

8B1

ADDITIONAL ITEM



BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

PLACEMENT: DEPARTMENTAL

PRESET:

TITLE: ASSIGNMENT OF SEMI-EXCLUSIVE SOLID WASTE FRANCHISE AGREEMENT BETWEEN MARTIN COUNTY, FLORIDA AND INDIANTOWN COMPANY INC FOR MARTIN COUNTY'S WESTERN SERVICE AREA

AGENDA ITEM DATES:

MEETING DATE: 5/4/2010	COUNTY ATTORNEY: 4/12/2010
COMPLETED DATE: 4/22/2010	ASSISTANT COUNTY ADMINISTRATOR: 4/19/2010

REQUESTED BY:	DEPARTMENT:	PREPARED BY:
Name: John Polley, Director	Utilities and Solid Waste	Patrick Yancey
Name:		Solid Waste Administrator

Procedures: None

EXECUTIVE SUMMARY:

Section 56.1 of the current Franchise Agreement states, "No assignment of this agreement or any right or responsibility occurring under this agreement shall be made in whole or in part by the contractor without written consent of the Commission."

APPROVAL:

LEG
ACA
CA

BACKGROUND/RELATED STRATEGIC GOAL:

800d275d

executing amendments to the Agreements. By doing so the term of the Agreements will be extended through and including September 30, 2020. A rate comparison with other local governments demonstrates that the rates charged by Waste Management are competitive with rates recently competitively bid.

RECOMMENDED ACTION:

RECOMMENDATION

- Authorize execution of Amendments to the Solid Waste Franchise Agreements for the Eastern and Western Service Areas.
- Authorize execution of the Consent to Assignment and Transfer of the Indiantown Franchise Agreement.

ALTERNATIVE RECOMMENDATIONS

None.

FISCAL IMPACT:

RECOMMENDATION

- The residential rate for the Western Service will be reduced from \$15.90 per unit per month to \$13.82 which is an annual savings of \$24.84 per unit. This rate reduction will result in a \$68,000 reduction to the 2010-2011 Solid Waste budget.
- Franchise fees from the Western Service Area will generate an increase of approximately \$50,000 annually for the general fund.

ALTERNATIVE RECOMMENDATIONS

None.

DOCUMENT(S) REQUIRING ACTION:

<input type="checkbox"/> Budget Transfer / Amendment	<input type="checkbox"/> Chair Letter	<input checked="" type="checkbox"/> Contract / Agreement
<input type="checkbox"/> Grant / Application	<input type="checkbox"/> Notice	<input type="checkbox"/> Ordinance
<input type="checkbox"/> Other:		<input type="checkbox"/> Resolution

ROUTING:

<input type="checkbox"/> ADM	<input type="checkbox"/> BLD	<input type="checkbox"/> CDD	<input type="checkbox"/> COM	<input type="checkbox"/> ENG	<input type="checkbox"/> FRD	<input type="checkbox"/> GMD
<input type="checkbox"/> GSD	<input type="checkbox"/> ITS	<input type="checkbox"/> LIB	<input type="checkbox"/> MCA	<input type="checkbox"/> MPO	<input type="checkbox"/> PRD	<input type="checkbox"/> USD
<input checked="" type="checkbox"/> CA	<input checked="" type="checkbox"/> ACA	<input checked="" type="checkbox"/> LEG				

CONSENT TO ASSIGNMENT AND TRANSFER

THIS CONSENT TO ASSIGNMENT AND TRANSFER ("Consent"), relating to the Solid Waste Franchise Agreement Between Martin County, Florida Board of County Commissioners, a political subdivision of the State of Florida, and Indiantown Company, Inc. for Martin County's Western Service Area approved by the Board of County Commissioners on September 25, 2007, including any amendments thereto (the "Contract"), is entered into by **MARTIN COUNTY, FLORIDA** through its **BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida ("County"); **INDIANTOWN COMPANY, INC.**, a Florida corporation ("Assignor"), and **WASTE MANAGEMENT INC. OF FLORIDA**, a Florida corporation ("Assignee").

WITNESSETH:

WHEREAS, Assignor, Assignee and Postco, Inc., a Florida corporation, have entered into that certain Asset Purchase Agreement dated March 16, 2010 pursuant to which Assignee proposes to acquire certain assets and operations of Assignor within Martin County (the "Purchase Agreement");

WHEREAS, pursuant to Sections 56 and 57 of the Contract, Assignee and Assignor have requested that COUNTY consent to the assignment and transfer of the Contract;

WHEREAS, COUNTY wishes to provide its consent to the assignment and transfer of the Contract from Assignor to Assignee under the terms and conditions contained herein; and

WHEREAS, Assignor desires to assign the Contract to Assignee in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, and covenants, hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, COUNTY, Assignor and Assignee agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. Subject to and upon the terms and conditions hereof, including the Closing described in Paragraph 6, COUNTY hereby consents to the assignment and transfer of the Contract from Assignor to Assignee, provided that this Consent shall not impose any additional obligations on COUNTY or otherwise affect any of the rights of COUNTY under the Contract.
3. This Consent shall not operate as a waiver of any prohibition against further assignments or transfers without COUNTY's consent as provided in Sections 56 and 57 of the Contract.
4. By entering into this Consent COUNTY does not in any manner adopt, accept or approve any of the terms or conditions of any of the agreements between Assignor and Assignee pertaining to the acquisition of Assignor's assets.
5. This Consent shall not operate or be construed as any waiver of any term, condition, right or remedy of COUNTY under the Contract.
6. Effective as of the closing of the purchase by Assignee of the operations of Assignor (the "Closing") as contemplated by the Purchase Agreement by and between Assignor and Assignee:

Initials CB
Date 5/11/10

- (a) Under this Consent, Assignor hereby grants, bargains, sells, conveys, transfers, assigns, and sets over its entire rights, and delegates its entire obligations under the Contract to Assignee.
- (b) Assignee hereby accepts the assignment of the Contract from Assignor and acknowledges and represents to COUNTY that it will comply with, abide by and assume each and every term, obligation, condition, duty and responsibility of Assignor set forth in the Contract.
7. Any notices required by the terms of the Contract shall be delivered as directed therein to Assignee at:
- Waste Management Inc. of Florida
2700 Wiles Road
Pompano Beach, FL 33073
Attn: Tim Hawkins, Vice President
- Copy to: Ronald Kaplan, Esq. at the same address
8. Except as otherwise set forth herein, the terms and conditions of the Contract, shall remain in full force and effect between the parties. In case of a perceived conflict between the terms of the Contract and this Consent, the terms of the Contract shall govern.
9. The individuals executing this Consent on behalf of Assignor and Assignee represent that they have full authority to execute this document on behalf of the entity for whom they are acting herein.
10. This Consent may be executed in any number of counterparts which, collectively, shall constitute one and the same instrument. Facsimile signatures shall be effective as original signatures with regard to this Consent. Each party represents to the other that the execution and delivery of this Consent by such party have been properly authorized and that all signatures are genuine.
11. Notwithstanding anything herein to the contrary, in the event that the Closing referenced in paragraph 6 above fails to occur within 90 days of the date of approval of this Consent by the Board of County Commissioners, this Consent (including the assignment and assumption set forth herein) shall be of no force and effect, provided that the parties may renew their request for consent again at any time.

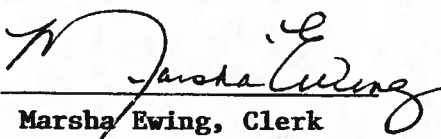
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Date 5/11/10

IN WITNESS WHEREOF, the parties hereto have made and executed this CONSENT TO ASSIGNMENT AND TRANSFER on the respective dates under each signature: Martin County through its Board of County Commissioners, signing by and through its Chairman, duly authorized to execute same by Board action on the 4th day of May 2010; Indiantown Company, Inc., signing by and through its authorized signatory, duly authorized to execute same; and Waste Management Inc. of Florida, signing by and through its authorized signatory, duly authorized to execute same.

COUNTY

ATTEST:

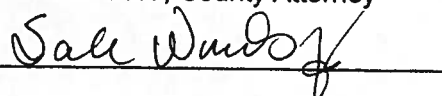


Marsha Ewing, Clerk

MARTIN COUNTY, through its
BOARD OF COUNTY COMMISSIONERS
By _____
Doug Smith, Chairman

4th day of May 2010.

Approved as to form by
Office of County Attorney
Martin County, Florida
STEPHEN FRY, County Attorney

By 

Initials CB
Date 5/11/10

ASSIGNOR

Indiantown Company, Inc.

By: Arden M. Post

Title: Pres.

11 day of May 2010.

ASSIGNEE

Waste Management Inc. of Florida

By: [Signature]

Title: Vice President

7th day of May 2010.

034223, 000055, 103380449, Martin County Consent to Assignment

Initials CS
Date 5/16/10

AMENDMENT TO SOLID WASTE FRANCHISE AGREEMENT BETWEEN
MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA
AND
WASTE MANAGEMENT INC. OF FLORIDA
FOR MARTIN COUNTY'S WESTERN SERVICE AREA

THIS AMENDMENT is made and entered into in duplicate this 4th day of May, 2010, by and between **MARTIN COUNTY**, a political subdivision of the State of Florida (the "County"), and **WASTE MANAGEMENT INC. OF FLORIDA**, a Florida corporation (the "Contractor").

WITNESSETH:

WHEREAS, the County and Indiantown Company, Inc., entered into that certain SOLID WASTE FRANCHISE AGREEMENT BETWEEN MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA AND INDIANTOWN COMPANY, INC. FOR MARTIN COUNTY'S WESTERN SERVICE AREA approved by the Board of County Commissioners on September 25, 2007 ("Agreement"); and

WHEREAS, the Agreement was assigned to Contractor with the approval and consent of the County on May 4th, 2010; and

WHEREAS, the parties desire to amend the Agreement to: exercise the option to renew the Agreement for five years; modify the semi-exclusive franchise for Collection of Construction and Demolition Debris; reduce certain Rates that are paid by the County for the Contractor's Residential Collection Service and Commercial Collection Service; and provide for the payment of additional Franchise Fees by the Contractor; and

WHEREAS, the County has determined that this amendment is in the best interests of the County and its residents.

NOW, THEREFORE, in consideration of these premises and the mutual undertakings hereinafter stated, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Section 1.17 is amended to read as follows;

1.17 Commercial Collection Service shall mean: (a) the Collection of Commercial Waste from a Commercial Customer; (b) the Collection of Construction and Demolition Debris; (c) the Collection of Recyclable Materials from a Commercial Customer, if the Contractor has a contract with the Commercial Customer for such service; and (d) the Collection of Solid Waste from a Multi-Family Mechanical Container Customer.

Initials CB
Date 5/16/10

2. Section 2.2 is amended to read as follows:

2.2 NON - EXCLUSIVE FRANCHISE FOR CONSTRUCTION AND DEMOLITION DEBRIS

Subject to the conditions and limitations contained in this Agreement, the Contractor is hereby granted a non-exclusive franchise for the Collection of Construction and Demolition Debris in the unincorporated areas of Martin County. At its option, the Commission may grant a non-exclusive franchise for the Collection of Construction and Demolition Debris to any other Person.

3. Section 3.2 is amended to read as follows:

3.2 COUNTY'S OPTION TO RENEW THE FRANCHISE

Under this Agreement (as executed on September 25, 2007), The County had the right to renew this Agreement for five (5) years. The County has decided to exercise its right to renew for five (5) years and is doing so by executing this amendment to the Agreement. Accordingly, the parties agree that the term of this Agreement is extended through and including September 30, 2020.

4. Section 21.13 is amended to read as follows:

Reserved.

5. The second sentence in Section 41 is amended to read as follows:

The Franchise Fee shall be equal to five percent (5%) of the Gross Revenues received each month by the Contractor for all of the Collection Services, provided by the Contractor pursuant to this Agreement.

6. Exhibit 3 (entitled "Rates for Collection Service Effective October 1, 2007") is deleted and replaced in its entirety with a new Exhibit 3 (entitled "Rates for Collection Service Effective October 1, 2010"), which is attached hereto. The Rates set forth in the new Exhibit 3 reflect a reduction in the Residential Monthly Rate for Garbage Collection from \$15.89 to \$13.16 per residence and a reduction in the Commercial Rate for Front-End Load Containers from \$12.00 to \$10.33 per cubic yard for Collection. Each of the Rates set forth in new Exhibit 3 shall be adjusted on October 1, 2010, pursuant to Section 39.3 of this Agreement.

7. All of the terms of the Agreement that are not specifically modified herein shall remain unaltered and in effect. IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized or have hereunto set their hands and seals in duplicate as of the day and year first above written.

Initials CB
Date 5/11/10

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

By: _____
Doug Smith, Chairman

Attest:
By: *Marsha Ewing*
Marsha Ewing, Clerk

Approved as to form:
Martin County Attorney's Office

By: *Stephen Fry*
Stephen Fry, Attorney

WASTE MANAGEMENT INC. OF FLORIDA

By: _____
Its: *Joe President*

Attest:
By: _____

Initials CB
Date 5/21/10

AMENDMENT TO SOLID WASTE FRANCHISE AGREEMENT BETWEEN
MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA
AND
WASTE MANAGEMENT INC. OF FLORIDA
FOR MARTIN COUNTY'S EASTERN SERVICE AREA

THIS AMENDMENT is made and entered into in duplicate this 4TH day of May, 2010, by and between **MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida (the "County"), and **WASTE MANAGEMENT INC. OF FLORIDA**, a Florida corporation (the "Contractor").

WITNESSETH:

WHEREAS, the parties entered into that certain SOLID WASTE FRANCHISE AGREEMENT BETWEEN MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA AND WASTE MANAGEMENT INC. OF FLORIDA FOR MARTIN COUNTY'S EASTERN SERVICE AREA approved by the Board of County Commissioners on September 25, 2007 ("Agreement"); and

WHEREAS, the parties desire to amend the Agreement to exercise the option to renew the Agreement for five years and modify the semi-exclusive franchise for the Collection of Construction and Demolition Debris; and

WHEREAS, the County has determined that this amendment is in the best interests of the County and its residents.

NOW, THEREFORE, in consideration of these premises and the mutual undertakings hereinafter stated, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Section 1.17 is amended to read as follows;

1.17 Commercial Collection Service shall mean: (a) the Collection of Commercial Waste from a Commercial Customer; (b) the Collection of Construction and Demolition Debris; (c) the Collection of Recyclable Materials from a Commercial Customer, if the Contractor has a contract with the Commercial Customer for such service; and (d) the Collection of Solid Waste from a Multi-Family Mechanical Container Customer.

2. Section 2.2 is amended to read as follows:

2.2 NON - EXCLUSIVE FRANCHISE FOR CONSTRUCTION AND DEMOLITION DEBRIS

Subject to the conditions and limitations contained in this Agreement, the Contractor is hereby granted a non-exclusive franchise for the Collection of Construction and Demolition Debris in the unincorporated areas of Martin County. At its option, the Commission may grant a non-exclusive franchise for the Collection of Construction and Demolition Debris to any other Person.

Initials CB
Date 5/11/10

3. Section 3.2 is amended to read as follows:

3.2 COUNTY'S OPTION TO RENEW THE FRANCHISE

Under this Agreement (as executed on September 25, 2007), The County had the right to renew this Agreement for five (5) years. The County has decided to exercise its right to renew for five (5) years and is doing so by executing this amendment to the Agreement. Accordingly, the parties agree that the term of this Agreement is extended through and including September 30, 2020.

4. Section 4.3 is amended by adding the following paragraph to the end of Section 4.3:

In the Western Service Area, the Contractor shall collect Recyclable Materials at Curbside from Residential Customers living in the urban service area of Indiantown, the Cobblestone subdivision, and the Stuart West subdivision. The Contractor shall collect Recyclable Materials from these Customers at least once each week with a "single stream" Recycling system. The Contractor's services to these Customers shall be provided in compliance with the requirements set forth in this Agreement. The Contractor also shall provide and operate convenient "drop-off" sites with Collection Containers for the Collection of the Recyclable Materials generated in the other portions of the Western Service Area. The number, location, and general operation of the drop-off sites shall be subject to the prior approval of the Administrator, which approval shall not be withheld unreasonably. The Contractor's Recycling program and services for the Western Service Area shall be fully implemented by October 1, 2010.

5. Section 21.13 is amended to read as follows:

Reserved.

6. All of the terms of the Agreement that are not specifically modified herein shall remain unaltered and in effect.

Initials CB
Date 6/16/10

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized or have hereunto set their hands and seals in duplicate as of the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

By: _____
Doug Smith, Chairman

Attest:
By: _____
Marsha Ewing, Clerk

Approved as to form:
Martin County Attorney's Office
By: _____
Stephen Fry, County Attorney


WASTE MANAGEMENT INC. OF FLORIDA

By: _____
Its: Vice President

Attest:
By: _____

Approved by
The Board of
County
Commissioners
9/25/07

Solid Waste Franchise Agreement
Between
Martin County Board of County Commissioners,
Florida
and
Waste Management Inc of Florida
for
Martin County's Eastern Service Area


INSTR # 2057701
OR BK 02299 PG 1324
Pas 1324 - 1442; (119995)
RECORDED 12/26/2007 02:44:11 PM
MARSHA EWING
CLERK OF MARTIN COUNTY FLORIDA
RECORDED BY C Burkner

Solid Waste Franchise Agreement for Martin County's Eastern Service Area

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SOLID WASTE FRANCHISE AGREEMENT FOR MARTIN COUNTY'S EASTERN SERVICE AREA

This Agreement is made and entered into this 26 day of September, 2007 by and between Martin County Board of County Commissioners, Florida ("County"), a political subdivision of the State of Florida, and Waste Management Inc. of Florida ("Contractor").

RECITALS

WHEREAS, the County issued a request for qualifications ("RFQ") (RFQ No. 2007-2052) for the Collection of Solid Waste and Recyclable Materials; and

WHEREAS, the Contractor submitted an application in response to the County's RFQ, pursuant to Section 151.144 of the Ordinance; and

WHEREAS, the County has relied upon the proposal and other information provided by the Contractor concerning the Contractor's experience and ability to provide Collection Services to the County; and

WHEREAS, after evaluating the Contractor's application in compliance with the requirements in Section 151.144 of the Ordinance and considering the County's best interests, the County Commission finds that the Contractor has submitted the best proposal in response to the County's RFQ for the Service Area; and

WHEREAS, Section 151.141, General Ordinances, Martin County Code, provides that it is unlawful to operate any solid waste collection business in the unincorporated areas of the County unless granted a franchise pursuant to Section 151.144 of the Code; and

WHEREAS, Section 151.143, General Ordinances, Martin County Code authorizes the Board to establish reasonable rules and regulations for the issuance of a franchise and to designate one or more geographical areas to be served by a franchise; and

WHEREAS, the County wishes to use and the Contractor wishes to provide the Contractor's Collection Services, subject to the terms and conditions contained in this Agreement; and

WHEREAS, the County Commission finds that granting a franchise to the Contractor, subject to the terms and conditions contained in this Agreement, is in the public interest and will protect the public health, safety and welfare in the County; and

WHEREAS, the County Commission finds that the franchise granted herein properly balances the Commission's desire to provide excellent, environmentally-sound Collection Services to all members of the community and the Commission's desire to minimize the community's costs for such services.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, and the mutual benefits provided hereunder, the County and the Contractor hereby agree that they shall be bound by and shall strictly comply with the following provisions of this Agreement:

SECTION 1: DEFINITIONS

For the purposes of this Agreement, the definitions contained in this Section 1 shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Agreement, the definition of such word or phrase in the County's Ordinances shall apply. To the extent the definitions contained herein conflict with similar definitions in any federal, state or local law, the definition herein shall prevail.

1.1 Administrator shall mean the County employee designated by the County Manager to be the County's official representative regarding matters pertaining to this Agreement.

1.2 Advertising shall mean any written communication for the purpose of promoting a product or service. The Contractor's name and telephone number, and other information provided in the manner specified in this Agreement, is not Advertising.

1.3 Agreement shall mean this Solid Waste Franchise Agreement for Martin County's Eastern Service Area. For the purposes of Section 151.31 of the County's Ordinances, this Agreement also shall be known as a "Solid Waste and Recyclable Material Collection Services Franchise Agreement."

1.4 Agreement Year shall mean twelve (12) consecutive months, beginning on October 1, 2007 and continuing through September 30, 2008, and each twelve (12) month period thereafter, during the term of the Agreement.

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

1.6 Back Door Service shall mean the Collection of Solid Waste and Recyclable Materials on a Residential Curbside Customer's property at a location that is not Curbside.

1.7 Biological Waste shall mean those wastes that cause or have the capability of causing disease or infection, including but not limited to, Biomedical Waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. This term does not include human remains that are disposed of by Persons licensed under Chapter 497, Florida Statutes.

1.8 Biomedical Waste shall mean any solid or liquid waste which may present a threat of infection to humans, including non-liquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes which contain human disease-causing agents; and discarded sharps. The following are also included:

- (a) used absorbent materials saturated with blood, blood products, body fluids, or excretions or secretions contaminated with visible blood;
- (b) absorbent materials saturated with blood or blood products that have dried; and
- (c) non-absorbent, disposable devices that have been contaminated with blood, or body fluids or secretions or excretions visibly contaminated with blood, if the devices have not been treated by an approved method.

1.9 Bulk Waste shall mean any large discarded item that cannot be placed in a Roll Cart or Curbside Container because of its size, volume, shape or weight. Bulk Waste includes, but is not limited to, sofas, tables, sinks, toilets, fixtures, furniture, ladders, and carpet. Bulk Waste does not include White Goods, Electronic Equipment, Extraordinary Waste, Land Clearing Debris, Oversized Yard Trash, CG Waste, or Exempt Waste.

1.10 Certificate of Occupancy shall mean a document issued by the County certifying that a newly constructed building has been constructed in compliance with County specifications and is suitable for use.

1.11 Change in Law shall mean the adoption, promulgation, or modification of any Applicable Law after the Effective Date, which directly and substantially affects the Contractor's or County's performance under this Agreement. A Change in Law does not include a change in any tax law or workers' compensation law.

1.12 Collection shall mean the process of picking up, transporting, and dropping off at a Designated Facility of Solid Waste and Recyclable Materials.

1.13 Collection Container shall mean Curbside Containers, Mechanical Containers, Roll Carts, and Recycling Containers.

1.14 Collection Plan shall mean the Contractor's written plan for providing Collection Services in accordance with the provisions of this Agreement.

1.15 Collection Service shall mean each one of the various services provided by the Contractor for the Collection of Solid Waste, including but not limited to Residential Collection Service, Commercial Collection Service, and Supplemental Collection Services.

1.16 Commencement Date shall mean October 1, 2007, which is the date when the Contractor shall begin providing Collection Services to the County pursuant to the requirements of this Agreement.

1.17 Commercial Collection Service shall mean: (a) the Collection of Commercial Waste from a Commercial Customer; (b) the Collection of Construction and Demolition Debris in Roll-Off Containers greater than ten (10) cubic yards in size; (c) the Collection of Recyclable Materials from a Commercial Customer, if the Contractor has a contract with the Commercial Customer for such service; and (d) the Collection of Solid Waste from a Multi-Family Mechanical Container Customer.

1.18 Commercial Customer shall mean any Person that uses the Contractor's Commercial Collection Service.

1.19 Commercial Lawn Care Company shall mean a Person that provides lawn and garden maintenance services for remuneration. This definition includes landscapers.

1.20 Commercial Real Property shall mean real property that is located in the Service Area and not classified as Residential Real Property. Commercial Real Property includes property used primarily for: (a) commercial purposes, such as hotels, motels, stores, restaurants, theaters, service stations, and recreational vehicle parks; (b) institutional purposes, such as governmental offices, churches, hospitals, and schools; and (c) not-for-profit organizations. Commercial Real Property shall include commercially zoned property that is used primarily for residential purposes. Vacant land, not classified as Improved Real Property, shall be deemed Commercial Real Property.

1.21 Commercial Waste shall mean Garbage and Rubbish generated by a Commercial Customer on their Commercial Real Property or Industrial Real Property. Commercial Waste includes Recyclable Material generated by a Commercial Customer that has a contract with the Contractor for the Collection of such material.

1.22 Commission shall mean the Board of County Commissioners of Martin County, Florida.

1.23 Community Events shall mean events sponsored or co-sponsored by the County.

1.24 Compactor shall mean a stationary or mobile mechanism that is used to densify Solid Waste in a Mechanical Container and achieve a minimum compaction ratio of 2.5 to 1.

1.25 Construction and Demolition Debris shall mean 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, resulting from the construction, destruction, or renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project.

1.26 Consumer Price Index or "CPI" shall mean the "Consumer Price Index – All Urban Consumers" (Series ID CUURA320SA0 and CUUSA320SA0) for Miami-Fort Lauderdale, as published by the U.S. Department of Labor, Bureau of Labor Statistics, or a successor agency.

1.27 Contingency Plan shall mean the Contractor's plan for avoiding an interruption in Collection Service in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable.

1.28 Contractor shall mean the Person identified above that has entered into this Agreement to provide Collection Service for the County (i.e., Waste Management Inc. of Florida).

1.29 Contractor-Generated Waste or "CG Waste" shall mean Bulk Waste, Land Clearing Debris, and Oversized Yard Trash generated by a home builder, building contractor, tree surgeon, Commercial Lawn Care Company, or plant nursery.

1.30 County shall mean, depending on the context, either (a) the geographical area contained within unincorporated Martin County, Florida, or (b) the government of Martin County, acting through the Commission or its designee.

1.31 Curbside shall mean a location within three (3) feet of the curb, pavement, or edge of the nearest street. If this location is in a drainage ditch, Curbside shall mean a location adjacent to the Customer's driveway, as close as possible to the nearest roadway.

1.32 Curbside Container shall mean a metal or heavy-duty plastic container for Solid Waste that has a tight fitting lid, handles on the sides, and a capacity of not less than thirty-two (32) gallons and not more than fifty (50) gallons.

1.33 Customer shall mean any Person that uses the Contractor's Collection Service under this Agreement. A Customer shall be a Commercial Customer or a Residential Customer.

1.34 Customer List shall mean the County's list of the Residential Customers that are entitled to Collection Service from the Contractor.

- 1.35 **Day** shall mean a calendar day, except Saturdays, Sundays, and Holidays.
- 1.36 **Designated Disposal Facility** shall mean the facility or facilities designated by the County for the disposal of the Solid Waste collected pursuant to this Agreement.
- 1.37 **Designated Facility** shall mean the Designated Disposal Facility and/or the Designated Recycling Facility, as appropriate.
- 1.38 **Designated Recycling Facility** shall mean the Recyclable Materials Processing Facility designated by the County for the processing of Recyclable Materials collected pursuant to this Agreement.
- 1.39 **Disaster Debris** shall mean debris that is produced or generated by a natural or manmade disaster and placed Curbside by a Residential Customer. Disaster Debris includes but is not limited to Yard Trash, Construction and Demolition Debris, and Bulk Waste.
- 1.40 **Disaster Debris Contract** shall mean the County's contract(s) with one or more contractors for the removal, hauling, processing, disposal, or Recycling of Disaster Debris. .
- 1.41 **District Manager** shall mean the employee designated by the Contractor as the Contractor's primary representative with regard to matters involving this Agreement.
- 1.42 **Dwelling Unit** shall mean a room or rooms constituting a separate, independent living area with cooking facilities or kitchen, a separate entrance, and bathroom facilities, that are physically separated from any other rooms or Dwelling Unit in the same structure or in separate structures. A hotel or motel room is not a Dwelling Unit.
- 1.43 **Effective Date** shall mean the date when this Agreement is signed and duly executed by the Commission or its designee, which shall occur after the Agreement is signed and duly executed by the Contractor.
- 1.44 **Electronic Equipment** shall mean electronic devices that have been discarded, including but not limited to computers, monitors, televisions, cathode ray tubes, printers, scanners, and copying machines.
- 1.45 **Exempt Waste** shall mean materials that are exempt from the Contractor's franchise under this Agreement.
- 1.46 **Extraordinary Waste** shall mean wastes that require extraordinary management, including but not limited to abandoned automobiles, boats, dead animals, agricultural and industrial wastes, Biomedical Waste, Biological Waste, Radioactive Waste, and Hazardous Waste.
- 1.47 **Fair Market Value** shall mean the price that would be paid to purchase or lease an item in the open market, based on comparable sales or leases of similar items.
- 1.48 **Franchise Fee** shall mean the fee paid by the Contractor for: (a) the use of the streets, alleys, bridges, easements, and other public places in the County; and (b) the exclusive right to provide Collection Services in accordance with this Agreement.
- 1.49 **Garbage** shall mean all kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.

1.50 Gross Revenues shall mean all of the fees, charges and costs that are collected from any Person based on, arising from, attributable to, or in any way derived from the services the Contractor provides pursuant to this Agreement. Gross Revenues include but are not limited to the fees that are collected for the Contractor's Collection Services, the use or rental of the Contractor's Mechanical Containers and equipment, the maintenance of the Contractor's Mechanical Containers and equipment, the Contractor's Supplemental Collection Services, and Tipping Fees.

1.51 Hazardous Waste shall mean 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 any material or substance identified as a hazardous waste or hazardous substance in the Florida Administrative Code, Florida Statutes, or other Applicable Law. The term does not include human remains that are disposed of by a Person licensed under Chapter 497, Florida Statutes.

1.52 Holiday shall mean any Day when the Contractor does not need to provide Collection Service under this Agreement. The Holidays are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other Day designated by the Manager as a Holiday.

1.53 Improved Real Property shall mean any cleared, graded or drained real property upon which a building or structure is erected and occupied or capable of being occupied (i.e., a Certificate of Occupancy has been issued) for residential, commercial, institutional or industrial use. Improved Real Property includes but is not limited to recreational vehicle park lots contained within parks designated as mobile home parks by the Health Department.

1.54 Industrial Real Property shall mean real property, not classified as Residential Real Property, where a Person is engaged in manufacturing, or processing raw materials, or altering or modifying a product for the purpose of producing a usable or finished product, and such Person generates Solid Waste as a by-product of their activities.

1.55 Land Clearing Debris shall mean the trees, tree trunks and limbs, stumps, bushes, vegetation, and other materials resulting from a land clearing or lot clearing operation.

