by three percent (3%), the actual CPI adjustment shall increase the Rates by only one percent (1%). Similarly, if the CPI adjustment for October 1, 2015 is calculated to increase the Rates by one-half of one percent (0.5%), the actual CPI adjustment shall reduce the Rates by one and one-half percent (1.5%).

### 9.3 Extraordinary Rate Adjustment

Once each year, the Contractor may petition the County for a Rate adjustment, based on extraordinary changes in the cost of providing services under this Agreement. The Contractor shall submit appropriate documentation to fully explain and support any claim for a Rate adjustment. The Contractor's request shall include an audited statement that documents the extraordinary changes in the Contractor's costs. The Contract Administrator shall review and recommend approval or denial of the Rate adjustment. The Board shall consider the Contractor's request for a Rate adjustment at a duly noticed public meeting. At its sole discretion, the Board may approve or deny the request. If the request is granted, the Board shall have the right to reduce the Contractor's Rates when the cost of the Contractor's operations returns to normal. Every six (6) months after a request is granted, the Board shall have the right to request, and the Contractor shall prepare, an updated audit to demonstrate why the extraordinary Rate adjustment should remain in effect.

### 9.4 Contractor's Invoices

The Contractor shall prepare and submit a monthly invoice to the County for the work that was performed during the preceding month. The invoice shall identify the number of Customers that were served, the Rate that should be charged for each Customer, and the total payment due to the Contractor. The first invoice shall cover the period from the Effective Date until the end of the calendar month that includes the Effective Date. Thereafter, each invoice shall cover the work performed during the preceding calendar month.

### 9.5 Payment Time

The Contractor shall be paid all undisputed amounts within forty-five (45) days after the County receives a proper invoice for the work performed by the Contractor during the preceding month.

9.6 Payment Calculation

The Contractor's total monthly fee shall be calculated by multiplying the appropriate Rate times the total number of Customers served by the Contractor during the preceding month. The number of Customers shall be reported by the Contractor, but the number shall be subject to verification by the County.

9.7 Franchise Fee

A franchise fee shall be delivered to the County each month with the Contractor's invoice for its services under this Agreement. The Contractor shall pay a franchise fee to the County for any revenue generated above and beyond the base revenue generated by the Contractor's Regular Service in the Service Area (i.e., one (1) day a week collection for Solid Waste, Recycling, and Yard Waste). If additional or Special Services are provided to any individual residential units or communities, the Contractor shall pay a two percent (2%) franchise fee on the gross revenue collected for the Special Services and any other additional collections service provided in the Service Area. The franchise fee shall be delivered to the County each month with a description of the Special Services and additional collections provided.

9.8 Number of Customers

The County and the Contractor shall work together to identify the number of Customers that are served by the Contractor under this Agreement. The number of Customers shall be verified within six (6) months of the Effective Date, and shall be reconfirmed from time-to-time thereafter. The number of Customers shall be verified by both the County and the Contractor by performing an actual visual count of each Residential Property, or by using geographic information systems, or by using other methods that are acceptable to the County and the Contractor.

9.9 Adjustments to Customer List

The County shall adjust the number of Customers, upward or downward, once each month, based on the County Building Department's latest data concerning the issuance of new certificates of occupancy for Residential Property and mobile homes, and the issuance of demolition permits, and other relevant information. The Contractor has an affirmative duty to ensure that the County's list of Customers is accurate and does not include undeveloped lots, empty homes or dwelling units, or abandoned property. The Contractor's drivers shall promptly notify their supervisors, who shall promptly notify the Contract Administrator, if the drivers see any Residential Property that they believe should be removed from or added to the County's list of Customers.

9.10 Overpayments and Underpayments

If the Contractor provides service to a Person that has been mistakenly omitted from the County's list of Customers, the Contractor shall provide the Contract Administrator with

appropriate information, in the format requested by the Contract Administrator, to determine whether the Person should be added to the County's Customer list. If the Contract Administrator verifies that the Person should be added to the County's Customer list, the County shall pay the Contractor for the Regular Services provided to the Customer. If the County overpays the Contractor for any reason, the Contractor shall promptly notify the Contract Administrator, and the County shall adjust its monthly payments to the Contractor to offset any prior overpayments.

Notwithstanding anything else contained herein, the County shall have no obligation to pay the Contractor for services rendered by the Contractor more than one (1) calendar month before the Contractor notifies the Contract Administrator that the Contractor has been providing its service to a Person or Residential Property that was omitted from the County's list of Customers. The Contractor hereby waives its right to payment for services provided more than one (1) calendar month prior to its notice to the Contract Administrator. For example, if the Contractor gives notice in October that the Contractor has provided service to a Customer since June, the Contractor shall receive payment for the services it provided in September and October, but the Contractor shall not be entitled to any payment for services it rendered prior to September.

#### 9.11 Diesel Fuel Adjustment Fee

The County shall pay an additional fee (i.e., "the Fuel Adjustment Fee") to the Contractor, and the Contractor shall pay a Fuel Adjustment Fee to the County, when required by the provisions of this Section 9.11. The Fuel Adjustment Fee shall be invoiced quarterly in arrears. The Fuel Adjustment Fee shall reflect the monthly changes in the price of Number 2 Diesel, as reported in the FDOT Fuel and Bit Price Index (FDOT Index) (<http://www.dot.state.fl.us/construction/fuel&bit/Fuel&Bit.shtm>).

The Fuel Adjustment Fee shall be paid for diesel fuel that is used by the Contractor's collection vehicles, but only when such vehicles are used to collect and transport the County's Residential Waste in St. Johns County in compliance with this Agreement. The Contractor shall compile and maintain accurate records demonstrating that the Contractor has complied with the requirements in this Section 9.11. The County may withhold payment of any invoice from the Contractor for the Fuel Adjustment Fee until the Contractor provides adequate documentation to support the invoice. At any time the County may monitor and audit the fuel consumption records of the Contractor for the collection and transportation of the County's Residential Waste.

The "Base Fuel Price" (BFP) will be set at \$3.2251 per gallon, beginning April 1, 2014. The Base Fuel Price shall be adjusted each month thereafter, based on the change during the preceding month in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for all items in the wage earners and clerical workers (CPI-W) category for the South Urban Area. This CPI adjustment will establish a "Monthly Base Fuel Price" (MBFP).

The MBFP will be subtracted from the FDOT Index Price for that month to derive the "Price Differential" per gallon of diesel fuel for the subject month. This Price Differential will then be multiplied by the number of gallons consumed by the Contractor during the month for the collection and transportation of the County's Residential Waste in the County in compliance with this Agreement. The resulting value is the amount of the Fuel Adjustment Fee for that month.

When the FDOT Index Price is greater than the Base Fuel Price, the Fuel Adjustment Fee will be paid by the County to the Contractor. When the FDOT Index Price is less than the Base Fuel Price, the County will deduct the Fuel Adjustment Fee from the County's payments to the Contractor.

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The Fuel Adjustment Fee shall be calculated by using the following formulas:

$$\text{BFP} \times \text{Monthly CPI Adjustment} = \text{MBFP}$$

$$\text{FDOT Index} - \text{MBFP} = \text{Price Differential (Per Gallon of Diesel Fuel)}$$

$$\text{Gallons Used by Contractor} \times \text{Price Differential} = \text{Fuel Adjustment Fee}$$

The following hypothetical examples use hypothetical values to demonstrate how the Fuel Adjustment Fee will be calculated:

Example No. 1:

$$\$3.2251 \text{ (BFP)} \times 1.003 \text{ (CPI Adjustment)} = \$3.2348 \text{ (MBFP)}$$

$$\$3.2348 \text{ (MBFP)} - \$3.1818 \text{ (FDOT Index)} = \$0.053 \text{ (Price Differential)}$$

$$1,000 \text{ Gallons (Fuel Used)} \times \$0.053 \text{ (Price Differential)} = \$53.00 \text{ (Fuel Adjustment Fee to be paid by the Contractor to the County)}$$

Example No. 2:

$$\$3.2251 \text{ (BFP)} \times 0.995 \text{ (CPI Adjustment)} = \$3.2089 \text{ (MBFP)}$$

$$\$3.3311 \text{ (FDOT Index)} - \$3.2089 \text{ (MBFP)} = (\$0.1222) \text{ (Price Differential)}$$

$$1,000 \text{ Gallons (Fuel Used)} \times (\$0.1222) \text{ (Price Differential)} = \$122.20 \text{ (Fuel Adjustment Fee to be paid by the County to the Contractor)}$$

#### 9.12 Right to Verify Payments

The County's acceptance of any payment from the Contractor and the County's deduction of any amount from any payment due to the Contractor shall not be construed

as an accord that the amount paid is the correct amount, nor shall it be construed as a release of any claim that the County may have for additional sums payable from the Contractor. At any time within the applicable statute of limitations, the County may recalculate and collect any amounts that are payable to the County under this Agreement, plus interest at the maximum rate allowed by law and all costs of collection, including attorneys' fees and court costs.

## 10. CHANGES IN SCOPE OF WORK

10.1 The County shall have the unilateral right to make changes in this Agreement to benefit the public health, safety or welfare, or to comply with a Change in Law. The County, at its sole discretion, may request modifications to this Agreement relating to the scope of the Contractor's services.

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The County shall use the following procedure when implementing a proposed change to this Agreement:

- (a) The County shall send reasonable advance notice to the Contractor of the proposed change in service;
- (b) The County shall provide the Contractor with a reasonable period of time to implement the proposed change;
- (c) The County and the Contractor shall negotiate in good faith to establish the amount of any adjustment, upward or downward, in the Contractor's Rates that are appropriate in light of the proposed change in service;
- (d) In the event the County and the Contractor cannot reach an agreement as to the amount of any adjustment in the Contractor's Rates, then the County shall have the right to require that the dispute be settled by arbitration in accordance with the rules of the American Arbitration Association;
- (e) Upon receiving notice of the County's intent to submit the dispute to arbitration, the Contractor shall implement the change in service as directed by the County, with the adjustment in Rates proposed by the County. The County and the Contractor agree that the adjustment in Rates set by the arbitrator shall be implemented retroactively to the beginning of the change in service so that the Parties are made whole.
- (f) The cost of arbitration shall be shared and paid equally by the Contractor and the County.

## 11. OPERATION DURING A DISPUTE

If a dispute arises between the County, the Contractor, or any other Person that in any way relates to the Contractor's performance under this Agreement, the Contractor shall continue to

perform its duties in strict compliance with the terms and conditions of this Agreement, regardless of the pending dispute.

## 12. NOTIFICATION BY CONTRACTOR

### 12.1 Public Notice of Schedules and Services

At least seven (7) days but not more than twenty (20) days prior to the Commencement Date, the Contractor shall provide notice to its Customers concerning the Contractor's schedules and services. The notice shall be published in the local newspaper that has the largest circulation in the Service Area. Notice also shall be delivered to each Customer, by using door hangers, flyers, or similar means. The content and form of the notice are subject to the prior approval of the Contract Administrator. At a minimum, the notices shall include the following information:

- (a) The collection day for each collection route and for each type of material (i.e., Garbage, Recyclables, Bulky Waste, and Yard Waste).
- (b) The types of Special Services that will be provided by the Contractor, if requested by the Customer.
- (c) The location of the Contractor's office, the Contractor's mailing address, and the Contractor's toll-free telephone number, which should be called for information about the Contractor's services or to report a complaint.
- (d) The name of the Contractor's manager for the Service Area.
- (e) The types of materials that the Contractor will not collect (e.g., Hazardous Waste).
- (f) The size and weight limitations, if any, on the materials that the Contractor will collect (e.g., fifty (50) pounds per Garbage Receptacle).
- (g) The telephone number to call for information from the County about its services and facilities.
- (h) The proposed date and location of any upcoming community clean up program.

### 12.2 Notification of Route and Schedule Changes

The Contractor may change its collection routes, schedules, and manner of collection, but shall provide written notification to all affected Customers at least ten (10) days before the Contractor implements the change. Notification of changes shall be provided to each Customer with a door hanger, flyer or other method approved by the Contract Administrator. During the first week following the change, the Contractor shall provide

an additional pick up and notice to each Customer that fails to place its Residential Waste at the Curbside Collection Point at the appropriate time or in the appropriate manner.

