

**DRAFT**

**GARBAGE AND RECYCLING RESIDENTIAL SERVICES,  
MUNICIPAL FACILITIES SERVICES, AND ADDITIONAL  
SERVICES CONTRACT**

**between**

**CITY OF BATON ROUGE AND PARISH OF EAST BATON  
ROUGE, LOUISIANA**

**and**

**BFI WASTE SERVICES, LLC  
dba REPUBLIC SERVICES OF BATON ROUGE**



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# CONTRACT

THIS TIME CONTRACT FOR THE CITY OF BATON ROUGE AND THE PARISH OF EAST BATON ROUGE (this “Contract”) is entered on \_\_\_\_\_, by and between the City of Baton Rouge and the Parish of East Baton Rouge, Louisiana (the “City-Parish”), represented by its duly elected and acting Mayor-President, and BFI Waste Services, LLC, a Delaware limited liability company d/b/a Republic Services of Baton Rouge and qualified to do and actually doing business in the State of Louisiana (“Contractor”).

WITNESSED, THAT in consideration of the covenants and agreements contained in this Contract, to be performed by the parties and of the payments agreed to be made in this Contract, the parties mutually agree as follows:

## SECTION 1 RECITALS INCORPORATION

The foregoing recitals are true and correct and hereby incorporated herein by reference.

## SECTION 2 DEFINITIONS

As used in this Contract, the following terms, phrases, words, and their derivations shall have the meanings as set forth in this section.

*5G* — 5G shall mean fifth-generation broadband cellular software that provides device connectivity and provides greater bandwidth, faster download speeds, and more robust machine-to-machine communication.

*Act of Default or Default* — Act of Default or Default shall mean any failure to timely, fully and completely comply with one or more material requirements, obligations, performance criteria, duties, terms or conditions, as started in this Contract. City-Parish may, in its sole discretion, accept substantial compliance, which is an act of default, in lieu of full compliance by waiving such act of default solely by an instrument in writing.

*Additional Services* — Additional Services shall mean other services provided under the Contract, as defined in Section 7.5. of the Contract.

*Applicable Law* — Shall mean any statute, law, constitution, charter, ordinance, resolution, judgment, order, decree, rule, regulation, directive, interpretation, standard or similarly binding authority, which in any case, shall be enacted, adopted, promulgated, issued or enforced that relates to or affects the City-Parish, the Contractor, or the performance by a party of its obligations hereunder.

*Application Programming Interface (API)* — API shall mean an interface that supports interactions between multiple software applications or mixed hardware-software applications, intended to provide rapid and reliable electronic communication through the City-Parish’s data management and/or billing software.

*Bag* — Bag shall mean a non-dissolvable plastic sack with a capacity of up to approximately thirty-five (35) gallons designed or intended to store Municipal Solid Waste with sufficient wall strength to maintain physical integrity when lifted by the top.

*Beyond Contractor's Control* — Beyond Contractor's Control shall mean events that materially and adversely affect Contractor's ability to perform the obligations under the Contract and are not due to Contractor's fault or negligence and could not be avoided by Contractor's exercise of commercially reasonable efforts. Allowable event does include temporary landfill closure or extreme hazardous weather conditions but does not include economic hardship, manpower shortages for any reason or equipment failure.

*Brush* — Brush shall mean cuttings or trimmings from trees, shrubs, or lawns and similar materials that are not to be placed into carts. Any carts with brush is deemed an unacceptable set-out.

*Bulk Waste* — Bulk Waste shall mean Municipal Solid Waste composed of materials not easily containerized in a Cart such as, but not limited to, furniture, mattresses and box springs, carpet, bicycles, toilets, and other similar items, provided all such materials must be permitted to be disposed in a Type IV landfill. Bulk Waste shall also include Dead Animals, Christmas trees and Municipal Solid Waste enclosed in Bags or Bundles that is set-out for Collection with Bulk Waste Services. A maximum of three (3) items of Bulk Waste shall be collected per collection under Yard Waste and Bulk Waste Service from a Residential Service Unit.

*Business Day* — Business Day shall mean any day, Monday through Friday, from 8:00 AM, CDT till 5:00 PM, CDT.

*Cart* — Cart shall mean a City-Parish or Contractor-provided (and City-Parish owned) leak-proof container with attached lid and wheels with a capacity of between 48- to 96-gallons that allows for the automated or semi-automated collection of Municipal Solid Waste or Recyclables, and approved for use by the City-Parish.

*City-Parish* — City-Parish shall mean the City of Baton Rouge and Parish of East Baton Rouge, Louisiana and shall include City-Parish's elected officials, officers, employees, agents, volunteers and representatives.

*City-Parish Event* — City-Parish Event shall mean an event sponsored or co-sponsored by the City-Parish and or any event designated by the City-Parish to receive collection services for Municipal Solid Waste and/or Program Recyclable Materials. The City-Parish has the sole authority to designate City-Parish Events to receive services.

*Collect or Collection* — shall mean the act of removing Municipal Solid Waste, Yard Waste, and Bulk Waste for transport to a Disposal Facility authorized by the City-Parish, and the act of removing Recyclables and for transport to a Material Recovery Facility.

*Commencement Date* — Commencement Date shall mean the date that provision of services begins, in accordance with the Contract.

*Commercial Service Provider* — Commercial Service Provider shall mean a provider of commercial services to Residential Service Units or Multi-family Complexes, such as tree trimming, lawn

care services, tree cutting or clearing, Land Clearing, construction services, or other professional service contractors at Residential Service Units or Multi-family Complexes.

*Commercial Solid Waste* — Commercial Solid Waste shall mean all types of Solid Waste and Program Recyclable Materials generated by stores, offices, restaurants, warehouses, Commercial Service Providers, landlords from Multi-family Units or Multi-family Complexes, and other non-manufacturing activities, excluding residential and industrial Solid Wastes.

*Compactor* — Compactor shall mean any container, regardless of its size, which has a compaction mechanism, whether stationary or mobile, and approved for use by the City-Parish.

*Comply or Compliance* — Comply or Compliance shall mean timely, fully and completely performing or meeting each and every term, requirement, obligation, performance criteria, duty or condition as stated in this Contract. Compliance shall not mean substantial compliance. Substantial compliance shall be an Act of Default unless waived by the City-Parish solely by a written instrument.

*Concierge Collection Services* — Concierge Collection Services shall mean the collection of residential solid waste and recycling services from the property by walking to the house and retrieving the cart, taking the cart to the collection vehicle, emptying the cart and then returning the cart to the place the cart was retrieved. The cart must be visible from the street.

*Construction and Demolition Waste* — Construction and Demolition Waste shall mean Municipal Solid Waste resulting from construction or demolition projects or land clearing; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to, paper, cartons, gypsum board, wood, excelsior, rubber, plastics, concrete, asphalt, and old corrugated cardboard.

*Container* — Container shall mean Compactor, Dumpster, and Roll-off.

*Contamination* — Contamination shall mean the existence of any other material or substance on or contained in Program Recyclable Materials other than Program Recyclable Materials.

*Contract* — Contract shall mean this document, including any written amendment thereto as agreed upon by City-Parish and Contractor.

*Contract Area* — Contract Area shall mean the territorial jurisdiction of the Parish of East Baton Rouge, including the City of Baton Rouge and City of Central, and excluding the city limits of the City of Baker and City of Zachary. The Contractor shall provide services within the Contract Area, as directed under this Contract.

*Contract Year* — Contract Year shall mean the period beginning March 1<sup>st</sup> of each year and ending on February 28<sup>th</sup> of the subsequent year, or February 29<sup>th</sup> if the subsequent year is a leap year, for the term of the Contract.

*Contractor* — Contractor shall mean BFI Waste Services, LLC, a Delaware limited liability company d/b/a Republic Services of Baton Rouge authorized to do business in the City-Parish and the State, and Contractor's assignees and Contractor's subcontractors.

*Council* — Council shall mean the City-Parish Metropolitan Council, the legislative branch of the City-Parish government.

*Curbside* — Curbside shall mean within five (5) feet of the street or alleyway that provides primary access to the Residential Service Unit as designated by the City-Parish.

*DBE* — DBE shall mean Disadvantaged Business Enterprise

*Dead Animals* — Dead Animals shall mean animals or portions thereof having expired from any cause, except those slaughtered or killed for human use, generally including dogs, cats, or other animals up to a weight of 100 pounds, excluding farm stock.

*Delivery Facility* — Delivery Facility shall mean a Transfer Station or other facility that is able to accept, manage and transport Program Recyclable Materials to a Material Recovery Facility in accordance with Applicable Law. For clarity, a Delivery Facility may also be a Material Recovery Facility.

*Director* — Director shall mean the Director of Environmental Services or their designated Representative.

*Disposal* — Disposal shall mean the authorized deposit of any Solid Waste materials collected under this Contract at a Disposal Facility.

*Disposal Facility* — Disposal Facility shall mean a sanitary landfill, transfer station, incinerator, waste-to-energy facility, waste processing or separation facility, or other Solid Waste Disposal Facility, upon approval by the City-Parish, that is licensed, permitted, or approved by all governmental bodies and agencies having jurisdiction and utilized for the receipt or final disposition of Solid Waste generated within the Contract Area. The authorized Disposal Facility for this Contract shall be the City-Parish's North Landfill, located at 16001 Samuels Road, Zachary, LA 70791, unless otherwise agreed to by the City-Parish.

*Downtown Area* — The geographic area of the City-Parish located within the following boundaries: I-10 on south, Capital Lake Drive on north, I-110 on east and Mississippi River on west

*Dumpster* — Dumpster shall mean any container, excluding compactors, with a tight fitting lid and a minimum capacity of one (1) cubic yard, a maximum capacity of ten (10) cubic yards, and approved for use by the City-Parish.

*Eviction Waste* — Eviction Waste shall mean tenant-owned materials removed from a Residential Service Unit or Multi-family Unit resulting from the eviction of a tenant from a Residential Service Unit or Multi-family Unit.

*Excluded Waste* — Excluded Waste shall mean Hazardous Waste, Special Waste, Construction and Demolition Waste, Eviction Waste, whole or partial trees, fence sections, and Commercial Solid Waste.

*Garbage* — Garbage shall mean Solid Waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products.

*Garbage Services* — Garbage Services shall have the same meaning as Municipal Solid Waste Services.

*Generator* — Generator shall mean any person, by site or location that produces Solid Waste, or Recyclables.

*Gross Revenues* — Gross Revenues shall mean all revenues received, directly or indirectly, by the Contractor, its affiliates, subsidiaries, parent, and any person in which the Contractor has a financial interest, from or in connection with this Contract.

*GVW* — *gross vehicle weight*

*Hazardous Waste* — Hazardous Waste shall mean any Solid Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 United States Code, §§6901 et seq., as amended.

*Herein, Hereunder, Hereby, Hereto, Hereof, and any similar terms* — shall mean this Contract.

*Marketing* — Marketing shall mean identification and developing of end markets for Program Recyclable Material and the selling of Program Recyclable Material to end markets.

*Material Recovery Facility* — Material Recovery Facility shall mean a facility whose activities include the separation and preparation of Program Recyclable Materials to produce a marketable commodity.

*May* — May shall mean something that is not mandatory but permissible.

*Missed Collections* — Missed Collections shall mean Contractor's failure to collect carts for collection of Municipal Solid Waste or Program Recyclable Materials.

*Modified Collection Location* — Modified Collection Location shall mean a location along a roadway right-of-way at the front, side, or rear of a Residential Service Unit acceptable to both the Resident and Contractor for Municipal Solid Waste Services and Recycling Services. The City-Parish reserves the right to designate the location for Municipal Solid Waste Services and Recycling Services if (i) the Resident and the Contractor cannot agree on an acceptable location

or (ii) the location agreed upon by the Resident and the Contractor presents or may present health and safety hazards.

*Multi-family Complex* — Multi-family Complex shall mean a continuous dwelling, including all Multi-family Units there in, under a common roof of three (three) or more units, whether contiguous or multi-level construction, and shall include, but not be limited to, dwellings considered to be apartment houses, grouped housing, or condominiums.

*Multi-family Services* — Multi-family Services shall mean Municipal Solid Waste Services provided to Multi-Family Units.

*Multi-family Unit* — Multi-family Unit shall mean each dwelling unit under a common roof of three (3) or more units. Multi-Family Units shall include, but not be limited to, dwellings considered to be apartment houses, grouped housing, or condominiums. Multi-Family Units shall be serviced by Dumpster(s) under this Contract, unless otherwise specified by the City-Parish. Minimum required Dumpster capacity(ies) to be utilized for each Multi-family Complex shall be designated by the City-Parish.

*Municipal Facilities Services* — Municipal Facilities Services shall mean Municipal Solid Waste Services and Recycling Services for Municipal Facilities pursuant to this Contract.

*Municipal Facility* — Municipal Facility shall mean any City-Parish owned or operated facility designated by the City-Parish as a City-Parish Municipal Facility to receive Municipal Facilities Services. The City-Parish has the sole authority to add or eliminate Municipal Facilities to receive Municipal Facilities Services.

*Municipal Solid Waste* — Municipal Solid Waste shall mean Solid Waste resulting from or incidental to activities of Residential Service Units, Multi-family Units, City-Parish Municipal Facilities, and Additional Services, including Garbage and Rubbish. Municipal Solid Waste shall not include Excluded Waste.

*Municipal Solid Waste Services* — Municipal Solid Waste Services shall mean collection and disposal of Municipal Solid Waste by the Contractor pursuant to this Contract.

*Performance Metrics* — Performance Metrics shall mean agreed upon indicators and thresholds of contract performance that serve as the basis for one or more Administrative Charges.

*Person* — Person shall mean an individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

*Process, Processed or Processing* — Recovery of Recyclables, Treatment into Recovered Materials, and marketing of Recovered Materials to end markets

*Program Recyclable Material* — Program Recyclable Material shall mean all Recyclables as defined in Section 11.5 of the Contract and any additional Recyclables that may be added to Program Recyclable Materials, in accordance with Section 11.7 of the Contract.

*Recovered Material* — Recovered Material shall mean Program Recyclable Materials which have been processed at the Material Recovery Facility to market specifications.

*Recyclables* — Recyclable Material shall mean material that has been recovered or diverted from the nonhazardous Solid Waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclables are not Solid Waste. However, Recyclables may become Solid Waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be Solid Waste with respect only to the party actually abandoning or disposing of the material.

*Recyclables Processing Services* — Recyclables Processing Services shall mean the Processing, and Marketing of Program Recyclable Material collected by Recycling Services provided pursuant to this Contract.

*Recycling* — Recycling shall mean a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products.

*Recycling Services* — Recycling Services shall mean the Single Stream collection, processing, and marketing of Program Recyclable Material by Contractor pursuant to this Contract.

*Resident* — Resident shall mean a person whom resides at a Residential Service Unit or Multi-family Unit.

*Residential Service Unit* — Residential Service Unit shall mean a dwelling, excluding Multi-Family Units, within the Contract Area occupied by a person or group of persons. A Residential Service Unit shall be deemed occupied when either an active water or domestic light and power service are being supplied thereto and a minimal fee, as established by the respective utility, is being charged. A Residential Service Unit shall be deemed to be occupied according to this definition for a period of up to thirty (30) days after either an active water or domestic light and power service has been discontinued. Mobile homes, either individually or grouped in mobile home parks shall be considered Residential Service Units and shall be counted as single units. Those units which are occupied but do not have utility service (e.g., privately owned septic and/or water facilities) shall also be eligible for Residential Services under this Contract and Contractor shall be entitled to compensation. Dwelling structures with one dwelling unit (single-family dwelling) or two contiguous dwelling units (duplex dwelling) shall be considered Residential Service Units. Dwelling structures with three (3) or more dwelling units shall be considered Multi-Family Units

*Residential Services* — Residential Services shall mean Municipal Solid Waste Services, Recycling Services, and Yard Waste and Bulk Waste Services provided to Residential Service Units.

*RFP Documents* — RFP Documents shall mean the RFP, including addendums, and the proposal submitted by the Contractor in response to the RFP.



*Roll-off* — Roll-off shall mean any container, excluding compactors, with a capacity of greater than eight (8) cubic yards which is normally loaded onto a motor vehicle and transported to a Disposal Facility or Material Recovery Facility and approved for use by the City-Parish. Roll-off containers shall not be used in provision of City-Parish Events Services and Large Container Services, and shall not be used for the regularly scheduled collection of materials from Residential Service Units, Multi-family Units, or Municipal Facilities.