1.56 Legitimate Complaint shall mean any complaint where the Administrator determines that the applicable requirements of this Agreement concerning the Set Out and Collection of Solid Waste were satisfied by the Customer, but not the Contractor.

1.57 Load shall mean any Solid Waste or other material that is collected or transported in the Contractor's vehicle.

1.58 Manager shall mean the County Manager or the Manager's designee.

1.59 Mechanical Container shall mean a dumpster, Roll-Off Container, Compactor, or other similar container, except a Roll Cart, that is approved by the Administrator for the Collection of Solid Waste or Recyclable Material.

1.60 Missed Collection shall mean any occasion when the Contractor does not provide Collection Service to a Customer on a Scheduled Collection Day in accordance with the provisions of this Agreement.

1.61 Multi-Family Dwelling Unit means a Dwelling Unit in a building with more than three (3) and less than ten (10) Dwelling Units located under one roof. A Multi-family Dwelling Unit also includes mobile or modular homes located in a commercial trailer park, or a combination of single-family and multi-family Dwelling Units when such combination is governed by covenants that bind the units to certain mutual obligations which are typically enforced through a homeowners' or property owners' association.

1.62 Multi-Family Mechanical Container Customer shall mean a Customer at a Multi-Family Dwelling Unit that receives Collection Service with a Mechanical Container.

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

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

1.65 Ordinance shall mean the County's Code of Ordinances.

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

1.67 Oversized Yard Trash shall mean any item of Yard Trash that is more than six (6) inches in diameter, or five (5) feet in length, or fifty (50) pounds in weight.

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

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

1.70 Plastic Bag shall mean a heavy-duty plastic trash bag that has a capacity of thirty-three (33) gallons or less.

1.71 Premises shall mean Improved Real Property.

1.72 Radioactive Waste shall mean any equipment or materials that are radioactive or have radioactive contamination, and are required by law to be stored, treated, or disposed of as radioactive waste.

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

1.74 Recovered Materials shall mean metal, paper, glass, plastic, textile, or rubber materials that have known Recycling potential, can be feasibly recycled and have been diverted and source separated or have been removed from the Solid Waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste. Recovered Material does not include any material or substance that does not fit within one of the

six categories described in this definition (metal, paper, glass, plastic, textile, or rubber). Construction and Demolition Debris is not a Recovered Material.

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

1.76 Recyclable Materials Processing Facility shall mean a facility engaged solely in the storage, processing, resale, or reuse of Recyclable Materials.

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

1.78 Recycling Bin shall mean a rectangular bin that is made of heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the County logo, and used for the Collection of Recyclable Materials.

1.79 Recycling Carts shall mean a container that is made of heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the County logo, mounted on two wheels, equipped with a tight-fitting hinged lid, and used for the automated or semi-automated Collection of Recyclable Materials.

1.80 Recycling Container shall mean any container approved by the Administrator for the Collection of Recyclable Materials, including but not limited to Recycling Bins and Recycling Carts.

1.81 Residential Collection Service shall mean (a) the Collection of Residential Waste from a Residential Curbside Customer and (b) the Collection of Recyclable Materials from a Multi-Family Dwelling Unit.

1.82 Residential Curbside Collection Service shall mean the Collection Service provided to Residential Curbside Customers.

1.83 Residential Curbside Customer shall mean a Residential Customer receiving Collection Service at the Curbside.

1.84 Residential Customer shall mean a Person that receives Residential Collection Service. A Residential Customer includes a Person that (a) occupies Residential Real Property in the Service Area or (b) owns or manages multiple Dwelling Units that are located on one parcel of Residential Real Property.

1.85 Residential Real Property shall mean Improved Real Property that is used for residential purposes, including but not limited to: single family residences; duplex apartments; apartment buildings; recreational vehicle lots contained within mobile home parks; recreational vehicles; mobile homes; condominium units; cooperatives established pursuant to Chapter 719, Florida Statutes; time-share apartments; and leased residential Premises of the classes described above, whether occupied or not. Property used exclusively as a recreational vehicle park, as defined in Section 513.01(10), Florida Statutes, shall be deemed Commercial Real Property.

1.86 Residential Waste shall mean Garbage, Rubbish, Yard Trash, Recyclable Materials, Bulk Waste, White Goods, and Tires generated by a Residential Customer upon the Customer's Residential Real Property.

1.87 Roll Cart shall mean a container that is made with heavy-duty hard plastic or other impervious material, hot-stamped or stenciled with the County logo, mounted on two wheels, equipped with a tight-fitting hinged lid, not less than thirty (30) gallons nor more than one hundred (100) gallons in rated capacity, and designed or intended to be used for automated or semi-automated Collection Service for Garbage and Rubbish.

1.88 Roll-Off Container shall mean a metal container that is normally rolled-off of a motor vehicle when the container is placed at a site and then rolled-onto the vehicle when the container is ready to be transported to a disposal facility.

1.89 Rubbish shall mean waste materials, other than Garbage, resulting from normal housekeeping activities on Residential Real Property and Commercial Real Property. Rubbish includes but is not limited to discarded trash, paper, plastic, bottles, cans and similar materials. Rubbish does not include CG Waste or Exempt Waste.

1.90 Scheduled Collection Day shall mean the Day when the Contractor is scheduled to provide Collection Service to a Customer for Recyclable Materials or one of the various types of Solid Waste addressed herein.

1.91 Service Area shall mean the geographical area in Martin County where the Contractor shall provide Collection Service in accordance with this Agreement. This Agreement governs the Eastern Service Area.

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

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

1.94 Solid Waste shall mean Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or Garbage, Rubbish, refuse, Special Waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. Solid Waste includes but is not limited to Biological Waste, Biomedical Waste, Bulk Waste, Commercial Waste, Construction and Demolition Debris, Disaster Debris, Electronic Equipment, Garbage, Hazardous Waste, Land Clearing Debris, Oversized Yard Trash, Radioactive Waste, Recyclable Materials (until they are recycled), Residential Waste, Rubbish, Special Waste, Tires, White Goods, and Yard Trash.

1.95 Supplemental Collection Services shall mean any Collection Service that is identified in Exhibit 3 in "Special Services." Supplemental Collection Service is a service that is different than or in addition to the normal service provided to Customers and, therefore, it usually requires the payment of an additional fee.

1.96 Special Waste shall mean Solid Waste that can require special handling and management, including, but not limited to, White Goods, Tires, used oil, lead-acid batteries, Construction and Demolition Debris, ash residue, Yard Trash, Electronic Equipment, Biological Waste, Hazardous Waste, and Biomedical Waste.

1.97 Tipping Fee shall mean the fee that must be paid for the disposal of a waste material or Recyclable Material, such as the disposal fees established by the County for the use of its Solid Waste management facilities.

1.98 Tires shall mean discarded automotive, motor vehicle, and trailer tires, including rims, but excluding tires that have an inside diameter of 25 inches or greater.

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

1.100 Transition Plan shall mean a document describing in detail the activities that will be undertaken and the schedule that will be followed to successfully implement the Contractor's Collection Services under this Agreement on the Commencement Date.

1.101 White Goods shall mean large discarded appliances, including but not limited to refrigerators, ranges, washing machines, clothes dryers, water heaters, freezers, microwave ovens, and air conditioners. White Goods must be generated by the Customer at the Customer's Improved Real Property where the White Goods are collected.

1.102 Yard Trash shall mean vegetative matter resulting from landscaping maintenance, including but not limited to shrub and tree trimmings, grass clippings, palm fronds, and branches. Yard Trash does not include CG Waste or Exempt Waste.

SECTION 2: CONTRACTOR'S FRANCHISE

2.1 EXCLUSIVE FRANCHISE FOR RESIDENTIAL AND COMMERCIAL COLLECTION SERVICE

Subject to the conditions and limitations contained in this Agreement, the Contractor is hereby granted an exclusive franchise to provide Residential Collection Service and Commercial Collection Service in the Service Area. Except as otherwise provided herein, the Contractor shall have the sole right to provide these Collection Services in the Service Area. The Contractor shall have the sole responsibility for providing these Collection Services in compliance with the requirements set forth in this Agreement.

This Agreement governs the exclusive franchise for the eastern part of the County (i.e., the Eastern Service Area). A separate exclusive franchise will be granted for the western part of the County (i.e., the Western Service Area).

2.2 SEMI-EXCLUSIVE FRANCHISE FOR CONSTRUCTION AND DEMOLITION DEBRIS

Subject to the conditions and limitations contained in this Agreement, the Contractor is hereby granted a semi-exclusive franchise for the Collection of Construction and Demolition Debris in the unincorporated areas of Martin County. At its option, the Commission may grant a semi-exclusive franchise for the Collection of Construction and Demolition Debris to another Person. The Contractor's semi-exclusive franchise only applies to the Collection of Construction and Demolition Debris in Roll-Off Containers greater than ten (10) cubic yards in size. Any Person may obtain a non-exclusive franchise for the Collection of Construction and Demolition Debris in Roll-Off Containers that are equal to or less than ten (10) cubic yards in size.

2.3 LIMITATIONS ON THE CONTRACTOR'S FRANCHISE

This Agreement only grants a franchise for the services and types of Solid Waste that are explicitly addressed herein. No other services or materials are subject to the Contractor's franchise under this Agreement. Among other things, this Agreement does not grant a franchise for the Collection of any Exempt Materials identified in Section 21 of this Agreement. This Agreement does not prohibit the Contractor from providing Collection Services for Exempt Materials, subject to all Applicable Laws.

SECTION 3: TERM OF THIS AGREEMENT

3.1 INITIAL TERM OF FRANCHISE AGREEMENT

This Agreement shall take effect and be binding upon the parties from the Effective Date until the date when this Agreement is terminated. The initial term of this Agreement shall be eight (8) years, which shall begin at 12:00 a.m. (midnight) on the Commencement Date (October 1, 2007) and shall continue until it terminates (expires) at 11:59 p.m. on September 30, 2015, unless this Agreement is terminated earlier.

3.2 COUNTY'S OPTION TO RENEW THE FRANCHISE

The County may renew this Agreement for two additional terms, unless the Contractor gives written notice to the Manager that the Contractor is not willing to renew this Agreement and such notice is delivered at least two (2) years before the expiration of the then current term of this Agreement. Neither a single renewal term nor the sum of all renewal terms shall exceed five (5) years. If the County wishes to renew this Agreement, the County shall give written notice to the Contractor at least one hundred eighty (180) calendar days before the end of the then current term.

SECTION 4: THE SERVICE AREA

4.1 DESCRIPTION OF THE SERVICE AREA

The Service Area includes all of the land that is located within the geographical boundaries of the unincorporated County and identified in Exhibits 1 and 2. A map of the Service Area is provided in Exhibit 1. A legal description of the Service Area is contained in Exhibit 2.

4.2 ADJUSTMENTS TO THE SERVICE AREA

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 Laws.

The annexation of lands after the Effective Date may require the Contractor to provide Collection Services in the annexed area or such area may be exclusive to another Person. If the County elects to have the Contractor provide Collection Services for the annexed area, the Contractor shall provide its services in the County and the annexed area at the Rates established in this Agreement. There shall be no change in the Contractor's Rates if Collection Service in the newly annexed area is provided by another Person.

4.3 THE SERVICE AREA FOR RECYCLABLE MATERIALS

With regard to the Collection of Recyclable Materials, the Service Area includes all of the unincorporated areas in Martin County.

With regard to the Collection of Recyclable Materials, the Service Area may be expanded to include one or more of the following: the City of Stuart; the Town of Sewall's Point; the Town of Ocean Breeze Park; and the Town of Jupiter Island. The Contractor shall provide Collection Service for Recyclable Materials in these communities if such service is requested in writing by the Administrator before the Commencement Date. The Collection Service in these municipalities shall be provided in compliance with the terms and conditions contained in this Agreement, unless alternate terms and conditions are established with the mutual consent of the Administrator and the Contractor.

SECTION 5: CONTRACTOR'S OBLIGATIONS PRIOR TO COMMENCEMENT DATE

5.1 CONTRACTOR'S TRANSITION PLAN

Contractor is responsible for ensuring that there is no disruption in the Collection Service provided to Customers when the Contractor begins to provide its services under this Agreement on the Commencement Date. No later than September 3, 2007, Contractor shall provide the Administrator with a Transition Plan that contains a detailed description of how the Contractor will plan and prepare for the provision of its Collection Service under this Agreement. If the Contractor currently is not providing Collection Service in the County, the Transition Plan shall describe how and when the Contractor will provide its equipment, Mechanical Containers, Roll Carts, Recycling Bins, and Recycling Carts to the Customers. The Transition Plan is subject to the approval of the Administrator.

5.2 DEADLINES FOR THE CONTRACTOR'S TRANSITION PLANNING

At a minimum, the Contractor must address the following specific performance requirements in the Transition Plan and accomplish them according to the following deadlines:

- | | |
|----------------------|--|
| By August 15, 2007 | Contractor and County shall meet and discuss the Contractor's Transition Plan. |
| By August 15, 2007 | Contractor shall provide the Administrator with a Collection Plan, which shall be subject to the approval of the Administrator. Ten calendar days after receiving the Administrator's comments, the Contractor shall provide the Administrator with a revised Collection Plan, if necessary. |
| By August 15, 2007 | Contractor shall submit to the Administrator documentation demonstrating that all necessary Collection vehicles, equipment, and Collection Containers have been ordered and will be delivered to Contractor's equipment yard no later than September 14, 2007. |
| By September 3, 2007 | Contractor and County shall meet and discuss the status of the Contractor's Transition Plan and its implementation. |

- By September 14, 2007 Contractor shall provide the Administrator with a written safety plan covering all aspects of the Contractor's operations under this Agreement, in compliance with the requirements of Section 22 herein.
- By September 14, 2007 Contractor shall confirm in writing to the Administrator that all of the vehicles and Collection Containers necessary to provide Collection Services have been delivered to the Contractor's equipment yard.
- By September 14, 2007 Contractor shall confirm in writing to the Administrator that all of the vehicles necessary to provide Collection Services have been registered, licensed, tagged, and equipped, and are ready to perform in compliance with the requirements of this Agreement.
- By September 14, 2007 Contractor shall provide the Administrator with a vehicle and equipment list, which shall identify the make, type, year, license number, and identification number for each Collection vehicle.
- By September 20, 2007 Contractor shall publish notice in the local newspapers concerning Contractor's Collection Services. The notice shall be subject to the Administrator's approval and shall be published in compliance with the requirements in Section 36.4 of this Agreement.
- By September 21, 2007 Contractor shall confirm in writing to the Administrator that the Contractor has delivered County-approved brochures and informational materials to all of the Customers, informing them about the Contractor's Collection Services and Collection schedules.
- By September 24, 2007 Contractor shall confirm in writing to the Administrator that: (a) Contractor has hired and trained all of the employees needed to provide Collection Service in compliance with the requirements in this Agreement; (b) all of the Contractor's drivers have inspected their Collection routes and confirmed their ability to complete their routes on the Scheduled Collection Day; and (c) the Contractor has delivered or will deliver Mechanical Containers, Roll Carts, Recycling Bins, and Recycling Carts in compliance with the schedule in the approved Collection Plan.

SECTION 6: GENERAL SCOPE OF CONTRACTOR'S DUTIES

- 6.1** Except as otherwise provided herein, the Contractor shall collect, transport, dispose of or recycle all of the Residential Waste, Commercial Waste, and Construction and Demolition Debris generated by each Customer in the Service Area, in compliance with the requirements contained in this Agreement.
- 6.2** The Contractor shall provide Collection Services to the County in compliance with the requirements contained in this Agreement.

- 6.3 The Contractor shall deliver all of the Solid Waste it collects pursuant to this Agreement to a Designated Disposal Facility, in compliance with the requirements of this Agreement.
- 6.4 The Contractor shall deliver all of the Recyclable Materials it collects pursuant to this Agreement to a Designated Recycling Facility, in compliance with the requirements in this Agreement.

SECTION 7: CONTRACTOR'S SPECIFIC COLLECTION SERVICES

7.1 RESIDENTIAL CURBSIDE COLLECTION SERVICE

The Contractor shall provide the following services to each Customer that is entitled to receive Residential Curbside Collection Service:

- 7.1.1 Garbage and Rubbish shall be collected at Curbside at least two (2) times each week.
- 7.1.2 Yard Trash shall be collected at Curbside at least one (1) time each week. The Contractor shall collect up to twenty (20) cubic yards of Yard Trash from each Residential Customer each week. In addition, the Contractor shall collect the palm fronds and Christmas trees placed at the Curbside by a Residential Customer, regardless of the size, length, or weight of the palm fronds or Christmas trees.
- 7.1.3 Recyclable Materials shall be collected single streamed (ie all different types of recyclable materials eg paper, plastic, aluminum cans) may be mixed together at Curbside at least once each week. This service shall be provided on one of the Days when Garbage or Yard Waste is collected.
- 7.1.4 Bulk Waste and White Goods shall be collected at Curbside at least once each week.
- 7.1.5 Tires shall be collected at Curbside when Bulk Waste or Garbage is collected; however, the Contractor is not required to collect more than four (4) Tires per month from any Residential Customer. County is responsible to remove tires from the load if the driver notifies the County transfer station that there are tires within the load.
- 7.1.6 Discarded materials from small "do-it-yourself" repairs, renovations, and projects shall be collected at Curbside at least once each week. Such materials must be (a) placed in Curbside Containers that do not exceed fifty (50) pounds in weight or (b) bundled in piles that do not exceed two (2) cubic yards per week.
- 7.1.7 The Contractor's drivers shall promptly notify the Field Supervisor whenever the drivers observe Bulk Waste, White Goods, Tires, or piles of material from "do it yourself" projects, located on a Collection route. The Field Supervisor shall arrange for the Collection of such materials no later than the next Scheduled Collection Day for Bulk Waste. The Field Supervisor also shall arrange for the Collection of such materials on the next Scheduled Collection Day when requested to do so by the Administrator or a Customer. However, these deadlines may be extended by the Administrator if the Field Supervisor does not receive notice at least 48 hours before the next Scheduled Collection Day for Bulk Waste.

- 7.1.8 The Contractor shall collect all of the Garbage, Rubbish, Recyclable Materials, Bulk Waste, and White Goods that are Set Out by a Customer receiving Residential Curbside Collection Service in the Service Area. However, the Contractor may request and the Administrator shall grant relief from this requirement in appropriate cases if the Administrator confirms that a Customer is disposing of excessive amounts of Solid Waste, which are being generated by a commercial business or similar enterprise.
- 7.1.9 The Contractor shall provide Back Door Service to a handicapped Person if: (a) the Person is entitled to receive Residential Curbside Collection Service; (b) the Person has requested and the Administrator has approved Back Door Service, based on the Person's handicap; (c) there are no able-bodied adults residing with the handicapped Person; and (d) the County has given written notice to the Contractor that it shall provide Back Door Service to the handicapped Person. If these criteria are satisfied, the Back Door Service shall be provided at no additional cost to the County or Customer. The point of Collection for Back Door Service shall be the Customer's back yard, side yard, or other location that is mutually acceptable to the Contractor and the Customer. The Contractor shall provide Back Door Service on the Scheduled Collection Day when Residential Curbside Collection Service would otherwise be provided to the Customer.

7.2 MULTI-FAMILY MECHANICAL CONTAINER COLLECTION SERVICE

The Contractor shall provide the following services to each Customer that is entitled to receive Multi-Family Mechanical Container Collection Service:

- 7.2.1 Garbage and Rubbish shall be Collected in a Mechanical Container at the Customer's Premises at least two (2) times each week or when mutually agreed upon by the Contractor and Customer.
- 7.2.2 The Contractor shall collect Recyclable Materials that have been segregated and placed into Recycling Carts or other Recycling Containers by Multi-Family Mechanical Container Customers. Recyclable Materials shall be collected at least once each week.
- 7.2.3 Garbage, Rubbish, and Recyclable Materials shall be collected on the Scheduled Collection Days.

7.3 COMMERCIAL COLLECTION SERVICES

- 7.3.1 The Contractor shall collect all of the Commercial Waste that has been Set Out by a Commercial Customer in the Service Area. This service shall be provided at least once each week for each Commercial Customer, and at least twice each week for each restaurant, grocery store, and other Commercial Customer that generates significant quantities of Garbage, unless the Administrator approves a less frequent schedule for Collection.
- 7.3.2 The Contractor may use a Roll Cart or Curbside Container to provide Commercial Collection Service in those cases where a Mechanical Container is too large to use on the Customer's Premises, too large for the Customer's needs, or otherwise

unsuitable. The use of a Roll Cart or Curbside Container is subject to the Administrator's approval.

- 7.3.3 Upon request, the Contractor shall provide Collection Service for Construction and Demolition Debris generated by a Commercial Customer in Martin County.
- 7.3.4 The Collection of Commercial Waste shall begin within two (2) Days after the Customer signs a contract for Collection Service with the Contractor. The frequency of Collection and the Scheduled Collection Days shall be determined by the Customer and the Contractor after the Customer signs a contract for Collection Service with the Contractor.
- 7.3.5 Upon request, the Contractor shall provide Collection Service for the Recyclable Materials generated by a Commercial Customer in the Service Area. The Collection of such materials shall begin within two (2) Days after the Contractor receives a Customer's request. The frequency of Collection and the Scheduled Collection Days shall be determined by the Customer and the Contractor after the Customer signs a contract for Collection Service with the Contractor.
- 7.3.6 The Contractor shall collect Commercial Waste and Recyclable Materials on the Scheduled Collection Days, in compliance with the terms contained in the Customer's contract for Collection Service.

7.4 SUPPLEMENTAL COLLECTION SERVICES

Customers desiring Supplemental Collection Services shall request such services from the Contractor. Upon request, the Contractor shall provide the Supplemental Collection Services described in Exhibit 3 as "Special Services." The Contractor shall respond to the Customer's request for service within one (1) Day after the Contractor receives the Customer's request. The scope and frequency of service shall be determined by the Customer and Contractor, subject to the Administrator's approval. No services shall be provided until the Contractor notifies the Customer of the amount of the Contractor's fee and receives the Customer's confirmation that the fee is acceptable. Thereafter, the Contractor shall begin providing its services within five (5) Days.

7.5 COLLECTION OF RECYCLABLE MATERIALS

The Contractor shall collect all of the Recyclable Materials that are accepted for Recycling at the Designated Recycling Facility. Exhibit 9 identifies the types of Recyclable Materials that shall be collected by the Contractor, if and when such materials are accepted for Recycling at the Designated Recycling Facility. If the County wishes to expand the list of Recyclable Materials in Exhibit 9, the County shall amend this Agreement pursuant to Section 59.2, below.

7.6 COLLECTION OF OVERSIZED YARD TRASH

Upon request, the Contractor shall provide Collection Service for Oversized Yard Trash within five (5) Days after such service is requested by a Customer. The Collection of Oversized Yard Trash is a Supplemental Collection Service.

SECTION 8: HOURS AND DAYS OF CONTRACTOR'S COLLECTION SERVICES

- 8.1** The Contractor shall provide all of its Collection Services from Monday through Friday, except Holidays.
- 8.2** The Contractor may provide, but is not required to provide, Collection Service on Holidays or Days when the Designated Facility is closed.
- 8.3** The Contractor shall not provide Collection Services to Residential Customers on Saturday or Sunday. The Contractor shall not provide Collection Services to Commercial Customers on Sunday.
- 8.4** The Contractor shall not provide Residential Curbside Collection Service or Multi-Family Mechanical Container Collection Service before 7:00 a.m. or after 6:00 p.m.
- 8.5** Contractor shall not provide Collection Service for Commercial Customers located within two hundred (200) feet of Residential Real Property prior to 7:00 a.m. or after 6:00 p.m. Contractor may provide Commercial Collection Service at other locations at any reasonable time.
- 8.6** If the County receives complaints about the noise or disturbance caused by the Contractor's Collection Service at a particular location, the Administrator may restrict the times for the Contractor's Collection Services at that location, without increasing the Contractor's Rates.
- 8.7** Notwithstanding anything else contained herein, the hours and Days of Collection may be extended or modified when (a) such change is requested by the Contractor and approved in advance by the Administrator or (b) when the Administrator determines that such change is necessary.

SECTION 9: SCHEDULES AND ROUTES FOR COLLECTION SERVICE

9.1 SCHEDULES AND ROUTES

The Contractor shall establish Collection routes and schedules that satisfy the requirements of this Agreement and maximize the efficiency of the Contractor's operations. However, to the extent practicable, the Contractor shall attempt to ensure that the Collection Plan minimizes the changes and disruptions in the County's existing Collection schedules and routes. The Contractor shall submit its proposed Collection routes and schedules to the Administrator as part of the Contractor's Collection Plan. The proposed Collection routes and schedules shall be subject to the Administrator's approval. After approval is granted, the Contractor shall provide Collection Service in accordance with the approved routes and schedules in the Collection Plan.

9.2 SCHEDULES FOR TWICE WEEKLY SERVICE

Whenever the Contractor is required to provide Residential Collection Service two (2) times per week pursuant to this Agreement, the Scheduled Collection Days shall be seventy-two (72) hours apart, unless the Administrator approves a different schedule.

9.3 HOLIDAY SCHEDULES

When a Customer's Scheduled Collection Day for Garbage is a Holiday, the Contractor shall collect that Customer's Garbage on the Customer's next Scheduled Collection Day for Garbage, unless an alternate schedule has been approved in advance in writing by the Administrator. The same approach shall be used for the Collection of other materials.

9.4 FLUCTUATIONS IN SOLID WASTE QUANTITIES

The quantity of Solid Waste generated in the County may fluctuate during each Agreement Year and from year-to-year. These fluctuations will not justify a failure by the Contractor to provide Collection Service in compliance with the approved schedules and routes. The Contractor is responsible for the timely Collection of all of the Solid Waste that is Set Out on the scheduled routes on the Scheduled Collection Days.

SECTION 10: CHANGES TO COLLECTION SCHEDULES AND ROUTES

- 10.1** After the Commencement Date, the Contractor shall not change a Collection route, a Collection schedule, or the method of providing Collection Service until the Contractor receives the Administrator's written approval. The Contractor shall submit to the Administrator a description of all proposed route, schedule, and operational changes at least thirty (30) calendar days prior to implementation of such changes, unless a shorter timetable is approved by the Administrator.
- 10.2** If the Administrator approves a change in the Contractor's schedules and/or routes, the Contractor shall provide all affected Customers with a written notice of the change. The notice shall be delivered at least two (2) weeks prior to such change, unless a different schedule is authorized herein or by the Administrator.
- 10.3** The Contractor shall inform the Administrator of any event that will cause delays in the daily Collection Schedule (e.g., disabled trucks, accidents, or shortage of staff) within two (2) hours of the event.

SECTION 11: CHANGES TO COLLECTION SERVICE WITH MECHANICAL CONTAINERS

- 11.1** If a Customer will receive Collection Service with a Mechanical Container, the Contractor and the Customer initially shall determine the size of the Mechanical Container that will be used. The Contractor and Customer also shall determine the frequency of Collection Service. However, Collection Service shall be provided at least once per week for all Customers and at least twice per week for all restaurants, grocery stores and other Customers that generate significant quantities of Garbage, unless (a) the Administrator approves less frequent Collection Service or (b) the Contractor is providing Collection Service for Construction and Demolition Debris.
- 11.2** For each Customer receiving Collection Service with a Mechanical Container on the Commencement Date, the Contractor shall provide a Mechanical Container that is at least as large as the Mechanical Container used by the Customer before the Commencement Date, unless the Contractor receives the Administrator's prior approval to use a smaller size.

- 11.3** The County reserves the right to increase or decrease the frequency of Collection Service and the size of the Mechanical Container that shall be used by any Customer. The size of the Mechanical Container and the frequency of Collection Service provided to a Customer shall be sufficient to ensure that the Mechanical Container is not overfilled and Solid Waste is not placed outside the Mechanical Container between the Scheduled Collection Days. If the Contractor and the Customer cannot agree about the size of the Mechanical Container or the frequency of Collection Service, the Contractor or the Customer may notify the Administrator about their dispute. In such cases, the Administrator shall determine whether it is necessary to change the frequency of service or the size of the Mechanical Container, and the Contractor shall provide its service accordingly. The Customer shall pay the appropriate Rates for the Contractor's Collection Service, whether the level of service is increased or decreased.

SECTION 12: THE CUSTOMER LIST

- 12.1** The County shall prepare a Customer List, which identifies each Person entitled to receive Residential Collection Service from the Contractor. At least thirty (30) calendar days before the Commencement Date, the Contractor shall review the County's Customer List and verify that the Customer List is accurate and complete. After the Commencement Date, the Contractor shall work with the County to ensure that the Customer List is accurate at all times. The parties shall promptly notify each other if they identify any Customer that should be added to or deleted from the Customer List.
- 12.2** The County shall revise its Customer List and shall notify the Contractor promptly after a new Certificate of Occupancy is issued by the County for Improved Real Property in the Service Area. After receiving this notification, the Contractor shall provide Collection Service to the new Customer on the next Scheduled Collection Day.
- 12.3** The Contractor shall terminate its Collection Service to a Customer immediately after the County provides the Contractor with the name and address of a Person that has been deleted from the Customer List.

SECTION 13: PROPER COLLECTION PROCEDURES FOR CONTRACTOR

- 13.1** Contractor shall thoroughly empty Collection Containers and return them in an upright position to the location where they were placed by the Customer.
- 13.2** Contractor shall handle Collection Containers carefully and in a manner to prevent damage.
- 13.3** The Contractor shall provide Collection Service with as little noise and disturbance as possible.
- 13.4** The Contractor shall be responsible for the proper handling of any White Goods that the Contractor collects. The Contractor shall take appropriate steps to minimize the release of Freon, coolants, and other similar materials from the White Goods.
- 13.5** The Contractor shall not crush or compact any White Goods that the Contractor collects.