12.3 Notification to County of Routes and Schedules

No later than thirty (30) days after the Effective Date, the Contractor shall provide the Contract Administrator with a map showing all of the routes that the Contractor will use for the collection of Residential Waste in the Service Area. The route map shall designate the beginning and ending point of each route, and the days and times when service will be provided to each route. If the Contractor decides to make any temporary changes to a route or the day, time, or manner of collection, the Contractor shall immediately provide verbal notification to the Contract Administrator and then shall provide written confirmation within one (1) business day. If the Contractor wishes to make a permanent change to any route or the day, time, or manner of collection, the Contractor shall provide written notice and an updated map to the Contract Administrator at least twenty (20) days before the Contractor implements the change.

12.4 Notification to New Customers

The Contractor shall provide notice to New Customers when the Contractor begins to provide collection service to those Customers. The notice shall be delivered to each New Customer by using door hangers, flyers or similar means. The content and form of the notice are subject to the prior approval of the Contract Administrator, but shall include the information identified in Sections 12.1(a)-through 12.1(h), above.

**13. PUBLIC AWARENESS, EDUCATION AND COMMUNITY CLEAN-UP PROGRAMS**

13.1 The Contractor shall assist the County with its efforts to inform the public about the goals and objectives of the County's Solid Waste management program. At least once each calendar year, the Contractor shall provide each Customer in their service area with informational, promotional, and educational materials concerning the waste management programs and services offered by the County and Contractor. These materials shall include information about the proper management and disposal of Hazardous Waste and Special Waste, and shall identify the locations of the County's collection centers for such materials. The form and content of the materials shall be subject to the prior approval of the Contract Administrator. This annual informational service is in addition to the Contractor's initial notification to the public about the Contractor's schedules pursuant to Section 12.1, above.

13.2 The Contractor shall conduct twelve (12) community clean-up programs each calendar year, including one paper shredding event. The County, in consultation with the Contractor, shall designate the times, dates, locations, and scope of each clean-up program, except the paper shredding event, which shall be designated by the Contractor. The Contractor shall publish notice of each program in the local newspaper that has the largest circulation in the Service Area. The Contractor also shall deliver door hangers or

flyers to those Customers or areas designated by the County. The notices shall be subject to the prior approval of the Contract Administrator. The Contractor shall provide at least four (4) containers, each with a minimum capacity of forty (40) cubic yards, for each program. The Contractor shall pay the cost of collecting and transporting the contents of the containers to the County's Solid Waste Management Facilities. The County shall pay the cost of disposal for the materials collected during the clean-up programs, except the paper shredding event.

#### **14. DELIVERY TO DESIGNATED DISPOSAL FACILITIES**

##### **14.1 Delivery to Designated Facilities**

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The Contractor shall deliver all of the Solid Waste it collects in the Service Area pursuant to this Agreement to a Solid Waste Management Facility or Recycling facility designated by the County. The designated facilities for the disposal of Garbage and Rubbish are the Tillman Ridge Transfer Station, which is located at 3005 Allen Nease Road, Elkton, Florida 32033, and the County's Stratton Road Transfer Station, which is located at 250 Stratton Road North, St. Augustine, Florida 32095. The designated facilities for the disposal of Yard Waste are the privately operated Yard Waste facility that is located at the Nine Mile Road Landfill, 445-A International Golf Parkway, St. Augustine, Florida 32095, and the facility operated by Indianhead Exploration, LLC, which is located at 1700 Adams Acres Road, St. Augustine, Florida 32084. The Contractor shall deliver all of the Source Separated Recyclable Materials it collects under this Agreement to a properly licensed Recycling facility. The Recycling Facility shall be subject to the approval of the Contract Administrator, which shall not be unreasonably delayed or denied.

##### **14.2 Prohibited Deliveries**

Unless the Contractor receives the Contract Administrator's prior written approval, the Contractor shall not deliver the following materials to a Solid Waste Management Facility owned by the County: (a) Hazardous Waste; (b) Solid Waste that is not authorized for processing or disposal at the County's facility, in compliance with all Applicable Laws; and (c) Solid Waste collected outside of the County.

##### **14.3 Restricted Deliveries**

If the Contractor collects Solid Waste in the County from a person that is not a Customer under this Agreement, or if the Contractor collects material that is not Residential Waste, the Contractor may deliver the Solid Waste to a Solid Waste Management Facility owned by the County, but in such cases: (a) the Contractor must notify the Contract Administrator at or before the time the Solid Waste is delivered to the County's facility; (b) the Contractor must pay the applicable disposal and processing fees to the County; and (c) the driver of the Contractor's collection vehicle must tell the scale house operator to charge the Contractor for the disposal of the materials. Among other things, these requirements apply to the disposal of Solid Waste that the Contractor collects in the

County from commercial, industrial, governmental and institutional properties and entities.

14.4 Misuse of Residential Waste Collection Vehicles

Unless the Contractor receives the prior written approval of the Contract Administrator, the Contractor shall only use its residential waste collection vehicle (e.g., rear loading vehicles) to collect Residential Waste generated by a Customer, and shall not use such vehicles to collect Solid Waste generated on or by commercial, industrial, governmental or institutional properties or entities. Unless the Contractor receives the Contract Administrator's prior written approval, the Contractor shall pay the applicable processing and disposal fees for the entire load, and shall be subject to liquidated damages or other sanctions under this Agreement, if the Contractor uses a residential waste collection vehicle to deliver Solid Waste generated on or by commercial, industrial, governmental or institutional properties or entities, or delivers such waste with Residential Waste.

**15. CONTRACTOR'S PERSONNEL**

- 15.1 The Contractor shall designate qualified individuals to supervise and be responsible for the Contractor's operations within the Service Area. At a minimum, the Contractor shall have at least one site manager and one supervisor to ensure that the Contractor's work complies with the requirements in this Agreement. The Contract Administrator shall be given the names of the Contractor's site manager(s) and supervisor(s), as well as the telephone number(s) and e-mail addresses where these employees can be reached twenty-four (24) hours per day.
- 15.2 The Contractor's collection employees shall wear a uniform or shirt, clearly identifying the Contractor's name and the name of the employee, at all times when the employee is working in the County.
- 15.3 All of the Contractor's drivers shall carry a valid Florida commercial driver's license, suitable for the type of vehicle that is being driven, at all times when operating collection equipment in the County. The Contractor shall ensure that all of its employees are fully trained and qualified before they drive any equipment in the County or undertake any other duties under this Agreement.
- 15.4 The Contractor shall provide operating and safety training for all of its personnel before they commence work under this Agreement and such training shall be updated on a regular basis. The Contractor shall initiate and maintain a drug screening program for its employees during their employment with the Contractor. The Contractor's drivers shall be assigned to routes in the Service Area only after they are aware of the specific area and route that is to be served.
- 15.5 Before beginning work under this Agreement, the Contractor shall inform all of its collection employees about the procedures that are to be followed in the event that (a) the employees are involved in an accident with a vehicle, (b) other circumstances arise where

there is damage to public or private property, or (c) there are complaints from Customers. The Contractor's employees shall at all times and in all circumstances treat all Customers in a polite and courteous manner. The Contractor's employees shall not use loud or profane language while performing their duties under this Agreement. If a Customer is belligerent or unduly upset, the Contractor shall promptly notify the Contract Administrator. If deemed necessary, the Contract Administrator shall work with the Contractor to resolve the Customer's complaint. The Contractor shall provide each employee with a telephone number to call in the event of an accident or emergency.

## 16. COLLECTION VEHICLES AND EQUIPMENT

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### 16.1 General Standards

At all times the Contractor shall have available in a local equipment or vehicle yard, and in good working condition, adequate numbers and types of vehicles and equipment to efficiently and timely perform the Contractor's duties under this Agreement. All vehicles and equipment shall be licensed in the state of Florida, operated in compliance with all Applicable Law, and maintained in compliance with the manufacturer's recommendations. The Contractor's Solid Waste collection equipment shall be of the enclosed loader packer type or other equipment that meets industry standards and complies with the requirements of the American National Standards Institute (ANSI). On and after the Commencement Date, the vehicles used to collect Source Separated Recyclable Materials shall be designed for the automated or semi-automated collection of such materials in Recycling Carts as part of a "single stream" or "all-in-one" collection process. At any time, the Contractor may use other equipment if such equipment is compatible with the County's needs, suitable for unloading at the County's designated facility, and in compliance with industry standards, ANSI requirements, and this Agreement. However, all of the Contractor's Solid Waste collection equipment and Recyclable Material collection equipment shall be subject to the County's prior approval.

### 16.2 Condition

All of the Contractor's vehicles and equipment shall be maintained and kept in good repair and appearance, and in a clean and sanitary condition, at all times. The Contractor shall wash, clean, repair or maintain any vehicle or piece of equipment within forty-eight (48) hours after being requested to do so by the Contract Administrator. The Contractor shall not use any vehicle or equipment that is more than seven (7) years old, except on an emergency or reserve basis.

### 16.3 Vehicle Identification

All of the vehicles used by the Contractor for the collection of Solid Waste or Recyclable Materials shall clearly identify the Contractor's name, local telephone number, and vehicle number, on both sides and the rear of the vehicles, in letters and numbers that are at least five (5) inches tall. Equipment shall be marked in a similar manner. Recycling collection vehicles shall be clearly marked to indicate that they are used for Recycling.

#### 16.4 Reserve Vehicles

The Contractor shall have available reserve vehicles and equipment, which can be put into service within two (2) hours of any breakdown. The reserve vehicles and equipment shall correspond in size and capacity to the vehicles and equipment normally used by the Contractor to perform its duties under this Agreement. Vehicles and equipment required for extended emergencies shall be subject to the requirements in Section 20 of this Agreement.

#### 16.5 Properly Equipped Vehicles

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Each of the Contractor's collection vehicles shall carry at all times appropriate tools and supplies to clean up any litter or spillage that may occur while the vehicles are being used in the County. Each vehicle shall at all times carry a spill response kit, which is suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from the Contractor's vehicles.

#### 16.6 Properly Loaded and Enclosed Vehicles

All of the Contractor's vehicles shall be covered, enclosed, sealed, or otherwise secured to prevent blowing or littering of Solid Waste; and spillage of fluids. The Contractor's vehicles shall not be overloaded, either by weight or by stacking oversized or excessive materials on the vehicle.

#### 16.7 Vehicle Inventory: Dedicated Fleet

Within ten (10) days after the Effective Date, the Contractor shall provide the Contract Administrator with a list of the vehicles that will be used to provide the services required under this Agreement. The list shall be presented in a format approved by the Contract Administrator. At a minimum, the Contractor's list shall identify: (a) the type of vehicle; (b) the make, model and model year; (c) the license tag number; (d) the vehicle identification number; (e) the vehicle's age; and (f) the date when the vehicle will be replaced. The Contractor's list also shall provide the same information for each reserve vehicle. The Contractor's list shall be updated at least once every six (6) months and provided to the Contract Administrator.

The vehicles used to provide collection services under this Agreement shall not be used to collect Solid Waste or Recyclable Materials outside of the Service Area, and the vehicles used outside of the Service Area shall not be used to provide collection service pursuant to this Agreement, unless the Contractor receives the Contract Administrator's prior written approval for such action. If such approval is granted, the Contractor shall notify the Contract Administrator within one hour after a vehicle normally used outside the Service Area is brought into the County and used to provide collection service pursuant to this Agreement.