*Rubbish* — Rubbish shall mean non-putrescible Solid Waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, brush, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

*Scavenging* — Scavenging shall mean the unauthorized removal of Recyclables after the generators thereof divest control physically or as a matter of appropriate law, rule or regulation.

*Shall* — Shall will always mean mandatory and not merely directory.

*Single Stream* — Single Stream shall mean Program Recyclable Materials that are commingled and that do not require the generator to subdivide the Program Recyclable Materials prior to collection.

*Solid Waste* — Solid Waste shall mean any garbage, rubbish, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include or mean solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under R.S. 30:2074, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. Section 2011 et seq.), or hazardous waste subject to permits under R.S. 30:2171 et seq.

*Special Waste* — Special Waste shall mean any Solid Waste or combination of Solid Wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment. Special Wastes shall include:

- (A) Hazardous Waste as defined in this Contract;
- (B) Class 1 industrial nonhazardous waste;
- (C) Medical waste;
- (D) Septic tank pumpings;
- (E) Grease and grit trap wastes;
- (F) Wastes from commercial or industrial wastewater treatment plants; air pollution control facilities; and tanks, drums, or containers used for shipping or storing any material that

has been listed as a hazardous constituent in 40 Code of Federal Regulations (CFR) Part 261, Appendix VIII but has not been listed as a commercial chemical product in 40 CFR §261.33(e) or (f);

- (G) Slaughterhouse wastes;
- (H) Drugs, contaminated foods, or contaminated beverages, other than those contained in normal household waste;
- (I) Pesticide (insecticide, herbicide, fungicide, or rodenticide) containers;
- (J) Discarded materials containing asbestos;
- (K) Incinerator ash;
- (L) Soil contaminated by petroleum products, crude oils, or chemicals in concentrations of greater than 1,500 milligrams per kilogram total petroleum hydrocarbons;
- (M) Used oil;
- (N) Waste from oil, gas, and geothermal activities subject to regulation by the Louisiana Department of Natural Resources (LDNR) or the Louisiana Department of Environmental Quality (LDEQ) when those wastes are to be processed, treated, or disposed of at an authorized solid waste management facility;
- (O) Waste generated outside the boundaries of Louisiana that contains:
  - (i) any industrial waste;
  - (ii) any waste associated with oil, gas, and geothermal exploration, production, or development activities; or
  - (iii) any item listed as a special waste in this paragraph;
- (P) Lead acid storage batteries; and
- (Q) Used-oil filters from internal combustion engines.

*State* — State shall mean the State of Louisiana.

*Substantial Compliance* — Substantial Compliance shall pertain solely to acts of Contractor being less than full and complete compliance and being ninety percent (90%) or more of full compliance. Substantial compliance shall mean an act of default.

*Tire* — Tire shall mean tires of a standard size utilized for passenger vehicles (e.g. cars, pick-up trucks, SUVs). Tires allowable for collection under this contract shall not include tires utilized for semi-trailers truck, tractors, or other similarly large tires not intended for use on passenger vehicles. A maximum of four (4) tires shall be collected per collection from a Residential Service Unit.

*Ton* — Ton shall mean a unit of weight equal to 2,000 pounds.

*Transfer Station* — Transfer Station shall mean a permitted facility where Solid Waste, Program Recyclable Materials, Yard Waste, or Bulk Waste are deposited and prepared for transport on larger transfer vehicles for disposal processing.

*Unaccepted Set-out* — Unaccepted set-out shall mean a set-out for collection that does not comply with the requirements of the contract.

*Uncontrollable Circumstances* — Uncontrollable Circumstances shall include “unanticipated events,” and shall mean any act, event or condition (excluding those which result from the willful or

negligent action or inaction of a party) occurring during the term that has, or may reasonably be expected to have, a material and adverse effect on a right or an obligation of either or both parties to this Contract, if such act, event or condition is beyond the reasonable control of the party relying thereon as justification for not performing under this Contract. Uncontrollable Circumstances shall include, but are not limited to, the following: an act of God, landslide, lightning, earthquake, fire, explosion, flood, ice storm, nuclear radiation, acts of a public enemy or terrorist, war, blockade, insurrection, riot or civil disturbance or any similar occurrence, or a condemnation or other taking by or on behalf of any public, quasi-public or private entity, but not including reasonably anticipated weather conditions for the geographic area of the City;

Uncontrollable Circumstances shall not include:

- (A) insolvency or inability to pay any amount;
- (B) inability to obtain any letter of credit, surety bond, payment or performance bond or any other security required by this Contract;
- (C) a public or private labor dispute relating to the collection, transportation or disposal of Solid Waste.

*White Goods* — White Goods shall mean appliances such as refrigerators, stoves, washers, dryers and other large enameled appliances, which do not contain Polychlorinated Biphenyls (PCBs) or Chlorofluorocarbon (CFC) units and have been officially certified to that effect.

*Will* — Will shall always mean mandatory and not merely directory.

*Yard Waste* — Yard Waste shall mean cuttings or trimmings from trees, shrubs, or lawns, and similar materials such as grass, leaves, flowers, stalks, tree trimmings, Brush, and branches, including clean woody vegetative material not greater than six (6) inches in diameter that are set out to be collected as a part of the Yard Waste and Bulk Waste Services. Yard Waste shall be contained in Bags, Yard Waste Bags, or placed in Bundles for Collection with Yard Waste and Bulk Waste Services. Total weight of a Bag, Yard Waste Bag, or Bundle and its contents set-out for collection shall not exceed forty (40) pounds. Any such material set out to be collected with Municipal Solid Waste Services shall be considered Municipal Solid Waste. Yard Waste does not include stumps, tree trunks, limbs greater than six (6) inches in diameter, roots, or shrubs with intact root balls. A maximum of ten (10) items containing Yard Waste, of any combination (Bags, Yard Waste Bags, and/or Bundles), shall be collected per collection under Yard Waste and Bulk Waste Service, from a Residential Service Unit.

*Yard Waste Bag* — Yard Waste Bag shall mean Kraft bag or other similar sack made of multi-layer paper, designed to store Yard Waste with sufficient wall strength to maintain physical integrity when lifted. Total weight of a Yard Waste Bag and its contents set-out for collection shall not exceed forty (40) pounds.

*Yard Waste and Bulk Waste Service* — Yard Waste and Bulk Waste Service shall mean the collection and disposal of Yard Waste and Bulk Waste by the Contractor, pursuant to this Contract. The maximum amount of materials collected per collection under Yard Waste and Bulk Waste

Service, per Residential Service Unit, shall be up to ten (10) items of any combination (Bags, Yard Waste Bags, and/or Bundles) containing Yard Waste and, in addition, up to three (3) Bags, Bundles, or items of Bulk Waste. [NOTE: The material limits described in this definition would be applicable only to Service Request Option B-1. If the City-Parish chooses to provide Service Request Option A, there would be no material collection limit for Yard Waste and Bulk Waste Service.]

[NOTE: Services included in the Contract are subject to change based on the Service Option the City-Parish chooses to provide. The City-Parish may or may not choose to provide Extra Yard Waste and Bulk Waste Collections Service under the Contract.]

## **SECTION 3 REPRESENTATIONS**

### **3.1 Representations by City-Parish**

The City-Parish represents to the Contractor that the City-Parish is duly organized and existing in good standing under the laws of the State and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Contract.

### **3.2 Representations by Contractor**

The Contractor represents to the City-Parish that:

- (i) The Contractor is duly qualified and in good standing to do business in the State and is duly qualified and in good standing to do business wherever necessary to carry on the business and operations contemplated by this Contract.
- (ii) The Contractor has obtained the necessary processing and marketing capacity for Program Recyclable Material with a Material Recovery Facility for the initial term and renewal terms as defined in Section 5 of this Contract.
- (iii) The Contractor has obtained all applicable environmental and other governmental permits, licenses and authorizations that are necessary for collection, transportation, and disposal of Municipal Solid Waste and Bulk Waste.  
The Contractor has obtained all applicable environmental and other governmental permits, licenses and authorizations that are necessary for collection, transportation, processing and marketing Program Recyclable Material.
- (iv) The Contractor has obtained all applicable environmental and other governmental permits, licenses and authorizations that are required under Federal, State, local law, regulation, rule or ordinance.
- (v) The Contractor has obtained all required insurance coverages specified in this Contract.
- (vi) The Contractor has obtained the required performance bond specified in this Contract.
- (vii) To the best of the Contractor's knowledge, there is no action, suit or proceeding, at law or equity, before or by any court or government authority, pending or threatened against the Contractor, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Contractor of its obligation hereunder or the other transactions contemplated hereby, or which, in any way, would adversely affect

the validity or enforceability of this Contract, or any other contract or instrument entered into by the Contractor in connection with the transactions contemplated hereby.

#### **SECTION 4 CONTRACT AREA**

The Contract Area is defined as the territorial jurisdiction of the Parish of East Baton Rouge, including the City of Baton Rouge and the City of Central, and excluding the city limits of the City of Baker and the City of Zachary. The Contract Area may include any other future incorporated city, town, or village within the Parish of East Baton Rouge; the City-Parish shall have the right to designate whether such areas that may become incorporated will remain a part of the Contract Area. The Contractor shall provide services within the Contract Area.

If, during the term of the Contract, any area of the Contract Area ceases to continue being a part of the Contract Area, the City-Parish shall notify the Contractor and will reduce the count of Residential Service Units for purposes of Payment to Contractor, as required in Section 24.4.

#### **SECTION 5 RIGHT TO PROVISION OF SERVICES**

City-Parish hereby grants Contractor for the term of this Contract, as defined in Section 6.2 unless sooner terminated, the right and privilege to have, use and operate Residential Services and Municipal Facilities Services; and to have, use and operate its vehicles on, over, and along, and across the present and future streets and alleys.

##### **5.1 Grant of Exclusive Right to Provision of Services**

The City-Parish grants the Contractor the exclusive right and privilege to have, use and operate for:

- (i) Residential Services Municipal Solid Waste Services and Recycling Services for Residential Service Units
- (ii) Municipal Solid Waste Services and Recycling Services for Municipal Facilities
- (iii) Municipal Solid Waste Services for Multi-family Services, and
- (iv) Recyclables Processing Services

The Contractor shall have a non-exclusive right to perform other services, as provided for under this Contract, which are not specified in this section.

##### **5.2 Non-Exclusive Right to Provision of Services**

The City-Parish grants the Contractor the non-exclusive right and privilege to have, use and operate to perform other services, as provided for under this Contract, which are not specified in Section 4.1 of the Contract, including:

- (i) Extra Yard Waste and Bulk Waste Service
- (ii) Additional Services as defined in Section 7.5 of the Contract

## **SECTION 6 EFFECTIVE DATE AND TERM OF CONTRACT**

### **6.1 Effective Date**

Except as otherwise provided for herein, the obligations of the parties shall take effect on the date of execution hereof.

### **6.2 Term of Contract**

#### **6.2.1 Initial Term**

Unless sooner terminated in accordance with the provisions in this Contract, the initial term of this Contract shall be for a seven (7) year period commencing on March 1, 2023 at 12:00 AM and shall continue in effect until February 28, 2030 at 11:59 PM.

#### **6.2.2 Optional Renewal Terms**

After the initial term as defined in Section 6 of this Contract, City-Parish shall have the option to renew this Contract for one (1) or multiple additional renewal terms, not to exceed a combined total of three (3) years. Contractor may prohibit the City-Parish from exercising an optional renewal term by providing written notice to the City-Parish on or before **eleven (11) months** preceding the scheduled date of expiration of the initial term or preceding renewal term. If the Contractor does not provide written notice to the City-Parish prohibiting the City-Parish from exercising the optional renewal term on or before eleven (11) months preceding the scheduled date of expiration of the initial term or preceding renewal term, the City-Parish may provide written notice to Contractor, not later than sixty (60) calendar days preceding the scheduled date of expiration of the current term (initial term or renewal term), of the City-Parish's intent to exercise an optional renewal term. This provision in no way limits the City-Parish's right to terminate this Contract at any time during the initial term or any optional renewal term thereof pursuant to the provisions in this Contract.

#### **6.2.3 Right to Continuation of Service**

Upon termination of this Contract, through the passage of time or as otherwise provided for under this Contract, at the sole option of the City-Parish, Contractor shall provide reasonable assistance to the City-Parish to continue the operations and services herein specified uninterruptedly on the same terms and conditions until a new contract is signed and services are implemented, for a period not to exceed six (6) months, provided the Contractor receives payment for such continuation of services, accordance with the terms of the Contract. This Section shall be in addition to other transition support required to be provided by the Contractor in accordance with the Contract.

## **SECTION 7 RESIDENTIAL SERVICES, MULTI-FAMILY SERVICES, MUNICIPAL FACILITIES SERVICES, RECYCLING PROCESSING SERVICES, AND ADDITIONAL SERVICES**

### **7.1 Residential Services Municipal Solid Waste Services and Recycling Services for Residential Service Units**

Contractor shall provide Residential Services to Residential Service Units within the Contract Area. The City-Parish shall be responsible for disposal costs of materials collected for disposal

through Residential Services only. Rates charged to the City-Parish by the Contractor, as defined in Appendix B, shall not include the cost of disposal for these materials collected in the Residential Services.

### **7.1.1 Municipal Solid Waste and Recycling Services for Residential Service Units**

The Contractor will provide each Residential Service Unit with Collection of Municipal Solid Waste once per week on a scheduled day via carts. Residents shall receive one cart with base services and may receive collection in additional carts at an additional charge per additional cart. Carts shall be of a standard of 96-gallon capacity, with the option to receive a 48-gallon or 64-gallon cart upon request by a resident.

The City-Parish has established a Disabled Resident Collection Program through a bi-yearly certification system. Certified residents receive a 64-gallon cart with an orange lid. These residents will receive concierge collection services.

### **7.2 Multi-family Services for Multi-family Units**

Contractor shall initiate and provide Municipal Solid Waste Services to Multi-family Complexes for Multi-family Units upon receipt of a service request from the City-Parish, for Multi-family Complexes located within the Contract Area. Contractor shall provide the services in accordance with Section in accordance with the terms and conditions of this Contract. The Contractor shall be responsible for disposal costs of materials collected for disposal through Multi-family Services. Rates charged to the City-Parish by the Contractor, as defined in Appendix B, shall include the cost of disposal for these materials.

Multi-family Units shall not receive Recycling Services or Yard Waste and Bulk Waste Services under this Contract.

### **7.2.1 Municipal Solid Waste Services for Multi-family Units**

Contractor shall collect, on scheduled days, all Municipal Solid Waste contained in Carts and Dumpsters from Multi-family Units and Multi-family Complexes, as designated by the City-Parish. Multi-family Services shall be provided utilizing Dumpsters, unless, at the discretion of the City-Parish, it is determined that a Multi-family Complex lacks sufficient space on the property for storage of Dumpsters, in which case the property shall be serviced utilizing City-Parish owned Carts. The City-Parish shall solely determine the number, type(s), and capacity(ies) of containers (Carts and/or Dumpsters) that shall be utilized to service each Multi-family Complex. Each Multi-family Complex shall be serviced twice weekly. Multi-family Complexes shall be required to furnish Dumpsters to be utilized by the Contractor for provision of Multi-Family Services under this Contract.

### **7.3 Municipal Solid Waste Services and Recycling Services for Municipal Facilities**

Contractor shall provide Municipal Solid Waste Services and Recycling Services to all Municipal Facilities as designated by the City-Parish. The Contractor shall be responsible for disposal and recycling costs of materials collected through Municipal Facilities Services. Rates charged to the City-Parish by the Contractor, as defined in Appendix B, shall include the cost of disposal and recycling for these materials.

### 7.3.1 **Municipal Solid Waste Services and Recycling Services for Municipal Facilities**

Contractor shall Collect, on scheduled days, all Municipal Solid Waste contained in Carts and Dumpsters and all Program Recyclable Materials contained in Carts and Dumpsters from each Municipal Facility, as designated by the City-Parish. Contractor and City-Parish shall mutually decide on the number and size of Carts and Dumpsters provided at each Municipal Facility for each service to be provided. In addition, Contractor and City-Parish shall mutually decide on the frequency and scheduled days of service for each service to be provided. If a dispute arises concerning Municipal Solid Waste Services and/or Recycling Services for a Municipal Facility, the City-Parish shall at its sole discretion determine the resolution of the disputed issue.

### 7.4 **Recyclables Processing Services**

Contractor shall Process all Program Recyclable Materials collected through Recycling Collection Services as provided for under this Contract. Processing requirements for Program Recyclable Materials are described in Section 11 of this Contract.