SECTION 14: RESTRICTIONS ON COLLECTION OF MIXED LOADS

- 14.1** During the Collection process, Garbage and Rubbish may be combined by the Contractor.
- 14.2** During the Collection process, each one of the following materials shall be handled separately by the Contractor, and shall not be combined with any other type of material, without the Administrator's prior approval: Recyclable Materials, Yard Trash, and White Goods. If necessary, the Administrator may designate other materials that shall be handled separately under this Agreement.
- 14.3** The Contractor shall not combine Solid Waste or other materials collected in the Service Area with Solid Waste or other materials collected outside of the Service Area, unless such action is approved in advance by the Administrator.
- 14.4** The Contractor shall not combine Residential Waste with Commercial Waste, unless such action is approved in advance by the Administrator.
- 14.5** Notwithstanding the foregoing restrictions in this Section 14, the Manager may allow the Contractor to combine different types of Solid Waste or Recyclable Materials if the Manager determines that this practice will be in the public interest. In such cases, the Contractor shall file a petition with the Administrator, describing the specific procedures that will be established to properly account and pay for the management of the mixed materials. The Manager may grant or deny the petition, in its sole discretion.

SECTION 15: NON-COLLECTION PROCEDURES

- 15.1** The Contractor is not required to collect Residential Waste, Commercial Waste, or other materials that have not been Set Out for Collection in accordance with the provisions of this Agreement. If the Contractor elects to not collect such materials, Contractor shall immediately place a Non-Collection Notice on the container or the Non-Conforming Materials. If the Contractor does not place a Non-Collection Notice on the container or material, the Administrator may require the Contractor to return promptly and collect the materials. If the Administrator notifies the Contractor before 12 p.m. (noon), the Collection shall be completed before the end of the Day. If the Administrator notifies the Contractor after noon, the Collection shall be completed before noon on the next Day.
- 15.2** Contractor is responsible for visually inspecting each Customer's Recycling Containers to determine whether they contain Non-Conforming Material or excessively contaminated Recyclable Materials. Contractor shall leave Non-Conforming Material and excessively contaminated Recyclable Materials in the Recycling Container, and shall immediately place a Non-Collection Notice on the container explaining why the material was not collected.
- 15.3** In the event a Mechanical Container is overfilled and cannot be emptied safely, the Contractor shall immediately place a Non-Collection Notice on the container, notify the Customer, and reschedule the Collection Service. The Contractor also shall notify the Customer and/or Administrator if the Contractor believes the Contractor should increase the frequency of Collection Service or increase the size of the Mechanical Container.

- 15.4** The Contractor shall refuse to collect Residential Waste or Commercial Waste from a Customer if the Contractor believes that the Residential Waste or Commercial Waste contains Hazardous, Radioactive, or Biomedical Waste. In such cases, the Contractor shall place a Non-Collection Notice on the container, take photographs of the improper waste (if possible), and immediately notify the Administrator. If the generator of such waste is unknown, the Contractor shall work with the Administrator to identify the generator.
- 15.5** If a Mechanical Container is temporarily inaccessible or blocked, the Contractor shall promptly (i.e., within two hours) notify the Customer by telephone concerning the Contractor's inability to provide Collection Service. The Contractor shall offer to provide Collection Service later the same Day, whenever feasible. If it is not feasible, the Contractor shall provide service on the next Day.
- 15.6** The design and content of the Non-Collection Notices shall be developed by the Contractor and subject to the approval of the Administrator. At a minimum, the Non-Collection Notices shall contain the following information: the issuance date; the Contractor's reason for not providing Collection Service; information advising the Customer how to correct the problem; and the telephone number to call if the Customer has any further questions for the Contractor.

SECTION 16: PROCEDURES FOR MISSED COLLECTIONS

If the Administrator or a Customer notifies the Contractor about a Missed Collection, the Contractor shall promptly return to the Customer's Premises and collect all of the Residential Waste or Commercial Waste that has been Set Out for Collection. If the Contractor is notified before 12 p.m. (noon), the Collection shall be completed before the end of that Day. If the Contractor is notified after noon, the Collection shall be completed before noon on the next Day.

SECTION 17: PROTECTION OF PRIVATE AND PUBLIC PROPERTY

- 17.1** The Contractor's employees shall not trespass on private property for any reason, unless the occupant or owner of the property has given permission. The Contractor's employees shall follow the sidewalk for pedestrians and shall not cross a Customer's property to an adjoining property, unless the occupants or owners of both properties have given permission. The Contractor's employees shall not loiter on or meddle with any property of any other Person.
- 17.2** The Contractor's employees shall not damage any public or private property, including but not limited to roads, driveways, sidewalks, flowers, shrubs, grass, and Collection Containers.
- 17.3** The Contractor shall be solely responsible for all damages, costs, and liabilities associated with the repair, restoration, or replacement of any property that has been damaged by the Contractor's equipment, employees, or agents. The Contractor shall promptly investigate and respond to any claim concerning property damage. If the Administrator or a Customer notifies the Contractor before 12 p.m. (noon) concerning any such damage, the Contractor shall investigate and respond to the Administrator and Customer before the end of that Day. If the Administrator or a Customer notifies the Contractor after noon, the Contractor shall investigate and respond to the Administrator and Customer before noon on the next Day. The Contractor shall promptly repair any damage within three (3) Days, unless the Contractor requests and the Administrator grants approval of an extension of time. The County's approval shall not be unreasonably withheld. Any disputes concerning the Contractor's obligations for the repair of property damages shall be

resolved by the Administrator. In all cases, the Contractor shall be required to restore the public or private property to a condition equal to or better than the condition that existed before the damage occurred.

SECTION 18: CONTRACTOR'S ACCESS TO STREETS AND COLLECTION CONTAINERS

- 18.1** Except as otherwise provided herein, the Contractor shall have the right to use the public roadways in the County.
- 18.2** The Contractor shall use suitable vehicles and equipment, as necessary, to provide Collection Service on dead-end streets.
- 18.3** The Contractor's vehicles shall not enter or drive upon any private driveways or Improved Real Property, to turn around or for any other purpose, unless the Contractor has received the owner's prior written permission to do so.
- 18.4** Contractor's vehicles shall not unreasonably interfere with vehicular or pedestrian traffic. Contractor's vehicles shall not be left standing on streets and alleys unattended.
- 18.5** The County reserves the right to deny the Contractor's vehicles access to certain streets, alleys, bridges and roadways when the County determines it is in the public's best interest. The County shall provide the Contractor with reasonable notice of such denial so that the County's action does not unduly interfere with the Contractor's normal operations.
- 18.6** If the Contractor cannot provide Collection Service to a Customer because a public or private street is temporarily closed to vehicular traffic, the Contractor shall return within twenty-four (24) hours to provide service to the Customer. If the street is still closed at that time, Contractor shall provide Collection Service to the Customer on the next Scheduled Collection Day.
- 18.7** If access to a street, alley, bridge, or public or private roadway becomes impassable or if access is denied for any reason, the Contractor shall work with the Customer to determine a mutually acceptable location for the Collection of Residential Waste or Commercial Waste. If a mutual agreement cannot be reached, the Contractor shall provide Collection Service from the nearest public roadway that is accessible by the Contractor's Collection vehicle, or other location specified by the Administrator.
- 18.8** If the Contractor encounters a Customer or situation that prevents the Contractor from gaining the access needed to provide the Collection Service required in this Agreement, the Contractor shall report the problem to the Administrator for resolution.
- 18.9** Disputes concerning the Contractor's access to private roads shall be resolved in accordance with the "Martin County Solid Waste Division Procedure for Service Disputes on Private Roads," which is attached hereto as Exhibit 11.

SECTION 19: THE COUNTY'S DESIGNATED FACILITIES

- 19.1** The Contractor shall deliver all of the Solid Waste collected pursuant to this Agreement to a Designated Disposal Facility. All of the Recyclable Materials that have been segregated by

Customers and Set Out for Collection shall be delivered by the Contractor to a Designated Recycling Facility.

- 19.2 The Designated Disposal Facility for Garbage, Rubbish, Yard Trash, White Goods, Construction and Demolition Debris, and Tires is the County's Transfer Station located at 9101 S.W. Busch Street, Palm City, Florida 34990. With regard to other types of Solid Waste, the Designated Disposal Facility shall be any facility that is fully licensed to accept and manage such Solid Waste.
- 19.3 The Designated Recycling Facility is the County's Transfer Station.
- 19.4 The County shall have the right to select a new Designated Disposal Facility and a new Designated Recycling Facility for any or all of the materials collected pursuant to this Agreement. If the County selects a new Designated Facility for the disposal of Solid Waste or Recyclable Materials collected pursuant to this Agreement, the Contractor shall continue to be paid the Rates approved herein, without any increase, unless the Designated Facility is located more than 15 miles (measured in a straight line) from the County's Transfer Station. If the Designated Facility is located beyond this distance, the County and the Contractor shall negotiate an appropriate adjustment in the Rates. The adjustment shall be limited to the amount that the Contractor's transportation costs have increased as a result of having to transport the Solid Waste or Recyclable Materials more than 15 miles to the new or alternate Designated Facility (e.g., if the Designated Facility is located 30 miles from the County's Transfer Station, the adjustment shall be based on the incremental cost of transporting the Solid Waste an additional fifteen miles).

SECTION 20: SPILLAGE AND LITTER BY CONTRACTOR

- 20.1 Contractor shall not cause or allow any Solid Waste or other material to be spilled, released, or otherwise dispersed in the County as a result of the Contractor's activities.
- 20.2 Contractor shall immediately pick up any spillage from Collection Containers that is caused by the Contractor.
- 20.3 When hauling or transporting any material over public roads in the County, the Contractor shall use a covered or enclosed vehicle or other device to prevent the material from falling, blowing, or escaping from the vehicle. If Solid Waste or any other material escapes from or is scattered by Contractor's vehicle for any reason, Contractor shall immediately pick up such material.
- 20.4 Contractor's vehicles shall not release or cause litter in violation of the Florida Litter Law, Section 403.413, Florida Statutes, or the Ordinance. If litter is released or falls from Contractor's vehicle for any reason, the Contractor shall immediately stop the vehicle and retrieve the litter.
- 20.5 The Contractor shall immediately clean up any oil or hydraulic fluid that leaks or spills from Contractor's vehicles. The Contractor also shall repair any associated damage.
- 20.6 If the Administrator or a Customer notifies the Contractor before 12 p.m. (noon) that the Contractor has caused litter or a leak or spill of Solid Waste, oil or hydraulic fluid, the Contractor shall clean-up the material before the end of the Day. If the Administrator or a Customer notifies the Contractor after noon, the Contractor shall clean-up the material before noon on the next Day.

SECTION 21: EXEMPT WASTES

The following types of Exempt Waste are not subject to the Contractor's franchise under this Agreement. These Exempt Wastes may be collected and taken to a licensed disposal site or Recycling Facility by the owner or occupant of the Improved Real Property where the Exempt Waste is generated, or by their agent, at the owner's or occupant's expense.

- 21.1 Land Clearing Debris.
- 21.2 Trash and debris associated with farming operations.
- 21.3 Extraordinary, Hazardous, Biomedical, and Radioactive Waste.
- 21.4 Wrecked, scrapped, ruined or dismantled motor vehicles, or motor vehicle parts, including used oil, Tires, and lead-acid batteries.
- 21.5 Recyclable Materials generated and separated from the Solid Waste by a Commercial Customer.
- 21.6 Recovered Materials generated by a Commercial Customer.
- 21.7 Any Recyclable Material that a Residential Customer generates and separates from their Solid Waste for Recycling if that type of Recyclable Material is not recycled at the Designated Recycling Facility.
- 21.8 Solid Waste and by-products resulting from an industrial process.
- 21.9 Sludge.
- 21.10 Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
- 21.11 Yard Trash collected by a Commercial Lawn Care Company.
- 21.12 Disaster Debris.
- 21.13 Construction and Demolition Debris placed in a Roll-Off Container that is equal to or less than ten (10) cubic yards in size.
- 21.14 Oversized Yard Trash
- 21.15 Materials and wastes similar to those listed above, when designated by the Administrator.
- 21.16 If the Contractor declines to collect Bulk Waste or White Goods from a Commercial Customer, then Bulk Waste or White Goods shall be an Exempt Material for that Commercial Customer.

Notwithstanding the foregoing, Exempt Waste does not include (1) Construction and Demolition Debris, or (2) Recyclable Materials that are contained in or mixed with Construction and Demolition Debris, or (3) mixtures of Construction and Demolitions Debris and other materials that will be taken to a materials recovery facility, where recyclable materials, and materials suitable for use as a fuel or soil amendment, will be extracted from the solid waste. For the purposes of this Agreement, mixing Recyclable Materials with Construction and Demolition Debris shall cause the resulting mixture to be classified as Construction and Demolition Debris, not Exempt Waste. All of the foregoing materials and mixtures shall be subject to the provisions of the Agreement, even if such materials and mixtures are regulated differently or classified as “industrial byproducts” under Chapter 403, Florida Statutes.

SECTION 22: THE CONTRACTOR'S SAFETY PROGRAM

- 22.1** The Contractor shall develop, implement and maintain a written safety plan for all of its operations under this Agreement. The safety plan shall comply with the requirements in OSHA and similar Applicable Laws. A written copy and an electronic copy of the safety plan shall be provided to the Administrator. The Contractor shall comply with its safety plan at all times.
- 22.2** The Contractor shall appoint an employee who is qualified and authorized, as defined by OSHA, to supervise and enforce safety compliance.
- 22.3** The Contractor shall provide routine safety training to all of its employees, in compliance with OSHA and all Applicable Laws. Refresher courses and supplemental training shall be provided as necessary. Documentation of the Contractor's training programs, and the successful training of each employee, shall be maintained on file and shall be provided to the Administrator upon request.
- 22.4** The Contractor shall follow all OSHA regulations and Applicable Laws regarding personal protective equipment.
- 22.5** The Contractor's employees shall be trained and instructed to drive in a safe, defensive manner.
- 22.6** A written procedure shall be established for the immediate removal to a hospital or a doctor's care of any employee or other Person that is injured and requires medical assistance.

SECTION 23: THE CONTRACTOR'S COLLECTION PLAN

- 23.1** The Contractor shall prepare a Collection Plan that describes in detail how the Contractor will provide Collection Services in compliance with the requirements in this Agreement. At a minimum, the Collection Plan shall identify and describe the vehicles, equipment, personnel, routes, and schedules the Contractor will use for each type of Collection Service. The Collection Plan shall include a legible map for each Collection route, identifying the Days when Collection Service will be provided, the starting and ending points for the route, and the type of Collection Service that will be provided on the route on each Scheduled Collection Day.
- 23.2** The Collection Plan shall identify each facility that will receive the materials collected by the Contractor pursuant to this Agreement. The Collection Plan shall identify the facilities that will receive any materials that are not accepted at the Designated Disposal Facility and Designated Recycling Facility.

- 23.3 The Collection Plan shall include the manufacturer's specification sheets for the Mechanical Containers, Roll Carts, Recycling Bins, and Recycling Carts provided by the Contractor under this Agreement.
- 23.4 An updated Collection Plan shall be submitted to the Administrator whenever the Contractor proposes changes to the Collection Plan.
- 23.5 The Collection Plan and all revisions to the plan are subject to the Administrator's prior written approval.

SECTION 24: COUNTY'S OWNERSHIP OF SOLID WASTE AND RECYCLABLE MATERIALS

Solid Waste and Recyclable Materials shall be the sole property of the County after they are placed at the Curbside or other location for Collection in the Service Area. Except when specifically authorized in this Agreement, neither the Contractor nor its employees shall have the right to take, keep, process, alter, remove, sell or dispose of any of the Solid Waste or Recyclable Materials collected in the Service Area, without the prior written approval of the Administrator. The County shall retain ownership of the Solid Waste and Recyclable Materials until they are delivered to and accepted by a County-approved disposal facility or Recyclable Materials Processing Facility, when title shall pass to the operator of such facility.

SECTION 25: COMPACTION OF RECYCLABLE MATERIALS

Contractor may compact Recyclable Materials while on board the Contractor's vehicle, provided that the compaction process and the density of the Load does not adversely affect the marketability of the Recyclable Materials.

SECTION 26: SET OUT PROCEDURES FOR CUSTOMERS

26.1 GENERAL PROCEDURES FOR ALL CUSTOMERS

The procedures and requirements established in this Section 26.1 shall be followed by all Customers. However, the Contractor shall collect a Customer's Solid Waste, even if the Customer fails to comply with one or more of the requirements in this Section 26.1, unless the Administrator concurs that Collection Service does not need to be provided to the Customer.

- 26.1.1 Garbage and putrescible waste shall not be collected, stored, or Set Out in an open, uncovered box, bag, or Collection Container.
- 26.1.2 Recyclable Materials shall not be placed in the same Collection Container with Solid Waste.
- 26.1.3 Corrugated cardboard shall be Set Out for Collection in a Recycling Bin or Recycling Cart. Large pieces of cardboard shall be flattened, cut to a maximum size of 3 feet by 3 feet, and placed in or beside a Recycling Bin or Recycling Cart. Newspapers shall be Set Out in a Recycling Bin or Recycling Cart, or placed in paper bags and Set Out next to a Recycling Bin or Recycling Cart. Corrugated cardboard and newspaper that have been properly Set Out shall be collected by the Contractor, even if they have become wet due to local weather conditions.

- 26.1.4 Customers shall not overfill a Collection Container. The lid on a Collection Container shall be closed securely.
- 26.1.5 All Collection Containers shall be placed in locations that are readily accessible to the Customer and the Contractor's vehicles.
- 26.1.6 Each Mechanical Container shall be placed on a paved level surface. The approaches to the Mechanical Container shall be capable of supporting the weight of the Collection vehicle.
- 26.1.7 If the Customer and Contractor cannot agree upon an appropriate location to Set Out a Collection Container or non-containerized waste, the Administrator shall mediate the dispute and designate the point of Collection.
- 26.1.8 When necessary to carry out the purpose and intent of this Agreement, the Administrator may authorize the placement of a Collection Container off of the Customer's Premises. However, public rights-of-way may be used only in circumstances where the placement of the Collection Container will not interfere with or obstruct the primary purpose of the right-of-way.
- 26.1.9 A Person shall not place their Solid Waste in another Person's Collection Container, unless they have received prior approval to do so.
- 26.1.10 A Customer shall only Set Out for Collection the Solid Waste that the Customer generated. A Customer shall not Set Out for Collection any Solid Waste that was generated by another Person.
- 26.1.11 A Customer's Solid Waste shall be Set Out for Collection on the same Premises where the Solid Waste was generated.
- 26.1.12 A Customer shall not Set Out Solid Waste for Collection on property that is not owned or occupied by the Customer, unless the Customer has received the prior approval of the owner or occupant of such property.

26.2 PROCEDURES FOR RESIDENTIAL CURBSIDE CUSTOMERS

- 26.2.1 A Residential Curbside Customer shall use Curbside Containers, Roll Carts, and/or Plastic Bags to Set Out Garbage and Rubbish for Collection. A Curbside Container, Roll Cart or Plastic Bag shall not exceed fifty (50) pounds in weight when filled.
- 26.2.2 Each Curbside Container and Roll Cart shall: be constructed so as to prevent intrusion by water and animals, and the expulsion of its contents; have a cover that is free from sharp edges; and not have inside structures that prevent the free discharge of the container's contents.
- 26.2.3 A Residential Curbside Customer is not required to tie Yard Trash in a bundle, or place Yard Trash in a Curbside Container or Roll Cart, but the Customer may do so, at the Customer's option. Leaves, twigs, and similar small materials shall be Set Out in a Curbside Container or Roll Cart for Collection. Yard Trash shall not be Set Out for Collection in a Plastic Bag.

- 26.2.4 Yard Trash that is Set Out for Collection at Curbside shall not include any item that is more than five (5) feet in length, or fifty (50) pounds in weight, or greater than six inches (6") in diameter. Notwithstanding the other restrictions contained in this paragraph, a Residential Curbside Customer may Set Out palm fronds and Christmas trees at Curbside, regardless of their size, length or weight.
- 26.2.5 Recyclable Materials shall be Set Out for Collection in a Recycling Bin. Cardboard shall be flattened, cut to a maximum size of 3 feet x 3 feet, and placed in or next to a Recycling Bin.
- 26.2.6 Each Residential Curbside Customer shall place their Curbside Container, Roll Cart, Recycling Bin, Plastic Bag, Yard Trash, Bulk Waste and White Goods at the Curbside prior to 7:00 a.m. on the Scheduled Collection Day.
- 26.2.7 A Residential Curbside Customer may Set Out up to four (4) Tires for Collection at Curbside each month.
- 26.2.8 Any carpet Set Out for Collection at Curbside shall be rolled and tied or otherwise bound. The carpet shall not exceed four (4) feet in width or fifty (50) pounds in weight.

26.3 PROCEDURES FOR MULTI-FAMILY MECHANICAL CONTAINER CUSTOMERS

- 26.3.1 Each Multi-Family Mechanical Container Customer shall comply with the following Set Out Procedures: (a) Garbage and Rubbish shall be placed in a Mechanical Container located on the Customer's Premises; and (b) Recyclable Materials shall be placed in a Recycling Container located on the Customer's Premises.
- 26.3.2 The Contractor and the Customer shall select mutually acceptable locations for the placement of the Mechanical Container(s) and Recycling Cart(s) that will be used by the Customer and serviced by the Contractor. These locations are subject to the Administrator's approval.

26.4 PROCEDURES FOR COMMERCIAL CUSTOMERS

- 26.4.1 Each Commercial Customer shall place their Garbage and Rubbish in their Mechanical Container. The Administrator may authorize a Commercial Customer to Set Out these wastes in a Roll Cart or other Collection Container where efficiency or other circumstances justify.
- 26.4.2 Commercial Customers shall not place or commingle Construction and Demolition Debris with any other type of Solid Waste in a Collection Container.

SECTION 27: COLLECTION CONTAINERS

27.1 PROVISION AND OWNERSHIP OF CONTAINERS

- 27.1.1 Curbside Containers – Each Residential Curbside Customer shall provide their own Curbside Container(s) and Plastic Bags. Curbside Containers shall remain the property of the Residential Curbside Customer.
- 27.1.2 Recycling Bins –
- 27.1.2.1 Except as otherwise described herein, Recycling Bins previously were purchased and distributed to the Residential Curbside Customers in the unincorporated portions of the Service Area. These Recycling Bins are and shall remain the sole property of the County.
- 27.1.2.2 If the County requires the Contractor to provide Collection Service for Recyclable Materials in any municipality, the County shall be responsible for ensuring that the residents in the municipality have received their initial allocation of two (2) Recycling Bins. The Recycling Bins shall remain the sole property of the County or municipality, as the case may be.
- 27.1.2.3 The Contractor shall be responsible for the purchase of all Recycling Bins that the Contractor is required to provide under this Agreement (e.g., for the Western Service Area and for the replacement of damaged or stolen Recycling Bins). Recycling Bins purchased by the Contractor shall be the property of the Contractor until this Agreement terminates. Upon termination, the Recycling Bins shall become the property of the County.
- 27.1.3 Roll Carts and Recycling Carts –The Contractor shall be responsible for the purchase of all Roll Carts and Recycling Carts that the Contractor provides under this Agreement (e.g., for Multi-Family Mechanical Container Customers and Commercial Customers). Roll Carts and Recycling Carts purchased by the Contractor shall be the property of the Contractor until this Agreement is terminated. Upon termination, the Roll Carts and Recycling Carts shall become the property of the County.
- 27.1.4 Mechanical Containers – The Contractor shall be responsible for the purchase of all Mechanical Containers that the Contractor is required to provide under this Agreement. Mechanical Containers purchased by the Contractor shall remain the property of the Contractor, unless sold. A Customer may own its compactor and attached Roll-Off Container, or lease a compactor and attached Roll-Off Container from a Person other than the Contractor, and in such cases the compactor and attached Roll-Off Container shall remain the property of the Customer.

27.2 MAINTENANCE AND REPAIR OF CONTAINERS

- 27.2.1 Curbside Containers – Each Customer shall be responsible for cleaning, maintaining, and repairing their Curbside Container, if any. Curbside Containers

shall be maintained in good working order, and shall be free from sharp edges or other hindrances to efficient Collection Services.

- 27.2.2 Recycling Bins – Each Customer shall be responsible for cleaning their Recycling Bins and maintaining them in a sanitary condition.
- 27.2.3 Roll Carts and Recycling Carts – Each Roll Cart and Recycling Cart shall be cleaned and kept in a sanitary condition by the Customer using the cart. The Contractor shall maintain each Roll Cart and Recycling Cart in good working order and appearance at all times to ensure continuous and efficient Collection Service. The Contractor shall procure, and maintain at all times, an adequate supply of spare parts (e.g., wheels, lids) for the Roll Carts and Recycling Carts used in the Service Area. The Contractor shall repair or replace a Roll Cart or Recycling Cart within two (2) Days of receiving notice from the Administrator or a Customer of the need for repairs.
- 27.2.4 Mechanical Containers – The Contractor shall maintain each of its Mechanical Containers in good working order at all times to ensure continuous and efficient Collection Services. The Contractor shall procure, and maintain at all times, an adequate supply of spare parts for its Mechanical Containers. The Contractor shall maintain and repair each Mechanical Container so that the container is free from holes, broken hinges, broken doors or door fasteners, broken wheels, or broken lids. Mechanical Containers shall be kept painted at all times so they do not become a detriment to the community, with the exception of containers made of plastic, aluminum, stainless steel, or other materials that do not readily accept paint. Mechanical Containers shall be washed by the Contractor on a regular basis, as necessary, to minimize the potential for odors and nuisance conditions. The Contractor shall replace, repair, paint, clean, wash, and otherwise maintain any Mechanical Container within five (5) Days of being requested to do so by the Administrator or a Commercial Customer.

27.3 STORAGE, DISTRIBUTION AND REPLACEMENT OF CONTAINERS

- 27.3.1 Curbside Containers – Each Customer shall be responsible for storing and replacing their own Curbside Containers, if any.
- 27.3.2 Recycling Bins – The Contractor shall be responsible for the distribution and delivery of Recycling Bins to new Residential Curbside Customers. The Contractor also shall be responsible for the distribution and delivery of Recycling Bins to all of the Residential Curbside Customers in the Western Service Area prior to the Commencement Date. The Contractor shall deliver two (2) new Recycling Bins to a new Residential Curbside Customer within two (2) Days after the Administrator notifies the Contractor that the Customer has been added to the Customer List. The Contractor also shall provide a new Recycling Bin to a Residential Curbside Customer whenever the Customer's Recycling Bin has been stolen or damaged beyond repair. The Contractor shall keep Recycling Bins in its local office and shall provide them to Customers, upon request, when necessary to replace stolen or damaged Recycling Bins, but the Contractor is not obligated to deliver replacement Recycling Bins. The Contractor shall be responsible for procuring, maintaining at all times, and storing an adequate supply of Recycling Bins for distribution. Upon

request, the Contractor shall provide Recycling Bins to the Administrator for distribution from the County's office.

- 27.3.3 Roll Carts and Recycling Carts – The Contractor shall be responsible for the distribution of Roll Carts and Recycling Carts to those Customers that are authorized by the Administrator to use them (e.g., Multi-Family Mechanical Container Customers and Commercial Customers). For such Customers, the Contractor shall distribute new Roll Carts or Recycling Carts, as needed, within two (2) Days after the Administrator or Customer notifies the Contractor that (a) a Customer has been added to the Customer List, (b) a Customer's Roll Cart or Recycling Cart has been stolen or damaged beyond repair, or (c) additional carts are required to ensure that all of a Customer's Solid Waste and Recyclable Materials are properly containerized, without overfilling or overflowing the cart. The Contractor shall be responsible for procuring, maintaining at all times, and storing an adequate supply of Roll Carts and Recycling Carts for distribution.
- 27.3.4 Mechanical Containers – The Contractor shall be responsible for the distribution of its Mechanical Containers. The Contractor shall provide a Mechanical Container to a Customer within two (2) Days after receiving a request for the Container from the Administrator or Customer.

27.4 TECHNICAL SPECIFICATIONS FOR COLLECTION CONTAINERS

- 27.4.1 Recycling Bins – Recycling Bins provided by the Contractor under this Agreement shall be of equivalent or better quality than those previously distributed by the County. The size, color, and technical specifications for the Recycling Bins shall be subject to the approval of the Administrator.
- 27.4.2 Recycling Carts – Recycling Carts supplied by the Contractor pursuant to this Agreement shall be of equivalent or better quality than those previously distributed by the County. The size, color, and technical specifications for the Recycling Carts shall be subject to the approval of the Administrator. In general, Recycling Carts shall: (a) have a nominal rated capacity of sixty-four (64) or ninety-six (96) gallons; (b) be made of heavy duty plastic; (c) be hot-stamped or labeled in accordance with the specifications provided by the Administrator; (d) be mounted on two wheels; (e) have attached, hinged lids; and (f) be compatible with the hydraulic lifting and dumping mechanism mounted on the Contractor's 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. Recycling Carts shall be uniform with regard to color, volumetric capacity, dimensions, finished surfaces, and hot stamping/labeling. A Recycling Cart shall be constructed: to prevent the intrusion of water and animals, and the expulsion of its contents; with covers that are free from sharp edges; and without any inside structures that prevent the discharge of its contents.
- 27.4.3 Roll Carts – Roll Carts supplied by the Contractor pursuant to this Agreement shall be of equivalent or better quality than those previously distributed by the County. The size, color, and technical specifications for the Roll Carts shall be subject to the approval of the Administrator. In general, Roll Carts shall: (a) have a nominal rated capacity of sixty-four (64) or ninety-six (96) gallons; (b) be made of heavy duty plastic; (c) be hot-stamped or labeled in accordance with the specifications provided

by the Administrator; (d) be mounted on two wheels; (e) have attached, hinged lids; and (f) be compatible with the hydraulic lifting and dumping mechanism mounted on the Contractor's Collection vehicles. Roll Carts shall be uniform with regard to color, volumetric capacity, dimensions, finished surfaces, and hot stamping/labeling. A Roll Cart shall be constructed: to prevent the intrusion of water and animals, and the expulsion of its contents; with covers that are free from sharp edges; and without any inside structures that prevent the discharge of its contents.