#### 16.8 Contractor's Local Office

The Contractor shall maintain an office within the Service Area, which shall be equipped with a sufficient number of employees and telephones to enable the Contractor to receive and respond to complaints promptly. The Contractor's site manager(s) and supervisor(s) shall be based in and work from the Contractor's local office. At least two (2) toll-free telephone numbers for the office shall be listed in the local telephone directory. The office shall be open to the public at least from 7:00 a.m. until 6:00 p.m., Monday through Friday, and 7:00 a.m. until 1:00 p.m. on Saturday, except Holidays. The Contractor shall use a telephone answering machine or service to receive Customer inquiries when the office is closed. The answering machine or service shall give Customers the telephone number that the Customers may use to report an emergency. The Contractor shall establish a process for receiving and handling emergency calls, both during and after normal operating hours. The Contractor's process shall ensure that a Customer receives an immediate response after reporting an emergency. The Contractor shall have extra staff working in the Contractor's office in February 2015 and as long thereafter as necessary to ensure Contractor's compliance with the requirements in this Agreement following the Commencement Date. Recycling Carts shall be stored at the Contractor's local office and made available to Customers, pursuant to Section 5.25, above.

#### 16.9 Contractor's Equipment Yard

The Contractor's equipment yard shall be maintained in a safe condition, in compliance with all Applicable Laws. The Contractor's equipment shall be stored and secured in the Contractor's equipment yard, which shall be closed and locked after normal business hours.

#### 16.10 County Inspections of Contractor's Work

The County shall have the right to inspect the Contractor's office, equipment yard, and equipment during normal business hours to evaluate whether the Contractor is in compliance with the requirements of this Agreement. The County also may perform unannounced inspections and evaluations of the Contractor's routes and performance under this Agreement. The Contract Administrator shall have the authority to require the Contractor to immediately remove from service any collection vehicle or equipment that is leaking or spilling fluids, Solid Waste, or Recyclable Materials in the County. The Contract Administrator also may require any collection vehicle or other equipment to be cleaned, washed, painted, repaired or maintained immediately. In such cases, the Contractor shall comply with the Contract Administrator's request within one (1) business day or the Contractor shall take the vehicle or equipment out of service until the requested work can be completed.

#### 16.11 Notice of Violations

The Contractor shall promptly provide written notification to the Contract Administrator if the Contractor or its employees receive a ticket or citation by any law enforcement

agency while performing any work in the County.

#### 16.12 GPS Records

If the Contractor uses Global Positioning Systems ("GPS") to track and record the locations of its collection vehicles, the Contractor shall provide the GPS logs and records (if any) to the Contract Administrator within five (5) days after receiving a written request for such records. However, nothing contained herein shall be construed to require the Contractor to install GPS equipment in its vehicles or to collect and record the data from any GPS.

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#### 16.13 CNG Fueling Station and Contractor's CNG Vehicles

The County plans to participate in a public-private partnership and thereby arrange for the construction of a fueling station ("Fueling Station") for vehicles that use Compressed Natural Gas ("CNG"). The Fueling Station shall be owned, operated, and maintained by a private company. The Contractor shall use the Fueling Station to fuel the CNG collection vehicles that the Contractor uses to collect and transport the County's Residential Waste in St. Johns County. The terms and conditions governing the Contractor's use of the Fueling Station shall be the subject of a separate agreement between the Contractor and the owner or operator of the Fueling Station.

The County anticipates that the Fueling Station will be constructed by July 2015. Within six (6) months after the CNG Fueling Station becomes available for the Contractor's use, the Contractor shall replace all of the diesel fueled vehicles it uses for the collection of Recyclable Materials with CNG-fueled vehicles. The Contractor must comply with the requirements in this Section 16.13 only to the extent that the Fueling Station is operational, available for the Contractor's use, and has an adequate supply of CNG to meet the Contractor's needs.

### 17. COMPLAINTS

- 17.1 The Contractor shall prepare and maintain a complaint log for all of the complaints received from individuals and the County. Each complaint shall be recorded on a standard form, in a format approved by the Contract Administrator, and the forms shall be kept in the complaint log. At a minimum, the standard forms shall include the following information: (a) the date and time when the complaint was received; (b) the date and time when the problem occurred; (c) the source of the complaint (Customer, County, or other); (d) the name, address, and telephone number of the Person reporting the complaint, and the location of the problem, if different than the complainant's address; (e) the Contractor's truck number, if available; (f) the nature of the complaint; (g) the name of the Person assigned by the Contractor to respond to the complaint; (h) the ultimate action taken by the Contractor; and (i) the date and time when the complaint was resolved.

17.2 Reserved

17.3 The Contractor shall respond to all complaints as expeditiously as possible. If the Contractor receives a complaint before 12:00 p.m. (noon), Monday through Friday, the Contractor shall respond to the complaint on the day it is received. If a complaint is received after 12:00 p.m. (noon), or on a Saturday, or on the day before a Holiday, the Contractor shall respond no later than 12:00 p.m. (noon) on the next business day.

17.4 On or before the tenth day of each month, the Contractor shall provide the Contract Administrator with a summary of the complaints received by the Contractor during the preceding month. If requested by the Contract Administrator, each month the Contractor shall provide the Contract Administrator with a more detailed written report, in a format approved by the Contract Administrator, concerning the complaints received during the preceding month. At a minimum, the report shall identify the number of complaints received, the general nature of the complaints, the number of complaints that have not been resolved, and the basic facts concerning any complaints that have been unresolved for more than two (2) business days.

17.5 If the Contractor is unable to resolve a complaint or other problem within the time specified herein, or if the Contractor disputes the validity of a Customer complaint, the Contractor must notify the County in writing within the time period specified herein for addressing the problem. The Contractor's notification shall provide sufficient information to explain the Contractor's position and any suggestions for resolving the issue.

17.6 The County, in its discretion, may attempt to resolve complaints that are not timely resolved by the Contractor. The Contractor shall be liable for any costs reasonably incurred by the County to resolve such complaints.

### 18. LIQUIDATED DAMAGES

18.1 The Contractor and the County agree that the Contractor's failure to perform in strict compliance with this Agreement will cause the County to incur expenses and damages that will be difficult to calculate, at best. Accordingly, the County and the Contractor agree that the following amounts are reasonable estimates of the County's damages, and thus constitute liquidated damages and not penalties, for the Contractor's breach of this Agreement. These liquidated damages are supplemental to any other remedies the County may have under this Agreement or at law or in equity. If the Contractor fails to perform in accordance with this Agreement, the County, without waiving any other remedies and without reducing the Contractor's obligation to operate in strict compliance with the terms of this Agreement, may deduct the following amounts from any sum that otherwise would be payable to the Contractor under this Agreement:

- |     |   |                                |
|-----|---|--------------------------------|
| (a) | Failure to collect the Garbage, Rubbish, Yard Waste, Bulky Waste, or Source Separated Recyclable Material set out for collection by a | \$25 per incident per Customer |
|-----|---|--------------------------------|

Customer on a Scheduled Collection Day.

- |     |   |                      |
|-----|---|----------------------|
| (b) | Failure to address a Customer's complaint by the close of business on the next business day.  | \$25 per incident    |
| (c) | Failure to leave a notice with a Customer pursuant to Section 5.28, or failure to notify the County pursuant to Section 5.15, if the Customer places unacceptable or inappropriately prepared materials at the Curbside Collection Point. | \$25 per incident    |
| (d) | Failure to return Garbage Receptacles or Recycling Carts to the Curbside Collection Point, pursuant to Section 5.12, at three (3) or more residential units on one route.   | \$10 per residence   |
| (e) | Collection of materials on days or at times that are not authorized by this Agreement, when such collections occur more than three (3) times in a thirty (30) day period.   | \$100 per incident   |
| (f) | Failure of Contractor's employees to conduct themselves in an appropriate manner or failure to treat Customers in a polite and courteous manner.  | \$50 per incident    |
| (g) | Failure of Contractor's employees to comply with uniform requirements.  | \$50 per incident    |
| (h) | Commingling Yard Waste or Source Separated Recyclables with Garbage or other inappropriate materials.   | \$200 per incident   |
| (i) | Commingling commercial waste or other types of inappropriate material with Residential Waste for disposal at the County's Solid Waste Management Facility.  | \$1,000 per incident |
| (j) | Delivering commercial waste, or waste collected outside of the County, or other materials that are not Residential Waste, to the County's facilities in a Residential Waste collection vehicle.   | \$1,000 per incident |

(k)	Failure to clean up spillage (e.g., oil, hydraulic fluid, leachate, Garbage, Recyclables) or litter on the day notice of such spillage or litter is received.	\$100 per incident
(l)	Failure to maintain office hours and provide telephone service as required by Section 16.8 of this Agreement.	\$50 per incident
(m)	Failure to properly display Contractor's name, local phone number and vehicle number on equipment and vehicles.	\$50 per incident
(n)	Failure to provide the initial or annual notices to Customers concerning schedules and Solid Waste services.	\$50 per day after the due date
(o)	Failure to submit an annual certification by the date prescribed in Section 28, below.	\$50 per day
(p)	Contractor's vehicle operator not in possession of a valid commercial driver's license.	\$100 per incident
(q)	Failure to complete an incomplete route within the time period requested by the Contract Administrator.	\$100 per incident
(r)	Failure to deliver Solid Waste collected pursuant to this Agreement to the designated facility.	\$1,000 per load
(s)	Failure to receive prior approval or give proper notification of a change to a route, schedule or method of collection.	\$500 per incident
(t)	Delivery of out-of-county Solid Waste at the County's facility for disposal as Residential Waste	\$5,000 per load for the first incident \$10,000 per load for any subsequent incident
(u)	Failure to carry a spill response kit in the Contractor's collection vehicle	\$50 per incident

(v)	Disposal of Source Separated Recyclable Material	\$300 per load
(w)	Failure to submit a required report or document to the County in compliance with the applicable deadline in this Agreement	\$100 per incident; \$100 per day after 30 days
(x)	Failure to provide notice and comply with the requirements in Section 5.24(f) by January 23, 2015	\$1,000
<hr/>		
(y)	Failure to deliver all of the Recycling Carts in compliance with the transition plan and Section 5.24 by January 23, 2015	\$5,000

18.2 The Contractor shall not be required to pay liquidated damages in those cases where the delay or failure in the Contractor's performance was excused in writing in advance by the Contract Administrator, or was due to an unforeseen cause that was beyond the Contractor's reasonable control and was not the result of an error or negligence by the Contractor.

18.3 The Contract Administrator shall notify the Contractor in writing if the County intends to assess liquidated damages, and shall state the basis for each assessment. If the Contractor disputes the County's claim for liquidated damages, the Contractor shall, within five (5) days of receiving the Contract Administrator's notice, submit a written objection that identifies the grounds for the Contractor's position. If the Contractor cannot resolve its dispute with the Contract Administrator or the County Administrator, the Contractor may present the dispute to the Board, which shall provide the Contractor with an opportunity to be heard at a public meeting.

## 19. SPECIAL SERVICES

### 19.1 Additional Collection Services for Communities

Under this Agreement, the Contractor must provide Regular Service to each Customer – i.e., the Contractor must collect Garbage, Recyclables, and Yard Waste from each Customer, once each week, at the Curbside Collection Point. Subject to the conditions set forth in this Section 19, the Contractor shall collect one or more materials two (2) times each week, or shall collect one or more materials at a location other than the Curbside Collection Point (e.g., at a side door location or at a centralized location in the community), if requested to do so. Such Special Services shall be provided by the Contractor if a community with an established homeowners association (“Homeowners Association”), a municipal service district (“MSD”), or other entity responsible for the financial obligations of the community (collectively, “Community”) requests Special Services, but the Contractor's Special Services shall be subject to the following criteria:

- (a) The Community and the Contractor must enter into a written agreement, which provides that the Community shall be solely responsible for paying the Contractor for the Special Services, and such services shall be provided to all of the existing and future residential units in the Community.
- (b) If a Community requests Special Services, the Special Services shall be provided for every residential unit within the Community. The fee for Special Services will be billed by the Contractor, and it shall be in addition to the County's annual non ad valorem special assessment for residential collection, Recycling and disposal services. The Contractor shall be solely responsible for collecting its fees from the Community for the Special Services.
- (c) The Contractor shall contract directly with the Community to determine the level and type of Special Service needed.
- (d) Any revenues collected by the Contractor for such Special Services shall be subject to a two percent (2%) franchise fee, which shall be paid to the County on a monthly basis.
- (e) The cost of the Contractor's Special Services shall be established by negotiations between the Contractor and the Community, but shall be subject to review and approval by the Contract Administrator before the Contractor begins providing the Special Services. The cost of the Contractor's Special Services must be reasonable when considered in light of the Rates established in this Agreement and other relevant factors. The Contractor agrees that the base price for its Special Service will be based on a Rate not to exceed eighty percent (80%) of the Rate for the Regular Services already being provided.