### 7.5 **Additional Services**

Contractor shall provide the following Additional Services, upon request by the City-Parish. Costs for Additional Services shall be as set forth in Appendix B of the Contract, except as otherwise specified herein. The Contractor shall be responsible for disposal costs of materials collected for disposal through Additional Services. Rates charged to the City-Parish by the Contractor, as defined in Appendix B, shall include the cost of disposal for these materials.

- (i) **City-Parish Events Services:** The Contractor shall provide collection of Municipal Solid Waste and Program Recyclable Materials for City-Parish Events, upon request by the City-Parish. The City-Parish expects the number of City-Parish Events at which services may be requested to be approximately ten (10) events per year. City-Parish Events Services will be provided at the rates established for Municipal Facilities Services and Large Container Services and Compactor Services as established in Appendix B to the Contract.
- (ii) .
- (iii) **Large Container Services:** Upon request by the City-Parish, the Contractor shall furnish containers and provide hauling services for disposal of Municipal Solid Waste, Yard Waste, and Bulk Waste of Municipal Solid Waste utilizing (non-compacting) roll-off containers.
- (iv) **Compactor Services:** Upon request by the City-Parish, the Contractor shall furnish containers and provide hauling services for disposal of Municipal Solid Waste, Yard Waste, and Bulk Waste of Municipal Solid Waste utilizing compactors.

## **SECTION 8 COLLECTION, DISPOSAL, AND PROCESSING LOCATION**

### 8.1 **Collection Location**

#### 8.1.1 **Residential Services**

If a Resident qualifies for the City-Parish's modified services program for disabled residents, the Contractor shall retrieve cart(s) for Municipal Solid Waste and Program Recyclable



Materials from the Modified Collection Location, empty the cart(s) into the collection vehicle, and return cart(s) to the Modified Collection Location. The City-Parish shall solely determine eligibility of a Resident to receive collection at a Modified Collection Location modified services and shall provide the Contractor with a list of Residential Service Units to receive such services.

For Residential Services provided to Residential Service Units not deemed approved for modified services, the Contractor shall collect Municipal Solid Waste and Program Recyclable Materials, at the Curbside. If a Residential Service Unit or group of Residential Service Units within the Contract Area are unable to receive collections at the Curbside, the City-Parish and Contractor shall mutually decide on an alternative location for placement of carts and materials for collection services. The City-Parish reserves the right to designate the alternative location for collection of materials from Residential Service Units if the City-Parish and the Contractor cannot agree on an acceptable location.

The Contractor shall provide Residential Services in alleys in limited areas, as designated by the City-Parish. These alleys are relatively narrow and may be unable to accommodate operation of the Contractor's regular collection vehicles. Contractor shall provide Residential Services with modified equipment or operations if its regular collection vehicles are unable to safely operate in alleys. The Contractor shall verify the number of such alleys and the number of Residential Service Units to be serviced in alleys, and shall provide the City-Parish with descriptions of equipment and collection vehicles the Contractor will utilize to provide Residential Services in alleys.

#### **8.1.2 Multi-family Services**

The City-Parish and the Contractor shall mutually decide on a location for collection of Municipal Solid Waste from Multi-family Complexes generated by Multi-family Units. The City-Parish reserves the right to designate the location for collection of Municipal Solid Waste generated by Multi-family Units if the City-Parish and the Contractor cannot agree on an acceptable location.

#### **8.1.3 Municipal Facilities Services**

The City-Parish and the Contractor shall mutually decide on a location for collection of Municipal Solid Waste and Program Recyclable Materials Recyclables from City-Parish Municipal Facilities. The City-Parish reserves the right to designate the location for collection of Municipal Solid Waste and Program Recyclable Materials generated by Municipal Facilities if the City-Parish and the Contractor cannot agree on an acceptable location.

#### **8.1.4 Additional Services**

The City-Parish and the Contractor shall mutually decide on a location for collection of materials through Additional Services, as defined in Section 7.5 of the Contract. The City-Parish reserves the right to designate the location for provision of Additional Services requested by the City-Parish if the City-Parish and the Contractor cannot agree on an acceptable location

## **8.2 Disposal Location**

Contractor shall dispose of all Municipal Solid Waste collected in connection with this Contract at the City-Parish's North Landfill, unless another Disposal Facility is authorized by the City-Parish.

## **8.3 Delivery and Processing Location**

Contractor shall deliver all Recyclables Collected in connection with this Contract to a Material Recovery Facility. The Material Recovery Facility has to be capable of meeting Program Recyclable Material Processing Requirements, and all other applicable requirements in accordance with the Contract.

## **SECTION 9 LOCATION OF CONTRACTOR OPERATIONS**

The Contractor shall utilize facilities within the Parish of East Baton Rouge, but not located within the incorporated limits of any city, town, or village other than the City of Baton Rouge, for the purpose of providing the following services and operations as required by the Contract:

- (i) Customer Service Office, as required under Section 17 of the Contract
- (ii) Cart Operations, as required in accordance with Section 13.2 of the Contract
- (iii) Vehicle and Equipment Storage and Maintenance, as required in accordance with the Contract

The Contractor shall not, at any time, utilize City-Parish property, facility, equipment, or personnel for provision of services and fulfillment of obligations in accordance with the contract, except when otherwise required or allowable under the Contract. The Contractor's facilities shall have sufficient staff employed by the Contractor and sufficient equipment to perform the required services and operations.

## **SECTION 10 COMMINGLING OF MATERIALS AND DISPOSAL OF PROGRAM RECYCLABLE MATERIALS PROHIBITED**

### **10.1 Commingling of Residential Services Materials Prohibited**

The Contractor shall not commingle Municipal Solid Waste and/or Recyclables from Residential Services with materials from outside the City-Parish except when approved in writing by the City-Parish.

### **10.2 Commingling of City-Parish Services Materials Prohibited**

The Contractor shall not commingle Municipal Solid Waste and/or Recyclables from Municipal Facilities with materials from outside the City-Parish except when approved in writing by the City-Parish.

### **10.3 Disposal of Program Recyclable Materials Prohibited**

The Contractor shall not dispose of any Program Recyclable Material or market Program Recyclable Materials to markets that the Contractor knows or reasonably should have anticipated will dispose of the Program Recyclable Material except when approved in writing by the City-Parish.

## SECTION 11 PROGRAM RECYCLABLE MATERIAL PROCESSING REQUIREMENTS

### 11.1 **Materials Recovery Facility**

The Contractor shall provide for the processing of all Program Recyclable Materials at a Material Recovery Facility authorized under all Applicable Laws to process Program Recyclable Materials. The Contractor shall maintain the proposed Materials Recovery Facility for the term of the Contract unless an alternative facility or location is approved by the City-Parish in writing.

### 11.2 **Alternative Facility**

If at any time during the term of this Contract, the Contractor is unable to accept Program Recyclable Materials or is unable to process any or all Program Recyclable Materials at the designated Materials Recovery Facility, the Contractor shall be solely responsible for the following:

- (i) Procuring and utilizing an alternative Delivery Facility and/or Materials Recovery Facility, as applicable, approved by the City-Parish in writing and capable of meeting any and all applicable requirements of the Contract; and
- (ii) Any and all increases in costs, including, but not limited to, transportation costs, tipping fees, processing costs, capital and operational costs, associated with the alternative facility(ies).

The Contractor shall notify the City-Parish in writing of proposed use of any alternative facility(ies), including a written letter confirming the use of alternative facility(ies) if provided by another company.

### 11.3 **Delivery of Materials**

For the term of this Contract, the Contractor shall accept and process all Program Recyclable Materials collected and delivered to the Material Recovery Facility . All Program Recyclable Materials from any sources shall be direct-hauled to the Contractor's Material Recovery Facility .

### 11.4 **Program Recyclable Materials**

The Contractor shall accept and process all Program Recyclable Materials delivered to the Delivery Facility, Materials Recovery Facility and/or alternative facility. At a minimum, Program Recyclable Materials shall include the following:

- (i) **Program Paper Recyclable Material**
  - a. Old corrugated cardboard (OCC)
  - b. Mixed Paper
  - c. Newspaper
- (ii) **Program Plastic Recyclable Material**

- a. #1 PET
  - b. #2 HDPE – Color
  - c. #2 HDPE – Natural
  - d. #5 PP
  - e. Mixed Plastics #3, 4, 6, 7
  - f. Rigid Plastics
- (iii) **Program Glass Recyclable Materials**
- a. Glass bottles and jars of any color
- (iv) **Program Aluminum and Steel Program Recyclable Material**
- a. Aluminum cans
  - b. Steel cans
  - c. Household scrap metal that fits in the cart

**11.5 Minimum Processing Requirements**

The Contractor shall utilize processing subsystems at the Material Recovery Facility capable of complying with product specifications of secondary materials buyers including, but not limited to, product form, size, weight, density, and degree of contamination. In addition, the Contractor shall utilize processing subsystems at the Material Recovery Facility capable of processing a minimum of ninety-five percent (95.0%) by weight of Program Recyclable Materials into Recovered Materials on a monthly basis.

**11.6 Addition and Deletion of Program Recyclable Materials**

Program Recyclable Materials shall also include other recyclable materials proposed by the Contractor and agreed to by the City-Parish. If during the term of this Contract the Materials Recovery Facility processes any recyclable materials other than Program Recyclable Materials, the City-Parish may, at its sole discretion, add such recyclable materials to defined Program Recyclable Materials. Additionally, if another Materials Recovery Facility in the Service Area accepts other recyclable materials not currently included as Program Recyclable Materials, the City-Parish may, at its sole discretion, include such other recyclable materials as Program Recyclable Materials at no additional cost to the City-Parish unless the Contractor can prove that adding such recyclable material as Program Recyclable Materials would cause an unreasonable financial hardship to the Contractor and/or no market exists for such recyclable materials. The City-Parish may remove a recyclable material from Program Recyclable Materials if the City-Parish and Contractor determine it is economically and technically prohibitive to process such recyclable materials and can reach agreement as to the financial impact for deletion of such recyclable materials from Program Recyclable Materials.

**11.7 Capacity for Program Recyclable Materials**

The Contractor shall be solely responsible for providing sufficient capacity (including equipment and staffing) at the Material Recovery Facility to accept all Program Recyclable Materials for processing and sufficient capacity (including equipment and staffing) at the

Materials Recovery Facility to process all Program Recyclable Materials in accordance with industry standards, Applicable Laws and minimum processing requirements pursuant to this contract. Each facility shall have a large tipping area with enough capacity to store Program Recyclable Materials and other materials as agreed upon by City-Parish and Contractor.

#### **11.8 Vehicle Access to Material Recovery Facility**

Materials delivered to the Material Recovery Facility on behalf of the City-Parish will be direct-hauled in collection vehicles. The Contractor must provide safe and efficient access to all vehicles delivering materials to the Delivery Facility and/or Material Recovery Facility including minimizing support structures in the tipping area. The Delivery Facility and/or Material Recovery Facility shall contain:

- (i) minimum clearance of doors of twenty-six (26) feet high;
- (ii) minimum space to accommodate three (3) collection vehicles simultaneously, and;
- (iii) minimum clearance within tipping area of thirty (30) feet high.

#### **11.9 Priority Access and Vehicle Turnaround Time**

The Contractor shall operate the Material Recovery Facility to maintain a daily average vehicle turnaround time of twenty (20) minutes or less for all vehicles delivering materials by or on behalf of the City-Parish. The Contractor shall provide priority access to all vehicles delivering materials by or on behalf of the City-Parish to achieve the daily average vehicle turnaround times. Vehicle turnaround time will be calculated from the arrival of a vehicle delivering materials by or on behalf of the City-Parish arrival at the Delivery Facility and/or Material Recovery Facility scale to departure of such vehicle from the scalehouse.

The Contractor shall be required to provide a Traffic Plan to the City-Parish for approval. The plan should address the requirements of this section and show, at a minimum:

- (i) The flow of traffic for vehicles entering and exiting the Delivery Facility and/or Materials Recovery Facility.
- (ii) Illustrate the queuing area on the site for vehicles waiting to unload.
- (iii) Describe the number and type of vehicles that can simultaneously unload.
- (iv) Identify the procedures for providing priority access to vehicles delivering materials by or on behalf of the City-Parish.
- (v) Discuss how the Contractor will plan for and accommodate peak periods and describe how the Contractor will plan for and accommodate inspections of loads while maintaining the daily average vehicle turnaround time.

The Contractor shall comply with the approved Traffic Plan for the term of this Contract unless the City-Parish approves in writing an alternate or amended Traffic Plan.

#### **11.10 Scalehouse Requirements**

The Materials Recovery Facility shall be equipped with adequately sized vehicles scales and computerized recordkeeping systems for weighing and recording all incoming and outgoing vehicles. The recordkeeping system shall be capable of meeting the requirements of Section

22. Scales shall be tested and maintained as required by Applicable Law, at a minimum, but not less frequently than once every three (3) months.

The Contractor shall operate and maintain the scalehouse, including, but not limited to the scales at the scalehouse. The scalehouse is not required to be attended, but unattended scalehouse must, at a minimum, provide for automated recordkeeping of incoming vehicles, provide incoming vehicles with access to live audio communication with personnel at the facility, and include video monitoring and recording capabilities.

The scalehouse and associated recordkeeping system shall be designed to track both the arrival and departure of all vehicles delivering materials to ensure compliance with recordkeeping and reporting requirements in accordance with Section 22.

#### **11.11 Disposal of Residue and Contamination**

The Contractor shall dispose of residue and contamination materials from the processing of Program Recyclable Materials at the City-Parish's North Landfill. The Contractor is solely responsible for the cost to dispose of such materials. *Cost to the Contractor for disposal of such materials shall be the current residential disposal rate charged at the North Landfill.* The residential disposal rate is subject to adjustment at the sole discretion of the City-Parish.

#### **11.12 Security and Fire Prevention**

The Contractor shall be solely responsible for providing and maintaining adequate security at the Materials Recovery Facility, as applicable, and during transport of materials by or on behalf of the Contractor. At a minimum, the Materials Recovery Facility sites shall be secured as to prevent theft of materials and control the escape of litter from the sites. Any loss of revenue for Recovered Materials due to loss of materials (e.g., due to theft, fire, other damage, scavenging, etc.) shall be the sole responsibility of the Contractor.

The Contractor shall be required to provide a Fire Prevention Plan for the facility to the City-Parish for its approval. The plan shall, at a minimum:

- (i) Detail operational procedures in place to minimize fires.
- (ii) Illustrate the evacuation procedure including specific locations on site where personnel would gather.
- (iii) Describe communication protocol if a fire occurs, including the responsible party.
- (iv) Indicate where inbound material would be redirected in the case of a fire.
- (v) Indicate how any active fires will be extinguished.

#### **11.13 Storage of Materials**

The Contractor shall store material, both incoming and processed, to prevent degradation of such materials from exposure to sun and weather, prevent negative impact to maneuvering of vehicles in the facility, and promote the safety of persons at the Materials Recovery Facility.

All incoming, pre-processed materials and processed materials, including bales shall be stored in compliance with all regulatory and environmental laws and regulations, shall not create complaints from areas outside the Materials Recovery Facility, and do not negatively impact the quality or value of material.

The Contractor shall maintain adequate open (e.g. free of pre-processed Program Recyclable Material) tipping floor space at all times for vehicles to unload in a safe and timely manner, meeting the requirements of Section 11.13.

**11.14 Ownership of Recyclable Materials and Risk of Loss**

Title to and risk of loss of Program Recyclable Materials shall pass to the Contractor once the Contractor takes possession of the materials upon collection of Program Recyclable Materials by the Contractor's collection vehicle. After the title to and risk of loss of Program Recyclable Materials delivered passes to the Contractor, if any such Program Recyclable Materials are lost, damaged, or scavenged, the City-Parish is not liable to compensate the Contractor for the loss.

**11.15 Disclosure of Recyclables Market Locations**

Upon request by the City-Parish, Contractor shall provide information identifying where Program Recyclable Material is marketed, including location of such markets and whether markets are domestic or international.

**11.16 Residential Recyclable Materials Audit**

The Contractor shall conduct a Recyclable Materials Audit of Residential Recyclables at the Contractor's sole expense not more than once per year, at the request of the City-Parish. If requested by the City-Parish, the Contractor shall conduct Recyclable Materials Audits in accordance with the protocol in Appendix C to the Contract.

The Contractor and the City-Parish agree that composition information derived from Audits is to ensure compliance with minimum processing requirements per Section 11.6 and for public education and outreach purposes.