- 27.4.4 Mechanical Containers – Mechanical Containers supplied by the Contractor shall be of equivalent or better quality than those currently in use in the County, and shall be subject to the approval of the Administrator. Mechanical Containers shall have attached lids, unless the Administrator approves a different design for a particular use. Mechanical Containers shall have solid, durable sides and bottoms. Each Mechanical Container shall have a heavy-duty removable plug in the bottom. The Contractor shall provide and install casters and locking devices for a Mechanical Container, upon the request of a Customer or the Administrator.
- 27.4.5 The Contractor shall provide the Administrator with the manufacturer's specification sheets for new Recycling Bins, Recycling Carts, Roll Carts, and Mechanical Containers before the Contractor orders the new Collection Containers from the manufacturer. At a minimum, the specification sheets shall address the following items, if applicable:
- Company of manufacture
 - Material of manufacture, including pre-consumer and post-consumer recycled content
 - Molding technology
 - Standards of design (e.g., American National Standards Institute)
 - UV stabilization certification
 - Load rating
 - Design standards for lid, handles, lifting, bottom, wheels, axle, and fasteners
 - Interior and exterior finish surfaces
 - Color
 - Volumetric Capacity
 - Nestability
 - Identification and Marking
 - Manufacturer's warranty
- 27.4.6 Each Recycling Bin, Recycling Cart, and Roll Cart shall be protected by a manufacturer's warranty of at least eight (8) years duration.
- 27.4.7 The Contractor shall replace the labels on its Collection Containers on an as-needed basis, subject to the Administrator's approval.

SECTION 28: CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

28.1 GENERAL REQUIREMENTS FOR CONTRACTOR'S VEHICLES AND COLLECTION EQUIPMENT

- 28.1.1 The Contractor shall purchase and/or lease, and maintain and repair, all of the vehicles and equipment necessary to maintain its approved Collection schedules, and to promptly and efficiently comply with the requirements in this Agreement. The Contractor's vehicles and equipment shall be compatible (in size and weight) with, and appropriate for, the areas where such vehicles and equipment are utilized.
- 28.1.2 Contractor's Collection vehicles and equipment shall be a standard product of a reputable manufacturer so that continuing service, and the supply and delivery of spare parts, may be ensured. Replacement parts do not need to be a product of the same manufacturer as the original.
- 28.1.3 All of Contractor's Collection vehicles shall have waterproof seals and shall be watertight to a depth sufficient to prevent the discharge or leaking of liquids that have accumulated in the vehicle's cargo area during loading and transport operations.
- 28.1.4 Each Collection vehicle shall fully enclose the Contractor's Load. A vehicle shall have a fully enclosed metal top, a tarpaulin, or a net cover with mesh openings not greater than one and one-half (1½) inches in size. The top, tarpaulin, or cover shall be kept in good working condition and shall be free from tears and holes. The cover shall be used to fully enclose the Contractor's Load at all times when the vehicle's speed exceeds 20 miles per hour and at other times when necessary to prevent the Contractor's Load from blowing out of the vehicle.
- 28.1.5 All Collection vehicles shall be painted a uniform color.
- 28.1.6 Advertising shall not be allowed on the vehicles, Collection Containers, or equipment used to provide Collection Service in the County.

28.2 VEHICLES AND EQUIPMENT DEDICATED TO THE COUNTY

Except as provided herein, the vehicles and Collection equipment used to provide Collection Service pursuant to this Agreement shall be dedicated to and used for the benefit of the County. However, the Administrator may approve the use of the County's dedicated vehicles and equipment for other purposes, and may approve the use of other vehicles and equipment for the benefit of the County, when the Administrator determines such actions are consistent with the County's interests.

28.3 AGE OF CONTRACTOR'S COLLECTION VEHICLES

The dedicated fleet of Collection vehicles used by the Contractor under this Agreement shall not exceed an average age of five (5) years and no vehicle shall exceed a maximum age of eight (8) years, unless it is used as a reserve vehicle only.

28.4 ANCILLARY EQUIPMENT IN CONTRACTOR'S VEHICLES

- 28.4.1 All vehicles used to provide Collection Services under this Agreement shall be equipped at all times with: (a) all safety equipment required by Applicable Laws; (b) a fire extinguisher; (c) a shovel and broom; (d) a spill response kit; and (e) an audible back-up warning device. The spill response kit shall be suitable and adequate for cleaning up any leaks or spills of oil, hydraulic fluid, or other liquids from Contractor's Collection vehicles.
- 28.4.2 All vehicles used to provide Collection Services under this Agreement shall be equipped with a two-way radio, cellular telephone, or other equipment appropriate for communications between the vehicle operator, the Field Supervisor, and the District Manager. The proposed communications system is subject to approval by the Administrator.
- 28.4.3 If the Contractor's Collection vehicles are equipped with Global Positioning Systems ("GPS"), the GPS equipment shall be used to track the vehicles' movements while providing Collection Services pursuant to this Agreement. Upon request, the Contractor shall promptly provide its GPS logs and records, if any, to the Administrator.

28.5 RESERVE VEHICLES AND EQUIPMENT

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

28.6 MAINTENANCE AND CLEANING

- 28.6.1 The Contractor shall keep all Collection vehicles, Mechanical Containers, and equipment cleaned and painted to present a pleasing appearance at all times. All Collection vehicles and Mechanical Containers used primarily for the Collection of Garbage or similar putrescible waste shall be washed thoroughly and sanitized with a suitable disinfectant and deodorant at least once each week, unless the Administrator approves an alternate cleaning schedule. Other Collection vehicles and Mechanical Containers shall be cleaned and washed, as necessary, to minimize the potential for odors and nuisance conditions.
- 28.6.2 The Contractor's Collection Plan shall include a schedule for cleaning, painting and maintaining each Collection vehicle and Mechanical Container. At a minimum, the Contractor shall maintain each Collection vehicle and Mechanical Container in compliance with the manufacturer's recommendations.

- 28.6.3 The Contractor shall monitor, maintain and repair its Collection vehicles and equipment to prevent fuel, lubricants, and other liquids from leaking or spilling. Oil and hydraulic systems, and waterproof seals and enclosures, on the Contractor's vehicles and equipment shall be kept in good repair at all times to prevent leaks and spills.

28.7 IDENTIFICATION OF CONTRACTOR'S VEHICLES AND EQUIPMENT

- 28.7.1 The Contractor's name and telephone number shall be displayed at all times, in letters at least four (4) inches high, on both side doors of the Contractor's Collection vehicles. Truck identification numbers shall be displayed at all times, in letters at least four (4) inches high, on all four (4) sides of all Collection vehicles.
- 28.7.2 All Collection vehicles shall display information approved by the Administrator concerning the type of material (e.g., Solid Waste or Recyclable Materials) being collected. The information shall be displayed at all times, on both sides of the vehicle body, in letters at least four (4) inches high. The information displayed on the Contractor's vehicles shall be subject to Contractor's approval, which shall not be unreasonably withheld.
- 28.7.3 Contractor shall label its Mechanical Containers with letters and/or numbers at least four (4) inches high. The labels shall be placed on at least two (2) sides of each Mechanical Container. At least one of the labels shall be readily visible when the Mechanical Container is placed at a Customer's site. The labels shall provide the Contractor's name, telephone number, and identification number for the Mechanical Container.

28.8 COMPLIANCE WITH THE LAW APPLICABLE TO VEHICLES

- 28.8.1 At all times, the Contractor and its employees shall operate and maintain all Collection vehicles and equipment in compliance with all Applicable Laws.
- 28.8.2 At all times, the Contractor shall maintain all necessary licenses and registrations, and shall timely pay all fees and taxes, on all vehicles and equipment, as required under Applicable Laws.
- 28.8.3 All equipment shall be operated in compliance with the Florida Uniform Traffic Control Law, Chapter 316, Florida Statutes, and the Ordinance.

28.9 COUNTY'S RIGHT TO INSPECT CONTRACTOR'S VEHICLES AND EQUIPMENT

- 28.9.1 The Administrator may inspect the Contractor's vehicles, equipment, licenses, and registrations at any reasonable time. The County reserves the right to inspect each Collection vehicle, each day, prior to its use in the County.
- 28.9.2 The 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. The Administrator also may require any Collection vehicle, Collection Container, or other equipment to be cleaned, washed, painted, repaired, or maintained immediately. In such cases, the Contractor

shall comply with the Administrator's request within one (1) Day or take the vehicle, container, or equipment out of service until the requested work can be completed.

28.10 LOCAL STORAGE AND REPAIR OF CONTRACTOR'S VEHICLES

The Contractor shall provide a storage yard, garage, and maintenance facility that enables all-weather, year-round maintenance operations for the vehicles and equipment used pursuant to this Agreement. The storage yard, garage, and maintenance facility may be located outside Martin County initially, but it shall be located in Martin County within two (2) years of the Effective Date. The Contractor shall not use County property to store, wash, repair, or maintain any vehicles or equipment.

28.11 TRANSPONDERS FOR COLLECTION VEHICLES

The Contractor shall purchase and install a transponder in each of its Collection vehicles so the County can provide automated service at the scale house for the County's transfer station. The transponder on each Collection vehicle shall be operational whenever the vehicle enters or leaves the scale house. The Contractor shall keep spare transponders at the scale house at all times. The number of spare transponders shall be equal to ten percent (10%) of the number of Contractor's front-line Collection vehicles or two (2), whichever is greater.

SECTION 29: CONTRACTOR'S PERSONNEL

29.1 GENERAL REQUIREMENTS

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

29.2 DISTRICT MANAGER

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

29.3 FIELD SUPERVISOR

The Contractor shall designate one or more Field Supervisors, who shall oversee the provision of the Collection Services under this Agreement. The Field Supervisor(s) shall have immediate access to an automobile or truck between 6:00 a.m. and 7:00 p.m., Monday through Friday, except Holidays. At all times during the term of this Agreement, the Administrator shall have immediate access to the Field Supervisor by telephone and electronic mail. If the Field

Supervisor is out of the office and temporarily unable to receive electronic mail, the Contractor shall require another supervisor to respond to any electronic mail received from the Administrator during the Field Supervisor's absence.

29.4 EMPLOYEE CONDUCT

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

29.5 EMPLOYEE IDENTIFICATION

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

29.6 ATTIRE FOR EMPLOYEES

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

29.7 REMOVAL OF EMPLOYEES

The Administrator reserves the right to disapprove and request removal of any Contractor personnel assigned to the County's work. Such disapproval or request shall be for reasonable cause only and shall be addressed in writing to the Contractor's District Manager. Notwithstanding the foregoing, the Contractor shall not be required to take any action with regard to the Contractor's personnel that would violate any Applicable Law. The Contractor shall defend, save, and hold the County harmless from and against legal actions by any employees so removed.

29.8 EMPLOYEE TRAINING AND LICENSES

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

29.8.2 At all times when operating vehicles or equipment pursuant to this Agreement, the Contractor's employees shall carry a valid Florida driver's license for the type of vehicle or equipment being operated.

29.8.3 The Administrator may request the Contractor's employees to produce their driver's license for inspection at any time when the employee is on duty.

29.9 CONTRACTOR'S COMPLIANCE WITH LABOR LAWS

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

29.10 LEGAL STATUS OF CONTRACTOR'S EMPLOYEES

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 employment benefits to such Person.

SECTION 30: CONTRACTOR'S LOCAL OFFICE

- 30.1** The Contractor shall maintain a customer service/dispatch office in Martin County. The Contractor's office shall be open for business between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except Holidays.
- 30.2** The Contractor's office shall be equipped with sufficient personnel and equipment to document and timely respond to all inquiries, issues, and Legitimate Complaints raised by the County or Customers. A responsible, experienced person shall be present and in charge of the office during all business hours. Contractor's office staff shall be familiar with the County and the Contractor's obligations under this Agreement.
- 30.3** The Contractor shall have a toll-free telephone number for calls from Customers in the County. All calls concerning complaints shall be answered by a Person located in the Contractor's office in Martin County. The Contractor's name and telephone number shall be listed in the two largest telephone directories in Martin County. Contractor shall use an answering machine or answering service to record messages when the office is closed.
- 30.4** The Contractor shall establish a process for receiving and handling emergency calls, both during and after normal operating hours. Such process shall be subject to the Administrator's approval.
- 30.5** The Contractor's office shall be equipped with a two-way communication system that can be used to promptly contact the Administrator, the Contractor's District Manager, the Contractor's Field Supervisor, and all of the Contractor's Collection vehicles.
- 30.6** Recycling Bins shall be stored at the Contractor's local office and made available to Customers, pursuant to Section 27.3.2.

SECTION 31: CUSTOMER RELATIONS

31.1 HANDLING CUSTOMER COMPLAINTS

- 31.1.1** The Contractor shall be responsible for receiving all complaints from Customers. Any complaint received by the Contractor shall be addressed within one (1) hour after it is received.

- 31.1.2 The District Manager or their designee shall determine initially whether a Customer's complaint is a Legitimate Complaint. If there is any dispute or uncertainty, the Administrator shall make the final determination of whether a Customer's complaint is a Legitimate Complaint. Legitimate Complaints include but are not limited to:
- Missed Collections;
 - Failure to respond to Missed Collections in compliance with the requirements of this Agreement;
 - Mishandling of Solid Waste, Recyclable Materials, or Collection Containers;
 - Failure to maintain vehicles, Collection Containers, or equipment;
 - Damage to public or private property;
 - Failure to pick up litter;
 - Failure to obey traffic regulations; and
 - Discourteous treatment of Customers.
- 31.1.3 The Contractor shall take whatever steps are necessary to remedy the cause of a Legitimate Complaint within six (6) hours after receiving notice from the Customer or the Administrator. The Contractor may request and the Administrator shall grant additional time to remedy a Legitimate Complaint when the Contractor uses its best efforts to correct the problem, but is unable to do so within six (6) hours.
- 31.1.4 The Contractor shall inform the Administrator about the status of each Legitimate Complaint within six (6) hours of receiving notice of the complaint from the Administrator, if such information is requested by the Administrator.
- 31.1.5 The Contractor shall notify the Administrator within six (6) hours after a Legitimate Complaint is resolved and shall provide a written report within two (2) Days, if such reporting is requested by the Administrator.

31.2 DISPUTE RESOLUTION PROCESS FOR CUSTOMERS

- 31.2.1 The Contractor shall promptly notify the Administrator whenever the Administrator needs to resolve a dispute between a Customer and the Contractor, including but not limited to disputes concerning the proper interpretation and implementation of this Agreement and the Ordinance. The Contractor shall immediately notify the Administrator about any disputes with a Customer that the Contractor has not been able to resolve within two (2) Days after receiving the Customer's complaint. The Administrator shall promptly evaluate the facts concerning such disputes and shall make a fair and impartial determination about such matters.
- 31.2.2 The Administrator shall notify the Contractor and the Customer in writing concerning the Administrator's decision about the disputed issues.
- 31.2.3 The Contractor and Customer shall have three (3) Days to comply with the Administrator's decision or, in the alternative, provide the Administrator with a written request for a hearing before the Manager.

31.2.4 If a request is filed, the Manager shall act upon such request within twenty (20) Days. The Manager shall provide the parties an opportunity to present their arguments and evidence concerning the relevant issues. The Manager shall notify the Customer, the Contractor, and the Administrator in writing concerning the Manager's decision. The Manager may: confirm, in whole or in part, the Administrator's findings; grant relief to the Customer or the Contractor; or take whatever other action the Manager deems necessary and appropriate. The Manager's decision shall be final and non-appealable.

SECTION 32: CONTRACTOR'S RELATIONSHIP WITH THE COUNTY

32.1 AVAILABILITY OF CONTRACTOR'S REPRESENTATIVE

The Contractor shall cooperate with the County in every reasonable way to facilitate the successful completion of the activities contemplated under this Agreement. The County shall have twenty-four (24) hour access to the Contractor's District Manager and Field Supervisor via telephone and electronic mail from the County. Answering machines, pagers, or other devices that do not provide for immediate contact with the Contractor's District Manager and Field Supervisor shall not satisfy the requirements of this paragraph.

32.2 COUNTY'S REVIEW OF CONTRACTOR'S PERFORMANCE

The Administrator is hereby designated as the public official responsible for the administration of this Agreement by the County. Contractor shall diligently work with the Administrator to formulate and adopt procedures that will facilitate the Contractor's performance under this Agreement and the Administrator's review of the Contractor's work.

32.3 COUNTY'S RIGHT TO INSPECT CONTRACTOR'S OPERATIONS

The County shall have the right to inspect the Contractor's facilities and operations at any reasonable time to determine whether the Contractor's performance complies with the requirements of this Agreement. The Contractor shall make its facilities and operations available for the County's inspection and shall cooperate fully.

SECTION 33: COMMERCIAL COLLECTION SERVICE

33.1 CONTRACT FOR COMMERCIAL COLLECTION SERVICE

The Contractor shall prepare a standard form that will be used as its contract with Commercial Customers. The proposed form shall be provided to the Administrator for approval at least sixty (60) calendar days before the Commencement Date, and whenever the Contractor proposes to change its content. The terms and conditions contained in the form shall be consistent with the requirements in this Agreement. The Administrator shall have the authority to approve the Contractor's contract for Commercial Customers, or require additions, deletions, or changes to the language therein, including changes to the language provided below. The Contractor's contract for Commercial Customers shall identify the service(s) that will be provided, the size and type(s) of Collection Container(s) that will be used, the frequency of Collection, and the

Scheduled Collection Day(s). The contract also shall contain the following information, unless alternate language is approved by the Administrator.

"REGULATION BY MARTIN COUNTY"

This contract for the collection of Commercial Solid Waste is regulated by Martin County. If you have any questions regarding the terms and conditions in this contract, you may call the County at (772) 221-1384.

"COMPACTORS AND ATTACHED ROLL-OFF CONTAINERS"

You may provide your own Compactor and attached Roll-Off Container for the solid waste that you generate on your property; provided that your Compactor and attached Roll-Off Container is one that can be serviced by the Contractor's collection equipment. In the alternative, you may obtain a Compactor and attached Roll-Off Container from the Contractor. In either case, the Compactor and attached Roll-Off Container must be maintained in a safe, sanitary, serviceable condition by the owner of the Compactor and attached Roll-Off Container.

"SUPPLEMENTAL COLLECTION SERVICES"

The Contractor may provide special or supplemental services to you, but may only charge the Rates approved by Martin County. The cost of the special services must be separately identified in the list of "Rates for Services."

"RATES FOR SERVICES"

The County has approved standard rates for the collection of Commercial Waste and for special services. Under this contract, you will pay the following fees for the Contractor's services. You may call the County if you have any questions about the Contractor's rates.

33.2 FEES FOR COMMERCIAL COLLECTION SERVICE

The Contractor's contract shall identify all of the services that the Contractor will provide to the Customer and all of the associated costs. No fees or charges may be collected from a Customer unless such fees and charges were disclosed in the Contractor's contract.

33.3 ADVANCE PAYMENTS FOR NEW COMMERCIAL CUSTOMERS

The Contractor may bill a Commercial Customer in advance for its Collection Service. The Contractor may inform a new Commercial Customer that Commercial Collection Service cannot be provided to the Customer until the Contractor receives a payment equal to the value of the Commercial Collection Service that will be provided to the Customer for one (1) month. The Contractor is not required to provide Commercial Collection Service to a Commercial Customer until the Contractor receives an appropriate payment from the Customer.

33.4 TERMINATION OF SERVICE TO A COMMERCIAL CUSTOMER

The Contractor may terminate Collection Service to a Commercial Customer when the Customer fails to pay for service, subject to the following procedures and conditions.

When a Commercial Customer's payment for Collection Service is thirty (30) or more calendar days past due, the Contractor may provide written notice to such Commercial Customer that the Contractor intends to terminate its service. The Contractor shall provide at least ten (10) Days notice before terminating its service.

If the Commercial Customer wishes to dispute the Contractor's bill, the Customer shall notify the Administrator and the Contractor in writing within the ten (10) Day period. Upon receipt of the Customer's notice, the Administrator shall resolve the dispute.

If the Customer fails to pay its bill after the ten (10) Day period provided above, or ten (10) Days following issuance of a written finding by the Administrator concerning a billing dispute, the Contractor may discontinue Collection Service to the Customer. The Contractor shall notify the Administrator within one (1) Day after service is terminated.

Upon being notified, the County shall take whatever action it deems appropriate to enforce compliance with the provisions of the County's Ordinances.

If Collection Service is terminated, the Contractor may remove from the Customer's Premises any Commercial Containers or other equipment belonging to the Contractor.

Contractor may charge interest on delinquent accounts with Commercial Customers and may charge a fee for the resumption of service, subject to the Administrator's approval and all Applicable Laws.

SECTION 34: COLLECTION SERVICE FOR MULTI-FAMILY DWELLING UNITS

- 34.1** A Customer occupying a Multi-Family Dwelling Unit shall receive Residential Curbside Collection Service if the Customer pays the County's solid waste special assessment for such service or receives the Administrator's approval for such service. All other Customers occupying Multi-Family Dwelling Units shall receive Commercial Collection Service (i.e., Multi-Family Mechanical Container Collection Service).
- 34.2** A Customer occupying a Multi-Family Dwelling Unit and receiving Residential Curbside Collection Service shall receive the same level of service, and shall be subject to the same Rates and requirements, as any other Customer receiving Residential Curbside Collection Service.
- 34.3** A Customer occupying a Multi-Family Dwelling Unit and receiving Commercial Collection Service shall receive the same level of service, and shall be subject to the same Rates and requirements, as any other Customer receiving Commercial Collection Service.
- 34.4** The Contractor's exclusive franchise for the Collection of Recyclable Materials from Residential Customers shall include the Collection of Recyclable Materials generated by Customers that

occupy Multi-Family Dwelling Units, even if those Customers receive Commercial Collection Service.

SECTION 35: RECORD KEEPING AND REPORTING

35.1 GENERAL RECORD KEEPING AND REPORTING REQUIREMENTS

- 35.1.1 The Contractor shall be solely responsible for keeping all of the records and documents necessary to demonstrate that Contractor has performed its duties in compliance with the requirements in this Agreement. The Contractor's records shall be accurate, well-organized and up-to-date at all times. The Contractor's records concerning its performance under this Agreement shall be kept in the Contractor's office or storage facility in Martin County for at least three (3) years following the termination of this Agreement.
- 35.1.2 All of the Contractor's reports to the County shall be submitted in a hard copy and in an electronic format that is compatible with the County's software. The format and content of the Contractor's reports are subject to the Administrator's approval. The reports shall be signed by the District Manager or other duly authorized representative of the Contractor.
- 35.1.3 The Contractor shall prepare the logs identified in Section 35.2 of this Agreement. All of the Contractor's logs shall be maintained in an electronic database that is compatible with the County's software systems. The database shall be available for inspection by the County at any time during normal business hours. The information in the logs shall be provided to the Administrator, upon request, within one (1) Day. The general format and content of the Contractor's logs shall be subject to the Administrator's approval.

35.2 SPECIFIC RECORD KEEPING REQUIREMENTS

- 35.2.1 Collection Service Log – The Contractor shall maintain records and a log concerning all of the Collection Services the Contractor provides to the County and each Customer in the Service Area. The records shall be sufficient to determine the fees that should be billed to each Customer for Collection Service each month. At a minimum, the records shall identify: the type of service provided to each Customer; the date(s) when service was provided; the size of, and frequency of Collection for, the Mechanical Containers and Roll Carts, if any, used by the Customer; and the Supplemental Collection Services, if any, received by the Customer. The Contractor's records shall include a copy of the Contractor's written contract for service with each Customer receiving Commercial Collection Service. The Contractor shall summarize the records in a log, which shall identify the services received by each Customer and the amounts that should be paid for those services.
- 35.2.2 Solid Waste Disposal Log – The Contractor shall maintain records and a log concerning all of the Solid Waste collected in the Service Area. The records shall identify the amounts of Solid Waste collected and the locations where the Solid Waste was taken for disposal, as documented by scale house tickets and receipts. The records shall address each Load of Solid Waste for each Collection vehicle for each Day. These records shall be summarized in a log.

- 35.2.3 Recyclable Materials Log – The Contractor shall maintain records and a log concerning all of the Recyclable Materials collected in the Service Area. The records shall identify the amounts of Recyclable Materials collected and the locations where the Recyclable Materials were taken for processing, as documented by scale house tickets and receipts. The records shall address each Load of Recyclable Materials for each Collection Vehicle for each Day. These records shall be summarized in a log.
- 35.2.4 Vehicle Maintenance Log – The Contractor shall keep maintenance records and a log for each vehicle used for Collection Service. At a minimum, the log shall show: the identification number for the vehicle; the date and description of all routine maintenance activities; and the date and description of all repair activities.
- 35.2.5 Non-Collection Notice Log – The Contractor shall maintain records and a log of all occasions when Non-Collection Notices have been placed. The log shall include: the date when the notice was placed; the Customer's street address; the Customer type (i.e., Residential or Commercial); and the reason for each Non-Collection Notice.
- 35.2.6 Complaint Log – The Contractor shall maintain records and a log of all complaints. The log shall include: the date and time when the Contractor was notified by the County or Customer; the Customer's street address; the Customer type; a description of the complaint; whether the complaint was a Legitimate Complaint; the date and time when the complaint was resolved; and a description of how the complaint was resolved.
- 35.2.7 Property Damage Log – The Contractor shall maintain records and a log concerning all accidents and events when Contractor's employees, vehicles, or equipment caused an injury to any Person or domestic animal, or damage to any public or private property. At a minimum, the log shall include: the date and time when the event occurred; the address where the event occurred; the name of the Person that reported the event; a description of the event; the vehicle or equipment number, and/or the name of the employee involved in the event; the name and address of the Person suffering the injury or damage; a description of the injury or damage suffered; and a description of how and when the matter was resolved.

35.3 WEEKLY REPORT

- 35.3.1 Collection Service for Construction and Demolition Debris – The Contractor shall submit weekly reports to the Administrator concerning all of the Collection Service for Construction and Demolition Debris that was provided during the preceding week. The report shall include: (a) the date(s) when the Construction and Demolition Debris was collected; (b) the Customer's name; (c) the Customer's billing address; (d) the Customer's telephone number; (e) the street address where the Mechanical Container was located; (f) the size of the Mechanical Container(s) used; and (g) the amounts to be charged to the Customer for Collection and disposal.
- 35.3.2 Upon request by the Contractor, the Administrator may waive one or more of the requirements for the weekly reports. The Administrator also may allow the Contractor to submit its reports on a monthly basis.

35.4 MONTHLY REPORT

- 35.4.1 Contractor shall submit Monthly Reports to the Administrator within five (5) Days after the end of each month.
- 35.4.2 At a minimum, the Monthly Report shall contain the following information for the previous month: (a) the total quantity of Solid Waste delivered to a Designated Disposal Facility; (b) the total quantity of Recyclable Material delivered to a Designated Recycling Facility; (c) the amount of Solid Waste and Recyclable Material, respectively, delivered to other facilities; (d) the number of Non-Collection Notices issued to Customers during the month; (e) the number of Missed Collections; (f) a summary of each accident involving personal injuries or property damage; (g) a summary of all Customer complaints, a summary of unresolved Customer complaints, the total number of complaints, and the total number of Legitimate Complaints; (h) the monthly and total amount of Roll-Off Collection Service provided to the County during the Agreement Year pursuant to Section 37.2, below; and (i) the Gross Revenues collected by the Contractor.
- 35.4.3 For each Customer receiving Commercial Collection Service, the Monthly Report also shall identify: (a) the owner of the containers; (b) the size and frequency of Collection Service for each Collection Container used by the Customer; and (c) any Supplemental Collection Services received by the Customer.
- 35.4.4 Upon request by the Contractor, the Administrator may waive one or more of the requirements for the Monthly Report.

35.5 ANNUAL REPORT

Contractor shall submit Annual Reports to the Administrator within thirty (30) calendar days after the end of each Agreement Year. At a minimum, the Annual Report shall include the following information: (a) annualized information for all items required in the Monthly Reports; (b) an updated list of all vehicles and equipment used to provide Collection Services under this Agreement, including make, type, year, license number, and ID number for each; (c) an updated Collection Plan, including current route maps and schedules for all Collection Services provided under this Agreement; (d) a description and inventory, indicating quantities and condition, of the equipment, facilities, manpower, and other resources available for emergency conditions; (e) a trend analysis and overall evaluation of the number and types of Legitimate Complaints received by the Contractor on a monthly and annual basis during the term of this Agreement; (f) a corrective action plan for systemic and chronic problems, if any; (g) an updated Contingency Plan; and (h) a summary of all accidents and Legitimate Complaints involving personal injuries or damage to public or private property. Upon request by the Contractor, the Administrator may waive one or more of the requirements for the Annual Report.

35.6 OTHER REPORTS, DOCUMENTS AND NOTIFICATIONS

- 35.6.1 Updates to Safety Plan – Contractor shall continuously update its safety plan to reflect any changes in Contractor's operations. The Contractor shall deliver an updated plan to the Administrator within five (5) Days whenever any changes are made to the safety plan.

35.6.2 Accidents and Property Damage – Contractor shall notify the Administrator of any accidents involving the Contractor’s staff, vehicles, or equipment requiring notification to OSHA or any other Person under Applicable Laws. Contractor also shall notify the Administrator of accidents involving personal injuries or damage to public or private property. In all such cases, verbal notice shall be provided within six (6) hours of the accident and a written report shall be provided to the Administrator within one (1) Day of the accident. If any issues are unresolved at that time, a subsequent report shall be provided to the Administrator within two (2) Days following the ultimate disposition of the case. The Contractor also shall provide the Administrator with copies of any reports or notices provided to OSHA or the Department of Transportation, within two (2) Days after such documents are submitted.

35.7 COUNTY'S RIGHT TO INSPECT AND AUDIT CONTRACTOR'S RECORDS

Contractor shall cooperate with the Administrator and provide every reasonable opportunity for the County to ascertain whether the duties of the Contractor are being performed properly. Contractor shall promptly provide any information, in addition to that required explicitly by this Agreement, that the Administrator or the Contractor deem relevant under the circumstances.

The County shall have the right to inspect, copy, and audit, at the County’s expense, all of the Contractor’s records concerning the Contractor’s services under this Agreement. The Contractor's records shall be made available for inspection during normal business hours at the Contractor's office in Martin County.