## 19.2 Additional Collection Services for Individuals

The Contractor may collect Residential Waste that has accumulated on a vacant lot, if requested to do so by the owner of the property or other authorized Person. The Contractor also may provide additional collection services for Residential Waste generated in the Service Area when approved in advance in writing by the County Administrator. The Contractor shall negotiate a Rate for its services and sign a contract before providing any services under this Section 19.2. The Contractor's gross revenues for such services shall be subject to the County's two percent (2%) franchise fee. The Contractor shall be solely responsible for collecting its fees. The individual requesting Special Services or additional services shall be solely responsible for paying any fees for the Contractor's services.

## 20. EMERGENCY SERVICES

### 20.1 Emergency Services

The Contractor shall provide emergency services from time to time, beyond the standard scope of services provided under this Agreement, for the collection, transportation and potential processing of Storm Debris generated by a Severe Weather Condition. The Contractor shall provide the emergency services, as directed by the County, in accordance with the terms, conditions and provisions contained in this Section 20.

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Notwithstanding anything else contained herein, the County has the exclusive authority to determine: (a) whether any emergency services are needed from the Contractor; (b) the scope of any emergency services that shall be provided by the Contractor; (c) the duration of any emergency services that are provided by the Contractor; (d) whether the Contractor must use open-top trucks and open-top containers when providing emergency services; and (e) whether, and the extent to which, the County shall use the services of other contractors to provide emergency services.

### 20.2 Declaration of a Severe Weather Condition

In order for the Contractor to be obligated to provide emergency services, the County must first determine and declare that a Severe Weather Condition has occurred within St. Johns County that requires emergency clean up, and then the Contractor must be instructed in writing by the County Administrator to take appropriate clean up action.

### 20.3 Performance of Storm Debris Clean-Up Work

The Contractor shall conduct Storm Debris clean-up work in accordance with the prioritized work schedule prepared by the County. The Contractor shall collect Storm Debris from public property and public rights of way within the Service Area, as directed, and shall transport Storm Debris to the facility designated by the County Administrator. The Contractor shall utilize standard waste collection vehicles and personnel in the performance of the work, and may utilize other approved special vehicles and equipment and personnel, including subcontractors, if so authorized by the County Administrator in advance in writing. The Contractor shall collect all Storm Debris that has been cut up, piled, containerized or otherwise properly prepared for collection if the Storm Debris is of such size and weight to reasonably be loaded by hand by two (2) men. The Contractor may be required to load larger or heavier piles or individual items of Storm Debris if the Contractor is equipped to provide mechanical loading of such larger or heavier Storm Debris. The Contractor shall continue the Storm Debris clean-up work until directed by the County Administrator to cease such work. The term of this additional service will run concurrently with the term of this Agreement.

### 20.4 Records

The Contractor shall maintain detailed records, as specified by the Contract

Administrator, to properly document the trucks, equipment and personnel used in the performance of Storm Debris clean up work and the actual work hours, by day, of such vehicles, equipment and personnel utilized for such work. The records shall be maintained in such manner as to fully support the quantity of work for which the Contractor invoices the County for compensation. The Contractor agrees to maintain for three (3) years from the date of final payment and until all other pending matters are closed under this Agreement, all books, documents, papers and records pertinent to the work performed under this Agreement. The Contractor agrees to provide to the County, the federal grantor agency, the Comptroller General of the United States, the U.S. Federal Emergency Management Agency (FEMA), or any of their duly authorized representatives access to such books, documents, papers, and records for the purpose of examining, auditing, and copying the same. The Contractor further agrees to include these provisions in any subcontracts issued in connection with this Agreement.

#### 20.5 Compensation and Payment to the Contractor

The County shall compensate the Contractor for Storm Debris clean-up work based on a Rate per truck for a standard rear end loader waste collection truck with a two (2) man crew or a standard roll-off type truck with a twenty (20), thirty (30) or forty (40) yard container, driver and a two (2) man crew. The Rates are set forth in Exhibit D, which is attached hereto.

The Contractor must provide the County with invoices containing the following information before the Contractor will be compensated for any services rendered:

- (a) The truck identification numbers and size of vehicles.
- (b) The names of the employees rendering the clean up service.
- (c) The time the operation began and the time the operation was completed.
- (d) All weigh tickets from the disposal facility for Storm Debris.
- (e) The routes that were collected (street names).

The Rate for specialized vehicles, equipment and personnel used for mechanical collection and loading, for subcontractors, and for other work shall be negotiated and approved by the County Administrator before the Contractor commences work.

The Rate shall not include compensation for the cost of disposal of Storm Debris at the designated disposal facility.

The Contractor shall invoice the County for Storm Debris clean up work upon completion of the work. The County shall make payment to the Contractor in the full amount of the approved invoice within three (3) months of the date of the invoice.

In all cases, however, the Contractor shall fully comply with the most current FEMA requirements and procedures that are applicable to the Contractor's operations, recordkeeping, reporting, and other matters related to the collection, removal, and disposal of debris.

The Contractor shall not be required to pay any disposal fee for the disposal of Storm Debris collected from Customers in the Service Area, if the Contractor (a) complies with all of the applicable requirements in Section 20 of this Agreement and (b) delivers the Storm Debris to the Solid Waste Management Facility designated by the County for the disposal of Storm Debris.

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## 21. SUCCESSORS, ASSIGNS, AND TRANSFERS

The County and the Contractor each binds itself and its successors, executors, administrators and assigns to the other Party, and to the successors, executors, administrators and assigns of the other Party. Neither Party may sell, assign, convey or transfer its interest in this Agreement without the prior written consent of the other. A sale of the assets of the Contractor, or a change in the ownership, operational, or managerial portion of the Company, shall be deemed a sale and transfer of this Agreement. No sale, transfer, conveyance or transfer of the Contractor's interest in this Agreement shall be valid unless and until the Board approves such transaction at a duly noticed public meeting.

## 22. ~~PERMITS AND LICENSES~~

~~On or before the Effective Date, the Contractor shall obtain, at its expense, all of the permits, licenses, registrations, and other approvals necessary to provide the services required in this Agreement. The Contractor shall keep all such approvals current and in effect at all times until this Agreement is terminated.~~

## 23. TAXES AND EXPENSES

The Contractor shall be solely liable for and shall pay all federal, state and local taxes, fees, expenses, and other charges associated with the Contractor's activities and performance under this Agreement, including but not limited to sales, use, social security, workers compensation, unemployment, property, fuel, and other taxes chargeable against the labor, material, equipment, real estate and other items necessary for the Contractor's performance under this Agreement.

## 24. INSURANCE

### 24.1 General Requirements

The Contractor shall provide and maintain, on a primary basis and at its sole expense, at all times after the Effective Date until this Agreement expires or is terminated, policies of insurance that insure the Contractor against all claims, demands, or causes of action for injuries received or damages to people or property relating to the Contractor's acts and omissions under this Agreement. At a minimum, the Contractor shall maintain at all

times the following insurance coverage, with the limits and endorsements described herein. The Contractor shall not commence work under this Agreement until all insurance required under this Section 24 has been obtained by the Contractor and the original certificates of insurance have been delivered to and approved by the Contract Administrator. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount, and classification required for strict compliance with this Agreement and that no cancellation of the insurance shall be effective without providing thirty (30) days prior written notice to the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida.

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The Contractor's liability and obligations under this Agreement shall not be limited by, or in any way to, any insurance coverage, or by any provision in or exclusion or omission from any insurance policy.

The County shall be named as an additional insured in the general liability, vehicle liability, and umbrella liability policies required pursuant to Sections 24.2, 24.3, and 24.5, below. The Contractor shall ensure that any subcontractors comply with the insurance requirements herein. The Contractor shall be responsible for all of its subcontractors.

#### 24.2 General Liability

~~During the term of this Agreement, the Contractor shall maintain Comprehensive General Liability Insurance in the amount of Two Million Dollars (\$2,000,000) per occurrence, including coverage for bodily injury, wrongful death, broad-form property damage, and blanket contractual liability. The insurance policy shall provide coverage for the Contractor and anyone for whom the Contractor may be responsible.~~

#### 24.3 Vehicle Liability

During the term of this Agreement, the Contractor shall maintain Comprehensive Vehicle Liability Insurance in the amount of Two Million Dollars (\$2,000,000) per Person for bodily injury and property damage and Two Million Dollars (\$2,000,000) per occurrence, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as for claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned vehicles whether such operations are performed by the Contractor or by anyone directly or indirectly employed by the Contractor.

#### 24.4 Workers' Compensation

During the term of this Agreement, the Contractor shall maintain Workers' Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by Florida law for all of its employees.

## 24.5 Umbrella Liability

From the Effective Date until July 31, 2017, the Contractor shall maintain an umbrella or excess liability insurance policy in an amount equal to or greater than Five Million Dollars (\$5,000,000). From August 1, 2017 until this Agreement expires or terminates, the Contractor shall maintain an umbrella or excess liability insurance policy in an amount equal to or greater than Ten Million Dollars (\$10,000,000).

## 25. PERFORMANCE BOND OR LETTER OF CREDIT

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On or before the Effective Date, the Contractor shall furnish to the County a performance bond executed by a surety company licensed to do business in the State of Florida or an irrevocable letter of credit issued by a local bank for the faithful performance of the Contractor's obligations under this Agreement. The bond or letter of credit shall be in an amount that is equal to the total revenue that is expected to be generated by the Contractor by providing Regular Services under this Agreement for three (3) months, or One Million Dollars (\$1,000,000), whichever is larger. The form of the performance bond or letter of credit is subject to approval by the County Attorney.

## 26. INDEMNIFICATION

The Contractor shall indemnify, defend, and hold harmless the County (including its elected officials, officers, employees, agents, and representatives) from and against any and all liabilities, losses, claims, damages, taxes (including interest or penalties), costs and expenses (including reasonable attorney's fees, paralegal fees, and the costs of investigations, whether incurred prior to, during or after a trial, appeal, arbitration, or mediation), that in any way arise from, or in connection with, or as a result of: (a) the Contractor's acts or omissions under this Agreement; (b) the County's decision to award this Agreement to the Contractor; or (c) the Contractor's failure or refusal to produce documents in compliance with the Florida public records law (Chapter 119, Florida Statutes); except to the extent that such arise from the negligence or willful misconduct of the County. The provisions of this Section 26 shall survive the termination of this Agreement.

## 27. BOOKS AND RECORDS

### 27.1 Records

In its local office, the Contractor shall maintain neat and orderly records demonstrating the Contractor's compliance with the requirements of this Agreement. During normal business hours, the County shall have the right to review and copy all of the records maintained by the Contractor pertinent to the services provided under this Agreement. The Contractor's records shall be retained, and shall be available for inspection by the County, for at least three (3) years after this Agreement is terminated.

## 27.2 Public Records Law

The Contractor shall comply with any applicable requirements contained in the Florida public records law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. However, the Contractor does not waive any of its rights under the Florida public records law, including its right to not disclose certain trade secrets and confidential documents.

## 28. ANNUAL CERTIFICATIONS

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An independent, certified public accountant, licensed to do business in the State of Florida, shall review the Contractor's books and records each year and shall certify that the Contractor has: (a) fully and timely paid all of the franchise fees that are due and owing to the County under this Agreement; and (b) charged the appropriate amounts to the County for its services, based on the provisions of this Agreement. The written certification shall be delivered to the Contract Administrator within one hundred and twenty (120) days of the end of the Contractor's fiscal year.

The Contractor shall file and keep current with the County all documents and reports required by this Agreement. During the month of September in each year this Agreement is in effect, the Contractor shall verify and certify in writing to the County that all required documents are current and on file with the County, including, but not limited to, certificates of insurance, audits, performance bonds or letters of credit, route schedules and maps, and equipment lists.