**11.17 Recyclables Revenue**

For incoming tons of materials delivered by or on behalf of the City-Parish to the Materials Recovery Facility and accepted by the Contractor, the Contractor shall calculate Recyclable Revenue on a monthly basis. The Recyclable Revenue for Program Recyclable Material shall be based on the following:

- (i) Composition of Program Recyclable Materials according to the most recent Recyclable Materials Audit conducted pursuant to Section 11.16. The first Recyclable Materials Audit conducted per this Contract shall be used as the initial basis for calculation of the Recyclables Revenue by the Contractor.

**SECTION 12 INSPECTION OF SET-OUTS, UNACCEPTED SET-OUTS, AND UNIDENTIFIABLE SET-OUTS AND UNACCEPTED LOADS**

**12.1 Contractor's Right to Inspect Set-Outs**

The Contractor may inspect each set-out prior to collection for consistency with the requirements of this Contract.

## **12.2 Unaccepted Set-outs**

### **12.2.1 Reasons for Unaccepted Set-outs**

Prior to collection of the set-out, Contractor may designate a set-out as an Unaccepted Set-out for the following reasons:

- (i) A set-out of an overloaded cart with brush, bags or construction materials.
- (ii) A set-out may cause a littering issue when dumping the cart.
- (iii) A set-out presents a substantial endangerment, such as disease or death, to the public or employee health or safety; or
- (iv) A set-out contains Excluded Waste that cannot be easily and safely separated, such as by manual efforts.

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

### **12.2.2 Procedure for Unaccepted Set-outs**

If the Contractor designates a set-out or a portion of a set-out as an Unaccepted Set-out for the reasons set forth in Section 12.2.1, Contractor shall document the Unaccepted Set-out and provide notification to the Generator and City-Parish in accordance with this section:

- (i) Take a photograph of the entire set-out;
- (ii) Collect the portion of the set-out, if any, that is properly set-out; and
- (iii) Immediately provide an Unaccepted Set-out Notice, in accordance with Section 12.2, to the Generator stating the reason the set-out or portion of the set-out was designated an Unaccepted Set-out;

As for all Unaccepted Set-outs, Contractor shall provide a list of the Unaccepted Set-outs including the address, reason set-out was an Unaccepted Set-out, and other information as requested by City-Parish to the City-Parish by 10:00 AM the next business day. If Contractor fails to provide notice in accordance with this section, Contractor shall be subject to administrative charges in accordance with this Contract.

Contractor shall not be required to collect any Excluded Waste materials or acceptable materials that cannot be easily and safely separated from Excluded Waste.

## **12.3 Unidentifiable Set-outs**

If the Contractor encounters a set-out for which it is not able to determine whether the set-out is compliant with the requirements of this Contract or whether the set-out is an Unaccepted Set-out, the Contractor shall:

- (i) Take a photograph of the entire set-out;
- (ii) Collect the portion of the set-out, if any, that is determined to be properly set-out; and
- (iii) Immediately provide notice and documentation of the unidentifiable set-out to the City-Parish, stating the reason the set-out was unidentifiable and any concerns the contractor has regarding the unidentifiable set-out



Unidentifiable set-outs include, but may not be limited to, set-outs the Contractor reasonably suspects, but is unable to verify, of containing Excluded Waste. The Contractor shall not unreasonably designate a set-out as unidentifiable.

The City-Parish shall be responsible for efforts to determine whether the unidentifiable set-out is an Unaccepted Set-Out. If the set-out is determined by the City-Parish to be compliant with the requirements of the Contract, the City-Parish shall notify the Contractor, and the Contractor shall collect the set-out within twenty-four (24) hours of such notification by the City-Parish. If the set-out is determined by the City-Parish to be an Unaccepted Set-Out, the City-Parish shall notify the Contractor, and the Contractor shall provide an Unaccepted Set-Out notice to the Generator, in accordance with Section 26. of the Contract, within twenty-four hours of such notification by the City-Parish.

#### **12.4 Unaccepted Loads**

If a load of material delivered to the Material Recovery Facility contains more than thirty (30) percent, by weight, of materials other than Program Recyclable Materials, the Contractor may designate the load as an Unaccepted Load. The Contractor shall reject such load prior to the departure of the vehicle that delivers such Unaccepted Load to the Materials Recovery Facility. The Contractor may not designate a load as an Unaccepted Load for any other reason unless mutually agreed upon in writing by the City-Parish.

### **SECTION 13 COLLECTION EQUIPMENT**

#### **13.1 Collection Equipment**

##### **13.1.1 Collection Vehicles**

Contractor shall provide a fleet of collection vehicles sufficient in number and capacity to efficiently perform the work required by this Contract in strict accordance with its terms, including any requirements for data collection, documentation and reporting related to service verification and in-field re-routing. Contractor shall have available vehicles on collection days, sufficient back-up vehicles for each type of collection and vehicles to use to respond to complaints and emergencies.

The Contractor shall permit a City-Parish representative to inspect all vehicles to be used no later than thirty (30) days before this Contract's Commencement Date and annually each year of the Contract thereafter.

Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the services performed under this Contract. Contractor shall provide reasonable protection to prevent property loss or damage and/or personal injury to persons, including but not limited to, employees performing such work and all other persons who may be affected thereby.

##### **13.1.1.1 Appearance of Collection Vehicles**

Contractor's name, call center telephone number and a unique vehicle identification number designated by Contractor for each vehicle shall be prominently displayed on all vehicles. The Contractor's name, local telephone number, call center telephone number shall be displayed in

letters and numbers no less than four (4) inches high and the vehicle identification number shall be displayed in letters and numbers no less than two and one-half (2.5) inches high. Contractor shall not place the City's logo on its vehicles.

Vehicles used in the collection of materials under the Contract shall be thoroughly washed on a regular basis so as to present a clean appearance. City-Parish may inspect Vehicles at any time to determine compliance with cleaning and maintenance requirements.

#### **13.1.1.2 Age of Collection Vehicles**

No vehicle used in servicing this Contract shall be more than seven (7) years old. Any vehicle reaching seven (7) years of age during the term of the Contract shall be taken out of service for use under the Contract. Notwithstanding the foregoing, Contractor shall phase-in collection vehicles or a fleet of collection vehicles which meets this requirement within two years of Contract commencement. A shorter time may be agreed upon mutually between the City-Parish and the Contractor.

#### **13.1.1.3 Collection Vehicle Fuel Requirements**

Contractor shall be required to utilize collection vehicles fueled by compressed natural gas (CNG), or a fleet of collection vehicles which is carbon neutral. If this requirement is not met upon Contract commencement, Contractor shall phase-in collection vehicles or a fleet of collection vehicles which meets this requirement within two years of Contract commencement.

#### **13.1.1.4 Collection Vehicle Specifications**

The Contractor shall utilize Automated Side Loader (ASL) collection vehicles as the standard collection vehicle type to provide all cart-based collection services (Municipal Solid Waste Services and Recycling Services). The City-Parish recognizes that there may be areas within the Contract Area which are not conducive to safe operation of ASL collection vehicles. In these areas, the Contractor may utilize a collection vehicle type(s) other than ASL.

All collection vehicles used by Contractor in providing collection of materials under the Contract shall be designed to prevent leakage, spillage or overflow. All such vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. Contractor shall also ensure that GVW of all vehicles, even when loaded, does not exceed vehicle license limitations to protect the roadways of the City-Parish.

*All collection vehicles should include both in-cab and exterior cameras that are able to document set outs and provide any service verification needs as determined by the City-Parish and Contractor. Cameras should be supported by data management platform that is 5G enabled and compatible with the City-Parish's data management system. Contractor shall phase-in the camera and data management platform in the collection vehicles within five years of Contract commencement.*

Additionally, all collection vehicles shall have the capability to have routing and in-field re-routing capabilities and contain API that is interoperable with the City-Parish's data management system.

#### **13.1.1.5 Purchase, Operation, Storage and Replacement of Collection Vehicles**

The Contractor shall provide detailed information about the intended vehicle parking, fueling and maintenance facility. All equipment, tools, and machinery used for handling materials and executing any part of the work shall be subject to approval by the City-Parish and shall be maintained in satisfactory, safe and efficient working condition in accordance with the manufacturer's specifications and/or recommendations. Equipment used by Contractor shall be such that no injury to workers or property should result from its proper use.

Contractor and shall maintain all properties, facilities and equipment used in providing service under this Contract in a safe, neat, clean and operable condition at all times.

Contractor and shall repair or arrange for the repair of all of Vehicles and equipment (including in-cab equipment or other ancillary equipment) for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor and shall maintain accurate records of repair, which shall include the date, mileage, nature of repair and the signature of a maintenance supervisor that the repair has been properly performed.

Contractor, as applicable, shall arrange to store all vehicles and other equipment at a location in accordance with Section 9 of the Contract. The Contractor shall store vehicles at a site in accordance with City-Parish's applicable zoning regulations on the Commencement Date or during the term of this Contract. The Contractor shall gain the approval of the City-Parish; document the location and present evidence of sufficient storage capacity for vehicles and other equipment as part of the Transition Plan.

#### **13.1.1.6 Collection Vehicle Inspection and Maintenance**

Contractor shall furnish and maintain all such equipment in accordance with all standards in this Contract and any maintenance considered to be necessary for execution of the work in an acceptable manner and at a satisfactory rate of progress. Contractor shall inspect each vehicle and each piece of equipment daily to ensure that all equipment is operating properly and complies with Applicable Law. Vehicles which are not operating properly or do not comply with Applicable Law shall be taken out of service until they are repaired and operate properly and comply with Applicable Law. Contractor shall perform preventive maintenance and all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Contractor and Contractor's subcontractor(s) shall keep accurate records of all Vehicle maintenance, recorded according to date and mileage, and shall make such records available to the City-Parish upon request to the extent necessary to ensure compliance with manufacturer's recommended scheduled vehicle service.

#### **13.1.2 Other Collection Equipment**

Contractor shall provide other collection equipment and vehicles sufficient in number and capacity to perform the work required by this Contract including, but not limited to dumpsters, roll-off containers and any vehicles used to service Municipal Facilities.

Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the services performed under this Contract. Contractor shall provide reasonable protection to prevent property loss or damage and/or

personal injury to persons, including but not limited to, employees performing such work and all other persons who may be affected thereby.

#### **13.1.2.1 Appearance of Other Collection Equipment**

The Contractor's name, local telephone number, call center telephone number shall be displayed in letters and numbers no less than four (4) inches high and the vehicle identification number shall be displayed in letters and numbers no less than two and one-half (2.5) inches high on all other collection equipment. Contractor shall not place the City-Parish's logo on other collection equipment vehicles. Contractor shall paint all other collection equipment uniformly as approved by Contractor shall maintain all containers in a clean manner.

Other collection equipment used in the collection of materials under the Contract shall be thoroughly washed on a regular basis to present a clean appearance. City-Parish may inspect Vehicles at any time to determine compliance with cleaning and maintenance requirements.

#### **13.1.2.2 Other Collection Equipment Specifications**

All other collection equipment and vehicles used by Contractor in providing collection of materials under the Contract shall be designed to prevent leakage, spillage or overflow. All such vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. Contractor shall also ensure that GVW of all vehicles, even when loaded, does not exceed vehicle license limitations to protect the roadways of the City-Parish.

#### **13.1.2.3 Purchase, Operation, Storage and Replacement of Other Collection Equipment**

Unless otherwise stated in this Contract, Contractor, at its sole cost, shall purchase, operate, and maintain other collection equipment pursuant to this Contract.

City-Parish, at its sole discretion, shall determine whether the Contractor is or is not properly maintaining the collection equipment. If the City-Parish determines the Contractor is not properly maintaining the collection equipment, Contractor shall replace such equipment in accordance with this Contract and City-Parish may assess administrative charges in accordance with this Contract. Unless otherwise stated in this Contract, Contractor, at its sole cost, shall replace collection equipment if such equipment is lost, stolen or damaged beyond normal wear and tear. If Contractor or City-Parish determines that other collection equipment requires replacement, Contractor shall replace such equipment within fourteen (14) calendar days with comparable equipment. Contractor shall be responsible to make the appearance of the replacement equipment in adherence with the requirements of this Contract.

#### **13.1.2.4 Other Collection Equipment Inspection and Maintenance**

Contractor shall furnish and maintain other collection equipment in accordance with all standards in this Contract and any maintenance considered necessary for execution of the work in an acceptable manner and at a satisfactory rate of progress. Contractor shall inspect each vehicle and each piece of equipment daily to ensure that all equipment is operating properly and complies with Applicable Law. Vehicles which are not operating properly or do not comply with Applicable Law shall be taken out of service until they are repaired and operate properly and comply with Applicable Law.

### **13.1.3 Ownership of Collection Equipment**

#### **13.1.3.1 Ownership Collection Equipment other than Carts**

Ownership of collection equipment other than carts shall rest with Contractor.

#### **13.1.3.2 Ownership of Carts**

Title to and ownership of all solid waste and recycling carts is, at all times, with City-Parish regardless of whether such carts are in the possession of Contractor, Residential Service Units, Multi-family Complexes, Municipal Facilities or any other entity or individual.

### **13.2 Cart Purchase, Storage, Delivery, Maintenance, Repair, and Replacement Services**

Contractor shall be responsible for cart operations, as defined in this Section of the Contract, at no additional cost to the City-Parish. The City-Parish shall retain ownership of all carts, in accordance with Section 13.1.3.2 of the Contract.

Contractor shall be required to provide Municipal Solid Waste Services and Recycling Services utilizing City-Parish owned carts (except when services are provided to Municipal Facilities or Multi-family Units are provided utilizing Dumpsters), and shall be responsible for cart operations, as defined in this Section of the Contract, for City-Parish owned carts. If carts or other containers not owned by the City-Parish are set out for Municipal Solid Waste Services and/or Recycling Services, Contractor is not required to service such carts or containers and is not required to provide cart operations for such carts or containers.

#### **13.2.1 Cart Inventory Data**

##### **13.2.1.1 Cart Inventory Database**

In addition to other Recordkeeping and Reporting Requirements, in accordance with Section 22 of the Contract, the Contractor shall develop and maintain a database which contains the following information. The Contractor shall make the then current database, or any data contained therein, available to the City-Parish upon request by the City-Parish.

- (i) Each cart purchased during the Contract shall have an associated Cart ID or serial number, unique to that cart, which shall be used to track all information required under this Section and any additional cart information as required under the Contract
- (ii) Location (address) and date of delivery of each cart, including current and historical locations where cart has been in-service
- (iii) Occurrences of maintenance, repair, and replacement performed for each cart
- (iv) Number, type(s) and capacity(ies) of carts at each Residential Service Unit, Multi-family Complex, and Municipal Facility, in accordance with Section 13.2.1.2.

##### **13.2.1.2 Requirements for Existing Cart Inventory Report and Collection of Excess Carts**

Upon commencement of the Contract, and once every three (3) years thereafter for the duration of the initial term and any optional renewal term, Contractor shall be required to conduct in-field cart data collection activities to establish the following:

- (i) Number of carts being serviced at each Residential Service Unit, Multi-family Complex, and Municipal Facility by:

- a. Service type (Municipal Solid Waste Service or Recycling Service)
- b. Cart capacity (96, 64, or 48-gallon)

The Contractor shall be required to complete in-field cart data collection activities and provide the City-Parish with a comprehensive report within three (3) months of the Contract Commencement Date, and once every three (3) years thereafter, on the same month in which the Contract commenced.

The City-Parish shall use the comprehensive report to identify the number of Municipal Solid Waste Service carts and Recycling Service carts that are collected at each Residential Service Unit, to determine the cost of Additional Carts to be paid to the Contractor by the City-Parish, in accordance with the rates established in Appendix B to the Contract.

Upon notification and request by the City-Parish, the Contractor shall be required to collect from Residential Service Units, Multi-family Complexes, and Municipal Facilities any unwanted excess carts. The Contractor will be responsible for cleaning and storing these carts until they can be used.

### **13.2.2 Cart Operations Facility and Location**

- (i) The Contractor shall utilize a facility at a location in accordance with Section 9 of the Contract for cart operations required, including but not limited to cart storage, maintenance, and repair operations.
- (ii) Contractor's cart operations facility shall be utilized for receipt and storage of all carts and replacement parts purchased by the City-Parish or the Contractor for use in provision of services under this Section.