SECTION 36: PUBLIC NOTICES AND EDUCATIONAL SERVICES

The Contractor shall provide the following notices and educational services to help educate the public about the County’s Solid Waste management system. The design and content of the notices shall be subject to approval by the Administrator. The Contractor shall be responsible for all expenses associated with notices and educational services required herein. The County shall be reimbursed by the Contractor for any out-of-pocket expenses incurred by the County related to notices and educational services provided by the County, but such expenses shall not exceed Twenty-Five Thousand Dollars (\$25,000) per Agreement Year. If the County incurs reimbursable expenses, the County shall deduct its expenses from the next monthly payment to the Contractor for Collection Service.

36.1 ANNUAL NOTICE TO CUSTOMERS

The Contractor shall design, print, and distribute an annual notice to all Residential Curbside Customers, Residential Mechanical Container Customers, and Commercial Customers within the Service Area. At a minimum, the notice shall identify the Scheduled Collection Days, summarize the applicable Set-Out requirements, and provide other relevant information.

36.2 NOTICES FOR NEW CUSTOMERS

The Contractor shall design, print, and distribute appropriate informational materials for each new Customer added to the Service Area. At a minimum, the notice shall identify the Scheduled Collection Days, summarize the applicable Set-Out requirements, and provide other relevant information.

36.3 PUBLIC NOTICES CONCERNING CHANGES IN COLLECTION SERVICES

The Contractor shall prepare and publish a notice whenever the Contractor's Scheduled Collection Days for Residential Customers are changed. The notice shall be published at least one time in each of three local newspapers, as indicated: (a) in the "Community News" or local news section of the Stuart News; (b) in the community or local news section of the Martin County edition of the Palm Beach Post; and (c) in the Indiantown News, when providing notice concerning the Collection of Recyclable Materials in Indiantown. The notices shall not be published with the legal advertisements in the newspaper. The notice shall cover at least one-quarter (1/4) of a page in the newspaper. The Contractor also shall prepare and print a notice to each Residential Customer within the Service Area that will be affected by the change. The notices shall be provided to the County and included as an insert with the bills mailed to the affected Customers during the month immediately preceding the Contractor's change in service. However, if this method of providing notice will not deliver timely notice to the Customers, the Administrator may require the Contractor to deliver or mail its notice separately to the Customers.

36.4 PUBLIC NOTICES FOR COMMENCEMENT OF SERVICE

Prior to the Commencement Date, the Contractor shall prepare, publish and distribute public notices concerning the Contractor's Collection Services and schedules. The notices shall be published and distributed in the manner described in Section 35.3, above. The notices distributed by the Contractor shall include County-approved brochures and informational materials concerning the proper way to Set Out materials for Collection, the Scheduled Collection Days, and related issues.

SECTION 37: CONTRACTOR'S COLLECTION SERVICES FOR COUNTY

37.1 GENERAL REQUIREMENTS

Subject to the conditions described herein, the Contractor shall provide the following Collection Services for the benefit of the County. The Contractor shall be solely responsible for all of the costs and expenses associated with these services, including the cost of Collection and the cost of obtaining, delivering, and using Collection Containers, but not the cost of Tipping Fees. The County shall determine: (a) the size of the Collection Containers that shall be provided by the Contractor; (b) the frequency of Collection Service for each Collection Container; and (c) the location where the Collection Container will be placed by Contractor. The County shall be responsible for placing its Solid Waste in the Contractor's Collection Containers and paying the Tipping Fees.

37.2 ROUTINE COLLECTION SERVICE

- 37.2.1 Centralized Collection of Recyclable Materials – If requested by the Administrator, the Contractor shall provide Collection Service for Recyclable Materials at up to two (2) locations in the Service Area used as public drop-off sites. The Contractor shall collect the Recyclable Materials at these locations at least once per week.
- 37.2.2 Roll-Off Collection Service – The Contractor shall provide Roll-Off Collection Service for Community Events (e.g., community clean-ups) as determined by the

Administrator. Under the requirements of this paragraph, the Contractor shall not be required to provide free Collection Service for more than twelve (12) Community Events per Agreement Year. However, upon request, the Contractor shall provide additional Roll-Off Collection Service. The Contractor may charge the County for this additional Collection Service, provided that the Contractor notified the Administrator that the specific service requested would require the payment of additional fees and the Administrator gave prior written approval for the service and the fees. In such cases, the Contractor may charge the Rates provided in Exhibit 4 for Roll-Off Collection Service.

37.2.3 Temporary Sanitary Site Services -- The Contractor shall provide temporary sanitary site services to at least five (5) community events each year when requested to do so by the administrator. The Contractor shall provide services, in accordance with the Administrator's request. There shall be no charge or fee paid by the County for the Contractor's temporary sanitary site services provided.

37.3 INCREASED LEVEL OF SERVICE FOR COUNTY

If the Administrator notifies the Contractor before 12 p.m. (noon) that a Collection Container used by the County is full, the Contractor shall empty the Collection Container on the same Day. If the Administrator notifies the Contractor after noon, the Contractor shall empty the Collection Container or receptacle before noon on the next Day. In addition, the Contractor shall increase the frequency of Collection Service for any Collection Container if the Administrator determines the current level of service is inadequate.

SECTION 38: CONTRACTOR'S EMERGENCY SERVICES

38.1 COLLECTION OF GARBAGE AFTER A DISASTER

Following a hurricane, tornado, or other natural or manmade disaster, the Contractor shall use its best efforts to immediately collect all of the Garbage that is Set Out by Customers. This shall be the Contractor's primary responsibility until the Contractor is able to provide Collection Services on a routine basis, as determined by the Administrator. The Contractor shall use its best efforts to resume its Collection Services on the Scheduled Collection Days as soon as possible after the disaster.

38.2 EMERGENCY VARIANCES IN ROUTES AND SCHEDULES

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

38.3 COLLECTION OF DISASTER DEBRIS

- 38.3.1 If large amounts of Disaster Debris accumulate because of a hurricane, tornado, or other natural or manmade disaster, the County, at its sole discretion, may utilize the Contractor to assist with the Collection of the Disaster Debris. The County also may utilize the County's Disaster Debris Contract in accordance with the County's emergency management plan. Nothing herein shall require the County to utilize the services of Contractor, or prevent the County from hiring another Person to perform part or all of such work. The County also reserves the right to utilize County personnel and equipment for the Collection of Disaster Debris.
- 38.3.2 If the Administrator directs the Contractor to collect Disaster Debris, the Contractor shall be paid in accordance with Section 39.8 of this Agreement, based on the Rates that will be mutually agreed upon by the County and the Contractor prior to the commencement of the work, provided the Contractor has obtained the prior written authorization and approval of the Administrator. In such cases, the Contractor shall be responsible for the preparation of all necessary documents, forms, and support information in compliance with the requirements and deadlines established by the Federal Emergency Management Agency (FEMA). The Contractor shall cooperate fully with the County and the County's debris collection monitors to ensure that the Collection of Disaster Debris is accomplished in a manner that qualifies for reimbursement by FEMA, the State of Florida, and any other assistance programs. The Contractor's work under this Section 38.3.2 shall be subject to the requirements contained in Exhibit 10.
- 38.3.3 If FEMA declares that Martin County is a federal disaster area, the County shall be primarily responsible for the Collection of Disaster Debris in the Service Area, subject to the conditions contained herein. The County may use its staff, the Contractor, and/or another Person to assist the County with the Collection of Disaster Debris, pursuant to the provisions of Section 38.3.1 and 38.3.2, above. The County shall make a good faith effort to collect and remove the Disaster Debris generated by the federally declared disaster. The County shall have the sole authority to determine the extent of the clean-up, if any, that will be conducted by the County. When the County's tasks under this paragraph have been completed, as determined by the Administrator, the Administrator shall notify the Contractor to resume all of its normal Collection Services. Thereafter, the Contractor shall collect the Disaster Debris, if any, that is Set Out for Collection, and the Contractor shall be paid the Rates set forth in Exhibits 3, 4 and 5 for Collection Services.
- 38.3.4 The Contractor shall be responsible for the Collection of the Disaster Debris generated by a natural or manmade disaster, if FEMA does not declare Martin County to be a federal disaster area as a result of such event. In such cases, the Contractor shall be paid the Rates set forth in Exhibits 3, 4 and 5 for the Contractor's Collection Services.
- 38.3.5 If the Contractor believes it has been required to collect excessive amounts of Disaster Debris pursuant to Section 38.3.3 and 38.3.4, above, the Contractor may request additional compensation pursuant to Section 39.6, below. However, the Contractor shall not be entitled to any additional compensation unless the Contractor demonstrates to the County's satisfaction that the amount of Solid Waste collected in the Service Area by the Contractor increased by twenty percent (20%) or more

because of the disaster, when compared to the quantity of Solid Waste that was collected during the same month(s) in the preceding year. Any compensation awarded pursuant to the provisions of this paragraph shall be limited to reasonable amounts, as determined by the County, and shall not exceed the Rates that will be mutually agreed upon by the County and the Contractor prior to the commencement of the Contractor's work.

38.4 CONTRACTOR'S CONTINGENCY PLAN

Contractor shall develop a Contingency Plan, which shall describe the Contractor's plan of action in the event that an emergency or other situation renders the Contractor's operations yard or equipment unusable. The Contingency Plan shall describe the steps that the Contractor shall take to avoid interruptions or reductions in Collection Service. The Contingency Plan shall be submitted to the Administrator by June 1, 2007. Thereafter, the Contingency Plan shall be updated and resubmitted to the Administrator with the Contractor's annual report, and also within two (2) Days whenever the plan is revised by the Contractor. The Contingency Plan and all revisions to the plan are subject to the Administrator's approval.

38.5 COUNTY'S EMERGENCY MANAGEMENT MEETINGS

Contractor shall attend the County's emergency management/disaster preparedness meetings, and shall provide the County with any materials that may be useful to the County's efforts, including but not limited to Collection schedules and routes, and security codes to private community gates. The Administrator shall notify the Contractor of the date, time and location of the meetings, and any necessary materials to be provided by the Contractor.

SECTION 39: RATES FOR CONTRACTOR'S SERVICES

39.1 STANDARD RATES FOR COLLECTION SERVICES

The Rates in Exhibit 3 are the maximum amounts that shall be charged for any Collection Services provided by the Contractor pursuant to this Agreement. The Rates shall apply for all Customers receiving Collection Services from the Contractor within Martin County after the Effective Date. Contractor shall utilize the Rates in Exhibit 3 of this Agreement when billing its Customers.

39.2 RATES FOR INCREASED OR DECREASED RESIDENTIAL COLLECTION SERVICE

39.2.1 If a Residential Customer receives additional Collection Service for Garbage on a regular basis (e.g., 3 times per week), the Customer shall be charged an additional fee for the additional service. In such cases, the Rate for Residential Collection Service shall be increased proportionally for such Customer.

39.2.2 The County may designate up to ten percent (10%) of the Residential Customers as ineligible for Collection Service for Recyclable Materials. The Contractor shall not charge the County for Recycling Collection Service for any Residential Customers so designated.

39.3 ANNUAL ADJUSTMENTS TO RATES FOR COLLECTION

On October 1, 2008 and annually thereafter, the Collection and hauling component of the Rates for Residential Customers and Commercial Customers shall be adjusted to reflect any changes in the cost of Collection during the previous Agreement Year due to inflation or deflation. The adjustment to the Collection portion of the Rates in Exhibit 3 shall be based on the changes in the Consumer Price Index and Department of Energy (DOE), as applicable, during the previous Agreement Year. The adjustments shall reflect the percentage change in the CPI and DOE, measured from April 1st in the previous calendar year to March 31st of the calendar year in which the adjustment will occur. Ten percent (10%) of the total adjustment to the Rates shall be based on the change in the cost of diesel fuel, as reflected by the change in DOE. Ninety percent (90%) of the total adjustment to the Rates shall be based on the change in the cost of the Contractor's other expenses, as reflected by the change in the CPI. Notwithstanding anything else contained herein, the total adjustment to the Rates in any Agreement Year shall not exceed five percent (5%).

Description	% of Total Adjustment	Index
Diesel Fuel & Insurance	10	DOE
All Other Expenses	90	CPI

The following hypothetical example demonstrates how the annual adjustment to the Rates will be calculated. The County may deny part or all of any adjustment that does not comply with the provisions of this Agreement and the procedures shown in this example.

At least forty (40) calendar days prior to October 1 (i.e., on or before August 20) in each Agreement Year, the Contractor may submit a written request for an adjustment to the Rates. If (a) the cost of diesel fuel increased eight percent (8%) during the prior year, as shown by an increase in DOE, and (b) all of the Contractor's other expenses increased three percent (3%), as shown by the CPI, then (c) the total adjustment to the Rates will be three and one-half percent (3.5%), as shown by the calculation in the table below. The total adjustment in this hypothetical is less than the maximum allowable annual adjustment of five percent (5%).

Description	% of Total Adjustment	Actual Increase in Index (%)	Adjustment to Rates (%)
Diesel Fuel & Insurance	10	8%	0.8%
All Other Expenses	90	3%	2.7%
Total	100		3.5%

If the CPI or DOE is discontinued or substantially altered, the County may select another relevant price index published by the United States Government or by a reputable publisher of financial and economic indices.

39.4 ADJUSTMENTS TO COMMERCIAL DISPOSAL RATE

The disposal portion of the Rates for Commercial Customers shall be adjusted for any changes in the Tipping Fee at the Designated Disposal Facility. At the Administrator's request, the Contractor shall provide evidence of the change in the Tipping Fee in a manner that is acceptable to the Administrator. The County shall calculate the amount of the Rate adjustment, based on the formulas below. The Rate adjustment shall be effective on the date of the change in the Tipping Fee at the Designated Facility; provided, however, that Rate adjustments requested by the Contractor shall not be retroactive to a date prior to the date when the Contractor's request and any required evidence of the change in the Tipping Fee are received by the County.

39.4.1 Commercial Collection Service without Compactors – For Commercial Customers that do not use either a Compactor or Roll-Off Collection Services for Construction and Demolition Debris, the "monthly disposal rate" is based on the Tipping Fee per ton, the size of the Container expressed in cubic yards, the frequency of Collection, and the "Weight Per Cubic Yard Factor" (i.e., 133 pounds per cubic yard), as set forth in Exhibits 3 and 4. The formula for calculating a change in the monthly disposal portion of the Rate shall be:

("Weight Per Cubic Yard Factor"/2,000 pounds) x the Tipping Fee adjustment x the container size x frequency of Collection per week x 4.33)

39.4.2 Commercial Collection Service with Compactors – For Commercial Customers that use a Compactor attached to a Roll-Off Container, the disposal portion of the Rate is equal to the disposal cost for uncompacted waste, as determined pursuant to Section 39.4.1, above, multiplied by a compaction factor of 3.5.

39.4.3 Construction and Demolition Debris Collection Service – For Customers using Roll-Off Containers for the Collection of Construction and Demolition Debris, the disposal portion of the Rate is equal to the actual disposal cost at the Designated Disposal Facility.

39.5 RATE ADJUSTMENTS FOR CHANGES IN LAW

If a Change in Law will directly and materially affect the Contractor's cost of providing its services under this Agreement, the Contractor may request the County to adjust the Rates. If the Contractor wishes to exercise this option, the Contractor shall prepare and submit a schedule of proposed Rates that will distribute the increased costs in a fair and non-discriminatory manner. The Contractor's request shall be accompanied by all data and analyses necessary for the Administrator to fairly evaluate the proposed Rate increase. The Administrator shall request and the Contractor shall provide additional information as necessary. After receiving the requested information, the Administrator shall present the Contractor's request and the Administrator's recommendations to the Commission. The Commission shall fairly evaluate the Contractor's request in a timely manner. If any adjustments to the Rates are approved, the adjusted Rates shall become effective upon the date designated by the Commission. Any adjustments to the Rates shall be designed to compensate the Contractor for the increased costs incurred by the Contractor after the Change in Law took effect.

39.6 EXTRAORDINARY RATE ADJUSTMENTS

- 39.6.1 Once each Agreement Year, before April 1, the Contractor may petition the Commission for a Rate adjustment on the basis of extraordinary or unusual changes in the cost of its operations that could not reasonably be foreseen by a prudent Person. Contractor's petition shall contain a detailed justification for the Rate adjustment. Among other things, the Contractor's petition shall include an audited statement of Contractor's historical and current expenses, demonstrating that Contractor has incurred an extraordinary increase in Contractor's costs due to factors beyond the Contractor's control, which have occurred through no fault or negligence of the Contractor. The audited statement shall be prepared by a certified public accountant, licensed in the State of Florida, that is not an employee of the Contractor or its affiliates. At its expense, the County may audit the Contractor's records to evaluate the Contractor's request. The Administrator may request from the Contractor, and the Contractor shall provide, all of the information that is reasonably necessary for the Administrator to evaluate the Contractor's petition.
- 39.6.2 The Commission shall approve or deny the request, at its sole discretion, within sixty (60) calendar days after the Administrator receives all of the information needed to evaluate the Contractor's proposal. The Commission's decision shall be final and non-appealable.
- 39.6.3 If the Contractor's request is granted, the Commission shall have the right to reduce the Contractor's Rates if the Contractor's costs are reduced. Every twelve (12) months after a request is granted, the Administrator shall have the right to request, and the Contractor shall prepare promptly upon request, an updated audit and explanation of whether the extraordinary Rate increase should remain in effect. The Commission may reduce the Contractor's Rates if the Contractor does not timely submit adequate information to justify the continued payment of the extraordinary Rate increase.

39.7 RATE REDUCTIONS

The Commission shall have the right to reduce the Rates at any time, after providing at least thirty (30) calendar days' advance notice to the Contractor and an opportunity for a public hearing. The Commission may exercise this right when the Commission determines that a Change in Law, a reduction in Collection costs, or extraordinary event warrants a reduction in the Rates. The Administrator may request and the Contractor shall provide all of the information that is reasonably necessary for the Commission to determine whether a Rate reduction is appropriate. The Contractor shall have the right to attend the public hearing and present evidence and testimony in opposition to the Rate reduction.

39.8 SPECIAL RATES FOR EMERGENCIES AND DISASTER DEBRIS

If the Administrator directs the Contractor to collect Disaster Debris pursuant to Section 38 of this Agreement, the County shall pay the Contractor in accordance with the Rates that will be mutually agreed upon by the County and Contractor before the commencement of the Contractor's work.

39.9 DEPOSITS AND OTHER CHARGES FOR COMMERCIAL CUSTOMERS

The Contractor shall not collect a deposit prior to initiating service to a Commercial Customer.

The Contractor may charge one percent (1%) interest per month on any delinquent account for a Commercial Customer, subject to Applicable Laws.

SECTION 40: PAYMENTS TO CONTRACTOR FOR COLLECTION SERVICES

40.1 GENERAL BILLING AND PAYMENT PROCEDURES

The County and the Customers shall have no obligation to pay any fee, charge, cost, or other sum to the Contractor unless such payment is explicitly required in this Agreement and the fee is identified in Exhibit 3 or 4. The Rates for Collection Services in Exhibit 3 or 4 shall constitute full and complete compensation to the Contractor for the services provided by the Contractor under this Agreement. In all cases, the County shall have the sole authority to determine whether and the extent to which the Contractor is entitled to payment for services it provided under this Agreement.

40.2 PROHIBITIONS ON PAYMENTS FROM CUSTOMERS TO CONTRACTORS

Neither the Contractor nor its agents, subcontractors, employees or other representatives shall solicit or accept any payment or monetary remuneration from any Customer for the provision of any Service described in this Agreement, unless such payments are explicitly authorized in this Agreement and the payments are less than or equal to the amounts authorized. If a Customer or other Person delivers any money to the Contractor for any service provided in the Service Area, and such payment is not explicitly required in this Agreement, then the Contractor shall forward the money to the Administrator within two (2) Days after the money is received by the Contractor.

40.3 COUNTY'S OBLIGATION TO PAY FOR RESIDENTIAL COLLECTION SERVICE

The County shall be responsible for billing and collecting the fees that must be paid by the County's residents for Residential Collection Service. In turn, the County shall make monthly payments to the Contractor for the Residential Collection Service that the Contractor provides. The Contractor shall be entitled to payment for the services it renders, even if the County does not collect the necessary fees for such services from the County's residents. Notwithstanding the other provisions in this paragraph, the Contractor shall be responsible for billing and collecting its fees for any Supplemental Collection Service provided to Residential or Commercial Customers.

40.4 PROCEDURE FOR PAYMENT FOR RESIDENTIAL COLLECTION SERVICE

The Contractor shall submit an invoice to the County each month for the Collection Service provided to Residential Customers. The invoice shall provide sufficient information, in a format approved by the Administrator, to identify the number of Customers that received (a) Collection Service at Curbside and (b) Collection Service for Recyclable Materials at Multi-Family Dwelling Units. The County's payments to the Contractor for Residential Collection Service shall be made on a monthly basis, for services performed during the previous month. The amount

of the County's payments to the Contractor shall be calculated by: (a) multiplying the applicable Rate for Residential Collection Service by (b) the number of Residential Customers that received Residential Collection Service during the month, and (c) deducting any Franchise Fees, liquidated damages, or other sums that are due and owing from the Contractor. The County's payments shall be sent to the Contractor within twenty (20) Days after the County receives the Contractor's invoice, unless the invoice is incomplete or disputed. All undisputed amounts shall be paid in a timely manner.

40.5 ADDING NEW RESIDENTIAL CUSTOMERS

If a new Residential Customer is added to the Customer List, the County shall pay the Contractor for its services to the new Customer, subject to the following conditions. If the Contractor's initial service to a new Customer commences at any time during the month, the County's payment for that Customer will be for a full month's service.

40.6 REMOVING RESIDENTIAL CUSTOMERS

If the County removes a Customer from the Customer List, the County shall not be obligated to pay the Contractor for its services to the Customer during or after the month in which the Customer List is revised.

40.7 OVERPAYMENTS AND UNDERPAYMENTS FOR RESIDENTIAL SERVICE

If the Contractor provides service to a Person that is not included in the Customer List provided by the County, the Contractor shall provide the Director with appropriate information, in the format required by the Director, concerning the existence of and service to the Person. Upon verifying this information, the County shall revise the Customer List and shall begin remitting monthly payments to the Contractor for its new Customer. If the County pays the Contractor in error, for whatever reason, the Contractor shall promptly notify the Director to rectify the mistake. The Director shall make appropriate adjustments to the Contractor's payments under this Agreement to offset any past underpayments or overpayments resulting from any error.

40.8 PAYMENTS FOR COMMERCIAL CUSTOMERS AND MULTI-FAMILY MECHANICAL CONTAINER CUSTOMERS

The Contractor shall be solely responsible for the billing and collection of: (a) Rates to be charged for the Collection Services provided to Commercial Customers; (b) Rates to be charged for Collection Services provided to Multi-Family Mechanical Container Customers for the Collection of Garbage, Rubbish, and other waste, except Recyclable Materials; and (c) any Supplemental Collection Service provided to any Customer. The Contractor also shall be responsible for the Tipping Fees associated with these services.

40.9 COUNTY BILLINGS FOR COMMERCIAL SERVICE

The County, at its sole option, may elect to take over the billing and collection of some or all of the fees for Commercial Collection Service. If the County elects to do so, the Contractor shall provide the County with a comprehensive list of Commercial Customers. The list shall identify the location, size and number of containers, and frequency of Collection, for each Customer, in an electronic format approved by the County. The Contractor and County agree to enter into good faith negotiations to amend this Agreement (including Rates) to reflect such a change.

40.10 PAYMENTS FOR SHARED MECHANICAL CONTAINERS AND SHOPPING CENTERS

The Contractor may prorate its charges to accommodate Customers that share a Mechanical Container; however, the charges collectively shall not be more than the amounts set forth in the approved Rates, unless the Administrator approves the Contractor’s fees in advance, based on special circumstances. Similarly, the Administrator may require a shopping center to receive and pay for Collection Service that is greater than the sum of the needs of the individual shops sharing a Mechanical Container if the public also is using the Mechanical Container(s) in the shopping center.

40.11 CONTRACTOR’S DUTY TO PROVIDE BILLING INFORMATION

40.11.1 The Contractor shall provide all necessary billing information to the County and otherwise advise the County about the amount to be charged to each Customer each month for Collection Services in the Service Area.

40.11.2 The Contractor shall notify the County about the amount to be charged to each Customer receiving Commercial Collection Service. The Contractor also shall notify the County about any changes to the Collection Services provided to a Commercial Customer, including any Supplemental Collection Services.

40.11.3 With the Administrator's approval, the billing information required pursuant to this section may be used by the Contractor to satisfy some of the requirements in ~~Section 39~~ ~~35~~ above, for the Contractor's reports to the County. The Contractor and Administrator shall attempt to minimize any duplicative reporting. Upon request by the Contractor, the Administrator may waive one or more of the requirements in this Section 39.12.

40.12 LIMITATIONS ON CONTRACTOR'S RIGHT TO PAYMENT

The County's payments to the Contractor shall be derived from the revenues collected by the County from Customers that received Collection Services. The Contractor shall have no right to any revenues or funds obtained by the County from other sources, including but not limited to funds distributed to the County by the Florida Department of Environmental Protection or any other Person.

SECTION 41: FRANCHISE FEES

The Contractor shall pay a Franchise Fee to the County. The Franchise Fee shall be equal to five percent (5%) of the Gross Revenues, net of Franchise Fees, received each month by the Contractor for all of the Collection Services provided by the Contractor pursuant to this Agreement. The Franchise Fee shall be deducted from the County’s monthly payments to the Contractor for Collection Services, beginning with the County’s first payment after the Commencement Date.

Example of Gross revenue Split between County and Contractor (WM):

Gross Residential Rate (including franchise fees)	\$13.17 (a)
Net rate down to franchisable rate	÷ <u>105 %</u>

Rate (net of franchise fees)	= \$12.54
Franchise Fess %	x <u>5%</u>
5% Franchise Fee to Martin County	= <u>\$0.63</u> (b)
95% Net to Waste Management	<u>\$12.54</u> (a) – (b)

*same methodology applied to commercial

SECTION 42: RECYCLING REVENUES

The County shall receive all of the revenues derived from the sale of the Recyclable Materials that are collected by the Contractor pursuant to this Agreement. Contractor shall take all steps necessary to ensure that the revenues derived from the sale of Recyclable Materials are paid directly to the County and not the Contractor.

SECTION 43: TIPPING FEES

Except as otherwise set forth herein, the Contractor shall be solely responsible for the payment of all Tipping Fees owed to any facility used for the disposal, Recycling, or processing of any Solid Waste or other material collected by the Contractor under this Agreement. Among other things, the Contractor shall pay the cost to process or dispose of any Solid Waste or Recyclable Material that is collected from Commercial Customers and delivered to a Designated Facility. Contractor shall be solely responsible for billing and collecting appropriate fees from its Customers to pay the Tipping Fees and other costs at the Designated Facility.

Notwithstanding the preceding paragraph, the County shall be responsible for paying the Tipping Fees for the Residential Waste collected by the Contractor from Residential Curbside Customers in the Service Area. The County also shall pay the Tipping Fees for the Recyclable Materials collected by the Contractor from Multi-Family Mechanical Container Customers in the Service Area.

SECTION 44: VERIFICATION OF PAYMENT AMOUNTS

- 44.1** The County's acceptance of any payment from the Contractor or a Customer, or the County's deduction of any amount from the payments due to the Contractor for Collection Services, shall not be construed as an accord that the amount paid is the correct amount, nor shall it be construed as a release of any claim the County may have for additional sums payable from the Contractor.
- 44.2** At any time 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.
- 44.3** Whenever the Contractor submits a monthly report to the County pursuant to Section 35.4 herein, the Contractor also shall submit a signed written statement from the District Manager, verifying that the monthly report is accurate in all respects. The District Manager also shall verify each month that all of the Solid Waste and Recyclable Material collected by the Contractor in the Service Area has been delivered to a Designated Facility, and the Contractor's monthly report accurately accounts for all such deliveries.

- 44.4 At its expense, the County may inspect, copy and audit any books, records and documents of the Contractor that are relevant to the County's calculation of the amounts that are due and payable under this Agreement.

SECTION 45: LIQUIDATED DAMAGES

45.1 BASIS FOR LIQUIDATED DAMAGES

The County and Contractor acknowledge and agree that it is difficult or impossible to accurately determine the amount of damages that would or might be incurred by the County due to those failures or circumstances described in this Section 45 and for which the Contractor would otherwise be liable. Accordingly, the Contractor and the County have negotiated the terms and amounts of the liquidated damages set forth herein, and the parties agree that the liquidated damages are reasonable under the circumstances. The Contractor and County also have consulted with their legal counsel and confirmed that these liquidated damages are appropriate. Therefore, the following administrative assessments shall constitute liquidated damages, not penalties, for the Contractor's breach of this Agreement.

45.2 PROCEDURE FOR ASSESSING LIQUIDATED DAMAGES

- 45.2.1 Based upon an investigation, the Administrator shall determine whether liquidated damages should be assessed against the Contractor. At a minimum, the Administrator shall discuss the relevant facts with the Contractor before the Administrator decides to assess liquidated damages. The County shall not assess and the Contractor shall not be required to pay liquidated damages in those cases where the delay or failure in the Contractor's performance was (a) excused in advance by the Administrator or (b) due to unforeseeable causes that were beyond the Contractor's reasonable control, and without any fault or negligence of the Contractor.
- 45.2.2 Prior to assessing liquidated damages, the Administrator shall provide written notice to the Contractor, indicating the County's intent to assess liquidated damages and the basis for the County's position.
- 45.2.3 After receiving the Administrator's letter, Contractor shall have ten (10) Days to file a written letter of protest with the Administrator.
- 45.2.4 If a protest is timely filed, the matter shall be referred to the Manager for resolution. The Manager shall review the issues in a timely manner and then provide a written decision to the Contractor. The Manager's decision shall be final and non-appealable.
- 45.2.5 If a protest or petition is not timely filed by the Contractor, or if the Manager concludes that liquidated damages should be assessed, the Administrator shall deduct the liquidated damages from the County's next payment to the Contractor for Collection Services.
- 45.2.6 The procedures in this Section 45 shall be used in lieu of the procedures in ~~Section 50~~ when resolving disputes concerning liquidated damages.