## ~~29. CONTRACT TERMINATION~~

### 29.1 Termination by County for Lack of Funding

The County's contractual authority is limited to the funds available and appropriated. The County has established a non ad valorem special assessment to pay for the collection of Residential Waste. The County shall have the right to terminate this Agreement by providing six (6) months' advance written notice to the Contractor if this non ad valorem special assessment is invalidated or discontinued and the Board concludes the County has insufficient funds to continue with this Exclusive Franchise.

### 29.2 Termination by Contractor for Cause

If the County defaults in the performance of any of its material obligations under this Agreement, including failing to pay any amount to the Contractor when due, the Contractor shall have the right to terminate this Agreement if the County fails to cure the default within thirty (30) days after receiving written notice of the default from the Contractor.

### 30. DEFAULT BY CONTRACTOR

Any of the following occurrences shall constitute an event of default:

- (a) The 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 seeking an arrangement for its reorganization or the readjustment of its indebtedness under the federal bankruptcy law 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, the Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of termination 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 authority of any Legislative act, resolution, or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the Contractor and such possession or control shall continue in effect for a period of sixty (60) days; or~~
- (d) The Contractor has failed or refused to perform or comply with the terms, conditions, or covenants in this Agreement or any Applicable Law or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto.

### 31. NOTICE OF DEFAULT

Upon the occurrence of an event of default by the Contractor, the County shall give the Contractor ten (10) days written notice to cure the default. In the case of an event of default which cannot, with due diligence and good faith, be cured within the applicable cure period, the Contractor shall have such additional time as is reasonably necessary to cure the default, provided the Contractor commences to cure within the foregoing cure period and thereafter proceeds diligently and continuously in good faith to complete the necessary cure.

### 32. COUNTY'S REMEDIES

Upon a default and the expiration of any applicable grace period, the County shall have the following rights and remedies, which are supplemental to any other remedies available under this Agreement or in law or equity:

- (a) To terminate this Agreement, whereupon the Parties shall be relieved of all further obligations to each other, effective on the date selected by the County;
- (b) To restrain by injunction or obtain a decree specifically compelling performance of any term or provision of this Agreement;
- (c) To recover all direct and indirect damages, costs, and expenses which result from the Contractor's default.

### 33. PROCEDURE FOR TERMINATION FOR DEFAULT

- 33.1 Upon the Contractor's receiving a notice of the proposed termination for default, and upon the County Administrator's recommendation to the Board that the Contractor be terminated, the County shall give at least ten (10) days notice to the Contractor prior to holding a public hearing. Should the Board find either a continual breach or a single material breach of the Agreement that justifies termination, the Board can elect to terminate this Agreement. In lieu of or in addition to the foregoing, the County may also direct the County Attorney to institute appropriate action, such as exercising the performance bond or undertaking legal procedures to recover damages.
- 33.2 In the event of termination, the Contractor shall not be entitled to receive any further payment under this Agreement until the County has determined and collected any damages resulting from the Contractor's termination, including but not limited to, the County's costs associated with completing the Contractor's services.
- 33.3 Upon termination, the Contractor shall promptly provide the County with the Contractor's records and documents, including electronic records and documents, related to the current collection and transportation services performed under this Agreement, and including the Contractor's collection service list of residential units. All such records and documents shall thereafter become the sole property of the County.
- 33.4 In the event that this Agreement is terminated before the end of any term, the Contractor shall continue its operations for an interim period of up to one hundred eighty (180) days if requested to do so by the County. The Contractor shall be paid for its services during the interim period at the Rates in effect prior to the issuance of the notice of termination.

### 34. REPEAT VIOLATIONS OF AGREEMENT

In addition to the above, if the Contractor's record of performance shows that the Contractor has

frequently, regularly or repetitively defaulted in the performance of any of the material covenants or conditions required herein to be kept and performed by the Contractor, and regardless of whether the Contractor has corrected each individual condition of default, or paid liquidated damages, the Contractor may be deemed a "habitual violator" by the County Administrator and, in such case, the Contractor shall forfeit the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. If the County Administrator concludes that the Contractor is a habitual violator, the Contractor may appeal such determination to the Board. If the Board concludes that the Contractor is a habitual violator, the Board shall thereupon issue the Contractor a final warning, citing the circumstances therefore, and any single material default by the Contractor of whatever nature, subsequent to the issuance of the Board's notice, shall be grounds for immediate termination of this Agreement. In such event, the County may terminate this Agreement by giving written notice to the Contractor, and the termination shall be effective on the date specified by County, which shall be at least five (5) calendar days later. On the specified termination date, the Contractor shall cease any further performance under this Agreement.

### **35. TITLE TO RESIDENTIAL WASTE**

Solid Waste belongs to the Person generating such waste, until the Solid Waste is discarded by that Person (i.e., the generator) and collected by the Contractor. When the Contractor collects Residential Waste on behalf of the County, title to the waste shall pass to the County when the waste is collected at the Curbside Collection Point. Nonetheless, the Contractor shall be solely responsible and liable for the proper handling and lawful management of such waste until it is delivered to and accepted by a Solid Waste Management Facility. Upon acceptance, title to the waste shall pass to the owner of such facility.

Source Separated Recyclable Materials shall belong to the generator until such materials are discarded by the generator and collected by the Contractor. When the Contractor collects the Source Separated Recyclable Material on behalf of the County, title to such materials shall pass to the Contractor when the materials are collected at the Curbside Collection Point. The Contractor shall be solely responsible and liable for the proper handling and lawful management of the Source Separated Recyclable Materials until such materials are delivered to and accepted at a Solid Waste Management Facility or other Facility used for processing and recycling the materials. Upon acceptance, title to the Source Separated Recyclable Materials shall pass to the owner of such facility, unless the Contractor and the facility owner agree otherwise.

### **36. CHOICE OF LAW AND VENUE**

This Agreement shall be governed by the laws of the State of Florida. Venue for any legal actions instituted under, based on, or arising out of this Agreement shall be exclusively in the state and federal courts in and for St. Johns County, Florida.

### **37. REMEDIES NOT EXCLUSIVE**

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. No single or partial exercise by any Party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. However, nothing in this Agreement shall be interpreted or construed to mean that the County waives its common law sovereign immunity or the limits on liability set forth in Section 768.28, Florida Statutes.

### 38. ATTORNEYS' FEES AND COSTS

If any legal action or other proceeding is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees, court costs and all expenses, even if not taxable as court costs, including, without limitation, all such fees, costs and expenses incident to appeals, in addition to any other relief to which such Party may be entitled.

### 39. NOTICES

Any notice, request, demand, consent, approval or other communication required or permitted by this Agreement shall be given or made in writing and shall be served (as elected by the Party giving such notice) by any of the following methods:

- (a) Hand delivery to the other Party; or
- (b) Delivery by commercial overnight courier service; or
- (c) Mailed by registered or certified mail (postage prepaid), return receipt requested.

For purposes of any notice provided under this Agreement, the addresses are as follows:

As to County:           County Administrator  
                                  St. Johns County  
                                  500 San Sebastian View  
                                  St. Augustine, Florida 32084  
                                  Telephone: 904/209-0530

Copy to:                 County Attorney  
                                  St. Johns County  
                                  500 San Sebastian View  
                                  St. Augustine, Florida 32084  
                                  Telephone: (904) 209-0760

As to Contractor: Advanced Disposal  
General/Site Manager  
3515 Agricultural Center Drive  
St. Augustine, Florida 32092  
Telephone: (904) 827-1005

Copy to: Advanced Disposal  
General Counsel  
90 Fort Wade Road, Suite 200  
Ponte Vedra, Florida 32082  
Telephone: (904) 737-7900

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Notice given in accordance with the provisions of this Section 39 shall be deemed to be delivered and effective on the date of hand delivery, or on the second day after the date of the deposit with an overnight courier, or on the date upon which the return receipt is signed or delivery is refused.

Either party may designate a new representative or a new address for the delivery of any notice that is given to them. The designation of a new representative or new address shall be accomplished by providing written notice to the other party of such change.

#### **40. SEVERABILITY**

If any term or provision of this Agreement or the application thereof to any Person or circumstance shall, to any extent, be held invalid or unenforceable for the remainder of this Agreement, then the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

#### **41. INDEPENDENT CONTRACTOR**

The Contractor shall be an independent contractor and shall have complete charge of its workers engaged in the performance of this agreement. The Contractor is not an agent, representative or employee of the County and nothing herein is intended or should be construed as establishing the relationship of partners, or joint ventures, between the Contractor and the County. A Person employed by the Contractor shall have no right or claim to any pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to the County's officers and employees. The Contractor shall have the sole responsibility for paying any wages and providing any employee benefits to such Persons.

#### **42. WAIVER OF RIGHTS**

Unless otherwise specifically provided by this Agreement, no delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or the Contractor at any time to require performance by the other Party of any term in

this Agreement shall in no way affect the right of the County or the Contractor thereafter to enforce same; nor shall waiver by the County or the Contractor of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of such term or as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the Party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

#### **43. EXHIBITS**

This Agreement and its exhibits comprise the entire contract between the County and the Contractor. The following exhibits are attached to this Agreement and they are incorporated in this Agreement by reference:

- Exhibit A Map of St. Johns County Service Areas
- Exhibit B Legal Description of St. Johns County Service Areas (dated February 16, 2010)
- Exhibit C List of Recyclable Materials
- Exhibit D Contractor's Rates
- Exhibit E Specifications for Recycling Carts

After the Effective Date, the Agreement shall be supplemented with: (a) any performance bonds and insurance certificates provided by the Contractor, and (b) any amendments to this Agreement that are approved by the Board and the Contractor.

#### **44. ALL PRIOR AGREEMENTS SUPERSEDED**

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, and understandings applicable to the matters contained in this Agreement. There are no commitments, agreements, or undertakings concerning the subject matter of this Agreement that are not contained herein. Therefore, no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

This Agreement supersedes all prior contracts and agreements between the Parties regarding the matters addressed herein. Among other things, this Agreement supersedes the Parties' "Franchise Agreement for the Collection and Transportation of Residential Waste in St. Johns County" (dated August 1, 2003) and the Parties' "Franchise Extension Agreement for the Collection and Transportation of Residential Waste in St. Johns County" (dated March 4, 2010). On and after the Effective Date, this Agreement shall govern the Parties' conduct.

#### **45. CONSTRUCTION AND INTERPRETATION OF THE AGREEMENT**

45.1 Both Parties acknowledge that they are represented by legal counsel and they have had

meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the Party that physically prepared this Agreement. The rule sometimes referred to as "Fortius Contra Proferentum" shall not be applied to the interpretation of this Agreement.

- 45.2 The words "include" and "including" as used herein shall be deemed to be followed by the phrase "without limitation." References to "included" matters or items will be regarded as illustrative and will not be interpreted as a limitation on or an exclusive listing of the matters or items referred to.
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- 45.3 In the event of a conflict between this Agreement and the provisions of any exhibit, the provisions of this Agreement shall control.
- 45.4 The section and subsection headings preceding the text of this Agreement are solely for ease of reference. The headings do not constitute a part of this Agreement and shall not affect its meaning or interpretation. Unless otherwise expressly stated, a reference in this Agreement to a section or exhibit is intended to refer to a section or exhibit of this Agreement.
- 45.5 Nothing contained herein shall be interpreted to require the Contractor to undertake any conduct that is contrary to local, state, or federal law.