### **13.2.3 Cart Purchase and Delivery**

- (i) Upon commencement of the Contract, Contractor shall utilize existing City-Parish-owned carts for provision of services in accordance with the Contract.
- (ii) The City-Parish shall purchase and deliver all carts for garbage services and the Contractor shall provide all recycling carts to the Contractor's Cart Maintenance Facility as required for the provision of collection services in accordance with the Contract, for Residential Service Units, Multi-family Units, Municipal Facilities, and City-Parish Events. Carts shall be of varying sizes as directed by the City-Parish and in accordance with the requirements of services provided under the Contract.
- (iii) Contractor shall be responsible to ensure that cart inventory is sufficient to provide services as required by the Contract at all times.
- (iv) Contractor, at its sole cost, shall be responsible for repair or replacement of carts damaged or destroyed by the Contractor or Contractor's employees. Contractor shall take care to prevent damage to or destruction of carts.
- (v) Contractor's cart operations facility, in accordance with Section 9 of the Contract, shall be utilized for receipt and storage of all carts and replacement parts purchased by the City-Parish or the Contractor for use in provision of services under this Section.

- (vi) The Contractor shall provide delivery of carts to new Residential customers and shall repair or exchange existing carts with replacement carts as requested by the City-Parish.
- (vii) The City-Parish retains the right to have the flexibility to allow or require differently sized carts, including:
  - a. 48-gallon carts
  - b. 64-gallon carts
  - c. 96-gallon carts
- (viii) In addition to all other requirements as described in Section 13.2 of this Contract, upon request from a Residential Service Unit to receive Residential Recycling Services, the Contractor shall deliver a recycling cart(s) to the Residential Service unit and initiate service. Upon request from a Residential Service Unit to stop receiving Residential Recycling Services, the Contractor shall pick up any recycling cart(s) from the Residential Service Unit.

#### **13.2.4 Cart Maintenance, Repair, and Replacement**

- (i) The Contractor shall maintain and repair carts of varying sizes for the collection of Municipal Solid Waste and Program Recyclable Materials., in accordance with the requirements of collection services provided under the Contract.
- (ii) The Contractor shall provide repair and maintenance to existing City-Parish-owned carts (including providing repair parts at no additional charge for such existing carts, except the Contractor shall not be required to provide repair parts at no charge for repairs or parts based on abuse, neglect, lack of maintenance or failure to follow service or operating instructions), as requested by the City-Parish through the term of the Contract and any renewal term.
- (iii) The Contractor will be expected to maintain, repair, distribute and replace as needed all carts used to provide services under this Contract, including existing City-Parish-owned carts and any carts purchased under this Contract. Contractor responsibilities shall include picking up damaged carts, warranting as specified and repairing, replacing carts and delivering repaired and cleaned, replacement or new carts to Residential Service Units, Multi-family Units, and Municipal Facilities.
- (iv) Contractor shall provide Residential Service Units up to one (1) exchange per year of carts requested by Residents for the purpose of providing Residents with a differently sized cart at no additional cost. Additional requests for cart exchanges shall be provided by the Contractor at the rate defined in Appendix B.
- (v) The turn-around time for the maintenance, repair, or replacement of a cart shall not exceed five (5) business days from the time a request for service is received by the Contractor. Maintenance and repair shall not interfere with normal collection of the cart.
- (vi) The Contractor shall use replacement parts for carts that meet or exceed the specifications of new parts.

- (vii) All requests for repairs and replacement shall be received and handled by the Contractor in accordance with Section 17 of the Contract. The Contractor shall make the necessary repairs or replacement within five (5) business days of receipt of request. The Contractor shall be responsible for maintaining records of such customer service requests and resolution in accordance with Section 22 of the Contract.
- (viii) Contractor shall be responsible for and incur all costs for the disposal or recycling of carts damaged beyond repair.

### **13.2.5 Cart Specifications**

The following specifications represent the minimum cart specifications required by the City-Parish for cart purchases and delivery.

- (i) The cart shall be compatible with both standard American semi-automated, bar-locking lifters (ANSI type B) as well as automated arm lifters (ANSI type G). All carts should be rotationally or injection molded using linear high or medium density polyethylene that contains resin with an ultraviolet stabilizer and color shall be non-fading throughout the warranty period.
- (ii) The body of the cart shall be composed of first quality recyclable (25% PCR of total) medium or high density polyethylene with a BCSR rating of not less than 500 hours.
- (iii) The resin shall meet or exceed the following American Society for Testing Materials (A.S.T.M) molded property specification: Environmental Stress Crack Resistance (E.S.C.R) Condition "A" for rotational carts or Condition "B" for injection molded carts.
- (iv) The capacity of carts shall be 48, 64, and 96 U.S. gallons.
- (v) The cart is provided with adequate wheels (minimum ten inch (10") diameter for 96, 64, and 48-gallon carts with five-eighth inch (5/8") diameter solid axle) and handles so that it can be pushed or pulled with little effort.
- (vi) The wheeled carts shall be designed to contain Municipal Solid Waste and Recyclables collected from Residential Service Units, Municipal Facilities, and City-Parish Events.
- (vii) Carts shall be furnished complete with all hardware needed for assembly and use. Contractor shall establish an inventory stock of replacement parts for field repairs. Replacement parts should be available upon request of repair to ensure repairs are made in a timely manner in accordance with Section 13.2.6 of the Contract. The following are considered replacement parts:
  - a. Wheels and assemblies
  - b. Lids and assemblies
  - c. All associated fasteners and brackets.
- (viii) The cart is designed to accommodate a load of three hundred thirty-five (335) pounds for a 96-gallon cart excluding the weight of the cart (and equivalent load capacity for 64-gallon and 48-gallon carts), without permanent damage, deformation or structural failure. Carts and all components shall be capable of withstanding temperature extremes



ranging from negative thirty (-30) degrees Fahrenheit to one hundred and fifty (150) degrees Fahrenheit, when under two hundred (200) pounds per square inch compression, applied from opposite sides by the gripping arms of a Vehicle without permanent damage, deformation or structural failure.

- (ix) Carts shall be made with plastic material using hot melt compounding that is specifically prepared to be colorfast so that the carts do not alter appreciably in normal use. Carts shall be stabilized against ultraviolet light attack with UV 531 or equivalent.
- (x) Cart lids shall have the following specifications:
  - a. Shall be designed to facilitate water run-off.
  - b. Design prevents the lid from being flung open by the wind.
  - c. Shall be closed by the weight of the lid only. No latches are used or required.
  - d. The lid is designed in such a manner as to allow opening without having to touch the bottom edge of the lid.
- (xi) The cart is designed to prevent being turned over by winds of up to 40 mph in any direction.
- (xii) In the event of any recall notice, technical service bulletin, or other important notification affecting any carts or replacement parts purchased under this Contract, a notice shall be sent to the City-Parish. It shall be the responsibility of the Contractor to assure that all recall notices are sent directly to the City-Parish.
- (xiii) If the carts include a bar code system, bar codes should be located on the front of the container above the serial number. The bar code should be readable with the devices that meet industry standards. The scanned value of each code should match each cart's serial number. The bar code shall remain scannable throughout the warranty period.

### **13.2.6 Cart Appearance**

- (i) Carts shall have an appearance as specified by the City-Parish, including, but not limited to:
  - a. Color
  - b. Labels, logos, and other identifying information, including size and color of letters, numbers, and markings
  - c. Serial numbers or other numbering system of City-Parish's choosing
  - d. Size and color of the carts are black for the garbage and grey for the recycling as directed by the City-Parish, and are stabilized against ultraviolet light attack with UV 531 or equivalent.
  - e. Upon request, cart lids shall have a hot stamp informational message educational message, and/or In- Mold Label (IML) option as needed by the City
- (ii) Carts shall have no markings or advertising any entity other than the City-Parish.

### 13.2.7 Cart Warranty

The following cart warranty specifications represent the warranty requirements for cart maintenance, repair and replacement from the manufacturer. All carts and hardware furnished shall be unconditionally warranted for a period of a minimum ten (10) years against defects including, but not limited to: cracking, chipping, peeling, distortion, failures at attachment, weathering degradation, defective or insufficient material, poor material workmanship on the part of the manufacturer and lowered ultraviolet resistance to aging in the process or normal operational use. If at any time during the warranty period, a defect should occur with any cart, the cart shall be replaced by the Contractor at no cost or obligation to the City-Parish. The Contractor expressly warrants all items for recycling carts to be new, free from defects in design, materials and workmanship, and to be fit and sufficient for their intended purpose. All warranties shall survive acceptance and payment by the City-Parish. The City-Parish reserves the right to have any or all carts submitted for consideration evaluated by an independent testing facility to ensure full compliance with specifications. Warranty includes, but is not limited to, the factors listed below:

- (i) Failure of the lid to prevent rainwater from entering the cart when closed on the cart body.
- (ii) Damage to the cart body, the lid, or any component parts through opening or closing the lid.
- (iii) Does not continuously perform in the intended manner as set forth in Section 13.2.7 (including smooth maneuverability).
- (iv) Failure of the lid hinge to remain fully functional and continually hold the lid in the originally designed and intended position when either is opened or closed.
- (v) Failure of any plastic component to be resistant to damage in the event of contact with common household or residential product/chemicals.
- (vi) Failure of any plastic component resulting from rodents or other wildlife damage.
- (vii) Failure of any portion of the bottom of the cart to remain impervious to wear-through after repeated contact with rough and abrasive surfaces. The cart shall remain free of holes or penetrations that will cause the container to leak throughout the warranty period with the cart in normal use.
- (viii) Failure or damage to cart assemblies caused by any incompatibility of the cart and the collection vehicles used in provision of Residential Services, Multi-family Services, and Municipal Facilities Services

**SECTION 14 CART OR LID FAILURES DURING THE WARRANTY PERIOD SHALL CONSTITUTE FAILURE OF THE CART AND REQUIRE REPLACEMENT WITH A NEW AND COMPLETE CART (INCLUDING SHIPPING AND ASSEMBLY), AT NO COST TO THE CITY-PARISH. THE DETERMINATION OF FAILURE WILL BE AT THE SOLE DISCRETION OF THE CITY-PARISH. PERSONNEL STANDARDS**

Contractor shall assign a qualified person or persons to be in charge of its operations within City-Parish, and shall provide the name, office telephone number, mobile phone number, email address, and fax

number of Contractor's representatives and key personnel to the City-Parish. Such records shall be updated as personnel or contact information changes. In addition, Contractor shall adhere to the following requirements:

- (i) Contractor shall hire and maintain qualified personnel to provide service under this Contract. As for personnel operating commercial vehicles, Contractor shall ensure such personnel have a valid commercial driver's license while operating commercial vehicles in the City-Parish or in connection with this Contract. If deemed qualified, the Contractor is encouraged to hire City-Parish residents to fill vacant positions at all levels.
- (ii) Contractor shall furnish each employee involved in the performance of this Contract with a uniform and safety vest, shirt or jacket which clearly displays the name of Contractor. Such uniforms and safety equipment shall make the employee readily visible to other motorists. Contractor's employees shall wear complete uniforms and safety vest, shirt or jacket at all times.
- (iii) Contractor shall designate qualified employees as supervisors of field operations. Supervisors will be in the field inspecting Contractor's work and will be available by radio or phone during the Contractor's hours of operation to handle calls and complaints from the City-Parish, or to follow up on problems and inspect Contractor's operations.
- (iv) Contractor shall provide regularly scheduled, on-going operating and safety training for all employees. In addition, Contractor's employees shall be trained to perform their duties to maximize the City-Parish's recycling rate, minimize contamination, and promote recycling at all times. Such meetings shall be mandatory for all collection and supervisory personnel and held not less than once per month. All temporary and newly hired permanent collection personnel shall receive comprehensive safety and operational training prior to working on the collection vehicles. Contractor shall train its employees in Solid Waste collection to identify and use reasonable effort to not collect Hazardous Waste or Special Waste. Training manuals and schedules shall be maintained at the local office of Contractor and available for review at any time by City-Parish.
- (v) All employees involved in the performance of this Contract including office and all collection personnel, shall be provided adequate training before and during their employment with the Contractor. This training shall familiarize employees with the required duties and standards of performance, specific requirement on routes to which they will be assigned, teach the route layouts previously established and approved, and provide necessary knowledge to eliminate delays and missed collections. All supervisory and collection employees shall be provided comprehensive safety training, equipment, and supplies prior to and during the performance of their duties. All collection, administrative, supervisory and customer service personnel shall receive customer service training prior to and during the time they are employed by the Contractor and shall be knowledgeable regarding the terms of the Contract.
- (vi) Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. Contractor shall regularly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct collection crews to perform work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by and Contract resulting from this RFP, Contractor shall take all appropriate corrective measures. If City-Parish has notified Contractor of a complaint related to discourteous or improper behavior, Contractor

will consider reassigning the employee duties not entailing contact with the public while Contractor is pursuing its investigation and corrective action process. The City-Parish reserves the right to direct Contractor to remove any employee who violates this policy from providing services to the City-Parish.

- (vii) Contractor shall not, nor shall it permit its employees to, demand or solicit directly or indirectly any additional compensation or gratuity from members of the public for services provided under any Contract(s) resulting from this RFP.
- (viii) In performance of collection, disposal, processing, and marketing services, Contractor's employees shall adhere to municipal, City-Parish, state and federal laws.

City-Parish reserves the right to make a complaint regarding any employee of the Contractor who violates any provision herein, or who is wanton, negligent or discourteous in the performance of his/her duties. The City-Parish may require the Contractor to remove any unacceptable employee, as determined by the City-Parish, from service to the City-Parish. The City-Parish reserves the right to have the Contractor remove employees who fail to meet these criteria from services related to this Contract.

## **SECTION 15 COLLECTION DAYS AND HOURS OF OPERATION**

### **15.1 Collection Days and Hours of Operation**

Except for specified holidays, Contractor's hours of operation within the Contract Area are set forth below. However, due to events Beyond the Contractor's Control, which prevent Contractor from completing its collection services by 8:00 PM on collection days, Contractor shall call the City-Parish no later than 4:45 PM that day and request extended collection hours not to exceed 10:00 PM and state the reason for the extended hours. If the extended hours request is approved by the City-Parish, administrative charges will apply.

#### **15.1.1 Collection Services**

Contractor's regular collection hours shall be from 5:00 AM until 8:00 PM Monday through Friday on regular collection days

Contractor is prohibited from operating its vehicles on City-Parish residential streets prior to 5:00 AM or after 8:00 PM, unless otherwise approved by the City-Parish in accordance with the provisions of this Contract.

Contractor is prohibited from operating its vehicles on City-Parish streets on days other than regular collection days, unless otherwise approved by the City-Parish in accordance with the provisions of this Contract.

### **15.2 Facility Hours of Operation**

Contractor shall be solely responsible to ensure the Material Recovery Facility hours of operation are sufficient to support the requirements as set forth in this Contract.

### **15.3 Contractor Representative Hours of Operation**

Contractor shall have a competent and reliable representative on duty that is authorized to make decisions and act on its behalf. Contractor agrees that City-Parish shall have twenty-four (24) hour access to said representative via a non-toll call from City-Parish. Answering machines,

paggers or other devices that do not provide for immediate contact with Contractor's said representative(s) shall not meet the requirements of this section.

## **SECTION 16 HOLIDAYS**

For purposes of this Contract, holidays shall solely include the following:

- (i) New Year's Day;
- (ii) Thanksgiving Day; and
- (iii) Christmas Day.

The City-Parish, at its sole discretion, may add or delete holidays. If the City-Parish elects to add or delete holidays, the City-Parish will provide the Contractor notice in accordance with the provisions of this Contract. The North Landfill will also be closed on these holidays.

If a holiday occurs on a scheduled collection day for a Residential Service Unit, regular services that would have been provided on that collection day shall not occur on that day. If Residential Garbage and Recycling Services scheduled collection day occurs on a holiday, the Contractor shall perform the scheduled collection for the holiday and for the remainder of the week on the next calendar day after the scheduled collection day, including Saturdays.

If a holiday occurs on a scheduled collection day for Municipal Facilities Services and/or Multi-family Services, the Contractor shall perform the scheduled collection for such Facility at the sole discretion of the City-Parish on the next scheduled collection day after the holiday.

## **SECTION 17 CUSTOMER SERVICE**

### **17.1 Customer Service Office, Complaints and Service Requests**

Contractor shall maintain a customer service office at a location approved by the City-Parish and in accordance with Section 9 of the Contract. The customer service office shall be staffed by the Contractor with personnel during all times of regular collection hours of operations, in accordance with Section 15.1 of the Contract, and extending one hour later than regular collection hours of operation.