45.3 LIQUIDATED DAMAGES BEFORE COMMENCEMENT DATE

The Administrator may impose liquidated damages for Contractor's actions during the Transition Period, as set forth below:

- 45.3.1 Failure to hire the Contractor's District Manager by August 1, 2007. For each calendar day of delay, Two Thousand Dollars (\$2,000) shall be assessed against the Contractor.
- 45.3.2 Failure to provide purchase orders or other documentation to the County by May 1, 2007, confirming that all necessary Collection vehicles, equipment, and Collection Containers have been ordered and will be delivered to the Contractor's equipment yard no later than September 1, 2007. For each calendar day of delay, Two Thousand Dollars (\$2,000) shall be assessed against the Contractor.
- 45.3.3 Failure to deliver the County-approved brochures and informational materials to Customers by September 21, 2007. For each calendar day of delay, Two Thousand Dollars (\$2,000) shall be assessed against the Contractor.
- 45.3.4 Failure to have the necessary Collection vehicles delivered to the Contractor's equipment yard and ready for service (e.g., registered, licensed, and tagged) by September 15, 2007. For each calendar day of delay, Four Thousand Dollars (\$4,000) shall be assessed against the Contractor.

45.4 LIQUIDATED DAMAGES DURING TERM OF AGREEMENT

During the term of the Agreement, the Administrator may assess liquidated damages as follows:

- 45.4.1 Failure to clean up spilled liquids or material in compliance with the requirements in this Agreement, within the deadlines set forth herein, after notification by the Administrator or a Customer. Each failure shall result in the imposition of a \$250 assessment per event.
- 45.4.2 Failure to collect any type of Solid Waste or Recyclable Material that was properly Set Out for Collection by a Customer on the Scheduled Collection Day, within the deadlines set forth herein, after notification by the County or Customer. This provision also applies to a failure to collect Solid Waste or Recyclable Materials from a Collection Container used by the County. Each failure shall result in the imposition of a \$100 assessment. If the Contractor fails to meet the deadlines contained in this Agreement, each additional Day of delay after the initial violation shall result in the imposition of an additional \$250 assessment.
- 45.4.3 Failure to complete each street on a route (including missing two or more customers on a street) on the Scheduled Collection Day, within the deadlines set forth herein, shall result in the imposition of a \$500/street/Day assessment.
- 45.4.4 Mixing Recyclable Materials, Solid Waste, or any other materials that are required to be collected separately, shall result in the imposition of a \$1,000 assessment per occurrence.

- 45.4.5 Mixing Recyclable Materials from Commercial Customers and Residential Customers during Collection, unless prior approval for the mixing has been granted by the Administrator, shall result in the imposition of a \$1,000 assessment for each occurrence.
- 45.4.6 Mixing Solid Waste or Recyclable Materials collected in the Service Area with Solid Waste or Recyclable Materials collected outside the Service Area, unless prior approval for the mixing has been granted by the Administrator, shall result in the imposition of an assessment of \$3,000 per incident.
- 45.4.7 Collecting Solid Waste or Recyclable Materials in the Service Area with vehicles that are not part of the dedicated fleet for the County, without prior written approval from the Administrator, shall result in the imposition of an assessment of \$3,000 per incident.
- 45.4.8 Failure to maintain a Collection vehicle or equipment in a clean and sanitary manner shall result in the imposition of an assessment of \$100 per incident per Day.
- 45.4.9 Failure to respond to a Legitimate Complaint within the specified time frame shall result in a \$100 assessment per incident per Day.
- 45.4.10 Failure to resolve Legitimate Complaints, other than Missed Collections, within seven (7) Days of notification shall result in the imposition of a \$250 per Day assessment for each occurrence until such complaint is resolved to the satisfaction of the County.
- 45.4.11 Failure to timely file any report or document required herein shall result in the imposition of a \$100 assessment for each Day that each report or document is late.
- 45.4.12 Failure to dispose of any Residential Waste, Commercial Waste, or Construction and Demolition Debris collected in the Service Area at a Designated Facility shall result in the imposition of an assessment equal to the current Tipping Fee at the Designated Facility, plus twenty-five percent (25%), for the amount disposed at the non-Designated Facility.
- 45.4.13 Failure to correct chronic problems shall result in the imposition of a \$250 assessment. Chronic shall mean three (3) or more Legitimate Complaints at the same Premises within a twelve (12) month period. The first assessment shall be imposed for the third Legitimate Complaint. Additional assessments may be imposed for each Legitimate Complaint thereafter. If the Contractor has more than five (5) chronic problems within one Agreement Year, there shall be an additional \$500 assessment.
- 45.4.14 Failure to correct chronic equipment problems shall result in the imposition of a \$250 assessment. Chronic shall mean three (3) instances of the same or similar problem with the same equipment or vehicle within a twelve (12) month period. The first assessment shall be imposed for the third problem. Additional assessments may be imposed for each problem thereafter.

- 45.4.15 Failure to properly and legibly label a Collection Container within five (5) Days of receiving notice from the Administrator shall result in the imposition of a \$100 assessment for each container not properly labeled.
- 45.4.16 If the Contractor fails to comply with any provision of this Agreement for which liquidated damages have not been specified, the County may impose a \$200 assessment per occurrence per Day.
- 45.4.17 Failure to have a vehicle operator properly licensed, or failure of the operator to carry his license while on duty, shall result in a \$100 assessment per occurrence per Day.
- 45.4.18 Failure to maintain office hours in the manner specified in this Agreement shall result in a \$100 assessment per occurrence per Day.
- 45.4.19 Failure to replace or repair a damaged Collection Container, or failure to replace a stolen Collection Container, as specified in this Agreement shall result in a \$50 assessment per incident per Day.
- 45.4.20 If the Contractor notifies the Administrator that a complaint has been resolved, when the complaint has not been resolved, there shall be a \$200 assessment per incident.
- 45.4.21 Collections outside of the hours specified in this Agreement, without prior approval of the Administrator, shall result in a \$100 assessment per incident per calendar day.
- 45.4.22 Failure of Contractor's personnel to treat Customer(s) or their property in a professional manner shall result in a \$50 assessment per incident.
- 45.4.23 Blocking driveways with Collection Containers shall result in the imposition of a \$25 assessment per incident per Day.
- 45.4.24 Failure to provide timely notices or educational materials shall result in the imposition of a \$1,000 assessment per event.
- 45.4.25 Damage to roadways, including but not limited to spills of oil and hydraulic fluids, shall result in the imposition of a \$250 assessment per occurrence.
- 45.4.26 Failure to repair damage to a Customer's property within the deadlines set forth in this Agreement, after receiving notification by the Customer or Administrator, shall result in the imposition of an assessment of \$250 per incident.
- 45.4.27 Soliciting or accepting an unauthorized fee or monetary compensation from a Customer shall result in the imposition of a \$500 assessment per incident.
- 45.4.28 Failure to respond to the Administrator by 5:00 p.m. on the first Day following a telephone call, voice message, facsimile transmission, or electronic message requesting a response from the District Manager, shall result in the imposition of an assessment of \$100, which shall be increased by another \$100 for each additional Day of delay.

- 45.4.29 Failure to maintain or provide documents in the manner required herein shall result in the imposition of an assessment of \$100 per document per Day.
- 45.4.30 Failure to comply with the deadlines and requirements in Section 51 concerning the Contractor's obligations prior to the termination of this Agreement, shall result in the imposition of an assessment of Two Thousand Dollars (\$2,000) per Day per failure.
- 45.4.31 Failure to establish a storage yard, garage, and maintenance facility in Martin County within two (2) years of the Effective Date shall result in the imposition of an assessment of \$500 per calendar day.
- 45.4.32 Failure to install a transponder in a Collection vehicle within one Day after the vehicle is placed into service, or failure to replace a transponder within one Day after it stops working, shall result in the imposition of an assessment of \$100 per vehicle per Day.
- 45.4.33 Failure to provide accurate information concerning Gross Receipts in a monthly or annual report shall result in the imposition of an assessment of \$1,000.00 per occurrence.

SECTION 46: PAYMENTS WITHHELD FROM CONTRACTOR

In addition to the remedies provided elsewhere in this Agreement, the County may withhold part or all of any payment otherwise due the Contractor if the Administrator concludes that the Contractor's actions or inactions have resulted in the following:

- (1) Unsatisfactory work not caused by conditions beyond the Contractor's control;
- (2) Defective work that has not been corrected;
- (3) The Contractor's failure to carry out instructions or orders of the County;
- (4) Failure of the Contractor to make payments to any subcontractor for materials or labor, which results in a claim against the County;
- (5) Unsafe working conditions allowed to persist by the Contractor; or
- (6) Failure of the Contractor to provide routes, schedules, data, or reports requested by the County.

If the foregoing problems are corrected, payment shall be made to the Contractor for the amounts withheld, but the County shall not be liable to the Contractor for interest on any delayed payment. The Administrator shall not exercise the County's right to withhold payments under this section unless the Administrator concludes that such action is reasonable and necessary in light of the Contractor's problems or failure of performance.

**SECTION 47: NO LIABILITY FOR DELAYS OR NON-
PERFORMANCE DUE TO FORCE MAJEURE
EVENTS**

- 47.1** Except for any payment obligation by either party, if the County or Contractor is unable to perform, or is delayed in its performance of any of its obligations under this Agreement by reason of any event of force majeure, such inability or delay shall be excused at any time during which compliance is prevented by such event and during such period thereafter as may be reasonably necessary for the County or Contractor to correct the adverse effect of such event of force majeure.
- 47.2** The Contractor shall not be entitled to compensation for such period of time as the delay or non-performance shall continue, but will be entitled to negotiated pro-rata compensation once the work has been completed. In the event of a strike of the employees of Contractor, or any other similar labor dispute which makes performance of this Agreement by the Contractor substantially impossible, the County shall have the right to call the Performance Bond within one (1) week of such action and engage another Person to provide necessary services.
- 47.3** An event of “force majeure” shall mean the following events or circumstances to the extent that they delay the County or Contractor from performing any of its obligations (other than payment obligation) under this Agreement:
- (a) An Act of God, tornado, hurricane, flood, fire, explosion (except those caused by negligence of Contractor, its agents, and assigns), landslide, earthquake, epidemic, and extremely abnormal and excessively inclement weather;
 - (b) Acts of public enemy, acts of war, terrorism, insurrection, riots, civil disturbances, or national or international calamities;
 - (c) Suspension, termination or interruption of utilities necessary to the Contractor's operation or duties under this Agreement;
 - (d) An injunction, or a legal or equitable proceeding brought against the County or Contractor, or a Change in Law; and
 - (e) Any act, event, or condition, which is determined by mutual agreement of the County and the Contractor to be of the same general type as the events of force majeure identified in the preceding paragraphs.

Labor disputes, labor shortages, changing economic conditions, and the economic hardship of the Contractor shall not be considered an event of force majeure.

- 47.4** To be entitled to the benefit of this Section 47, a party claiming an event of force majeure shall give prompt written notice to the other party, specifying in detail the event of force majeure, and shall diligently proceed to correct the adverse effect of any force majeure. The parties agree that, as to this Section 47, time is of the essence.

SECTION 48: BREACH AND TERMINATION OF AGREEMENT

48.1 FAILURE TO FULFILL OBLIGATIONS OF AGREEMENT

- 48.1.1 The Commission may terminate this Agreement for Contractor's failure to fulfill a material obligation of the Agreement, including but not limited to:
- 48.1.1.1 Refusal to comply with any lawful order of the Manager.
 - 48.1.1.2 Failing to begin work within the time specified in this Agreement.
 - 48.1.1.3 Failing to properly and timely perform work as instructed by the Administrator or as provided in this Agreement.
 - 48.1.1.4 Willful delay in filing reports and audits or providing information requested by the Administrator.
 - 48.1.1.5 Performing the work unsuitably or neglecting or refusing to correct such work as may be rejected as unacceptable, unsuitable or otherwise nonconforming or defective.
 - 48.1.1.6 Discontinuing operations without prior authorization from the Administrator.
 - 48.1.1.7 Failing to resume work that has been suspended within a reasonable time, not to exceed two (2) Days, after being notified to do so.
 - 48.1.1.8 Failing to obey any Applicable Law.
 - 48.1.1.9 Soliciting or accepting any Rates, charges or fees from Customers for the Collection, disposal, or processing of Solid Waste or Recyclable Materials collected within the Service Area, except when such actions are explicitly authorized herein.
 - 48.1.1.10 Willfully circumventing Rates, charges or fees due for the Collection, disposal, or processing of Solid Waste or Recyclable Materials collected within the Service Area.
 - 48.1.1.11 Failing to deliver Residential Waste, Commercial Waste, or Construction and Demolition Debris collected in the Service Area to a Designated Facility.
 - 48.1.1.12 Otherwise failing to perform or abide by the terms of this Agreement.
- 48.1.2 When any of the above reasons exist, the Commission may terminate this Agreement, without prejudice to any other rights or remedies of the County, after giving the Contractor and the Contractor's surety, if any, written notice that the Contractor has seven (7) Days to cure the default. Contractor may be granted an extension of time to cure the default if it is not reasonably possible to comply within seven (7) Days.

- 48.1.3 If the Contractor fails to cure the default within seven (7) Days and the Agreement is terminated by the Commission, the Contractor shall be entitled to receive compensation for all reasonable and allocable services that were satisfactorily performed by the Contractor up to the date of termination. If the County terminates this Agreement because of the Contractor's default, the Contractor shall be liable for all excess costs that the County is required to expend to complete the work covered by this Agreement.
- 48.1.4 If the County terminates this Agreement because of a default by the Contractor, the County may take over the work or any portion thereof or hire another Person to take over part or all of the work required under this Agreement.
- 48.1.5 If the County terminates this Agreement because of a default by the Contractor, the Contractor shall be liable to the County for all actual damages incurred by the County as a result of the Contractor's default. The foregoing shall apply without regard to the County's rights pursuant to the Performance Bond. The County may apply the Performance Bond toward any damages incurred or it may seek performance or damages from the Contractor's Guarantor.
- 48.1.6 If the Contractor has abandoned performance under this Agreement, then the County may terminate this Agreement three (3) calendar days after providing written notice to the Contractor of its intention to do so. The notice shall state the evidence indicating the Contractor's abandonment. For purposes of this paragraph, abandonment constitutes ceased operations for a period of time that results in failure to perform the terms of this Agreement.
- 48.1.7 Notwithstanding any other provision contained herein, if the Commission decides to terminate this Agreement because of the Contractor's default, the Commission shall have the exclusive authority to designate the time and date when the termination shall take effect. The Contractor shall provide Collection Services in compliance with the requirements of this Agreement until the time and date designated by the Commission for termination.

48.2 INSOLVENCY OF CONTRACTOR

Either the appointment of a receiver to take possession of all or substantially all of the assets of the Contractor, or a general assignment by Contractor for the benefit of creditors, or any action taken by or suffered by Contractor under any insolvency or bankruptcy act, shall constitute a breach of this Agreement by Contractor. In such cases, the County may terminate this Agreement three (3) Days after giving notice to the Contractor of its intent.

48.3 REPEAT VIOLATIONS OF AGREEMENT

If the Contractor's record of performance shows that the Contractor has frequently, regularly, or repetitively defaulted in the performance of any of the covenants, conditions, or requirements contained in this Agreement, and regardless of whether the Contractor has corrected each individual condition of default or paid liquidated damages, the Contractor shall be deemed a "habitual violator" and shall forfeit the right to any further notice or grace period to correct, and all of the prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. Under such circumstances, the Commission shall issue the Contractor a final warning, citing the grounds therefore, and any single default by Contractor of

whatever nature, subsequent to the issuance of the Commission's notice, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, the County may terminate this Agreement upon giving written notice to the Contractor, and termination shall be effective when the notice is delivered. All fees due to the Contractor under this Agreement shall be payable to the date of termination, and the Contractor shall have no further rights hereunder. Immediately upon receipt of the Commission's final notice, the Contractor shall cease any further performance under this Agreement.

SECTION 49: OPERATIONS DURING DISPUTE

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

SECTION 50: DISPUTE RESOLUTION PROCESS

- 50.1** The County and Contractor agree to cooperate and act in good faith at all times when dealing with each other. If a dispute arises between the parties, the parties shall attempt to resolve their differences quickly and informally. If they are unable to do so, they shall seek relief by following the procedures in Section 50.2, below, or by initiating a non-binding mediation process, pursuant to Section 50.8, below.
- 50.2** All claims, disputes and controversies arising out of or related to the performance, interpretation, application or enforcement of this Agreement, including but not limited to claims for payment and claims for breach of this Agreement, shall be referred to non-binding mediation before initiation of any adjudicative action or proceeding, at law or in equity, unless it shall be unreasonable to do so or an emergency situation or necessity dictates otherwise. All applicable statutes of limitations and defenses based on the passage of time shall be tolled while the mediation process is pending. The parties will take all reasonable measures necessary to effectuate such tolling.
- 50.3** The Contractor and County agree to participate fully in the mediation process and conscientiously attempt to resolve their dispute. Except as provided below, each party shall bear its own expenses in connection with the mediation. Both parties shall pay equally for the services of the mediator. The mediation shall take place in Martin County, Florida.
- 50.4** Notwithstanding the foregoing, if either party terminates this Agreement for cause, the terminating party shall have the right, in its sole discretion, to proceed directly with litigation of any claims or disputes relating to the termination for cause and may include other claims and disputes unrelated to the termination, and shall not be required to submit such claims or disputes to the mediation.
- 50.5** The parties agree that any claim filed in state or federal court concerning this Agreement shall be heard by a judge, sitting without a jury.
- 50.6** The County and the Contractor hereby knowingly, voluntarily, and permanently waive any right they may have to a jury trial concerning the performance, interpretation, application or enforcement of this Agreement.

- 50.7** In any litigation concerning this Agreement, the prevailing party shall recover its costs and reasonable attorney's fees from the non-prevailing party, including the fees and costs incurred in any trial, appeal, and mediation, if any, concerning the issue(s) in dispute.
- 50.8** When a dispute between the County and the Contractor is pending or threatened, the Contractor shall attempt to resolve the dispute with the Administrator. If this attempt is unsuccessful, either party may initiate a non-binding mediation process, in accordance with the provisions of Section 50.2, above. In addition, at anytime during the dispute resolution process, the Contractor may request the Manager to consider the disputed issue. The Contractor's written request shall be delivered to the Administrator and it shall describe the Contractor's proposed solution for resolving the dispute. The Administrator and the Manager may request, and the Contractor shall timely provide, any additional information that is reasonably necessary to evaluate the disputed issue and the Contractor's proposal. The Manager shall fully and fairly consider the Contractor's proposal in a timely manner. Upon request, the Manager shall meet with the Contractor and discuss its proposal. If the Manager rejects the Contractor's proposal in whole or in part, the Contractor may submit a written request to the Manager for an opportunity to present its proposed solution to the Commission. Thereafter, the Contractor shall be allowed to present its proposal to the Commission at a duly noticed public meeting. The Commission may accept or reject the Contractor's proposal, or take other action that the Commission deems appropriate, in the Commission's sole discretion.

SECTION 51: CONTRACTOR'S OBLIGATIONS PRIOR TO TERMINATION OF THIS AGREEMENT

51.1 CONTINUATION OF CONTRACTOR'S SERVICE

If the County does not exercise its right to renew this Agreement or if there are no renewal options remaining, the County will attempt to award a new agreement to a Person at least six (6) months prior to the expiration of this Agreement. In the event a new agreement has not been awarded within such time frame, Contractor shall provide Collection Services to the County for an additional ninety (90) calendar days after the expiration of this Agreement, at the then established Rates, if the County requests this service.

51.2 SALE OR LEASE OF CONTRACTOR'S COLLECTION CONTAINERS

Contractor shall allow the County or the County's newly selected franchise hauler to purchase, or rent for up to ninety (90) days, the Collection Containers used by the Contractor in the Service Area. The purchase price and rental fee shall be negotiated, but shall not be greater than the Fair Market Value.

51.3 SCHEDULE FOR TERMINATION OF CONTRACTOR'S SERVICE

Prior to the termination of this Agreement, Contractor shall work with the County to ensure that there is no interruption or reduction of service when the Contractor ends its services to the County. If a new franchise agreement is awarded to a Person other than the Contractor, the Contractor shall coordinate and cooperate with the newly selected franchise hauler, as well as the County, to minimize any disruptions in the service provided to the public. At a minimum, the Contractor shall comply with the following performance requirements and deadlines:

180 calendar days prior to expiration of Agreement	If requested, the Contractor shall provide to the Administrator and the selected franchise hauler a Collection Container inventory, in a format acceptable to the County, that includes each container's location (street address), capacity, identification number, Collection frequency, Customer name, Customer contact information, and whether the container is owned by the Customer or the Contractor. Thereafter, the Contractor shall not replace or exchange any Contractor-owned containers listed in the Collection Container inventory, without the Administrator's approval.
150 calendar days prior to expiration of Agreement	The Contractor shall attend a coordination meeting with the selected franchise hauler and the County. At or before the coordination meeting, the Contractor shall provide the County with a list of Contractor-owned containers that may be purchased by the County or the selected franchise hauler.
120 calendar days prior to expiration of Agreement	The Contractor shall work with the selected franchise hauler to develop a mutually agreeable schedule for the removal of Contractor-owned Collection Containers and placement of the selected franchise hauler's containers.

30 calendar days prior to expiration of Agreement	The Contractor shall begin to implement the schedule in cooperation with the selected franchise hauler. The Contractor shall take all steps necessary to ensure there is no interruption in the Collection Service provided to Customers.
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51.4 COUNTY'S RIGHT TO PROCURE NEW SERVICES

At any time, the Commission may issue a request for proposals, or commence negotiations with a Person other than the Contractor, or take any other step deemed necessary by the Commission to obtain the services of a Person who will collect Solid Waste for the County after this Agreement expires or is terminated.

SECTION 52: INDEMNIFICATION AND HOLD HARMLESS

The Contractor hereby covenants and agrees to defend fully, protect, indemnify and hold harmless the County from and against each and every claim, demand or cause of action and any and all liability, cost, expense (including but not limited to reasonable attorneys' fees, costs, expenses, and liabilities incurred in defense of the County, even if incident to appellate, post-judgment or bankruptcy proceedings), damage or loss which may be made or asserted by the Contractor or any third party (including but not limited to the County) whether caused in whole or in part by, arising out of, or in any way incidental to or in connection with the Contractor's acts, omissions, defaults, or misconduct under this Agreement, or the County's decision to award this Agreement to the Contractor. At the election of the County, the Contractor shall contest and defend the County against any such claims. Such obligation to hold harmless and indemnify shall continue notwithstanding any negligence or comparative negligence on the part of the County relating to such loss or damage and shall include all reasonable and related costs, expenses, and liabilities incurred by the County in connection with any such claim, suit, action or cause of action, including the adjustment and investigation thereof and the defense of any action or proceeding by defense counsel satisfactory to the County Attorney and any order, judgment, imposition or decree which may be entered in any action or proceeding as a result thereof. This indemnification shall also include, without limitation, any claim or liability arising from or in any way related to actual or threatened damage to the environment, agency costs of investigation, personal injury or death, or damage to property, due to a release, alleged release, or improper handling by Contractor of Solid Waste, Hazardous Waste, Biomedical Waste, Biological Waste, infectious waste or Sludge, regardless of the merits of the claim. Only those matters which are determined by a final, nonappealable judgment to be the result of the negligence of the County shall be excluded from the Contractor's duty to indemnify the County, but only to the extent of gross negligence of the County. For the purpose of this Section 52, the "County" shall be deemed to include the County Commissioners and the County's officers, agents, employees and affiliates, and the "Contractor" shall be deemed to include the Contractor's subcontractors, sub-subcontractors of any tier, and their respective officers, agents, employees, and affiliates. For purposes of this indemnification, "claims" shall mean and include all obligations, actual and consequential damages, and costs reasonably incurred in the defense of any claim against the County, including but not limited to reasonable fees for accountants, attorneys, attorney assistants and expert witnesses, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses. The County shall have the right to defend any such claim against it in such manner as the County deems appropriate or desirable in its sole discretion without relieving Contractor of any obligation hereunder. Contractor acknowledges that twenty five dollars (\$25) paid by the County from the moneys payable to Contractor is separate and distinct consideration for the giving of this indemnity and hold harmless, and the Contractor acknowledges and agrees that County would not enter into this Agreement without this indemnification of County by Contractor, and that the County's entering into this Agreement, in addition to the foregoing,

shall constitute good and sufficient consideration. Nothing in this Agreement shall be construed in any way to affect the County's rights, privileges, and immunities as set forth in Florida Statutes Section 768.28, as amended from time to time. This indemnity and hold harmless obligation requirement does not limit any additional compensation available from insurance, bonding, or equitable and legal remedies available under this Agreement. This indemnity and hold harmless obligation shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

SECTION 53: CONTRACTOR'S INSURANCE

Contractor shall maintain, on a primary basis and at its sole expense, at all times after the Effective Date until this Agreement is terminated, the following insurance coverages, with the limits and endorsements described herein. The requirements contained herein, as well as the County's review or acceptance of insurance maintained by the Contractor, is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Agreement.

53.1 COMMERCIAL GENERAL LIABILITY

Contractor shall maintain Commercial General Liability at a limit of liability not less than \$2,000,000 Each Occurrence / \$2,000,000 General Aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

53.2 BUSINESS AUTOMOBILE LIABILITY

Contractor shall maintain Business Automobile Liability at a limit of liability not less than \$2,000,000 Combined Single Limit / Each Accident. Coverage shall include liability for Owned, Non-Owned & Hired automobiles.

53.3 POLLUTION LIABILITY

Contractor shall maintain Pollution Liability at a minimum limit not less than \$2,000,000 Each Occurrence / \$4,000,000 Aggregate. When a self-insured retention or deductible exceeds \$25,000, the County reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statements. For policies written on a "Claims-Made" basis, Contractor shall maintain a Retroactive Date prior to or equal to the Effective Date of this Agreement. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggers the right to purchase a Supplemental Extended Reporting Period (SERP) coverage during the term of this Agreement, Contractor agrees to purchase a SERP with a minimum reporting period not less than two (2) years. The requirement to purchase a SERP shall not relieve Contractor of the obligation to provide replacement coverage.

53.4 EXCESS LIABILITY

Contractor shall maintain Excess Liability at a limit of liability not less than \$5,000,000 Each Occurrence / \$5,000,000 Aggregate. Contractor shall include each required policy herein as an underlying policy on the Excess Liability. Contractor shall endorse the County as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Excess Liability provides coverage on a "True Following-Form" basis. This liability may be satisfied by Umbrella Liability form, and the limit may be satisfied by multiple layers of coverage.

53.5 WORKER'S COMPENSATION INSURANCE & EMPLOYERS LIABILITY

Contractor shall maintain Worker's Compensation Insurance & Employers Liability in accordance with Chapter 440, Florida Statutes. Contractor shall maintain Employer Liability Limits not less than \$1,000,000 Each Accident, \$1,000,000 Disease Each Employee, and \$1,000,000 Disease Policy Limit.

53.6 ADDITIONAL INSURED ENDORSEMENTS

Contractor shall endorse its insurance with the County as an Additional Insured as follows: (1) for the Commercial General Liability, the Contractor shall endorse the County with either a CG 2026 Additional Insured – Designated Person or Organization endorsement or CG 2010 Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization endorsement, or similar endorsement; (2) for the Business Automobile Liability, the Contractor shall endorse the County with a CA 2048 – Designated Insured, or similar endorsement; (3) for the Pollution Liability, the Contractor shall endorse the County with the standard Additional Insured endorsement filed by the insurer for use in the State of Florida; and (4) for the Excess Liability, the Contractor shall endorse the County as an "Additional Insured" on the Umbrella or Excess Liability, unless the policy provides coverage to the underlying policies on a "True Following-Form" basis. The Additional Insured shall read "County of Martin" for all endorsements.

53.7 WAIVER OF SUBROGATION

Contractor agrees to a Waiver of Subrogation for each policy required herein. When required by the insurer, or should a policy condition not permit Contractor to enter into an pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy that includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

53.8 CERTIFICATE(S) OF INSURANCE

Prior to the Effective Date of this Agreement, Contractor shall provide County a Certificate(s) of Insurance evidencing that all coverages, limits, deductibles, self-insured retentions and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) calendar day duty to notify due to cancellation, material change in coverage, or non-renewal of coverage. The Certificate Holders should read:

Original to: Martin County Board of County Commissioners
County Attorney
County Attorney's Office
2401 S.E. Monterey Road
Stuart, FL 34996

Copy to: Martin County Board of County Commissioners
Risk Manager
Risk Management Department
2401 S.E. Monterey Road
Stuart, FL 34996

53.9 DEDUCTIBLES OR SELF-INSURED RETENTIONS

Contractor shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention. When a self-insured retention or deductible exceeds \$100,000 for any of the foregoing required policies, the County reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statements to determine the reasonability of the retention levels, based on the financial capacity of Contractor.

53.10 RIGHT TO REVISE OR REJECT

The County reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverage, deductibles, self-insured retentions or endorsements, or to reject any insurance policies that fail to meet the criteria stated herein. Additionally, the County reserves the right, but not the obligation, to review or reject any insurer providing coverage due to its poor financial condition or failure to operate in compliance with Applicable laws.

SECTION 54: PERFORMANCE BOND

The Contractor shall furnish to the County an irrevocable Performance Bond for the faithful performance of this Agreement and all of the Contractor's obligations hereunder. The Performance Bond shall be in the amount of Three Million Dollars (\$3,000,000). The form and content of the Performance Bond shall be substantially the same as the draft bond in Exhibit 8, and shall be subject to the approval of the County. The Performance Bond shall be issued by a surety company that is acceptable to the County. At a minimum, the surety company shall be rated "A+" or better as to management and "FSC XV" or better as to strength by Best's Insurance Guide or Surety, and shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds. The Surety shall have been in business and have a record of successful and continuous operation for at least five years. The Performance Bond shall: (a) contain any applicable provisions required by Section 255.05, Florida Statutes; (b) guarantee the performance of the Agreement; (c) serve as security for the payment of all Persons performing labor and furnishing materials in connection with this Agreement; and (d) not be canceled or altered without at least thirty (30) calendar days prior notice to the County. The Contractor shall furnish the Performance Bond to the County within thirty (30) calendar days after the Effective Date.