#### **46. SURVIVABILITY**

~~Any term, condition, covenant, or obligation that requires performance by a Party subsequent to the termination of this Agreement shall remain enforceable against such Party subsequent to the termination of this Agreement.~~

#### **47. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

The Contractor represents and warrants to the County that:

- (a) The Contractor is a general partnership existing in good standing under the laws of the state of its formation, is in good standing under the laws of the State of Florida, and is duly qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.
- (b) The Contractor has the requisite power, authority, and legal right to enter into and perform its obligations under this Agreement and possesses all orders, permits, consents, licenses, approvals, franchises, certificates, registrations, and other authorizations from third parties and governmental authorities that are necessary to conduct its current business and to satisfy its duties and obligations under this Agreement.
- (c) This Agreement has been duly executed and delivered by the Contractor and, as of the Effective Date, constitutes a legal, valid, and binding

obligation of the Contractor, enforceable by the County against the Contractor in accordance with its terms, except to the extent its enforceability is limited by (1) the application of general principles of equity and by bankruptcy, insolvency, moratorium, debtor relief, and similar laws of general application affecting the enforcement of creditor rights and debtor obligations, and (2) public policy limitations on the enforceability of indemnification provisions.

- (d) The execution, delivery, and performance of this Agreement by the Contractor: (1) have been duly authorized; (2) do not require the approval of any governmental officer or body, other than those permits or approvals contemplated to be obtained after the Effective Date; (3) have been duly authorized by all requisite action of the Contractor, and no other proceedings on the part of the Contractor, its officers, partners or managers are necessary to authorize this Agreement or to perform the duties and obligations of the Contractor contemplated by it; (4) will not violate any law applicable to the Contractor or its property or any provisions of the Contractor's partnership agreement; (5) do not constitute a default under or result in the creation of, any lien, charge, encumbrance, or security interest upon any assets of the Contractor under any agreement or instrument to which the Contractor is a party or by which the Contractor or its assets may be bound or affected in any manner that prohibits or otherwise adversely affects the Contractor's ability to perform its obligations under this Agreement; and (6) do not and will not violate any copyrights, patents, or other intellectual or proprietary rights of any Person.
- (e) To the best of the Contractor's information and belief, there is no action, suit, or proceeding, at law or in equity, before or by any court or governmental authority pending against the County or the Contractor, in which an unfavorable decision, ruling, or finding would materially and adversely affect the performance by the Contractor of its obligations under this Agreement, or that in any way would adversely affect the validity or enforceability of this Agreement, or any other agreement or instrument entered into by the Contractor or any of its affiliates in connection with this Agreement.
- (f) The Contractor will be in compliance at all times with the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, as amended, because the Contractor does not on the grounds of race, color, national origin, religion, sex, age, handicap, or marital status, discriminate in any form or manner against the Contractor's employees or applicants for employment. This statement of assurance shall be interpreted to include Vietnam-Era Veterans and Disabled Veterans within its protective range of applicability. The Contractor understands and agrees that this Agreement is conditioned on the veracity of this Section 47(f) and that a

breach of this condition will constitute a material breach of this Agreement.

- (g) The Contractor shall comply with Applicable Law concerning the protection and rights of employees, including but not limited to equal employment opportunity laws, minimum wage laws, immigration laws, the Americans with Disabilities Act, and the Fair Labor Standards Act.
  - (h) The Contractor did not engage, directly or indirectly, in any collusion, bribery, deception, or fraud in connection with its efforts to procure the work awarded under this Agreement.
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- (i) None of the agents, members, managers, partners, officers, directors, employees, or executives of the Contractor, or any affiliate that is active in the management of the Contractor, has been convicted of a public entity crime, as defined in Section 287.133(g), Florida Statutes.
- (j) The personnel employed by the Contractor have the proper skill, licenses, training, background, knowledge, experience, authorizations, integrity, and character necessary to perform the Contractor's obligations in accordance with this Agreement.
- (k) No County employee received or will receive, directly or indirectly, any benefit, interest, or profit out of the procurement process pursuant to which this Agreement was awarded or in connection with this Agreement or the services to be provided pursuant to this Agreement, and no County employee has or will have any direct or indirect financial interest in the award of this Agreement or any of the services to be provided pursuant to this Agreement.
- (l) The Contractor acknowledges that Section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of \$1,000,000 or more, that are on either the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List, both lists of which are created pursuant to Section 215.473, Florida Statutes, and certifies, represents, and warrants to the County that the Contractor is not on either of those lists.

IN WITNESS WHEREOF, the County and the Contractor have caused this Agreement to be executed by their respective authorized representatives, as of the date first above written (i.e., the Effective Date).

ATTEST: BOARD OF COUNTY COMMISSIONERS,  
ST. JOHNS COUNTY

Pam Halterman

Deputy Clerk

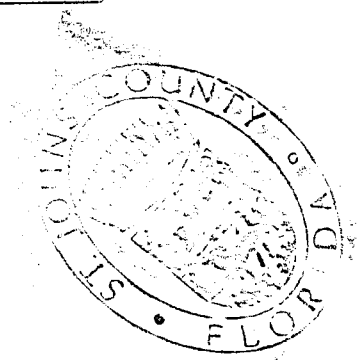
By:

John H. Morris

John H. Morris, Chair

APPROVED AS TO FORM AND  
CORRECTNESS:

Regina L. H. 5/22/14  
COUNTY ATTORNEY'S OFFICE



CONTRACTOR

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

\_\_\_\_\_  
(Print or Type Name and Title)

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Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print or Type Name of Witness

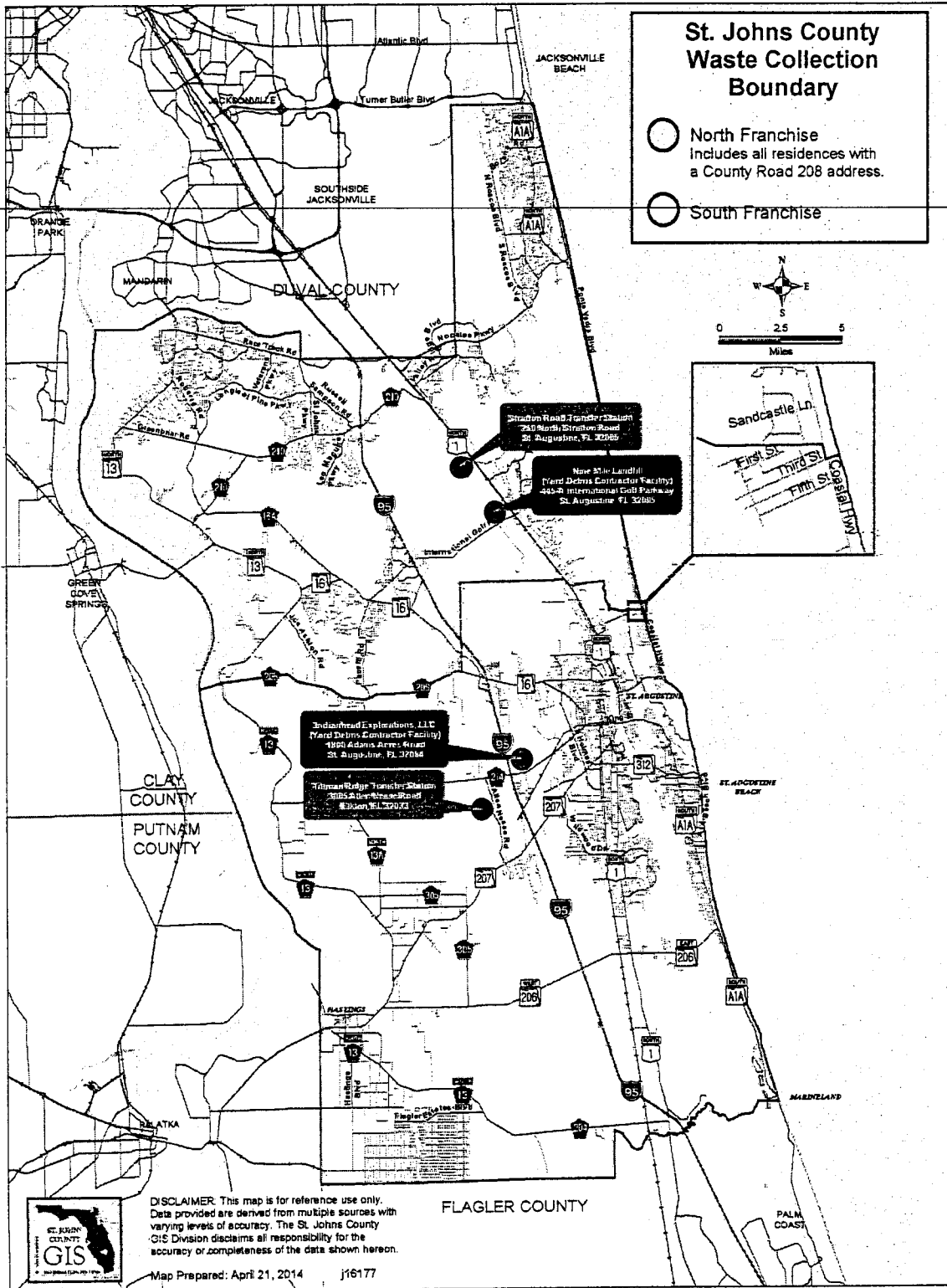
Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print or Type Name of Witness

# EXHIBIT A

## MAP OF ST. JOHNS COUNTY SERVICE AREAS



**EXHIBIT B**

**LEGAL DESCRIPTION OF ST. JOHNS COUNTY SERVICE AREAS  
(DATED FEBRUARY 16, 2010)**

ST. JOHNS COUNTY WASTE COLLECTION BOUNDARY – FEBRUARY 16, 2010

NORTH FRANCHISE AREA

ALL OF ST. JOHNS COUNTY, FLORIDA LYING NORTH OF THE FOLLOWING DESCRIBED LINE: BEGIN AT THE INTERSECTION OF THE WESTERLY PROLONGATION OF THE CENTERLINE OF COUNTY ROAD 208 WITH THE WEST MARGIN OF THE MAIN CHANNEL OF THE ST. JOHNS RIVER; THENCE EASTERLY, ALONG SAID WESTERLY PROLONGATION AND ALONG SAID CENTERLINE OF COUNTY ROAD 208 TO ITS INTERSECTION WITH THE LINE DIVIDING RANGES 28 AND 29 EAST, BOTH LYING IN TOWNSHIPS 6 AND 7 SOUTH OF SAID COUNTY; THENCE NORTHERLY, ALONG SAID RANGE LINE TO THE NORTH LINE OF SECTION 19, TOWNSHIP 6 SOUTH, RANGE 29 EAST; THENCE EASTERLY, ALONG THE NORTH LINE OF SECTION 19, ALONG A LINE FROM THE NORTHEAST CORNER OF SAID SECTION 19 TO THE NORTHWEST CORNER OF SECTION 20, AND ALONG THE NORTH LINE OF SAID SECTION 20, AND SECTIONS 21 AND 22, ALL LYING IN TOWNSHIP 6 SOUTH, RANGE 29 EAST TO THE WESTERLY LINE OF ST. JOHNS INDUSTRIAL PARK AN UNRECORDED PLAT; THENCE NORTHERLY, ALONG SAID WESTERLY LINE, TO THE NORTHWEST CORNER OF SAID ST. JOHNS INDUSTRIAL PARK; THENCE EASTERLY, ALONG THE NORTHERLY LINE OF SAID ST. JOHNS INDUSTRIAL PARK AND ITS EASTERLY PROLONGATION, TO THE CENTERLINE OF U.S. HIGHWAY NO. 1; THENCE SOUTHERLY, ALONG SAID CENTERLINE OF U.S. HIGHWAY NO. 1 TO ITS INTERSECTION WITH THE WESTERLY PROLONGATION OF THE CENTERLINE OF GUN CLUB ROAD; THENCE EASTERLY, ALONG SAID WESTERLY PROLONGATION, ALONG THE AFOREMENTIONED CENTERLINE OF GUN CLUB ROAD, AND ALONG THE EASTERLY PROLONGATION OF SAID CENTERLINE OF GUN CLUB ROAD TO THE WEST BANK OF THE INTRACOASTAL WATERWAY, ALSO KNOWN AS NORTH RIVER; THENCE SOUTHERLY, ALONG SAID WEST BANK, TO ITS INTERSECTION WITH A LINE WHICH BEARS SOUTH 69 DEGREES 19 MINUTES WEST FROM THE MOST NORTHWESTERLY CORNER OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS 3234, PAGE 891 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 66 DEGREES 12 MINUTES EAST, ALONG THE NORTHEASTERLY LINE OF SAID LANDS, TO ITS INTERSECTION WITH THE WESTERLY PROLONGATION OF THE SOUTHERLY LINE OF PONTE VEDRA SHORES WEST AS RECORDED IN MAP BOOK 14, PAGES 34 AND 35 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE EASTERLY, ALONG SAID WESTERLY PROLONGATION AND ALONG SAID SOUTHERLY LINE TO THE WESTERLY RIGHT OF WAY OF COASTAL HIGHWAY (STATE ROAD NO. A1A); THENCE SOUTHERLY, ALONG SAID WESTERLY RIGHT OF WAY, TO ITS INTERSECTION WITH THE EASTERLY PROLONGATION OF THE CENTERLINE OF THIRD STREET AS SHOWN ON PLAT OF NORTH BEACH AS RECORDED IN MAP

BOOK 3, PAGE 28 OF SAID PUBLIC RECORDS; THENCE EASTERLY, ALONG SAID EASTERLY PROLONGATION AND ALONG SAID CENTERLINE OF THIRD STREET TO THE WATERS OF THE ATLANTIC OCEAN.