All customer service requests for Residential Services, Multi-family Services, and Municipal Facilities Services shall be directed to the Contractor. The City-Parish and City-Parish staff shall not be designated as points of contact for customer complaints and/or service requests, and will not handle, respond to, or resolve customer complaints and/or service requests, except to direct customers to resolve complaints via the Contractor's complaint and service request resolution staff. If the City-Parish receives a complaint directly, the City-Parish shall direct the complainant's information via electronic communication to the Contractor including:

- (i) Customer name, address, and phone number
- (ii) Type of complaint

For all complaints and/or service requests, whether received by the City-Parish or the Contractor, the Contractor shall resolve each complaint within:

- (i) If the complaint and/or service request is a Missed Collection, Contractor shall pick up the missed collection on that same day if the complaint is delivered to the Contractor prior to 1:00 PM.

- (ii) If the complaint and/or service request is a Missed Collection, Contractor shall pick up the missed collection before 5:00 PM on the next calendar day if the complaint is delivered to the Contractor after 1:00 PM.
- (iii) If the complaint and/or Service Request is property damage, Contractor shall follow damage to property procedures in accordance with Section 19 of the Contract.
- (iv) If the complaint is other than a missed collection or property damage, Contractor shall resolve the complaint within twenty-four (24) hours of notice of such complaint and/or Service Request to Contractor.

For each customer complaint and/or service request, Contractor shall record, on a daily basis, the complaint including:

- (i) Date and time complaint was delivered to the Contractor;
- (ii) Identification of the person whom delivered the complaint to the Contractor;
- (iii) Contractor's determination as complaint as legitimate or non-legitimate;
- (iv) Date, time and action taken to resolve complaint; and
- (v) Name of responsible contact at Contractor's location regarding the complaint.

Contractor shall submit a complaint/service request report, in a format approved by the City-Parish, to the City-Parish prior to 10:00 AM each business day. The Contractor shall work with the City-Parish to review and confirm verified misses, which may serve as the basis for administrative charges or performance incentives as described in Section 30.

Additionally, the Contractor must maintain dedicated resources that shall be utilized to respond to and collect verified Missed Collections within the required timeframes defined in this Section.

Contractor and Contractor's employees understand, acknowledge, and agree that customer service is of high importance to the City-Parish. Contractor and its employees will work diligently to provide a high level of customer service to the City-Parish and all customers.

## **SECTION 18 TRANSITION SUPPORT**

Contractor understands, acknowledges, and agrees that a smooth transition from currently provided Residential Services, Multi-family Services, and Municipal Facilities Services and service provider to another service provider and/or from current Residential Services to new or changed Residential Services is essential for the health and safety of the City-Parish and its residents. Contractor understands, acknowledges, and agrees that the failure of Contractor to timely and promptly transition will create serious health and safety issues for the City-Parish and its residents. Contractor understands, acknowledges, and agrees that the City-Parish does not possess the necessary manpower or equipment to provide the services required under this Contract.

Contractor shall cooperate fully and timely with the City-Parish and any previous and subsequent service provider(s) in any transition of Residential Services, Multi-family Services, and Municipal Facilities Services

Contractor shall cooperate fully with the City-Parish in:

- (i) The transition to the Contractor providing Municipal Solid Waste Service, Yard Waste and Bulk Waste Service, and Recycling Service upon the Commencement Date;

- (ii) The transition from the Contractor to subsequent person(s) or the City-Parish providing Municipal Solid Waste Service, Yard Waste and Bulk Waste Service, and Recycling Service upon expiration of the initial term or optional renewal term; and,
- (iii) The transition from the Contractor to subsequent person(s) or the City-Parish providing Municipal Solid Waste Service, Yard Waste and Bulk Waste Service, and Recycling Service upon termination of the Contract.

For the transition from provider(s) of Municipal Solid Waste Service, and Recycling Service, and Yard Waste and Bulk Waste Service prior to the Commencement Date to the Contractor, Contractor shall collect Municipal Solid Waste and Recyclables from carts and containers from the provider(s) prior to the Commencement Date. In addition, Contractor shall immediately provide a Transition Notice, as defined in Section 26 of this Contract, to the Residential Service Units and to Municipal Facilities whom set-out Municipal Solid Waste and Recyclables in carts from the provider(s) prior to the Commencement Date as set forth in this Contract.

Transition support shall include delivery to the City-Parish, prior to Commencement Date, route maps in electronic PDF and shapefile format and hardcopy format on route by route basis in folder size and 20 x 30 poster size. The Contractor shall be required to maintain a minimum number of routes, by collection service, for Residential Services during the term of the Contract. The minimum number of routes shall be the number of routes stated by the proposer in accordance with this Transition Support section of the Contract, and included in the Transition Plan.

Upon Contractor's failure to fully and completely transition in accordance with this Contract or the Transition Plan, included as Appendix A, City-Parish may engage the immediate services of another provider to immediately fully and completely transition in accordance with this Contract or the Transition Plan and the reasonable expenses of which Contractor hereby agrees to pay to City-Parish. In the event City-Parish is unable to secure the immediate services of another solid waste provider, Contractor agrees and consents to all equitable and at law remedies available to City-Parish.

## **SECTION 19 DAMAGE TO PROPERTY**

The Contractor agrees to hold harmless the City-Parish for any property damage caused by the Contractor. The City-Parish shall not be liable for any costs of property damage caused by the Contractor.

Contractor shall take all necessary precautions to protect public safety and private property during the performance of the Contract. Except for reasonable wear and tear to roadways due to provision of services under this Contract, Contractor shall repair or replace any private or public property which is damaged due to Contractor's negligence. Such property damages shall be resolved by Contractor either by repair or replacement, at no charge to the property owner, within forty-eight (48) hours of the earlier of knowledge or notice to Contractor of such damage unless a longer period of time is approved in writing by the City-Parish. Any replacement of property shall be accomplished with property of the same or equivalent value at the time of the damage.

If Contractor fails to address the repair or replacement of damaged property within forty-eight (48) hours of the earlier of knowledge or notice to Contractor of such damage or the longer period of time approved in writing by the City-Parish, the City-Parish may, but shall not be obligated to, repair or replace such damaged property, and the cost of doing so shall be deducted from any payment to be made to the Contractor by the City-Parish.

Within fifteen (15) Business Days of commencement of the Contract, the Contractor shall submit for approval by the City-Parish a procedure for management of property damage consistent with the requirements set forth in this Contract.

## **SECTION 20 STORM AND DISASTER DEBRIS MANAGEMENT**

In the event of an emergency declaration by the Mayor-President of the City-Parish, President of the United States, or Federal Emergency Management Agency (FEMA) affecting the Contract Area, the Contractor shall not be responsible for collection of debris generated from or as a result of such emergency, to the extent that such debris is in excess of normal volumes and material types collected through services provided under this Contract.

In the event of such emergency declarations, the Contractor shall be required to continue provisions of services in accordance with this Contract, including collection of all materials and material quantity limits as defined herein.

Emergency declaration, as defined in this Section, shall not automatically invoke Force Majeure terms, as defined in Section 37.

## **SECTION 21 SPILLAGE AND LEAKAGE, LITTER, AND ODOR**

### **21.1 Spillage and Leakage**

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

### **21.2 Litter**

The Contractor shall be required to pick up any and all litter (including any glass spillage) caused by the provision of services in connection with this Contract. Contractor shall perform all clean-ups within two (2) hours of the earliest of either the (i) notification of occurrence of litter or (ii) knowledge of occurrence of litter by Contractor, Contractor's vehicles, or Contractor's employees.

### **21.3 Odor**

The Contractor shall maintain collection equipment that is owned by the Contractor as to prevent the odors. The Contractor shall routinely clean collection equipment.

## **SECTION 22 RECORDKEEPING, REPORTING AND REPORTING FORMAT REQUIREMENTS**

### **22.1 Recordkeeping**

The Contractor shall maintain at the local customer service office adequate records relating to the performance of their respective duties under this RFP. Such records shall be made available



at any time during reasonable business hours for inspection by the City-Parish and for a period of five (5) years after last or final payment. At a minimum, the Contractor shall create, maintain, and make available records as defined herein and/or required by Applicable Law, and any reports as are reasonably necessary to:

- (i) Document services provided by type of service, container type, container size, collection frequency, fees charged, and other information as requested by the City-Parish.
- (ii) Document deliveries of materials by type of material, time delivered to facility, tonnage of material delivered, source of material, route, and other information as requested by the City-Parish.
- (iii) Document missed collections and photographic evidence of Unaccepted Set-outs on a daily basis by address, time and date for each and the reason and notice for Unaccepted Set-outs or missed collection.
- (iv) Document damaged carts by address, description of damage, and other information as requested by the City-Parish.
- (v) Document the number of carts that have been lost, stolen, destroyed, or damaged beyond repair and other information as requested by the City-Parish.
- (vi) Document complaints by address, date and time of receipt of complaint, date and time of resolution of complaint, description of complaint resolution, and other information as requested by the City-Parish.
- (vii) Document inactive accounts by address and other information as requested by the City-Parish.
- (viii) Document damage to City-owned or private property as a result of conducting Service(s) within two (2) hours of damage occurring.
- (ix) Document monthly tonnage collected by material type as part of Residential Services, Multi-family Services, and Municipal Services
- (x) Document monthly tonnage processed as part of Processing Services.
- (xi) Document spills and property damage by date and time of incident, description of incident, date and time of resolution, description of resolution, and other information as requested by the City-Parish.
- (xii) Document loads delivered by time delivered to Delivery Facility and/or Material Recovery Facility, tonnage of material delivered, Unaccepted Loads by weight and date collected, and other information as requested by City-Parish. A monthly and annual summary shall also be submitted to City.
- (xiii) Provide written notice and photographs for any load designated as an Unaccepted Load prior to the collection vehicle departing the Delivery Facility and/or Material Recovery Facility to the driver and the City-Parish.
- (xiv) Document characterization audit and other information as requested by City-Parish, including tonnages by commodity that align with invoice requirements. A monthly summary shall also be submitted to the City-Parish.

- (xv) Any missing criteria, data, guidance, information or other such other documents and reports as City-Parish may reasonably require to verify compliance with the Contract or to meet City-Parish 's reporting requirements.

## **22.2 Transition Plan**

The Contractor shall support any previous and subsequent providers in any transition of service to be provided as described in Section 18. The Contractor shall submit to the City-Parish for approval a transition plan, consistent with the transition support requirements as set forth in this Contract, at least ninety (90) days prior to execution of this Contract. In the transition plan, Contractor shall detail:

- (i) The transition to the Contractor providing Residential Services, Multi-family Services, Municipal Facilities Services and Recycling Processing Services upon the Commencement Date;
- (ii) The transition from the Contractor to subsequent person(s) or the City-Parish providing Residential Services, Multi-family Services, Municipal Facilities Services and Recycling Processing Services upon expiration of the initial term or optional renewal term; and,
- (iii) The transition from the Contractor to subsequent person(s) or the City-Parish providing Residential Services, Multi-family Services, Municipal Facilities Services and Recycling Processing Services upon termination of the Contract.
- (iv) Steps taken to gain the approval of the City-Parish, document the location and present evidence of sufficient storage capacity for collection vehicles and other collection equipment
- (v) A monthly summary during the transition period shall also be submitted to the City.

## **22.3 Contingency Plan**

Within ninety (90) days of the Commencement Date of any and each Contract(s) developed as a result of this RFP, the Contractor(s) shall submit a Contingency Plan to the City-Parish for approval. The Contingency Plan must show the Contractor's arrangements to provide vehicles, equipment or personnel and to maintain uninterrupted service during mechanical breakdowns of equipment or facilities and in case of natural disaster, emergency downtime, outage, equipment failure or breakdown, or labor dispute, delivery of Special Waste to a facility, or any other situation or condition that would impair Contractor's ability to provide service. The Contingency Plan shall comply with all State and Federal regulations regarding the handling of Hazardous Waste and Special Waste.

## **22.4 Regular Report Delivery and Frequency**

The Contractor shall transmit records as required by the City-Paris for preparing monthly, quarterly, or annual reports. The Contractor shall submit all reports in an electronic format approved by the City-Parish. The successful Offeror shall provide the City-Parish with a monthly report within seven (7) calendar days following the end of the month and an annual report within thirty (30) calendar days following the end of the calendar year. The Contractor shall provide the following regular reports as part of this Contract:

- (i) Inform the City-Parish of any change in Contractor's contact name or address within 15 days of such occurrence and acquire written consent from the City-Parish for any subcontractor(s) used to complete any portion of this Contract.
- (ii) All vehicle maintenance, recorded according to date and mileage, and shall make such records available to the City-Parish upon request to the extent necessary to ensure compliance with manufacturer's recommended scheduled vehicle service.
- (iii) All Unaccepted Set-outs and Missed Collections including the address, reason set-out was an Unaccepted Set-out, and other information as requested by City-Parish to the City-Parish by 10:00 AM the next business day. If Contractor fails to provide notice in accordance with this section, Contractor shall be subject to administrative charges in accordance with this Contract.
- (iv) Invoice for monthly payments due to the Contractor
- (v) Written update within fifteen (15) days of any changes to:
  - a. Number of routes, number of vehicles and size of vehicles to be utilized by material type.
  - b. Number of spare vehicles to be on hand for back-up of front-line vehicles.
  - c. All vehicles by manufacturer, designated unique vehicle number, description, legal GVW of each vehicle, date of acquisition, fuel type and capacity.
- (vi) Annual operational reports that indicate the Contractor's staff, equipment, and routing are sufficient to manage current and anticipated customer growth.

## **SECTION 23 CITY-PARISH INSPECTION RIGHTS**

### **23.1 City-Parish's Right to Inspect Records, Books, Data and Documents**

The City-Parish or any of its duly authorized representatives shall have access, within twenty-four (24) hours of notification, to all books, records, data and documents of the Contractor for inspection, and audit, at City-Parish's own expense.

### **23.2 City-Parish's Rights to Inspect Facilities and Equipment**

The City-Parish or any of its duly authorized representatives shall have access, within twenty-four (24) hours of notification, to inspect Contractor's equipment and facilities, including the Material Recovery Facility, facility utilized for cart operations, and Disposal Facility if a facility other than the City-Parish North Landfill is approved for use by the City-Parish in accordance with Section 8.2 of the Contract. utilized in accordance with this Contract, and perform such inspections, as City-Parish deems reasonably necessary, to determine whether the services required to be provided by Contractor under this Contract conform to the terms hereof and/or the terms of the solicitation documents, if applicable. City-Parish shall conduct the inspection of facilities and equipment during regular hours of operation. Contractor shall make available to City-Parish all reasonable facilities and assistance to facilitate the performance of inspections by City-Parish's representatives.

## **SECTION 24 CUSTOMER LIST, BILLING, PAYMENT, AND ANNUAL ADJUSTMENTS**

### **24.1 Customer List**

On or prior to November 1, 2022, City-Parish shall provide Contractor with a Customer List for Residential Services, Multi-family Services, and Municipal Facilities Services. Contractor will report in writing to the City-Parish any Cart(s) or Bulk Waste placed at the Curbside of a Residential Service Unit or at Multi-family Complexes and Municipal Facilities that are not on the then current Customer List, and City-Parish will thereafter update the Customer List as applicable. Regardless of the Customer List, Contractor shall provide services to all Residential Service Units, Multi-family Complexes, and Municipal Facilities in accordance with this Contract.

### **24.2 Customer Billing**

#### **24.2.1 Base Residential Services**

The City-Parish shall bill Residential Service Units as identified on the Customer List for Residential Services, in accordance with the rate structure established in Appendix B and as may subsequently be adjusted as set forth in this Contract.

#### **24.2.2 Extra Residential Carts**

In addition to the base rate billed to Residential Service Units, in accordance with Section 24.2.1, the City-Parish shall bill Residential Service Units for each additional Municipal Solid Waste Service Cart, greater than one cart, and shall bill Residential Service Units for each additional Recycling Service Cart, greater than one cart, in accordance with the rate structure established in Appendix B and as may subsequently be adjusted as set forth in this Contract.

#### **24.2.3 Multi-family Services**

The City-Parish shall bill Multi-family Units or Multifamily Complexes, as identified on the Customer List for Multi-family Services, the Contractor shall be paid in accordance with the rate structure established in Appendix B and as may subsequently be adjusted as set forth in this Contract.

### **24.3 Contractor Invoice to City-Parish**

On or prior to the 10th day of each calendar month, the Contractor shall invoice the City-Parish for services provided during the prior month as follows and in accordance with the rate structure established in Appendix B and as may subsequently be adjusted as set forth in this Contract:

- (i) an amount equal to the accounts receivable from Residential Services billed by the City-Parish
- (ii) for additional carts, in excess of one cart per service per Residential Service Unit, for Municipal Solid Waste Service Carts and Recycling Service Carts serviced by Contractor at Residential Service Units on a monthly basis
- (iii) for Multi-family Services
- (iv) for Municipal Facilities Services, excluding Collection Services provided to Municipal Facilities located in the downtown area.