Maintenance of the Performance Bond and the performance by the Contractor of all of the obligations under this section shall not relieve the Contractor of liability under the default and termination provisions set forth in this Agreement or from any other liability resulting from any breach of this Agreement. The Performance Bond may be "called" and used if there is any default or breach of this Agreement by the Contractor. Calling or using the Performance Bond shall not restrict or preclude the use of any additional or other remedies available to the County against the Contractor for breach, default or damages.

The County reserves the right to require the Contractor to increase the amount of the Performance Bond in the event of a change in a Designated Facility, other changed circumstances, or upon the renewal of this Agreement. If the County exercises this right, the Contractor shall pay the cost of the increased Performance Bond, without any increase in the Rates.

SECTION 55: PARENT CORPORATION GUARANTEE

The Contractor shall provide a corporate guaranty from the Contractor's parent company ("Guarantor"), whereby the Guarantor shall guarantee the performance of the Contractor's obligations under this

Agreement. The form and content of the corporate guaranty shall be substantially the same as the draft guaranty in Exhibit 6 and shall be subject to the County's approval.

SECTION 56: ASSIGNMENT OF AGREEMENT

- 56.1** No assignment of this Agreement or any right or responsibility occurring under this Agreement shall be made in whole or in part by the Contractor without the express written consent of the Commission. The Commission shall have the right to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the Commission shall be null and void and shall be grounds for the County to declare a default of this Agreement. In such cases, the Commission may terminate this Agreement by giving written notice to the Contractor, and upon the date of such notice, this Agreement shall be deemed immediately terminated. Upon such termination all liability of the County under this Agreement to the Contractor shall cease, except for the amounts due and owing for Collection Services completed at that time. Thereafter, the County shall have the right to call the Performance Bond and shall be free to negotiate with any Person for the service which is the subject of this Agreement.
- 56.2** In the event that the Commission's consent to any proposed assignment is denied, Contractor shall continue to provide all of the services required herein for the remainder of the term.
- 56.3** If any assignment is approved by the Commission, the assignee shall fully assume all of the liabilities of the Contractor.
- 56.4** The requirements of this Section 56 shall include, but not be limited to cases where the Contractor hires a subcontractor to undertake any of the Contractor's obligations under this Agreement.

SECTION 57: TRANSFER OF AGREEMENT

The transfer of this Agreement, by transfer of ownership, transfer of corporate shares, or any other means to effect a change in the ownership structure of the Contractor, shall be effective only after approval by the Commission. Any transaction that results in the Contractor or its assets being purchased by or merged with another Person shall constitute a transfer of this Agreement, which is subject to the County's approval. An application to transfer this Agreement shall be submitted jointly by the proposed transferor and transferee, and shall contain the same information that was necessary for the granting of this franchise pursuant to the County's RFP. The proposed transferee shall verify in writing that (a) it will comply with all of the requirements in this Agreement and (b) it has the financial resources, expertise, equipment and other capabilities necessary to do so. The Commission may grant or deny the application for transfer, or may grant the application subject to conditions.

SECTION 58: SUBSEQUENT COUNTY ORDINANCES

Nothing contained in any County ordinance hereafter adopted shall be construed to affect, change, modify or otherwise alter the duties, responsibilities, and operations of the Contractor under this Agreement, unless it is agreed to in writing by both the Contractor and the County and this Agreement is amended accordingly.

SECTION 59: AMENDMENTS TO THE AGREEMENT

59.1 GENERAL REQUIREMENTS

This Agreement constitutes the entire Agreement and understanding between the parties hereto. This Agreement shall not be considered modified, altered, changed or amended in any respect unless the Agreement is amended in writing and the amendment is signed by the Contractor and the Commission or its designee.

59.2 COUNTY POWER TO AMEND AGREEMENT

The Commission shall have the power to make changes in this Agreement relative to the scope and method of providing Collection Service, when the Commission deems it necessary and desirable for the public welfare. The Administrator shall give the Contractor notice of any proposed change and an opportunity to be heard concerning any relevant matters. The County and Contractor agree to enter into good faith negotiations to modify this Agreement and the Rates, as necessary. The scope and method of providing Collection Service, as referenced herein, shall be liberally construed to include, but not be limited to the manner, procedures, operations, and obligations of the Contractor.

59.3 AMENDMENTS DUE TO CHANGES IN LAW

The County and the Contractor understand and agree that changes in the Applicable Laws may require amendments to some of the conditions or obligations of this Agreement. In the event any future change in any Applicable Law materially alters the obligations of the Contractor or the County, then the provisions and Rates in this Agreement may need to be modified. The County and Contractor agree to enter into good faith negotiations regarding amendments to this Agreement, which may be required in order to implement changes for the public welfare or due to a Change in Law.

SECTION 60: WAIVER OF RIGHTS

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 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 Contractor thereafter to enforce same. Nor shall waiver by the County or Contractor of any breach of any term 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.

SECTION 61: WAIVER OF FLOW CONTROL CLAIMS

The Contractor has voluntarily entered into this Agreement for the purpose of enjoying the economic and other benefits conferred upon the Contractor by this Agreement. To ensure that the County also enjoys the benefits of this Agreement, the Contractor hereby knowingly, voluntarily, and permanently waives its right to challenge, contest, or invalidate the provisions in this Agreement that require the Contractor to use a Designated Facility for the disposal or processing of Solid Waste collected by the Contractor in the Service Area. This waiver includes but is not limited to any claim that this Agreement implements an

inappropriate form of Solid Waste “flow control”, regardless of whether the claim is based on local, state, or federal law, or the Florida or U.S. Constitution, or any other grounds, and regardless of whether the claim seeks damages, injunctive relief, or other remedies at law or in equity.

SECTION 62: GOVERNING LAW AND VENUE

The laws of the State of Florida shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement. Any and all legal actions necessary to enforce this Agreement shall be held and maintained solely in Martin County, Florida.

SECTION 63: COMPLIANCE WITH LAWS AND REGULATIONS

Contractor shall at all times comply with all Applicable Laws now in effect or hereafter enacted, which are applicable in any way to Contractor, its officers, employees, agents, or subcontractors.

SECTION 64: PERMITS AND LICENSES

Contractor, at its sole cost and expense, shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals necessary or required for Contractor to perform the work and services described herein.

SECTION 65: EQUAL OPPORTUNITY EMPLOYMENT

Contractor agrees that it shall not discriminate against any employee or applicant for employment for work under this Agreement because of handicap, race, color, religion, sex, age, or national origin and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment by Contractor without regard to race, color, religion, sex, age or national origin. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractor agrees to furnish the County with a copy of its Affirmative Action Policy, upon request. A copy of the policy also shall be submitted to the Administrator at least thirty (30) calendar days before the Commencement Date.

SECTION 66: AGREEMENT DOCUMENTS

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

- Exhibit 1 through Exhibit 11

After the Effective Date, the Agreement shall be supplemented with the following:

- Performance Bond and Insurance Certificates
- Any amendments to this Agreement that are approved by the Commission and Contractor

There are no Agreement documents other than those listed above. In the event of conflict between the Agreement and the provisions of any exhibit, the provisions of this Agreement shall control.

SECTION 67: ALL PRIOR AGREEMENTS SUPERSEDED

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

SECTION 68: HEADINGS

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

SECTION 69: CONSTRUCTION OF AGREEMENT

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.

SECTION 70: SURVIVABILITY

Any term, condition, covenant, or obligation which requires performance by a party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.

SECTION 71: SEVERABILITY

The definitions and provisions contained in this Agreement shall not be construed to require the County or the Contractor to take any action that is contrary to any local, state or federal law. Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the County, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect. This Agreement shall be construed as if such invalid, illegal, void or unenforceable provision had never been contained herein.

SECTION 72: FAIR DEALING

The Contractor declares and warrants that the Contractor enters into this Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commission member, County officer, or County employee, directly or indirectly owns more than 1% of the total assets or capital stock of the

Contractor, nor will any such Person directly or indirectly benefit by more than 1% from the profits or emoluments of this Agreement, nor has the Contractor provided any gift to any such Person or their family. The Contractor warrants that it has not employed or retained any company or Person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and the Contractor has not paid or agreed to pay any Person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133 and 287.134 Florida Statutes, for a public entity crime.

SECTION 73: SOVEREIGN IMMUNITY

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.

SECTION 74: REMEDIES NOT EXCLUSIVE

The remedies specified in this Agreement shall supplement, and not be in lieu of, any other remedies provided at law or in equity. The payment of any liquidated damages by the Contractor shall not constitute a defense for the Contractor, nor an election of remedies by the County, nor serve as the basis for a claim of estoppel against the County, nor prevent the County from terminating this Agreement. The County's decision to refrain from assessing liquidated damages, or suspending or terminating this Agreement, or seeking any other relief from any failure in the Contractor's performance, shall not constitute a waiver of the County's right to pursue any other remedy or a waiver of its right to pursue a remedy for any future failure by the Contractor. No remedy conferred by this Agreement 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, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

SECTION 75: NOTICES TO PARTIES

All notices, requests, authorizations, approvals, protests, and petitions provided for herein shall be in writing. Such documents shall be addressed as shown below and either (a) hand delivered, (b) mailed by registered or certified mail (postage prepaid), return receipt requested, or (c) sent by telecopy. The documents shall be deemed to have been duly delivered when personally delivered, or when transmitted by telecopier and receipt is confirmed by telephone, or when delivered by U.S. Mail or courier service, as shown by the return receipt. For the present, the Contractor and the County designate the following as the appropriate people and places for delivering notices and other documents:

As to County:	Administrator Martin County Board of County Commissioners 2401 S.E. Monterey Road Stuart, FL 34996 Telephone: 727/221-2360 Facsimile: 727/288-5432
---------------	---

Copy to: County Attorney
Martin County Board of County Commissioners
2401 S.E. Monterey Road
Stuart, FL 34996
Telephone: 727/288-5440
Facsimile: 727/288-5439

As to Contractor: Waste Management Inc. of Florida
ATTN: Ron Kaplan, Assistant Secretary
2700 NW 48th Street
Pompano Beach, Florida 33073
Telephone: 954/984-2021
Facsimile: 954/984-2057

Copy to:

SECTION 76: CONTRACTOR'S RECYCLING AND DISPOSAL SERVICES

76.1 The Contractor shall provide certain recycling and disposal services to the County, subject to the conditions set forth below, throughout the term of this Agreement. The County shall have the right, but not the obligation, to use the Contractor's recycling and disposal services. Nothing contained herein shall preclude the County from using the services of another Person or taking any other action deemed appropriate by the County.

76.2 Upon the County's request, the Contractor shall accept Recyclable Materials from the County at the County's Transfer Station in Palm City, Florida, and the Contractor shall transport such materials to the Contractor's Reuter Recycling Facility in Pembroke Pines, Florida, for processing and recycling.

76.2.1 The County may deliver the Recyclable Materials to the Contractor in a "single stream"--i.e., all of the different types of Recyclable Materials (e.g, paper; plastic; aluminum cans) may be mixed together.

76.2.2 The County shall load the Recyclable Materials into the Contractor's transport trailers at the County's Transfer Station.

76.2.3 The Contractor shall transport, unload, process, recycle, market, sell, and dispose of the materials that are loaded into the Contractor's trailers by the County. The Contractor shall pay all costs and receive all revenues associated with these activities, notwithstanding the provisions contained in Section 42 of this Agreement.

76.2.4 The Contractor shall pay ten dollars (\$10.00) to the County for each ton of Recyclable Material that the County loads into the Contractor's transport trailers at the County's Transfer Station. The Contractor's payments per ton shall be adjusted each year in the manner described in

Section 39.3 of this Agreement, based on the changes in the CPI and DOE. The County shall be paid monthly, based on the County's deliveries during the prior month. The amounts due to the County for Recyclable Materials shall be deducted each month from the County's payments to the Contractor pursuant to Section 40.4 herein.

76.3 Upon the County's request, the Contractor shall accept Construction and Demolition Debris from the County at the County's Transfer Station in Palm City, Florida, and the Contractor shall transport such material to the Okeechobee Landfill in Okeechobee County, Florida, for processing, recycling, and disposal.

76.3.1 The County shall load the Construction and Demolition Debris into the Contractor's transport trailers at the County's Transfer Station.

76.3.2 The Contractor shall transport, unload, process, recycle, market, sell, and dispose of the materials that are loaded into the Contractor's trailers by the County. The Contractor shall pay all costs and receive all revenues associated with these activities.

76.3.3 The County shall pay twenty nine dollars (\$29.00) to the Contractor for each ton of Construction and Demolition Debris that the Contractor accepts, processes, recycles and disposes of pursuant to this section of the Agreement. The County's payments per ton shall be adjusted each year in the manner described in Section 39.3 of this Agreement, based on the changes in the CPI and DOE, to account for increases in the cost of transporting the Construction and Demolition Debris. The County's payments also may be adjusted pursuant to: (a) Section 39.4 to account for changes in the Tipping Fee at the Okeechobee Landfill; (b) Section 39.5 to account for Changes in Law; and (c) Section 39.6 to account for extraordinary events. However, there shall be no adjustment pursuant to Section 39.4 unless the Contractor explains to the County's satisfaction (a) how the \$29 fee is divided between the cost of transporting, processing, and disposing of the County's material and (b) the adjustment pursuant to Section 39.4 does not duplicate, in whole or in part, the adjustment granted pursuant to Section 39.3 herein.

76.3.4 The Contractor shall be paid monthly, based on the amount of Construction and Demolition Debris that was accepted, processed, recycled, and disposed of pursuant to this Agreement during the previous month. The Contractor shall submit an invoice to the County each month and the County shall pay the undisputed amounts in accordance with the general procedures in Section 40.4 herein.

76.4 The weight of the County's Recyclable Materials and Construction and Demolition Debris shall be measured by using the scales at the County's Transfer Station. The County's scale house records shall be used to determine the basis for any payments under this Section 76.

76.4 Under this Section 76, the Contractor shall not be obligated to accept any Recyclable Material or Construction and Demolition Debris that contains Hazardous Waste, Biomedical Waste, or other material that cannot be placed in a Class I landfill for disposal in accordance with Applicable Law. However, the Contractor shall be deemed to have accepted and shall be solely responsible for the management, processing, and disposal of any material that Contractor removes from the County's Transfer Station.

76.5 If the County wishes to use one or more of the Contractor's services pursuant to this Section 76, the County shall provide written notice to the Contractor. The Contractor shall provide its services within thirty (30) Days after receiving the County's notice or at such other time as is mutually acceptable to the parties. Thereafter, the County shall give notice at least one hundred eighty (180) Days before terminating the Contractor's services under this Section 76, unless this Agreement is terminated earlier.

76.6 If the County notifies the Contractor that the County will not use the Contractor's services for Recyclable Materials pursuant to Section 76.2, the Contractor may increase its Rates for Collection Services (Exhibit 3), except the Rates for "Special Services," by an amount up to one percent (1%).

76.7 If the County notifies the Contractor that the County will not use the Contractor's services for Construction and Demolition Debris pursuant to Section 76.3, the Contractor may increase its Rates for Collection Services (Exhibit 3), except the Rates for "Special Services," by an amount up to four and nine tenths percent (4.9%).

76.8 Notwithstanding anything else contained in this Agreement, the County shall have the unrestricted right to process the Construction and Demolition Debris, if any, that the County delivers to the Contractor pursuant to Section 76.3, above. For example, the County may remove Recyclable Materials, Recovered Materials, wood, wallboard, soil, concrete, metals, and other materials from the Construction and Demolition Debris. In this manner, the County may reduce the amount of material that the County delivers to the Contractor pursuant to Section 76.3, above. These waste processing activities may be performed for the County by the County's employees or any other Person, including a third party contractor. The County is not obligated to provide the Contractor with the materials that the County removes or processes from the Construction and Demolition Debris. The Contractor shall not under any circumstances be allowed to raise its Rates as a result of the County's exercise of its rights under this Section 76.8.

Both parties reserve the right to designate a different representative or representatives in the future, or to change the address(es) for notice, by providing written notice to the other party of such change.

IN WITNESS WHEREOF, the parties have made and executed this Agreement, as attested to by the signature of their duly authorized officers or representatives and their official seals affixed hereon, the day and year first above written.

MARTIN COUNTY, through its County Commission
Attest:

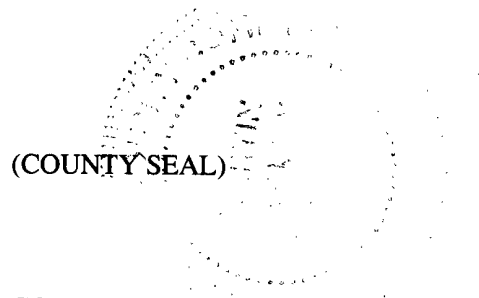
Marsha Ewing
Marsha Ewing, County Clerk

By: Michael DiTerfizzi
Michael DiTerfizzi, Chairman
____ day of _____, 2007

Approved as to form by
Office of the County Attorney

By: Stephen Fry
Stephen Fry, County Attorney

25 day of September, 2007



(COUNTY SEAL)

CONTRACTOR

WITNESSES:

COMPANY

Frederick L. Sabin
Signature

BY: John Casagrande
Signature

FREDERICK L. SABIN
Print Name and Title

John Casagrande, V.D.
Print Name and Title

20 day of NOVEMBER, 2007

20 day of NOVEMBER, 2007

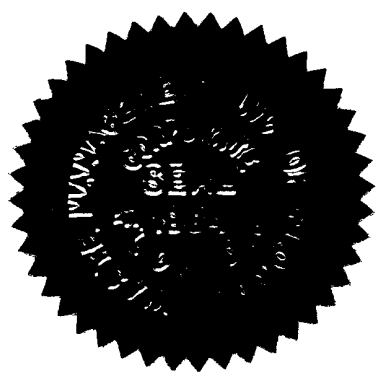
John M. Albert
Signature

JOHN M. ALBERT MGR. GOV'T AFFAIRS
Print Name and Title

20 day of NOVEMBER, 2007

ATTEST:

[Signature]
SECRETARY



STATE OF FLORIDA)
) SS:
COUNTY OF MARTIN)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, an organization authorized to do business in the State of Florida, and acknowledged executed the foregoing Agreement as the proper official of _____ for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2007.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT 1

Map of Service Area

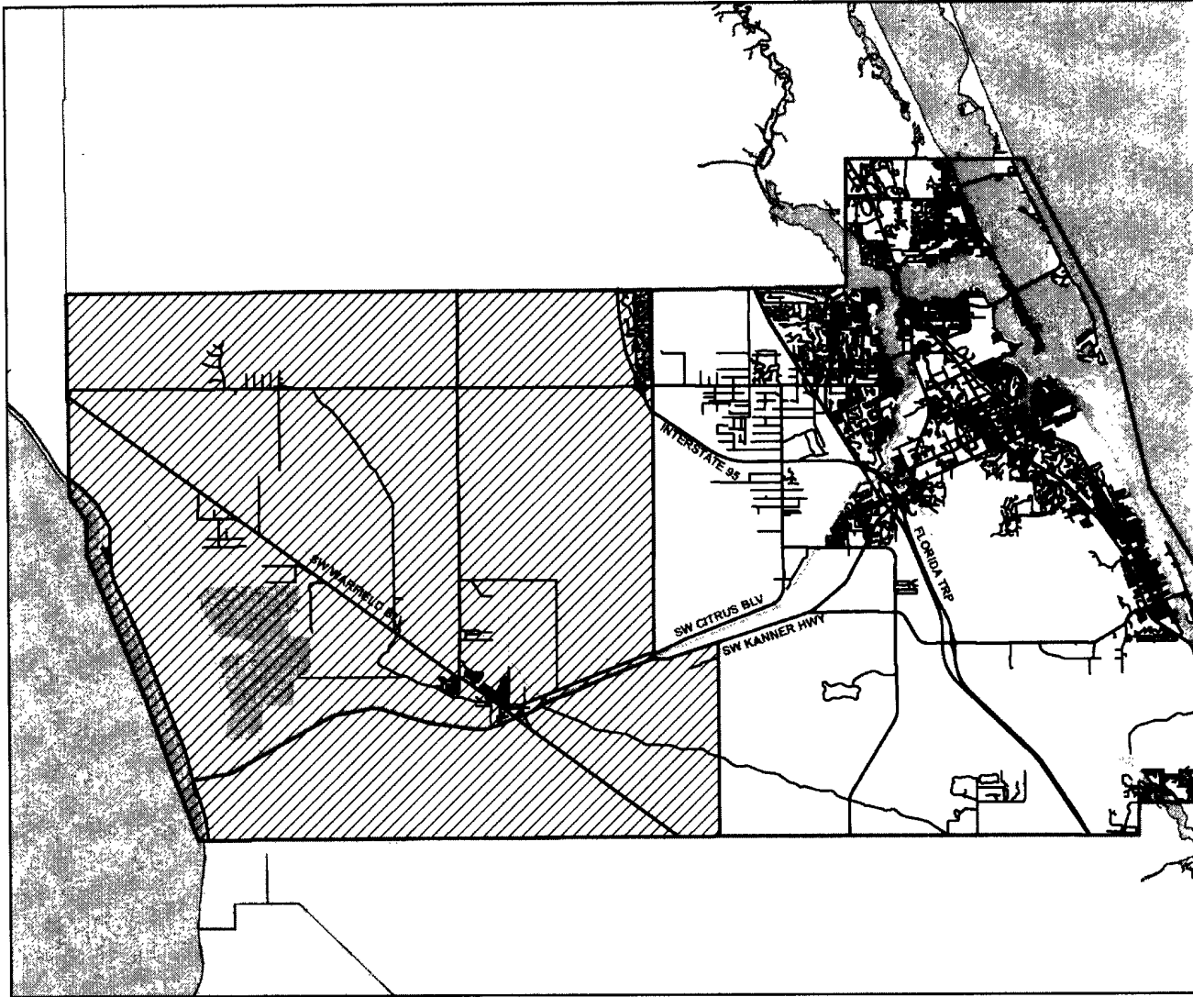


EXHIBIT 2

Legal Description of Service Area

EXHIBIT 3
Rates for Collection Service
Effective October 1, 2007
East and West

EAST

Residential		Monthly Rates	
Garbage Collection		\$6.60	Per Residence
Yard Trash Collection		\$4.57	Per Residence
Recycling Collection		\$2.00	Per Residence
Residential Monthly Rate		\$13.17	Per Residence
Recycling Multi-Family		Monthly Rates	
Curbside		\$2.00	Per Residence
Recycle Cart		\$20.00	Per Cart
Rolloff Closed Container		\$200.00	Per Pull
Government Cardboard Container		No Cost	Per Pull
Curbside Multi-Family Solid Waste			
Multi-Family Solid Waste		Monthly Rates	
Solid Waste Collection		\$6.60	Per Residence
Yard Waste Collection		\$4.57	Per Residence
Disposal		\$6.50	Per Residence
Total		\$17.67	Per Residence
Commercial Solid Waste,			
Roll Cart Collection		Monthly Rates	
Collection		\$13.60	Per Cart
Disposal		\$8.62	Per Cart
Total		\$22.22	Per Cart
Commercial Rates			
Frontend Load Containers		Per Cubic Yard	
Collection		\$6.28	
Disposal		\$3.98	
Total		\$10.26	
RollOff Services		Per Pull	
10 yd		\$210.00	
15 yd		\$218.00	
20 yd		\$225.00	
30 yd		\$236.00	
Compactor		\$250.00	
Rent	Less than 2 pulls per month	\$50.00 per month	
Special Services		Per Month	
Residential Rear Door Collection		\$18.82	
Commercial Container Rollout		\$7.00	Per Service
Lock for Containers		\$14.00	
Unlock Containers		\$7.00	Per Service
Lock Bar		\$21.00	
Castors (Wheels)		\$21.00	
Odor Control		\$21.00	
Additional Services		\$15.00	Per Cubic Yard
Disposal Rates Calculated At		\$57.00	Per Ton
All Rates include a 5% Franchise Fee			

EXHIBIT 4

Notes for Commercial Collection Service

Effective October 1, 2007

1. The Container Rental Charge for C&D Debris Collection Service may be collected if the Roll-Off Container is not picked up for Collection at least twice in one month. If the Roll-Off Container is picked up for Collection on two or more occasions in one month, the Container Rental Charge shall not be paid by the Customer.
2. The Collection Charge, Disposal Charge, and Container Rental Charge for the Collection of C&D Debris also may be collected if a Roll-Off Container is used on a temporary basis or in a manner approved by the Administrator for the Collection of materials other than C&D debris.
3. The Rates for Roll-Off Containers used by the County shall only be paid when the Contractor provides additional Collection Service in compliance with the requirements in ~~Section 37.2.2~~ of the Agreement.

EXHIBIT 5

Reserved

EXHIBIT 6

PARENT CORPORATION GUARANTEE

This Guarantee is made as of this ____ day of _____, 2007, by Waste Management Inc. of Florida _____ a Florida corporation ("Guarantor"), having its principal place of business at 7700 S.E. Bridge Road, Hobe Sound, FL 33455, to and for the benefit of Martin County, Florida, a municipal corporation organized and operating under the laws of the State of Florida ("County").

WITNESSETH:

WHEREAS, Waste Management Inc. of Florida, a Florida corporation (the "Contractor"), is entering into an Agreement for the Collection of Solid Waste and Recyclable Materials (the "Agreement") with the County; and

WHEREAS, Guarantor is willing to guarantee the Contractor's performance under the Agreement; and

WHEREAS, the County would not enter into the Agreement unless the Guarantor provided this Guarantee;

NOW, THEREFORE, as an inducement to the County to enter into this Agreement, Guarantor agrees as follows:

1. Guarantor hereby absolutely and unconditionally guarantees the full and prompt performance by the Contractor of all of the Contractor's obligations under this Agreement, in accordance with and subject to the terms and conditions therein.
2. This Guarantee shall be governed by the laws of the State of Florida. Guarantor hereby agrees to service of process in Florida for any claim or controversy arising out of this Guarantee or relating to any breach hereof. Guarantor agrees to submit to the jurisdiction of any court of competent jurisdiction in the State of Florida for the resolution of any claim or controversy concerning this Guarantee.
3. This Guarantee shall be binding upon and enforceable against the Guarantor, its successors, or assigns (including any successor by merger or consolidation or any transferee of all or substantially all of the properties of Guarantor), whether or not such obligations are expressly assumed by such successor, assignee, or transferee. This Guarantee is for the benefit of the County and any permitted successors and assigns under this Agreement.
4. Each and every event of default under the Agreement shall give rise to a separate cause of action hereunder. Separate actions may be brought hereunder by the County as each cause of action arises.

5. No waiver, amendment, release or modification of this Guarantee shall be established by conduct, custom or course of dealing between the parties, but solely by a written instrument duly executed by the party against whom any such waiver, amendment, release or modification is sought to be enforced.

6. Guarantor shall not assign its obligation hereunder, except to a successor by merger or consolidation or to a transferee of all or substantially all of the assets of the Guarantor. Notice of any such assignment shall be given in writing to the County promptly, but in no event more than ninety (90) days after the effective date of any such merger, consolidation or transfer.

7. This Guarantee may be enforced immediately by the County upon Contractor's default of its obligations under the Agreement and failure to cure any such default, pursuant to the provisions of the Agreement. This Guarantee shall not be subject to any claim of Guarantor against any other Person.

8. This Guarantee may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. The invalidity or unenforceability of one or more provisions of this Guarantee shall not affect the validity or enforceability of the remaining portions of this Guarantee. This Guarantee is entered into by Guarantor solely and exclusively for the benefit of the County, and may be enforced against Guarantor by the County.

9. The Agreement is attached hereto.

10. Notices provided pursuant to this Guarantee shall be in writing and shall be served personally or sent by certified mail, return receipt requested, to:

Administrator
Martin County
2401 S.E. Monterey Road
Stuart, FL 34996
Telephone: 727/221-2360
Facsimile: 727/288-5432

Copy to : County Attorney
Martin County
2401 S.E. Monterey Road
Stuart, FL 34996
Telephone: 727/288-5440
Facsimile: 727/288-5439

Guarantor: Waste Management Inc. of Florida
Jeff Sabin
7700 S.E. Bridge Road
Hobe Sound, FL 33455

or to such other address as shall be designated by such party in a written notice to the other party hereto. Any notice given pursuant to this Section if transmitted by certified mail shall be effective immediately upon receipt, and if delivered by hand, upon delivery.

IN WITNESS WHEREOF, Guarantor has executed this instrument this day and year first Above written.

GUARANTOR

By: Cherie C. Rice

Printed Name: Cherie C. Rice

Title: Vice President & Treasurer

GUARANTOR

By: David LaPaul

Printed Name: David LaPaul

Title: Assistant Treasurer

Witness:

Molly Escalante

Signature

Molly Escalante

Printed Name

Witness:

Chantelle Reynolds

Signature

Chantelle Reynolds

Printed Name

3 of 3

EXHIBIT 7

Reserved

EXHIBIT 8
Performance Bond

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

CONTRACTOR:

Waste Management Inc. of Florida
d/b/a Nichols Sanitation
7700 SE Bridge Road
Hobe Sound, FL 33455

SURETY (name and principal place of business):

Lexon Insurance Company
10002 Shelbyville Road
Louisville, KY 40223

COUNTY (OWNER):

Martin County Board of County Commissioners

SOLID WASTE FRANCHISE AGREEMENT FOR MARTIN COUNTY'S EASTERN SERVICE AREA

Date: February 2007

BOND

Date: October 1, 2007

Amount: Three Million Dollars (\$3,000,000)

Modifications to this Bond: None X See Page(s) _____

Waste Management Inc. of Florida
d/b/a Nicholas Sanitation
CONTRACTOR AS PRINCIPAL
Company: (Corporate Seal)

David LaPaul
Signature

David LaPaul
Print Name

Assistant Treasurer
Title

Lexon Insurance Company
SURETY
Company: (Corporate Seal)

Donna L. Meals
Signature

Donna L. Meals
Print Name

Attorney-in-Fact
Title

(Any additional signatures please include at the end of page 5 of the exhibit)

FLORIDA RESIDENT AGENT

No Longer Required

Print Name

Address

Phone

Fax

1. The CONTRACTOR and the Surety, jointly and severally bind themselves, their heirs, executors, Administrators, successors and assigns to the COUNTY for the performance of the requirements in the Franchise Agreement for the Collection of Solid Waste and Recyclable Materials (Agreement), which is incorporated herein by reference.