INCLUDING ALL RESIDENCES WITH A COUNTY ROAD 208 ADDRESS.

SOUTH FRANCHISE AREA

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ALL OF ST. JOHNS COUNTY, FLORIDA LYING SOUTH OF THE FOLLOWING DESCRIBED LINE: BEGIN AT THE INTERSECTION OF THE WESTERLY PROLONGATION OF THE CENTERLINE OF COUNTY ROAD 208 WITH THE WEST MARGIN OF THE MAIN CHANNEL OF THE ST. JOHNS RIVER; THENCE EASTERLY, ALONG SAID WESTERLY PROLONGATION AND ALONG SAID CENTERLINE OF COUNTY ROAD 208 TO ITS INTERSECTION WITH THE LINE DIVIDING RANGES 28 AND 29 EAST, BOTH LYING IN TOWNSHIPS 6 AND 7 SOUTH OF SAID COUNTY; THENCE NORTHERLY, ALONG SAID RANGE LINE TO THE NORTH LINE OF SECTION 19, TOWNSHIP 6 SOUTH, RANGE 29 EAST; THENCE EASTERLY, ALONG THE NORTH LINE OF SECTION 19, ALONG A LINE FROM THE NORTHEAST CORNER OF SAID SECTION 19 TO THE NORTHWEST CORNER OF SECTION 20, AND ALONG THE NORTH LINE OF SAID SECTION 20, AND SECTIONS 21 AND 22, ALL LYING IN TOWNSHIP 6 SOUTH, RANGE 29 EAST TO THE WESTERLY LINE OF ST. JOHNS INDUSTRIAL PARK AN UNRECORDED PLAT; THENCE NORTHERLY, ALONG SAID WESTERLY LINE, TO THE NORTHWEST CORNER OF SAID ST. JOHNS INDUSTRIAL PARK; THENCE EASTERLY, ALONG THE NORTHERLY LINE OF SAID ST. JOHNS INDUSTRIAL PARK AND ITS EASTERLY PROLONGATION, TO THE CENTERLINE OF U.S. HIGHWAY NO. 1; THENCE SOUTHERLY, ALONG SAID CENTERLINE OF U.S. HIGHWAY NO. 1 TO ITS INTERSECTION WITH THE WESTERLY PROLONGATION OF THE CENTERLINE OF GUN CLUB ROAD; THENCE EASTERLY, ALONG SAID WESTERLY PROLONGATION, ALONG THE AFOREMENTIONED CENTERLINE OF GUN CLUB ROAD, AND ALONG THE EASTERLY PROLONGATION OF SAID CENTERLINE OF GUN CLUB ROAD TO THE WEST BANK OF THE INTRACOASTAL WATERWAY, ALSO KNOWN AS NORTH RIVER; THENCE SOUTHERLY, ALONG SAID WEST BANK, TO ITS INTERSECTION WITH A LINE WHICH BEARS SOUTH 69 DEGREES 19 MINUTES WEST FROM THE MOST NORTHWESTERLY CORNER OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS 3234, PAGE 891 OF THE PUBLIC RECORDS OF SAID COUNTY; THENCE SOUTH 66 DEGREES 12 MINUTES EAST, ALONG THE NORTHEASTERLY LINE OF SAID LANDS, TO ITS INTERSECTION WITH THE WESTERLY PROLONGATION OF THE SOUTHERLY LINE OF PONTE VEDRA SHORES WEST AS RECORDED IN MAP BOOK 14, PAGES 34 AND 35 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE EASTERLY, ALONG SAID WESTERLY PROLONGATION AND ALONG SAID SOUTHERLY LINE TO THE WESTERLY RIGHT OF WAY OF COASTAL HIGHWAY (STATE ROAD NO. A1A); THENCE SOUTHERLY, ALONG SAID WESTERLY RIGHT OF WAY, TO ITS INTERSECTION WITH THE EASTERLY PROLONGATION OF THE CENTERLINE OF

THIRD STREET AS SHOWN ON PLAT OF NORTH BEACH AS RECORDED IN MAP BOOK 3, PAGE 28 OF SAID PUBLIC RECORDS; THENCE EASTERLY, ALONG SAID EASTERLY PROLONGATION AND ALONG SAID CENTERLINE OF THIRD STREET TO THE WATERS OF THE ATLANTIC OCEAN.

EXCLUDING ALL RESIDENCES WITH A COUNTY ROAD 208 ADDRESS.

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**EXHIBIT C**  
**LIST OF RECYCLABLE MATERIALS**

ACCEPTABLE

**Paper:**

Mail, office, and school papers  
Newspapers and inserts  
Magazines and catalogs  
Paperback books and Telephone books  
Shredded paper  
Brown paper bags – can also be used to hold excess recyclables

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Fiberboard boxes – cereal, cracker, storage, and empty pizza boxes  
Corrugated cardboard – flattened and cut in 2' by 3' pieces or smaller

**Plastic:**

Plastic food containers  
Beverage containers  
Detergent bottles  
Cleaning containers  
All plastics labeled #1-7 (labels do not need to be removed)

**Cartons:**

Food and beverage cartons including: milk cartons, creamer, juice boxes, soup and tofu boxes

**Glass:**

Brown, clear and green glass bottles and jars (labels do not need to be removed)

**Metal:**

Metal and aluminum cans  
Aluminum baking tins  
Steel food cans (labels do not need to be removed)

UNACCEPTABLE

Plastic bags  
Food waste  
Needles and other medical waste  
Sanitary products (diapers, feminine products)  
Aerosol cans  
Styrofoam  
Mirrors, window panes  
Batteries  
Liquids  
Yard Waste  
Christmas lights  
Fireworks  
Animals

**EXHIBIT D**

<b>CONTRACTOR'S RATES</b>	
This Section A identifies the authorized Rates for Regular Services provided under the Agreement.	
A. Rates for:	
	South Service Area
1 DAY A WEEK COLLECTION OF GARBAGE	\$ 7.17
1 DAY A WEEK COLLECTION OF RECYCLABLES	\$ 2.75
1 DAY A WEEK COLLECTION OF YARD WASTE	\$ 2.65
<b>TOTALS</b>	<b>\$ 12.57</b>
B. This Section B identifies the Rates for equipment and two (2) man crew to be utilized during Severe Weather Conditions for clean-up for Storm Debris, when authorized by the Board of County Commissioners or the County Administrator.	
REAR LOAD COLLECTION VEHICLE AND TWO (2) MAN CREW	DOLLAR AMOUNT PER CUBIC YARD \$60.00
ROLL-OFF TRUCK WITH DRIVER, TWO (2) MAN CREW, AND CONTAINER (20, 30, OR 40 CUBIC YARD)	DOLLAR AMOUNT PER CUBIC YARD \$15.00

## EXHIBIT E

### SPECIFICATIONS FOR RECYCLING CARTS

1. **MINIMUM REQUIREMENTS:** The following specifications describe the minimum acceptable features and performance requirements for the Recycling Carts the Contractor will provide under the Agreement.
2. **MANUFACTURING PROCESSES AND MATERIALS:** Each cart shall consist of a body, lid, wheels, axle, and necessary accessories. The plastic resin material and the finished cart must meet the minimum specifications herein.

2.1	<b>MANUFACTURING PROCESS:</b> Each cart body must be manufactured by a rotational or injection molding process.
2.2	<b>PLASTIC MATERIAL:</b> Base plastic resin must be first quality linear polyethylene or high-density polyethylene (HDPE) supplied by a national petrochemical producer. Off-spec material is not acceptable.  Contractor must submit technical data sheet(s) from the resin producer.
2.3	<b>RESIN ADDITIVES:</b> All plastic parts shall be specifically prepared to be colorfast so that the plastic material does not alter or fade appreciably in normal use. The plastic resin must be enhanced with color pigment and ultraviolet inhibitor, which must be used at a rate that is no less than 1.5% by weight, and which must be uniformly distributed throughout the finished cart. To ensure thorough distribution of these additives, the resin and additives must be mixed in a molted state using a hot-melt blending process. Contractor must submit a statement certifying that all of the plastic resin and additives will be hot-melt blended.

3. **CART REQUIREMENTS:** The carts must be compatible with standard American semi-automated bar-locking lifters (ANSI type B) as well as automated arm lifters (ANSI type G) and function as follows:

3.1	<b>ANSI CONFORMANCE:</b> Carts must meet the requirements of ANSI Z245.30-2008 and ANSI Z245.60-2008 standards for "Type B/G" carts.  Contractor must submit independently certified copies of all ANSI test results. Test results must state the load (in pounds) under which the tests were conducted. The load under which the tests were conducted must be the same as the load rating stated in the cart manufacturer's sales literature and specifications. The ANSI Appendix D test for "Loading and Unloading Test for Carts" must clearly state that the required 520 dump cycles under the cart's full rated load were performed on both a Semi-Automated Cart Lifter <u>and</u> a Fully
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	Automated Grabber Arm.
3.2	<p>LOAD RATING: Carts must be designed to regularly receive and dump the following amount of waste material, excluding the weight of the cart, without permanent damage or deformation. The load rating must conform with ANSI Standard Z245.30-2008.</p> <p style="text-align: center;">32 Gallon – 122 pounds 96 Gallon – 330 pounds</p> <p><del>Contacto</del>r must submit a normal printed color sales brochure which shows the exact products being proposed and the corresponding load ratings. Contractor must mark the location of the load ratings on the brochure with bold red arrows so as to aim directly at the load ratings. The load rating in the sales literature must match the specifications and ANSI certification submitted by the Contractor, and the load rating permanently marked on the cart.</p> <p style="text-align: center;">32 Gallon: STATE LOAD RATING – 122.5 pounds 96 Gallon: STATE LOAD RATING – 332.5 pounds</p>
3.3	<p>RESIN WEIGHT: The carts must be manufactured to achieve a minimum resin weight as follows:</p> <p style="text-align: center;">32 Gallon – 17.9 pounds minimum 96 Gallon – 34.1 pounds minimum</p> <p style="text-align: center;">STATE RESIN WEIGHT OF EACH CART –</p> <p style="text-align: center;">32 Gallon – 17.9 pounds 96 Gallon – 34.1 pounds</p>
3.4	<p>CAPACITY: The total capacity (volume) of the carts, excluding the lid, must be 32 U.S. gallons (+/- 2%) and 96 U.S. gallons (+/- 3%), respectively. Contractor must include independent test results according to ANSI Z245.30, Appendix A (Volume Test), certified by an accredited professional engineer, showing the exact capacity of the cart body (to the nearest 0.1 U.S. gallon), for each size.</p> <p style="text-align: center;">32 Gallon: STATE CAPACITY – 34.4 U.S. Gallons 96 Gallon: STATE CAPACITY – 97.57 U.S. Gallons</p>
3.5	<p>DIMENSIONS: The exterior dimensions of the completely assembled carts shall be <b>approximately</b> as follows:</p>