- (v) for Additional Services, as defined in Section 7.5 of the Contract, at the rates established in Appendix B to the Contract.

**24.4 Payment to Contractor by City-Parish**

On or prior to the 25th day of each calendar month, the City-Parish shall pay Contractor for the bill received for services provided during the prior month, less

- (i) any disputed amounts,
- (ii) Administrative Charges,
- (iii) authorized withholding of payments

**24.5 Annual Rate Adjustment**

All costs proposed in Appendix B shall remain fixed from the execution of this Contract through February 28, 2024. On March 1, 2024 and every March 1 thereafter for the term of this Contract, all rates as established in Appendix B will be increased by 4% per year.

- (i) The Contractor will receive no other financial compensation outside the terms of the Contract(s). Further, no fees shall not be adjusted other than as explicitly authorized in the Contract.

**24.5.1 Other Rate Adjustments Subject to Approval**

In addition to the rate adjustments defined in Section 24.5, the Contractor may petition the City-Parish for additional rate adjustments at reasonable times based on increases in cost of operations, caused by factors, such as revised laws, ordinances, regulations, and for other similar reasons. The Contractor's petition will specifically identify the reasons for the requested adjustment, and its impact upon the Contractor's cost of operations, in unit terms, with an explanation of the methodology used to calculate such impact. The City-Parish may request additional information it considers necessary to evaluate the requested adjustment. The City-Parish may grant such adjustments through amendments to the Contract.

**SECTION 25 COMPLIANCE WITH LAWS AND REGULATIONS**

The Contractor understands, acknowledges, and agrees the applicability of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

Pursuant to the provisions of A.R.S. §41-4401, the Contractor warrants to the City-Parish that the Contractor and all its subcontractors are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Contractor or any of its subcontractors will be deemed a material breach of this Contract and may subject the Contractor or subcontractor to penalties up to and including termination of this Contract or any subcontract.

The City-Parish retains the legal right to inspect the papers of any employee of the Contractor or any subcontractor who works on this Contract to ensure that the Contractor or any subcontractor is complying with the warranty given above.

The City-Parish may conduct random verification of the employment records of the Contractor and any of its subcontractors to ensure compliance with this warranty.

The City-Parish will not consider the Contractor or any of its subcontractors in material breach of this Contract if the Contractor and its subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The "E-Verify Program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

The provisions of this Article shall be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Louisiana by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

In addition, Contractor shall comply with the following laws:

(i) Occupational Safety and Administration

Contractor will warrant that any work performed on City-Parish property or in a location partially or entirely under (Contractor's) control will be performed in accordance with OSHA requirements and all applicable labor laws, regulations, and standards.

(ii) Equal Employment Opportunity

Contractor will comply with applicable laws, statutes, codes, rules and regulations related to or prohibiting discrimination in employment in the performance of its work under this Contract.

(iii) Fair Labor Standards Act

Contractor is required and hereby agrees by execution of this Contract to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended from time to time.

## **SECTION 26 PUBLIC EDUCATION NOTICES**

Contractor shall provide the following services associated with public education notices at no cost to the City-Parish or customers. Contractor shall submit all public education notices to the City-Parish for approval prior to distribution or dissemination. Contractor will at no time place public education notices inside customers' mailboxes. Contractor shall not distribute or disseminate any public education notices within the City-Parish without written approval from the City-Parish. All public education notices shall be provided to the City-Parish in electronic format, in addition to other delivery and distribution requirements in accordance with this Section.

(i) Distribution of Transition Notice

Contractor shall develop, print, and distribute, at Contractor's own expense, a Transition Notice for Residential Service Units, Multi-family Complexes, and Municipal Facilities to

inform customers of change in service provider, if applicable, prior to the Commencement Date.

(ii) Distribution of Program Introduction Notice and/or Program Change Notice

Contractor shall develop, print, and distribute, at Contractor's own expense, a Program Introduction Notice and/or Program Change Notice for each Residential Service Unit prior to the Commencement Date describing all Residential services to that will be provided, including new services and changes to services. Program Introduction Notice and Program Change Notice shall include, at a minimum:

- Types of Residential Services that will be provided
- Service frequency or procedure for request for each service
- Set-out requirements (types of materials accepted, configuration, and material limits)

(iii) Development, Printing and Distribution of Unaccepted Set-out Notice

Contractor shall develop, print, and distribute, at Contractor's own expense, an Unaccepted Set-out Notice. The Unaccepted Set-out Notice shall be approved by the City-Parish and shall include one (1) original with two (2) carbon copies. The Unaccepted Set-out shall include (a) the date (b) reason for non-collection, and (c) Contractor's customer service telephone number, and (d) any other information the City-Parish requests. Contractor shall attach the original Unaccepted Set-out Notice via a non-adhesive means to the Cart, or Container. Contractor shall take a digital photo of set-out that receives an Unaccepted Set-out. Contractor shall maintain carbon copies of Unaccepted Set-out Notices and digital photos in a format Contractor can immediately retrieve a requested notice or photo by address. Contractor shall provide a monthly report of Unaccepted Set-out Notices as set forth in this Contract.

(iv) Development, Printing and Distribution of Additional Public Education Notices

At the request of the City-Parish, the Contractor shall develop, print, and distribute, at Contractor's own expense, other Public Education Notices to Residential Service Units for purposes and needs identified by the City-Parish.

The Contractor shall be required to provide to the City-Parish, at no cost, any existing public educational materials previously developed and utilized for Residential Services and Multi-family Services, including, but not limited to flyers, mailers, informational or instructional videos, etc. The City-Parish shall be permitted to utilize such materials for public education purposes within the City-Parish at the City-Parish's discretion.

## **SECTION 27 OWNERSHIP OF SOLID WASTE AND PROGRAM RECYCLABLE MATERIALS**

Title to Solid Waste shall pass to the Contractor once the Contractor takes possession of the materials until the Contractor dumps the materials at the North Landfill. Title to Program Recyclable Material shall remain with the City-Parish until the Program Recyclable Materials are delivered to the Material Recovery Facility. The risk of loss to the Program Recyclable Materials shall pass to Contractor at the time they are picked up by the Contractor. Title to and liability for any Excluded Waste shall at no time pass to Contractor.

## **SECTION 28 INDEMNITY**

Contractor agrees to indemnify, defend, and hold harmless the City-Parish from any and all losses, damages, expenses or other liabilities, including but not limited to any third party claims for personal injury, death, property damage or other liability that may be asserted against the City-Parish by any party to the extent arising out of Contractor's negligent performance of willful misconduct under this Contract. Contractor shall not be liable for any damages caused by the negligence of the City-Parish or another third party.

Contractor, its agents, employees and insurer(s) hereby release the City-Parish, its agents, and assigns from any and all liability or responsibility including anyone claiming through or under them by way or subrogation or otherwise for any loss or damage which Contractor, its agents, or insurers may sustain incidental to or in any way related to Contractor's operations under this Contract.

## **SECTION 29 INSURANCE REQUIREMENTS**

Contractor and any of its subcontractors shall carry and maintain insurance as set forth in Exhibit D until completion and acceptance of the work.

## **SECTION 30 ADMINISTRATIVE CHARGES**

Contractor understands that if Contractor does not timely perform its obligations pursuant to the terms of this Contract, City-Parish will suffer damages which are difficult to determine and adequately specify. The Contractor agrees, in addition to any other remedies available to the City-Parish, that the City-Parish may withhold payment from the Contractor in the amounts specified below as administrative charges for failure of the Contractor to fulfill its obligations. The administrative charges listed herein are subject to the rate adjustments resulting in upward adjustments of the rates for each service (e.g., administrative charge values are only subject to increase as a result of rate adjustments), except that such Administrative Charges shall not apply during an Uncontrollable Circumstance provided however, that the Contractor shall obtain the approval for the delay from the City-Parish prior to 3:00 PM, CDT of the scheduled collection day.

The Contractor shall be liable for Administrative Charges amount(s) upon determination by the City-Parish that performance has not occurred consistent with the provisions of the Contract. The City-Parish shall notify the Contractor in writing or electronically of each act or omission of this Contract reported to or discovered by the City-Parish. It shall be the duty of the Contractor to take whatever steps or action may be necessary to remedy the cause of the Administrative Charge.

During the term of the Contract, the Contractor shall meet with the City-Parish, upon request by the City-Parish, to address any issues or concerns that may arise in regard to Contractor's performance under the Contract, including but not limited to Missed Collections. The purpose of such meetings shall be to identify performance issues or concerns, and for the City-Parish and Contractor to work collaboratively and proactively to address and remedy any identified issues or concerns.

The Contractor shall be given a thirty (30) calendar day grace period from the Commencement Date during which missed collections will be noted but no Administrative Charges will be assessed for one (1) to five (5) Residential Service Units missed on any one (1) route. Any misses of over five (5) Residential Service Units on any one (1) route will not be covered by the grace period.



The City-Parish may deduct the full amount of any damages from any payment due to the Contractor. The remedy available to the City-Parish under this paragraph shall be in addition to all other remedies which the City-Parish may have under Applicable Law.

The City-Parish shall compute administrative charges for the Contractor's failure to remedy an action or inaction listed below:

- (i) Missed Collection  
\$100 for each missed collection above two (2) misses per collection day, to be assessed at the end of each collection month. A missed collection occurs when a resident reports that their material was set at the Curbside by 5:00 AM, CDT for Residential Services and 5:00 AM, CDT for Municipal Facilities Services and was not collected if the address was not reported by the Contractor as a Non-Set-out and Unaccepted Set-out.
- (ii) Missed Residential Service Unit Block  
\$500 for each incident of the Contractor failing to pick up material on a block containing Residential Service Units. A missed block is defined as one side of a street between cross streets or an entire cul de sac where residents from at least three households on that street report that they had their material out before 5:00 AM, CDT the material was not picked up, the material was properly sorted, and the address was not reported by the Contractor as a Non-Set-out and Unaccepted Set-out.
- (iii) Failure to Provide Residential Services or Municipal Facilities Services During Regular Hours of Operation.  
\$250 for each Contractor vehicle providing Residential Services or Municipal Facilities Services operating on City-Parish streets after 6:00 PM and ending before 8:00 PM.  
\$500 for each for each Contractor vehicle providing Residential Services or Municipal Facilities Services on City-Parish streets in the City-Parish after 8:00 PM.
- (iv) Failure to perform proper billing procedures and/or receive customer approval prior to performing and billing for additional Bulk Waste Services.  
\$250 each incident
- (v) Failure to provide a list of the Unaccepted Set-outs including the address, reason set-out was an Unaccepted Set-out, and other photographic data required by the City-Parish by 10:00 AM the next business day.  
\$250 each day list is not provided
- (vi) Failure to complete a majority (50 percent) of the collections on a given day or failure to complete a route without informing the City-Parish by 4:00 PM the route will not be complete. Contractor shall be deemed to have completed collection if Contractor notifies City-Parish by 10:00 AM the following day that the incomplete service has been completed.  
\$2,500 each incident
- (vii) Failure to clean up material spilled or littered by Contractor within two (2) hours of verbal or written notification.  
\$250 each incident

- (viii) Failure to maintain vehicle in manner which prevents nuisances such as leaky seals or hydraulics.  
\$100 each incident
- (ix) Failure to address, as required by this Contract, Damage to Property within forty-eight (48) hours.  
\$250 each incident
- (x) Failure or neglect to collect materials from a missed pickup location within the amount of time specified in the Contract.  
\$250 each incident
- (xi) Failure to maintain Cart or Container in proper working order ten (10) calendar days after notice has been provided by the City-Parish.  
\$100 each incident
- (xii) Failure to provide a timely or complete monthly or annual report.  
\$250 each incident
- (xiii) Failure to return Cart or Container to approximately original location.  
\$50 each incident
- (xiv) Commingling Recyclables in Solid Waste containers or vehicles.  
\$2,000 each incident
- (xv) Failure to provide updated route maps to City-Parish after change in routing.  
\$50 per day each day beyond thirty (30) calendar days after change in routing
- (xvi) Failure to leave an Unaccepted Set-out Notice when material that is inappropriately prepared is not collected.  
\$100 each incident
- (xvii) Distributing Carts without labels that include text and graphics depicting what materials may be placed in the containers.  
\$100 each incident
- (xviii) Failure to respond to any reported Missed Collections by the close of the following business day or failure to report customer complaints to the City-Parish pursuant to Section 21.5 of this Contract.  
\$100 per business day thereafter per incident
- (xix) Failure to be able to accept materials at the Delivery Facility and/or Material Recovery Facility on any day after the date upon which service begins on which materials are to be collected  
\$3,000 each day

- (xx) Failure or neglect to correct chronic problems in any category of services, including failure to meet any of the requirements in this Contractor (chronic shall mean three or more similar incidents within a ninety (90) day period at the same premises).  
\$1,000 per instance.
- (xxi) Failure to ensure the Material Recovery Facility accepts and processes Program Recyclable Materials during hours of operation sufficient to support the requirements as set forth in the contract, in accordance with Section 15.2, without prior approval by the City-Parish.  
\$250 per hour, up to two thousand five hundred dollars \$2,500 per day.
- (xxii) Failure to achieve average vehicle turnaround time in accordance with Section 11.10.  
\$500.00 per day plus one hundred dollars \$100 per vehicle in excess of average truck turnaround time on such day.
- (xxiii) Failure to maintain scalehouse in accordance with Section 11.11.  
\$500 per day
- (xxiv) Failure to sell Program Recyclable Material in accordance with Section 11.  
\$2,500 per occurrence.
- (xxv) Failure to adequately control litter, odor, and other nuisances in accordance with Section 21.  
\$100 per hour per instance.
- (xxvi) Failure to store material, both incoming and processed in accordance with Section 11.14.  
\$100 per hour per instance.
- (xxvii) Failure to maintain adequate open tipping floor space for vehicles to unload in a safe and timely manner in accordance with Section 11.14.  
\$100 per hour per instance.
- (xxviii) Disposal of Program Recyclable Materials or Recovered Materials by the Contractor or its subcontractor(s).  
\$2,000.00 per occurrence.

## **SECTION 31 PAYMENT WITHHELD**

In addition to express provisions elsewhere contained in this Contract, City-Parish may withhold from any payment otherwise due the Contractor in such amount as determined necessary to protect the City-Parish's interests, or, if it so elects, may withhold or retain all or a portion of any monthly payment on account of:

- (i) Unsatisfactory progress of the work not caused by condition Beyond Contractor's Control;
- (ii) Defective work not corrected;
- (iii) Contractor's failure to carry out instructions or orders of the City-Parish or its representative;

- (iii) A reasonable doubt that the Contract can be completed for the balance then unpaid;
- (iv) Execution of work not in accordance with the Contract;
- (v) Claim filed by or against Contractor or reasonable evidence indicating problem filing of claims;
- (vi) Failure of Contractor to make payments to any subcontractor for material or labor;
- (vii) Damage to another contractor;
- (viii) Unsafe working conditions allowed to persist by Contractor;
- (ix) Failure of Contractor to provide required reports and other reports as required by City-Parish;
- (x) Use of any subcontractors without the City-Parish's prior written approval.
- (xi) Failure of Contractor to provide accurate invoices and supporting data as describe elsewhere in this Contract.

When the above grounds are removed, payment shall be made for amounts withheld because of such grounds and the City-Parish shall never be liable for interest on any delayed or late payment. The City-Parish's right to withhold payments under this section will be reasonable in light of the nature of the claim, amount of available insurance and performance bond pursuant to this Contract.

## **SECTION 32 LETTER OF CREDIT OR PERFORMANCE BOND**

Contractor(s) agrees that after the execution of any and each Contract(s) developed as a result of this RFP, and one (1) month or more prior to the Commencement Date, the Contractor(s) shall make, execute and deliver to the City-Parish a good and sufficient letter of credit (preferred) or performance bond (alternate) to secure the full, complete and faithful performance of the terms and conditions. Such letter or credit or performance bond shall be in an amount based on six (6) months projected fees for each Service(s) and shall be renewed each year thereafter throughout the term of any Contract(s) developed as a result of this RFP.

The letter of credit shall be an irrevocable direct pay letter of credit issued by a U.S. bank whose long-term debt is rated "A" or better by a Rating Service and which maintains a banking office in the State of Louisiana. The letter of credit shall be continuously renewed, extended or replaced so that it remains in effect over the life of any Contract(s) developed as a result of this RFP including initial and all renewal terms and until one hundred and eighty (180) calendar days after the termination of any Contract(s) developed as a result of this RFP and shall be issued in the form acceptable to the City-Parish.