2. If the CONTRACTOR performs its duties and obligations in compliance with the Agreement, the Surety and the CONTRACTOR shall have no obligation under this Bond, except to participate in conferences.

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

- A. The COUNTY has notified the CONTRACTOR and the Surety at its address described in paragraph 10 below that the COUNTY is considering declaring a CONTRACTOR Default and has requested and attempted to arrange a conference with the CONTRACTOR and the Surety to be held not later than fifteen (15) days after receipt of such notice to discuss methods of satisfying the requirements in the Agreement. If the COUNTY, the CONTRACTOR and the Surety agree, the CONTRACTOR shall be allowed a reasonable time to satisfy its obligations under the Agreement, but such an agreement shall not waive the COUNTY's right, if any, subsequently to declare a CONTRACTOR Default; and
- B. The COUNTY has declared a CONTRACTOR Default and formally terminated the Contractor's right to complete the Agreement. Such CONTRACTOR Default shall not be declared earlier than five (5) days after the CONTRACTOR and the Surety have received notice.

4. When the COUNTY has satisfied the conditions of paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

- A. Arrange for the CONTRACTOR, with consent of the COUNTY, to perform and complete the Agreement; or
- B. Undertake to perform and complete the Agreement itself, through its agents or through independent Contractors; or

- C. Obtain bids or negotiated proposals from qualified Contractors acceptable to the COUNTY for the performance and completion of the Agreement, arrange for a contract to be prepared for execution by the COUNTY and the Contractor selected with the COUNTY's concurrence, to be secured with performance and payment bonds executed by a qualified Surety equivalent to the bonds issued on the Agreement, and pay to the COUNTY the amount of damages as described in paragraph 6 in excess of the balance of the contract price incurred by the COUNTY resulting from the CONTRACTOR's default; or
- D. Waive its right to perform and complete, arrange for completion, or obtain a new Contractor acceptable to the COUNTY and with reasonable promptness under the circumstances:
 - (1) After investigation, determine the amount for which it may be liable to the COUNTY and, as soon as practicable, tender payment therefore to the COUNTY; or
 - (2) Deny liability in whole or in part and notify the COUNTY, citing the reasons therefore.

5. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this bond seven (7) calendar days after receipt of an additional written notice from the COUNTY to the Surety demanding that the Surety perform its obligations under this Bond, and the COUNTY shall be entitled to enforce any remedy available to the COUNTY.

6. After the COUNTY has terminated the CONTRACTOR's right to complete the Agreement, and if the Surety elects to act, then the responsibilities of the Surety to the COUNTY shall not be greater than those of the CONTRACTOR under the Agreement, and the responsibilities of the COUNTY to the Surety shall not be greater than those of the COUNTY under the Agreement. To the limit of the amount of this bond, but subject to commitment by the COUNTY of the balance of the contract price to mitigation of costs and damages on the Agreement, the Surety is obligated without duplication for:

- A. The responsibilities of the CONTRACTOR for correction of defective work and completion of the Agreement;
- B. Additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under paragraph 4; and
- C. Liquidated damages or actual damages caused by delayed performance or non-performance of the CONTRACTOR.

7. The Surety shall not be liable to the COUNTY or others for obligations of the CONTRACTOR that are unrelated to the Agreement. No right of action shall accrue on this bond to any Person or entity other than the COUNTY or its heirs, executors, Administrators or successors.

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

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after CONTRACTOR Default or within two (2) years after the CONTRACTOR ceased working or within two years after the Surety refuses or fails to perform its obligations under this bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the COUNTY or the CONTRACTOR shall be mailed or delivered to the address shown on the signature page.

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

12. DEFINITIONS

- A. **CONTRACTOR Default:** Failure of the CONTRACTOR, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Agreement.
- B. **Agreement:** The Agreement between the COUNTY and the CONTRACTOR and amendments thereto.
- C. **COUNTY Default:** Failure of the COUNTY, which has neither been remedied nor waived, to pay the CONTRACTOR as required by the Agreement or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: (Corporate Seal)

Company: (Corporate Seal)

Signature

Signature

Print Name

Print Name

Title

Title

Lexon Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **LEXON INSURANCE COMPANY**, a Texas Corporation, with its principal office in Louisville, Kentucky, does hereby constitute and appoint **Donna L. Meals** *****

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **LEXON INSURANCE COMPANY** on the 1st day of July, 2003 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$ ^{5,000,000.00} Five million dollars ***** dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Vice President, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **LEXON INSURANCE COMPANY** has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 2nd day of July, 2003.



LEXON INSURANCE COMPANY

BY *David E. Campbell*
David E. Campbell
President

ACKNOWLEDGEMENT

On this 2nd day of July, 2003, before me, personally came David E. Campbell to me known, who being duly sworn, did depose and say that he is the President of **LEXON INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.

"OFFICIAL SEAL"
MAUREEN K. AYE
Notary Public, State of Illinois
My Commission Expires 09/21/09

Maureen K. Aye
Maureen K. Aye
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **LEXON INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Lombard, Illinois this 1st Day of October, 20 07.



Donald D. Buchanan
Donald D. Buchanan
Secretary

EXHIBIT 9

List of Recyclable Materials

Steel and Tin Cans

Includes steel, tin and aerosol cans, bi-metal containers, and lids composed primarily of whole iron or steel. Paper labels are acceptable. Aerosol cans containing household hazardous waste are not acceptable.

Aluminum

Includes aluminum beverage containers, food trays without food residue, sheets and flexible containers.

Glass

Clear (flint), brown (amber) and green food and beverage jars and bottles. Paper labels on glass containers are acceptable. Metal lids should be removed and included.

PET Plastics (SPI code No. 1)

Examples include but are not limited to: Plastic soft drink, water, sports drink, beer, mouthwash, catsup and salad dressing bottles. Peanut butter, pickle, jelly and jam jars. Ovenable prepared food trays.

HDPE Plastics (SPI code No. 2)

Examples include but are not limited to: Milk, water, juice, cosmetic, shampoo, dish and laundry detergent bottles, yogurt and margarine tubs, grocery, trash and retail bags. Motor oil bottles are not acceptable.

V Plastics (SPI code No. 3)

Examples include but are not limited to: PVC products such as clear food and non-food packaging.

LDPE Plastics (SPI code No. 4)

Examples include but are not limited to: Dry cleaning, bread and frozen food bags, squeezable bottles (e.g., honey, mustard).

PP Plastics (SPI code No. 5)

Examples include but are not limited to: Catsup bottles, yogurt containers, margarine tubs, and medicine bottles.

PS Plastics (SPI code No. 6)

Examples include but are not limited to: Compact disc jackets, food service applications, grocery store meat trays, egg cartons, aspirin bottles, cups, plates, and cutlery.

Other Plastics (SPI Code No. 7)

Examples include but are not limited to: Three and five gallon reusable water bottles, some citrus juice and catsup bottles.

Preparation of plastics, glass and metal containers: Remove organics, other contents and plastic caps, but the inclusion of organics, caps, rings, and labels will not be reason for rejection of Program Recyclables.

Paper Recyclables

Paper Recyclables consist of the following materials, commingled together, except aged, yellowed, or sunburned paper or water saturated paper.

ONP

All loose or bagged newsprint is acceptable, including all paper which is distributed with or as part of general circulation newspapers.

OCC

All loose or bagged old corrugated cardboard containers that are flattened and either cut down or folded to size, no more than 3 feet by 3 feet. Staples and tape with water-soluble glues do not have to be removed. Wax-coated corrugated cardboard is not acceptable.

Paper Bags

All loose or bagged paper sacks. May be used to hold mixed paper.

Chipboard/Fiberboard/Paperboard

All product packaging materials, such as cereal boxes, packaged food boxes, shoe boxes, and small manufactured item packaging.

Telephone Books

Old telephone directories.

Magazines

Old magazines, including small catalogs and similar printed material with glossy pages.

Mixed Paper

Mixed paper, including shredded paper, including but not limited to the following: junk mail; high-grade paper; white and colored ledger; copier paper; office paper; laser printer paper; computer paper, including continuous-formed perforated white bond or green bar paper; book paper; cotton fiber content paper; duplicator paper; form bond; manifold business forms; mimeo paper; note pad paper (no backing); loose leaf fillers; stationery; writing paper; paper envelopes; carbonless (NCR) paper; tabulating cards; facsimile paper; and manila folders.

Paper with metallic, carbon, ammonia or non-soluble glue is not acceptable.

EXHIBIT 10

EMERGENCY DEBRIS MANAGEMENT SERVICES

A. GENERAL REQUIREMENTS FOR EMERGENCY SERVICES

1. SERVICES

The Contractor's responsibilities under the Agreement for County-wide emergency debris management services are further defined herein.

The County's Representative/Liaison shall be the Administrator or Administrator's designee.

The Contractor's Representative/Liaison shall be Patrick Yancey, whose telephone numbers are (772) 419-6939 and (772) 215-9312 (after hours).

2. PAYMENTS

All invoices shall be signed by the Contractor. Each type of work must be invoiced separately. The Contractor will provide the details outlined below and any other data as the County may reasonably require. All invoices are subject to pre-audit verification and approval by the County's Representative prior to payment. All invoices shall be in accordance with the Scope of Work defined herein at the Rates that will be mutually agreed upon by the County and the Contractor before the Contractor commences work.

The Contractor shall submit invoices with appropriate supporting documentation as shown below to:

Martin County Board of County Commissioners
Attn: Accounts Payable
2401 S.E. Monterey Road
Stuart, FL 34996
Telephone: 772/288-5713
Facsimile: 772/288-5714

- A. Emergency Road Clearance: The Contractor shall invoice for road and street clearance authorized by the County after the work is completed. The invoice must be substantiated by a detailed spreadsheet showing the following:

- Date
- Hours worked
- Operator's name
- Machinery and equipment used
- Roads and streets cleared

The detail must be supported by daily logs validated and signed by the County's Representative or Debris Monitor and the Contractor.

B. **Vegetative Debris Removal:** The Contractor shall invoice for work authorized by the County not more often than every two weeks. Each invoice shall include a daily summary of the Load tickets. Each invoice shall be further supported by a listing of all Load tickets being invoiced.

1. All Load tickets shall contain the following:

- Contractor's name
- County identification number
- Load ticket number
- Date and time of pick up
- Date and time of delivery
- Pick up location
- Total cubic yards picked up
- Debris classification
- Truck ID number and capacity
- Delivery site
- County Representative's signature
- Contractor's designated representative signature

2. Debris chipped on-street and hauled to disposal site. Each invoice for on-street chipping work will be completed based upon the unit price for a chipped cubic yard to include chipping and hauling machinery and crew. The invoice shall be substantiated in the same manner as vegetative debris above. Load tickets must clearly indicate "on-street chipping".

3. Non-burnable and C&D Debris. Picking up and hauling of non-burnable debris from rights-of-way and public property to a temporary site or permitted landfill site or recycling center will be based upon the same documentation as vegetative debris above; however, the amount hauled may be obtained from dumping tickets or Load tickets issued by the debris receiving entity.

4. Stumps. Removing and hauling stumps to a disposal site will be billed based on the size and number of stumps as evidenced on a Load ticket. Tickets shall clearly indicate "stumps".

C. **Management of Temporary Debris Storage and Reduction (hereinafter referred to as "TDSR") Site and Disposal of Chipped Debris.** Contractor must bill for each site separately. TDSR site operations will be paid based on the total cubic yards of debris that are delivered as recorded on the Load ticket validated by the County's Representative or Debris Monitor, and shall include all chipping and debris volume reduction. Hauling chipped debris from the TDSR to the final disposal site will be paid based on the total cubic yards of chipped or reduced debris hauled from the TDSR site at the time the chips are removed to the final disposal site.

Load tickets used and described under vegetative debris will be the same used for these purposes.

D. **Other Services.** Any other services which may be negotiated under the terms of this Agreement shall be invoiced with sufficient documentation as may be required by the County to substantiate payment.

3. SUBCONTRACTING

The Contractor shall be fully responsible to County for acts and omissions of its sub-contractors and of Persons directly or indirectly employed by them, as the Contractor is for the acts and omissions of Persons employed by it.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts giving the Contractor the same powers regarding terminating any subcontract that the County may exercise over the Contractor under provisions of this Agreement. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and the County. The Contractor shall supply the names and addresses of subcontractors and materials suppliers when requested to do so by the County upon issuance of a Notice to Proceed and shall update same on a bi-weekly basis after issuance of a Notice to Proceed.

The Contractor shall not use a subcontractor or material supplier to whom the County reasonably objects and shall make all reasonable attempts to subcontract with local firms currently during business within the County and/or Martin County, Florida. All subcontractors will operate in strict accordance with local, state, and federal laws governing the type of work to be performed.

4. MODIFICATIONS OF WORK

The County reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the Contractor of the County's notification of a contemplated change, the Contractor shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the County of any estimated change in the completion date, and (3) advise the County if the contemplated change shall affect the Contractor's ability to meet the completion dates or schedules of this Agreement. The parties agree to negotiate in good faith changes in the Scope of Work that may occur.

If the County so instructs in writing, the Contractor shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the County's decision to proceed with the change.

If the County elects to make the change, the County shall initiate an amendment to this Agreement and the Contractor shall not commence work on any such change until such written amendment is signed by the Contractor and approved and executed by the County's Purchasing Director.

B. CONTRACTOR'S SCOPE OF SERVICES

1. SCOPE OF CONTRACTED SERVICES

Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver the timely removal and lawful disposal of all eligible storm-generated debris (hereinafter referred to as "debris"), including hazardous and industrial waste material and in accordance with the Standards of Performance as set forth in ~~Section 3~~ below. "Eligible" means qualifying for emergency funding under Federal Emergency Management Agency standards. Emergency push, debris removal and demolition of structures will be limited to:

- a) That which is determined to eliminate immediate threats to life, public health, and safety;
- b) That which has been determined to eliminate immediate threats of significant damage to improved public or private property; and

- c) That which is considered essential to ensure the economic recovery of the affected community to the benefit of the community at large.

These services shall provide for the cost effective and efficient removal and lawful disposal of debris accumulated on all public, residential and commercial properties, streets, roads, and other rights-of-way, including any other locally owned facility or site as may be directed by County. Services will only be performed when requested and as designated by County. Contractor shall load and haul the debris from within the legal boundaries of the municipality to a site(s) specified by County as set out in **Section 4.8** below.

1.1 Emergency Push/ Road Clearance:

If requested, Contractor shall accomplish the cutting, tossing and/or pushing of debris from the primary transportation routes as identified by and directed by County. This operational aspect of the scope of services shall be for the first 72 (plus or minus) hours after mobilization of 100% of the resources pursuant to **Section 3.2** below. Once this task is accomplished, the following additional tasks may be authorized at the discretion of the County.

1.2 Right-of-Way (ROW) Removal:

Contractor shall remove all debris from the ROW when directed to do so by a written Notice to Proceed from County. Contractor shall use reasonable care not to damage any real or personal property not already damaged by the storm event. Should any property be damaged due to the negligence on the part of Contractor, County may either bill Contractor for the damages or withhold funds due to Contractor. The determination of whether "negligence" has occurred shall be made by the County.

1.3 Right-of Entry (ROE) Removal:

Contractor will exercise due diligence in removing ROE debris from private property, and will do so only if authorized in writing by County. Contractor also agrees to make reasonable efforts to save from destruction items that the property owners wish to save (i.e., trees, small buildings, etc.). Contractor will exercise caution when working around public utilities (i.e., gas, water, electric, etc.) Every effort will be made to mark these utilities, but County does not warrant that all utilities will be located before debris removal begins, nor does Contractor warrant that utility damages will not occur as a result of properly conducting its services.

1.4 Demolition of Structures (if authorized in writing by County):

After receipt of a written Notice to Proceed, Contractor will remove structures designated for removal by and at the direction of County, in a timely manner as determined by County.

1.5 Private Property Waivers:

County will secure all necessary permissions, waivers and Right-of-Entry Agreements from real property owners required for the lawful removal of debris and/or demolition of structures from real properties.

1.6 Disaster Recovery Technical Assistance:

If requested, Contractor will provide Disaster Recovery Technical Assistance to the County to assist with guidance and consultation on all aspects of the recovery process.

2. PERFORMANCE OF SERVICES

2.1 Description of Service:

Contractor agrees to perform its services in a professional and workmanlike manner and in compliance with all Applicable Laws, ordinances, rules, regulation, and permits. Only the highest quality workmanship will be acceptable. Services, equipment and workmanship not conforming to this intent or meeting the approval of County may be rejected. Replacements and/or rework, as required, will be accomplished at no additional cost to County.

2.2 Cost of Services:

Contractor shall bear all of its own operating costs and is responsible for all permit and license fees, and maintenance of its own trucks and equipment to keep such property in a condition and manner adequate to accomplish its services.

3. STANDARDS OF PERFORMANCE

3.1 Contractor Representative:

Contractor shall have a knowledgeable and responsible representative report to County's Administrator within 5 Days following the execution of the Agreement. The Contractor's Representative shall have the authority to implement all actions required to begin the performance of its services as set out in this Agreement and Contractor's General Operations Plan.

3.2 Mobilization:

When a written Notice to Proceed has been received by Contractor, the Contractor shall make all necessary arrangements to mobilize a minimum of 50% of the required resources within 48 hours and 100% of the required resources within 96 hours to commence and conduct these services.

3.3 Time to Complete:

Contractor shall complete all work requested by the County as soon as feasibly possible, and in time necessary to accomplish the work, with the knowledge that time is of the essence. The scope and nature of the work to be performed will be directed by County once the extent of damage has been determined.

3.4 Completion of Work:

Contractor shall be responsible for removal of all debris up to the point where remaining debris can only be described as storm litter and additional Collection can only be accomplished by the use of hand labor.

4. GENERAL RESPONSIBILITIES

4.1 Other Agreements:

County may be required to enter into agreements with Federal and/or State agencies for disaster relief. Contractor shall be bound by the terms and conditions of such agreements, regardless of the additional burdens of compliance.

4.2 County Obligations:

County shall furnish all information and documents necessary for the commencement of services, including a written Notice to Proceed. A representative will be designated by County to be the primary point of contact for inspecting the work and answering any on-site questions prior to and after activation of this scope of work via a written Notice to Proceed.

County will be responsible for issuing all Public Service Announcements (PSAs) to advise citizens and agencies of the available debris management services. Contractor may assist County with the development of debris management PSAs, if so requested.

4.3 Contractor's Conduct of Work:

Contractor shall be responsible for planning and conducting all operations in a satisfactory workmanship manner. Contractor shall demonstrate and maintain a courteous and responsible demeanor toward all citizens, especially when working on individual private properties. All operations shall be conducted under the review of a County representative at times, places, and by means as directed by County. Contractor shall have and require strict compliance with the County's written Code of Ethics.

4.4 Supervision by Contractor:

Contractor will supervise and/or direct all services performed by its employees, agents and subcontractors. Contractor is solely responsible for all means, methods, techniques, safety and other procedures. Contractor will employ and maintain a qualified supervisor at the work site who shall have full authority to act on behalf of Contractor. All communications given to the supervisor by County's Representative shall be as binding as if given to Contractor.

4.5 Damages by Contractor:

Contractor shall be responsible for conducting all operations, whether contemplated by this Agreement or later requested as specialized services, in such a manner as to cause the minimum damage possible to existing public, private and commercial property and/or infrastructure. Contractor shall also be responsible for any damages due to the negligence of its employees and subcontractors. Should any property be damaged due to negligence

on the part of the Contractor, County may either bill Contractor for the damages or withhold funds due to Contractor. The determination of whether “negligence” has occurred shall be made by County.

4.6 Contractor’s Duty Regarding Other Contractor(s):

Contractor acknowledges the presence of other contractors involved in disaster response and recovery activities by the federal, state and local government and of any private utility, and shall not interfere with their work.

4.7 Contractor’s Ownership of Debris:

All debris, including regulated Hazardous Waste, shall become the property of Contractor for removal and lawful disposal. The debris may consist of, but not be limited to, vegetation, Construction and Demolition Debris, White Goods and if directed by the County, Residential Waste.

4.8 Contractor’s Disposal of Debris:

Unless otherwise directed by County, Contractor shall be responsible for determining and executing the method and manner for lawful disposal of all eligible debris, including regulated Hazardous Waste. However, Contractor may not select a disposal site that results in increased disposal costs to the County. The primary location of the reduction sites and disposal sites shall be determined by County. Other sites may be utilized as directed and/or approved by County.

4.9 Temporary Debris Storage and Reduction (TDSR) Sites:

Restoration of all TDSR sites shall be equal or better than original condition and to the satisfaction of County.

5. GENERAL TERMS AND CONDITIONS

5.1 Geographic Assignment:

The geographic boundary for work by Contractor’s crew shall be as directed by County and will be limited to properties located within the County’s jurisdictional boundaries.

5.2 Multiple, Scheduled Passes:

Contractor shall make scheduled passes and/or unscheduled passes of each area impacted by the storm event at the direction of County. County shall direct the interval timing of all passes. Sufficient time shall be permitted between subsequent passes to accommodate reasonable recovery and additional debris placement at the ROW by the citizens and the County.

5.3 Operation of Equipment:

Contractor shall operate all trucks, trailers and all other equipment in compliance with any/all Applicable Laws. Equipment shall be in good working condition. All loading equipment shall be operated from the road, street, or ROW using buckets and/or boom

and grapple devices to collect and load debris. No equipment shall be allowed behind the curb or outside of the public ROW unless otherwise directed by County. Should operation of equipment be required outside of the public ROW, County will provide a Right-of-Entry Agreement.

5.4 Certification of Load Carrying Capacity:

Contractor shall submit to County a certified report indicating the type of vehicle, make and model, license plate number and/or trailer VIN number, assigned debris hauling number and measured maximum volume, in cubic yards, of the Load bed of each piece of equipment to be utilized to haul debris. The measured volume of each piece of equipment shall be calculated from an actual physical measurement performed by County or its representatives. A standard measurement form certifying actual physical measurements of each piece of equipment shall be an attachment to the certified reports submitted to County.

5.5 Vehicle Information:

The maximum Load capacity of each hauling vehicle will be rounded to the nearest whole cubic yard (CY) (Decimal values of .1 through .4 will be rounded down and decimal values of .5 through .9 will be rounded up). The measured maximum Load capacity (as adjusted) of any vehicle Load bed will be the same as shown on the trailer measurement form and painted on each numbered vehicle or piece of equipment used to haul debris. All vehicles or equipment used for hauling will have and use a Contractor-approved tailgate. Sideboards will be limited to those that protect the Load area of the trailer.

5.6 Security of Debris During Hauling:

Contractor shall be responsible for the security of debris on/in each vehicle or piece of equipment utilized to haul debris. Prior to leaving the loadings sites, Contractor shall ensure that each Load is secure and trimmed so that no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted and secured during transport in accordance with FDOT guidelines. As required, Contractor will survey the primary routes used by Contractor as soon as possible after the transport and recovery of fallen or blown debris from the roadway(s).

5.7 Traffic Control:

Contractor shall mitigate impact on local traffic conditions to the greatest extent possible. Contractor is responsible for establishing and maintaining appropriate traffic control in accordance with the most current edition of the US Department of Transportation Manual or Uniform Traffic Control Devices (MUTCD) (see <http://mutcd.fhwa.dot.gov> or other appropriate address for manual). Contractor shall provide sufficient signage, flagging and barricading to ensure the safety of vehicular and pedestrian traffic at all debris removal, reduction and/or disposal sites.

5.8 Work Days/Hours:

Contractor may conduct debris removal operations from sunup to sundown, seven (7) days per week. Any mechanical debris reduction operations or burning operations may be

conducted twenty-four (24) hours per day, seven (7) days per week. Adjustments to work days and/or work hours shall be as directed by County following consultation and notification to Contractor.

5.9 Hazardous and Industrial Wastes:

Contractor shall set aside and reasonably protect all hazardous or industrial material encountered during debris removal operations for Collection and disposal in accordance with Contractor's Hazardous and Industrial Materials Cleanup and Disposal Plan. Contractor will build, operate and maintain a Hazardous Waste and Industrial Material Storage area until proper disposal of such waste is feasible. Contractor may use the subcontracting services of a firm specializing in the management and disposal of such materials and waste, if/when directed by the County.

5.10 Stumps:

All eligible stumps identified by County will be pulled, loaded, transported, stored, reduced and disposed in accordance with the standards of this Agreement. All stumps will be documented, invoiced and paid in accordance with this Agreement.

5.11 Utilizing Local Resources:

Contractor shall, to every extent possible, give priority to utilizing labor and other resources within Martin County.

5.12 Work Safety:

Contractor shall provide and enforce a safe work environment as prescribed in the Occupational Safety and Health Act of 1970, as amended. Contractor will provide such safety equipment, training and supervision as may be required by County and/or other governmental regulations. Contractor shall ensure that its subcontracts contain a similar safety provision.

5.13 Inspection and Testing:

All debris shall be subject to inspection by County and other public authorities to ensure compliance with the Agreement, all Applicable Laws, and in accordance with generally accepted standards of emergency management professionals. County will, at all times, have access to all work site and disposal areas. In addition, authorized representatives and agents of the government shall be permitted to inspect all work, materials, invoices, and other relevant records and documentation.

5.14 Other Agencies:

The term "government" as used in this Agreement refers to those governmental agencies which may have a regulatory or funding interest in this Agreement.

6. REPORTS, CERTIFICATIONS AND DOCUMENTATION

6.1 Reports:

Contractor shall submit periodic, written reports to County as requested or required, detailing the progress of debris removal and disposal. These reports may include, but are not limited to:

6.1.1 Daily Reports:

Daily reports may detail the locations where passes for debris removal were conducted, the quantity of debris (by type) removed and disposed of, the total number of personnel crews engaged in debris management operations, and the number of grinders, chippers and mulching machines in operation. Contractor will also report damages to private property caused by the debris operation or damage claims made by citizens and such other information as may be required to completely describe the daily conduct of Contractors operations.

6.1.2 Weekly Summaries:

A summary of all information contained in the daily reports as set out in **Section 6.1.1**, above, or in a format required by County.

6.1.3 Report Delivery:

The scheduling, point of delivery and receiving personnel for the debris operations report will be directed by County in consultation with Contractor.

6.1.4 Final Project Closeout:

Upon final inspection and/or closeout of the project by County, Contractor shall prepare and submit a detailed description of all debris management activities to include, but not limited to the total volume, by type of debris hauled, reduced and/or disposed of, plus the total cost of the project invoiced to County. Contractor will provide any other additional information as may be necessary to adequately document the conduct of the debris management operations for County and/or government.

6.2 Additional Supporting Documentation:

Contractor shall submit sufficient reports and/or documentation for debris loading, hauling, disposal, and Load capacity measurements, and any other services provided by Contractor as may be required by County and/or other governmental entity to support requests for debris project reimbursement from external funding sources.

6.3 Report Maintenance:

Contractor will be subject to audit by federal, state and local agencies pursuant to this Agreement. Contractor will maintain all reports, records, debris reporting tickets and correspondence for a period of not less than three (3) years.

6.4 Ineligible Work:

Contractor will not be paid for the removal, transportation, storage, reduction and/or disposal of any material or stumps as may be determined by County and/or government as ineligible debris.

6.4.1 Eligibility Inspections:

Contractor and County shall inspect each Load, or shall inspect at some other frequency of County's direction, to verify that the contents are in accordance with the accepted definition of eligible debris as defined in **Section B.1** above.

6.4.2 Eligibility Determinations:

If any Load is determined to contain material that does not conform to the definition of eligible debris, the Load will be ordered to be deposited at another landfill or receiving facility. No payment will be allowed for that Load and Contractor will not invoice County for such Loads. County, through its authorized representative, will be the sole judge as to whether the material conforms to the definition of eligible debris, and its decision will be final.

6.5 Unit Price/Service Negotiations:

Unknown and/or unforeseen events or conditions may require an adjustment to the stated unit prices, which will be mutually agreed upon by the County and Contractor before the Contractor commences work. Any amendments, extensions or changes to the scope of contracted services or unit prices are subject to full negotiations between County and Contractor and are subject to the review of the government.

In addition, all costs related to labor, materials, and equipment shall be fair, reasonable, and consistent with costs set forth in the most current version of the Federal Emergency Management Agency's Schedule of Equipment Rates, to be applied at all times for implementation of this Agreement.

EXHIBIT 11

PROCEDURE FOR SERVICE DISPUTES ON PRIVATE ROADS

Examples of types of Service Disputes covered by this Procedure:

Homeowner refuses to give hauler access.

Hauler cannot travel the road because of physical obstacles
(tree branches overhanging, ruts, etc.)

Procedures:

1. Hauler sends a letter to all customers whose service will be interrupted if the situation continues.

In the letter, the hauler proposes solutions and copies the Contract Administrator (Solid Waste Administrator).

Solutions and Options may include:

- a. Property owners fix, maintain road.
 - b. Homeowners, renters arrange with the franchise hauler alternate location for service that is "safe and accessible".
 - c. Property owners initiate procedures under the County's Voluntary Assessable Paving Ordinance.
2. The County contacts the hauler for follow-up on the correspondence sent to the customer within ten (10) working days. If no correspondence is received by the hauler, the Contract Administrator should contact the customer and see if a service dispute still exists. The customer may have decided on one of the solutions presented and the problem could be resolved.
 3. If the service dispute is unresolved, the hauler coordinates a meeting among the homeowners, the County and the hauler, preferably at the site, to discuss solutions. The homeowners will be asked to identify a spokesperson to represent them at the meeting.
 4. If the hauler and the homeowners are unable to agree, the Contract Administrator will decide how service will be provided.

In General:

Maintenance of private roads is the responsibility of those who own the road and easement.

It is the policy of the County "...to accept for maintenance only streets or roads that have been constructed and paved according to County Standards..." Martin County Code, Section 30-53.

Normal operation of garbage collection trucks on roads does not require the hauler to contribute to the maintenance of those roads.

Solid Waste Franchises require the Contractor to work with customers when problems with accessibility occur.