	<p>32 Gallon –</p> <p>Height: 39.13”      STATE HEIGHT - 39.13”  Depth: 22.88”      STATE LENGTH - 22.88”  Width: 20.2”      STATE WIDTH - 20.2”</p> <p>96 Gallon –</p> <p>Height: 45.13”      STATE HEIGHT - 45.13”  Depth: 33.73”      STATE LENGTH - 33.73”  Width: 28.17”      STATE WIDTH - 28.17”</p>
3.6	<p>WALL THICKNESS: The carts must have a minimum nominal wall thickness of 0.154” throughout the body of the cart, and a minimum wall thickness of 0.185” inches in the critical wear points (i.e., the cart bottom, handle, and lift mechanism). The minimum wall thickness of the lid must be 0.14”.</p> <p>32 GALLON:  STATE BODY WALL THICKNESS: .15 inches  STATE CRITICAL WEAR POINT THICKNESS: .185 inches  STATE LID WALL THICKNESS: .14 inches</p> <p>96 GALLON:  STATE BODY WALL THICKNESS: .175 inches  STATE CRITICAL WEAR POINT THICKNESS: .185 inches  STATE LID WALL THICKNESS: .14 inches</p>
3.7	<p>MANEUVERABILITY: Contractor must state the average tipping force required to maneuver a fully loaded cart when tilted to the roll position. The Contractor must also submit documentation that conforms to ANSI Z-245.60 (Force To Tip) testing that clearly defines the cart’s maximum average tipping force. The results of this testing may not exceed a maximum average of 50 pounds for 96 gallon carts.</p> <p>32 Gallon Carts  STATE MAXIMUM AVERAGE FORCE: 27 pounds</p> <p>96 Gallon Carts  STATE MAXIMUM AVERAGE FORCE: 50 pounds</p>
3.8	<p>RIM OF BODY: The upper rim of each cart body must have a closed tubular design or be molded with a reinforced rim for maximum strength during collection. The rim must also include a ledge or other built-in feature that creates a tight seal between the body and lid.</p>
3.9	<p>HANDLES: Each cart must be equipped with a minimum of one handle, with a minimum of 1” diameter. The handle(s) and handle mounts must be an integrally molded part of the cart body. The handles shall be designed to afford the user positive control of the loaded cart at all times. The handles must not</p>

	have the ability to rotate on their own axis at any time. Handles which are molded as part of the lid are unacceptable. Bolted-on handle mounts or bolted-on handles are unacceptable.
3.10	LID: The lid shall be of one piece construction and manufactured of the same material used in the cart body. The lid shall be configured to ensure that it will not warp, bend, slump, or distort to such an extent that it no longer fits the cart properly or becomes otherwise unserviceable. The lid must be crowned in shape and designed to prevent the entry of rain when in the closed position. The lid must open from a closed position through a full 270° arc. Living hinges and lid counter weights are unacceptable. Lid latches are unacceptable.
3.11	BOTTOM: The bottom of the cart must be impact resistant at all points (four corners and the center) of the base for durability. Screw-on, bolt-on, or pop-on wear guards are unacceptable.
3.12	WHEELS: Wheels for 32 gallon carts shall be a minimum of 10" diameter. Wheels for 96 gallon carts shall be a minimum of 12" diameter and 1.75" wide with rubber treads. All wheels must be capable of supporting a minimum of 200 pounds per wheel.
3.13	AXLE: The axle for 32 gallon carts must be a minimum of 5/8" diameter. The axle for 96 gallon carts shall be a minimum of 3/4" (0.75") diameter. All axles shall be zinc chromate plated or powder coated equivalent, solid high strength steel, and fully supported by the cart body. The axle must slide through two molded-in plastic journals in the cart bottom and must not be exposed to the contents inside of the cart. Each molded-in axle journal must be at least 1" wide. Axles attached by means of bolts or rivets are unacceptable.
3.14	STABILITY: Each cart shall be stable and self-balancing when in the upright position, either loaded or empty. The carts must be designed to withstand winds averaging 25 mph when empty.
3.15	LIFT SYSTEM: Each cart shall be equipped with attachment points which make it compatible with standard American semi-automated bar-locking lifters and fully-automated arm lifters. The upper lift point must be integrally molded into the body of the cart. All lower lift bars must be designed to withstand over ten (10) years of lifter attachment. The lower lift bar 96 gallon carts shall be at least 1" diameter galvanized steel. The lower bar must be mounted in molded-in plastic bearings or held in place with pre-installed latch/push pins. The lower bar must be factory installed and cannot be attached by means of rivets, screws, bolts, or similar fasteners.
3.16	COLOR: The cart body color shall be green, gray, brown, blue or black. Surface treatments, painted or spray-on finishes, and materials that are not homogenous are not acceptable.  Contractor must submit color chips or samples for all colors available. The County will select the colors for the carts.

3.17	<b>INTERIOR CONSTRUCTION:</b> The interior surface of each cart must be smooth and free from crevices, recesses, projections, and other obstructions where material inside the cart could become trapped.
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4. **MARKINGS:** Each cart must be permanently marked with letters/numbers, as follows:

4.1	<b>SERIAL NUMBERS:</b> Each cart must have a serial number hot stamped in white on the body. The serial number shall be preceded by a letter or number code which designates the year of manufacture. Serial numbers shall be in sequence beginning with a number designated by the County. The Contractor will maintain a file that identifies the date of manufacture by the serial number.
4.2	<b>COUNTY SEAL:</b> The County Seal or logo shall be hot stamped onto both sides of the cart body.
4.3	<b>USER INSTRUCTIONS:</b> Instructions for the safe use of the cart must be molded into each lid. Instructions shall be in both English and Spanish.
4.4	<b>LOAD RATING:</b> The load rating of the cart must be raised-relief molded into the lid. Load rating shall be stated in both pounds and kilograms and in English and Spanish.

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

5.1	<b>MANUFACTURING PROCESS:</b> The in-mold label shall be permanently molded into the container lid. It should not wear or peel from normal uses. It shall have ultra-violet and other protection from the effects of the sun.
5.2	<b>COLOR AND GRAPHICS:</b> The in-mold label shall be 4-color and contain the County logo including images and language representing recycling commodities deemed acceptable for the County's program. All proofs for the label shall be submitted to the County for approval and shall have a minimum size of 5" X 12".

6. **RFID & BAR CODE INTEGRATION:** Not Applicable.

7. **DATA INTEGRATION:** Not Applicable.

8. **WORK ORDER MANAGEMENT AND REPORTING SYSTEM:** Not Applicable.

9. **ASSEMBLY, DISTRIBUTION AND TRACKING SERVICES FOR CARTS**

9.1	The Contractor shall be responsible for coordinating the delivery of carts from the manufacturing plant, unloading loads of carts, assembling necessary parts, and distributing the carts to homes throughout the Service Area.
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9.2	The Contractor shall unload all delivery trailers. Any damage to the carts during any phase of the delivery, unloading, assembly, distribution, or exchanging shall be the responsibility of the Contractor to replace in kind.
9.3	The Contractor shall provide a qualified assembly and distribution staff. The Contractor shall provide supervisory level full-time employees to work directly with County staff to solve any problems resulting from distribution services while that service is being provided.
9.4	Carts shall be assembled and placed at the resident's curb.
9.5	Each cart must include a plastic hanger bag that includes a pre-printed brochure describing the safe care and use of the carts for residents.
9.6	The Contractor will record the cart serial number for each and every address where the carts are delivered. The Contractor will keep an electronic file of the address assignments of carts by serial number and present it to the County in an acceptable electronic format upon completion of the delivery. Verification of a specific cart being associated to a specific address is required.

**10. CART MAINTENANCE**

10.1	The Contractor must use inventory tracking software or other methods that enable the Contractor to maintain an adequate inventory of carts and spare parts at all times. Upon request, the Contractor shall promptly provide the County with up-to-date information concerning the Contractor's inventory.
10.2	Each cart action shall be tracked by the Contractor using the bar code in the cart or other methods that are mutually acceptable to the Parties. The time, date, and location of all cart deliveries, swap-outs (exchanges), repairs, and cart maintenance activities must be recorded and made available for the County's inspection.
10.3	The County may generate a service work order and submit it electronically to the Contractor for processing. Contractor must be able to receive and respond to work orders from the County electronically via e-mail.
10.4	Completions of work orders shall be documented using cart numbers (IDs), household address, date, and time work is completed.
10.5	The Contractor shall repair all carts at the residence. All carts in need of repair shall be equipped with new parts.

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

11.1	Failure of the lid to prevent rain water from entering the cart when in the closed position.
11.2	Damage to the cart body, lid, or any component parts through opening or closing the lid.
11.3	Failure of the lower lift bar from damage during interface with lifters.
11.4	Failure of the body and lid to maintain their original shape.
11.5	Damage or cracking of the cart body through normal operating conditions.
11.6	Failure of the wheels to provide continuous, easy mobility, as originally designed.
11.7	Failure of any part to conform to the minimum standards as specified herein.
11.8	Warranty specimen of exact warranty offered must be provided to the Contract Administrator before the carts are ordered.

RESOLUTION NO. 2014-143

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE AN AMENDED AND RESTATED FRANCHISE AGREEMENT FOR THE COLLECTION AND TRANSPORTATION OF RESIDENTIAL WASTE, ON BEHALF OF THE COUNTY, WITH ADVANCED DISPOSAL SERVICES OF JACKSONVILLE, LLC; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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RECITALS

WHEREAS, on February 14, 2003, St. Johns County ("County") issued a request for proposals ("RFP") from private companies for the collection and transportation of certain types of solid waste that are generated by the County's residents; and

WHEREAS, Advanced Disposal Services of Jacksonville, LLC ("Contractor"), submitted a proposal in response to the County's RFP; and

WHEREAS, on May 28, 2003, the Board of County Commissioners ("Board") held a public hearing to evaluate the proposals it received in response to the County's RFP; and

WHEREAS, the Board concluded that the Contractor's proposal was the best and most responsive proposal and, accordingly, the Board selected the Contractor to provide its services in certain designated areas of the County; and

WHEREAS, on August 1, 2003, the Board entered into "Franchise Agreement for the Collection and Transportation of Residential Waste in St. Johns County" ("Contract") with the Contractor; and

WHEREAS, on March 4, 2010, the County executed a "Franchise Extension Agreement for the Collection and Transportation of Residential Waste in St. Johns County" with the Contractor, which extended the term of the parties' Contract until July 31, 2017; and

WHEREAS, the County wishes to continue to receive the services provided by the Contractor, and the Contractor wishes to continue to provide the services needed by the County, subject to the terms and conditions set forth in the "Amended and Restated Franchise Agreement for the Collection and Transportation of Residential Waste" ("Agreement") that is attached hereto and incorporated herein by reference; and

WHEREAS, after considering the relevant issues at a public hearing, the Board has

concluded that the Agreement provides significant economic and other benefits to the public and, therefore, it is in the public interest to enter into the Agreement with the Contractor.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:**

**Section 1.** The recitals set forth above are incorporated into the body of this resolution and are adopted as findings of fact.

**Section 2.** The County Administrator, or his designee, is authorized to execute the Agreement with Advanced Disposal Services of Jacksonville, LLC, on behalf of the County, for the purposes mentioned above.

**Section 3.** If any provision of this resolution shall be held or deemed to be illegal, inoperative or unenforceable, the same shall not affect any other provision or cause any other provision to be invalid, inoperative or unenforceable to any extent whatsoever.

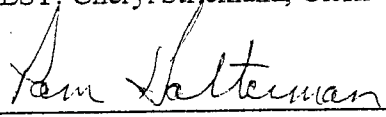
**Section 4.** To the extent that there are typographical or administrative errors or omissions in the Agreement that do not change the tone, tenor, or concept of this resolution, the Agreement may be revised without subsequent approval of the Board of County Commissioners.

**Section 5.** This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 20 day of May, 2014.

By:   
John H. Morris, Chair

ATTEST: Cheryl Strickland, Clerk

By:   
Deputy Clerk

RENDITION DATE 5/22/14