Contractor may offer a performance bond as an alternate to a letter of credit. The performance bond shall be signed by the President or General Officer of the Contractor, together with the signature of the corporate secretary and the corporate seal. The surety shall be a surety company duly authorized to do business in the State of Louisiana; having an "A" or better rating by A. M. Best or Standard and Poors; included on the list of surety companies approved by the Treasurer of the United States of America; and acceptable to the Contractor and the City-Parish.

## **SECTION 33 ASSIGNMENT AND/OR SUBCONTRACTING**

This Contract and any permits required for performance of the Contract may not be assigned, subcontracted, conveyed, or otherwise disposed of without the written permission of the City-Parish, which will not be unreasonably withheld. No such assignment or subcontracting shall relieve Contractor of its liability under this Contract. In the event Contractor elects to use any subcontractors, this does not relieve Contractor from any prime responsibility of full and complete satisfactory and acceptable performance under any awarded Contract. However, the Contract may be assigned for the purpose of financing after notification of the terms of such assignment to the City-Parish's Director of Environmental Services.

## **SECTION 34 DISADVANTAGED BUSINESS ENTERPRISE INCLUSION**

The Contractor shall be required to meet or exceed established requirements for inclusion of DBE(s) in provision of services under the Contract for the initial period of the Contract and any subsequent renewal period. Minimum requirements for inclusion of DBE(s) are as follows: 25% of eligible spending of contract.

## **SECTION 35 TAXES**

Any taxes, other than state and local sales and use taxes, from which the City-Parish is exempt, shall be assumed to be included within the Contractor's cost.

## **SECTION 36 UNCONTROLLABLE CIRCUMSTANCES**

### **36.1 Uncontrollable Circumstance Affecting Contractor's Obligations**

Contractor shall be excused for the failure to perform its obligations under the terms of this Contract if such failure results from the occurrence of an Uncontrollable Circumstance. Contractor shall seek diligently and in good faith to perform its obligations, notwithstanding the occurrence of an Uncontrollable Circumstance, to mitigate the adverse effects of an Uncontrollable Circumstance, and to overcome an Uncontrollable Circumstance as soon as practicable.

### **36.2 Uncontrollable Circumstance affecting City-Parish's Obligations**

City-Parish shall be excused for the failure to perform its obligations under the terms of this Contract if such failure results from the occurrence of an Uncontrollable Circumstance. City-Parish shall seek diligently and in good faith to perform its obligations, notwithstanding the occurrence of an Uncontrollable Circumstance, to mitigate the adverse effects of an Uncontrollable Circumstance, and to overcome an Uncontrollable Circumstance as soon as practicable.

### **36.3 Notice of an Uncontrollable Circumstance**

Contractor shall provide verbal notice of an Uncontrollable Circumstance to the City-Parish within twenty-four (24) hours of the Contractor's knowledge of such Uncontrollable Circumstance and Contractor shall follow up with written notification within three (3) Days of the Contractor's knowledge of such Uncontrollable Circumstance. Such notice shall, at a minimum, set forth the following (to the extent then known or available, or if not, as soon as practicable thereafter, a separate notice shall provide such information not provided in the first notice):

- (i) a description of the Uncontrollable Circumstance that has occurred; and

- (ii) the effect, if any, of such Uncontrollable Circumstance on Contractor's performance or other obligations under this Contract.

### **36.4 Reinstatement of Ability to Perform**

After the resolution of an Uncontrollable Circumstance and the restoration of Collection Services, the Contractor shall provide written notice of a reinstatement of Collection Services. The City-Parish shall reinstate the Collection Services (or shall cause reinstatement of) unless this Contract shall have been previously terminated as provided herein.

### **36.5 Uncontrollable Circumstance**

Neither Contractor nor the City-Parish shall be liable for the failure to perform their duties nor for any resultant damage, or loss, if such failure is caused by Uncontrollable Circumstance(s). If such Uncontrollable Circumstance persists for more than thirty (30) Days, or if after its cessation, the Contractor is unable to render full or substantial performance for a period of thirty (30) Days, the City-Parish may terminate this Contract by giving Contractor ten (10) Days advance written notice.

## **SECTION 37 FORCE MAJEURE**

Except for City-Parish's obligation to pay amounts due to Contractor, any failure or delay in performance under this Contract due to contingencies beyond a party's reasonable control, including, but not limited to, riots, terrorist acts, compliance with applicable laws or governmental orders, fires, bad weather and acts of God, shall not constitute a breach of this Contract, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Contract during the term of such event and for a reasonable time thereafter, provided that Contractor provides at least 72 hour notice of intention to invoke the force majeure clause. The collection or disposal of any increased volume resulting from a flood, named hurricane or similar or different Act of God over which Contractor has no control, shall not be included as part of Contractor's service under this Contract. In the event of such a flood, hurricane or other Act of God, Contractor and the City-Parish shall negotiate the payment to be made to Contractor. Further, when the City-Parish and Contractor reach such agreement, then the City-Parish shall grant Contractor variances in routes and schedules, as deemed necessary, of Contractor. Notwithstanding the foregoing, should a strike or lockout occur of Contractor's work force, Contractor is not relieved of its responsibility to fulfill the terms of this Contract.

## **SECTION 38 TERMINATION**

### **38.1 Termination for Cause**

The City-Parish may terminate this agreement for caused based upon the failure of the Contractor to comply with the terms and/or conditions of the agreement provided that written notice specifying the failure shall be given. Contractor shall have thirty (30) days to correct such failure or, begin a good faith effort to correct the failure and thereafter proceed diligently to complete such correction. If such efforts are not made as defined herein, the City-Parish, may at its option, place the Contractor in default and the agreement shall terminate on the date specified in such notice.

The Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the City-Parish to comply with the terms and conditions of the agreement, provided that the Contractor shall give the City-Parish written notice specifying the City-Parish's

failure and a reasonable opportunity for the City-Parish to correct the failure. Should the Contractor be determined to be in “default” under the terms, conditions and deliverables outlined in this contract, then all costs occurred will be subject to adjustment based on the remaining scope of services. In the event of contract termination, all relevant documents and work product shall be considered the property of the City-Parish and returned to the City-Parish.

### **38.2 Termination for Performance**

The City-Parish shall have the right to immediately terminate this Agreement in the event of fraud, or misrepresentation including, but not limited to, failure to maintain all insurance coverage in full force during the Term of this Agreement. Additionally, the City-Parish may terminate this Agreement upon the occurrence of any one or more of the following events and upon the City-Parish having provided the Contractor with ten (10) days prior written notice:

- If the Contractor commences a voluntary case under any chapter of the bankruptcy code (Title 11, United States Code) as now or hereafter in effect, or if the Contractor takes any equivalent or similar action by filing a petition or otherwise under any other Federal or State law in effect at such time relating to the bankruptcy or insolvency.
- If a petition is filed against the Contractor under any chapter of the bankruptcy code as now or hereinafter in effect at the time of filing or if a petition is filed seeking any such equivalent or similar relief against the Contractor under any other Federal or State law in effect at the time relating to the bankruptcy or insolvency.
- If the Contractor makes a general assignment for the benefit of creditors.
- If a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under contract, whose appointment or authority to take charge of the property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.
- If the Contractor admits in writing an inability to pay its debts generally as they become due.
- If the Contractor consistently fails to perform the work in accordance with this Agreement (including, but not limited to, failure to supply sufficient skilled workers or equipment).
- If the Contractor intentionally disregards laws and regulations of any public body having jurisdiction over the services provided under this Agreement.

## **SECTION 39 ACTS OF DEFAULT OR DEFAULT**

Failure of Contractor to fully, completely and timely comply with each material obligation by Contractor agreed to herein shall be an act of default. Substantial compliance short of full compliance shall be an act of default unless waived in writing by City-Parish. Contractor specifically understands, acknowledges, and agrees that non-material breach(s) of this Contract shall constitute a material default when the breaches, even if different breaches, are frequent or regular or repetitive. Contractor specifically understands, acknowledges, and agrees that non-material breaches shall include, but not be limited to, the acts and omissions subject to administrative charges in accordance with this Contract. City-Parish may terminate this Contract and pursue all legal and equitable remedies upon a material default of this Contract.

## **SECTION 40 DISPUTE RESOLUTION**

### **40.1 Interpretation of Contract**

Except as provided otherwise in this Contract and to the extent permitted by law, the City-Parish shall be responsible for interpreting this Contract to resolve disputes that may arise hereunder.

### **40.2 Definition of Claim**

As used herein "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of the Contract terms, or other relief, arising under or relating to this Contract. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, where the submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim for the purpose of this clause. A claim by the Contractor shall be made in writing and submitted to the City-Parish.

When a controversy cannot be resolved by mutual agreement, the Contractor shall submit a written request for final decision to the City-Parish. The written request shall set forth all the facts surrounding the controversy.

### **40.3 Process for Dispute Resolution**

In connection with any claim under this Contract, the Contractor and the City-Parish agree that the Contractor and the City-Parish shall, as a condition precedent to the institution of any action regarding claims arising under this Contract, first submit any claim to the City-Parish. The City-Parish shall render a written decision on all claims within thirty (30) business days of receipt of the Contractor's written claim, unless the City-Parish determines that a longer period is necessary to resolve the claim. The decision shall be furnished to the Contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt. If a decision is not issued within thirty (30) calendar days, the City-Parish shall notify the Contractor of the time within which a decision shall be rendered and the reasons for such time extension.

Upon the written decision of the City-Parish, the Contractor and the City-Parish agree that the Contractor and the City-Parish shall, as a condition precedent to the institution of any action regarding claims arising under this Contract, first submit any claims to the City-Parish Council. The City-Parish Council shall render a written decision on all claims within thirty (30) business days of receipt of the Contractor's written appeal, unless the City-Parish Council determines that a longer period is necessary to resolve the claim. The decision shall be furnished to the Contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt. If a decision is not issued within thirty (30) calendar days, the City-Parish Council shall notify the Contractor of the time within which a decision shall be rendered and the reasons for such time extension.

Upon the written decision of the City-Parish Council, the Contractor and the City-Parish agree that the Contractor and the City-Parish shall, as a condition precedent to the institution of any action regarding claims arising under this Contract, first submit any claims to mediation before a professional mediator selected by the Contractor and the City-Parish, at a mutually agreed time and place, and with the mediator's fees split equally between the Contractor and the City-Parish. If mediation is unsuccessful within forty-five (45) calendar days of the date of the initial



mediation, the Contractor and the City-Parish agree that if the Contractor and/or the City-Parish elect to institute any action regarding claims arising under this Contract such claims shall be submitted to the exclusive jurisdiction of the state or federal courts in East Baton Rouge Parish, Louisiana.

#### **40.4 Operations During Dispute**

In the event that any dispute arises between City-Parish and Contractor relating to this Contract performance or compensation hereunder, Contractor shall continue to render service and receive compensation in full compliance with all terms and conditions of this Contract as interpreted, in good faith, by the City-Parish, regardless of such dispute.

The Contractor expressly recognizes the paramount right and duty of City-Parish to provide adequate services to its residents and further agrees, in consideration of the execution of this Contract, that in the event of such a dispute, if any, it will not seek injunctive relief in any court without first negotiating with City-Parish in good faith for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute shall present the matter to mediation in the courts of Louisiana. If mediation fails, Contractor shall present the matter to a court in Louisiana.

Notwithstanding the other provisions in this section, City-Parish reserves the right to terminate this Contract at any time whenever the service provided by Contractor fails to meet reasonable standards of the trade, after City-Parish provides written notice to Contractor pursuant to Section 33 of this Contract. Upon termination, City-Parish may call the performance bond and apply the cash and surety bond for the cost of service in excess of that charged to City-Parish by the firm engaged for the balance of the Contract period.

### **SECTION 41 DESIGNATED REPRESENTATIVE**

Any notices or communication required or permitted to be made to either the City-Parish or the Contractor under this Contract shall be made to the Designated Representative in writing:

If to the Contractor: Sharon Mann  
General Manager  
Republic Services, Inc.  
12451 Leisure Road  
Baton Rouge, LA 70807

If to the City-Parish  
Richard Speer, P.E.  
Director, Department of Environmental Services  
City of Baton Rouge / Parish of East Baton Rouge  
PO Box 1471  
Baton Rouge, LA 70821

Notice shall be deemed to be given: (a) if personally delivered, when delivered; (b) if mailed, five (5) business days after receipted delivery to the U.S. Mail; (c) if delivered to Federal Express, or any other nationally recognized overnight carrier, one (1) business day after delivery to such overnight carrier.

Each party, by similar written notice given five (5) business days in advance to the other Parties in the aforesaid manner, may change the address to which notice may be sent.

## **SECTION 42 MISCELLANEOUS**

### **42.1 Succession of Contract**

This Contract and the rights and obligation contained herein shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

### **42.2 Survival**

Any rights either party may have in the event it terminates this Contract pursuant to the terms hereof shall survive such termination.

### **42.3 Joint Preparation**

The preparation of this Contract has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

### **42.4 No Penalties**

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

### **42.5 Relationship**

Nothing contained in this Contract shall constitute or be construed to be or create a partnership, joint venture or any other relationship between Contractor and City-Parish.

### **42.6 Further Assurance**

Contractor and City-Parish agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all such further documents and perform such acts as shall reasonably be requested of it in order to carry out this Contract and give effect hereto. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Contract, the parties declare their intention to cooperate with each other in effecting the terms of this Contract.

### **42.7 Time of the Essence**

For purposes herein, the parties agree that time shall be of the essence of this Contract and the representations and warranties made are all material and of the essence of this Contract.

### **42.8 Captions and Section Headings**

Captions and sections headings contained in this Contract are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Contract, nor the intent of any provision hereof.

**42.9 No Waiver**

No waiver of any provision in this Contract shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

**42.10 Entire Contract and Modification**

This Contract constitutes the entire understanding and agreement between the parties and may not be changed, altered or modified except by an instrument in writing signed by all parties against whom enforcement of such change would be sought.

**42.11 Severability**

In the event that any provision of this Contract shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Contract or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Contract shall, as so amended, modified, or supplemented, or otherwise affected by such action remain in full force and effect.

**42.12 Knowledge**

Contractor agrees that it has investigated and examined all streets, alleys, overhead trees, wires and such other conditions and requirements of the City-Parish that may affect its full and complete performance of this Contract and enters into this Contract giving completed such investigations and examinations to its full satisfaction and solely relying on such investigations and examinations.

**42.13 Appendices**

All Appendices attached hereto contain additional terms of this Contract and are incorporated into this Contract by reference. Typewritten provisions inserted in this form or attached hereto shall control all printed provisions in conflict therewith.

**42.14 Governing Law**

This Contract shall be construed and interpreted according to the laws of the State of Louisiana and venue with respect to any litigation shall be East Baton Rouge Parish, Louisiana.

**42.15 Attorney Fees**

In the event of arbitration or litigation between the parties regarding this Contract, each party shall be responsible for their own attorney's fees and costs.

**42.16 Boycott Israel Prohibition**

Contractor agrees that Contractor currently does not boycott Israel, as that term is defined in Government Code Section 808.001, as amended, nor will Contractor boycott Israel during the term of this Contract.

**42.17 Authorization**

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges and agrees that it has read this Contract, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have made and executed this Contract on the respective dates under each signature:

**WITNESSES**

**CITY OF BATON ROUGE AND  
PARISH OF EAST BATON ROUGE**

\_\_\_\_\_

**BY:** \_\_\_\_\_  
**Sharon Weston Broome, Mayor-President**

**Date:** \_\_\_\_\_

**BFI WASTE SERVICES, LLC, d/b/a  
REPUBLIC SERVICES OF BATON ROUGE**

\_\_\_\_\_

**BY:** \_\_\_\_\_  
**Sharon Mann**

**Date:** \_\_\_\_\_

**Approved:**

**Approved:**

\_\_\_\_\_  
**Richard Speer, Director  
Dept. of Environmental Services**

\_\_\_\_\_  
**Fred Raiford, Interim Assistant CAO  
Office of the Mayor-President**

**Approved as to form:**

\_\_\_\_\_  
**Office of the Parish Attorney**

**APPENDIX A**  
**CONTRACTOR TRANSITION PLAN**

DRAFT

**APPENDIX B**

**RATES**

DRAFT

**APPENDIX C**

**RECYCLABLE MATERIALS AUDIT PROTOCOL**

DRAFT

**APPENDIX D**  
**INSURANCE REQUIREMENTS**

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