

**SOLID WASTE AND RECYCLING  
COLLECTION AGREEMENT**

Between

THE VILLAGE OF WELLINGTON

And

WASTE MANAGEMENT INC. OF FLORIDA

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**SOLID WASTE AND RECYCLING  
COLLECTION AGREEMENT**

**This Agreement** is hereby made and entered into this 13<sup>th</sup> day of February, 2008, by and between THE VILLAGE OF WELLINGTON, a municipal corporation organized and existing under the laws of the State of Florida, which municipality is wholly located within the boundaries of Palm Beach County, Florida (hereinafter referred to as "VILLAGE") and Waste Management Inc. of Florida (hereinafter referred to as "Contractor").

WHEREAS, the Village and the Contractor are desirous of entering into the Solid Waste and Recycling Collection Agreement referenced above on the terms and conditions more particularly provided for herein.

Now, Therefore, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration and the mutual promises contained herein, the parties agree as follows:

**1. TERM:**

Renewal of this Agreement shall be for the period of seven (7) years commencing on October 1, 2008, and expiring September 30, 2015. There is one (1) renewal option to this Agreement for a period of seven (7) years that may be exercised at the sole discretion of the Village Council based on mutually agreeable terms and conditions. Any renewal herein shall be agreed to no later than one year prior to the expiration of the initial term. Should the option be awarded by the Village Council new equipment shall be provided as specified in Section 13 of this Agreement. Performance of pre-commencement Contract preparation requirements specified in Exhibit V shall begin upon signature of the Agreement by both parties. Regardless of the foregoing the parties hereto may mutually agree, in writing, to extend the time frame for renewal of this Agreement.

**2. DEFINITIONS:**

To the extent the definitions contained herein conflict with similar definitions contained in any federal, state or local law, rule, regulation, code, ordinance, directive or guideline the definition herein shall prevail. However, nothing contained herein shall be interpreted to require the Contractor to undertake any conduct, which is contrary to federal, state or local law.

- A. Authority** shall mean the Solid Waste Authority of Palm Beach County.
- B. Biohazardous or Biomedical Wastes** shall mean those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; included, but not limited to, waste resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing and surgical gloves.
- C. Bulk Trash** shall mean any non-vegetative item which is too large to be containerized, bagged or bundled; including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances, household goods and furniture and shall not be commingled with Vegetative Waste. There shall be no weight limit for any item of Bulk Trash. Fencing material is

considered to be Bulk Trash for purposes of this Agreement.

- D. Collection** shall mean the process whereby solid waste, including, but not limited to, Garbage, Trash, Bulk Trash, Vegetative Waste or Recyclable Material is removed and transported to a Designated Facility.
- E. Collection Route** shall mean a fixed or customary course of travel, assigned to a crew, scheduling the order of stops from one point to another covering a defined area of territory.
- F. Collection Schedule** shall mean the day(s) of each week divided into service day halves i.e. AM/PM pickups that customers shall receive a specified collection service.
- G. Commercial Collection Service of Recyclable and/or Recovered Materials** shall mean the Collection of any such materials that are defined by this Agreement from commercial customers within the Service Area that are not serviced by Residential Recycling Collection Service. Such recyclables or recovered materials shall be separated at the source by the generator from solid waste and such materials shall be placed in separate identified containers and transported to a Recovered Materials Processing Facility (RMPF) permitted pursuant to 62-701 FAC. The firm providing such collection services must be the same firm that owns and operates the RMPF and no more than five percent (5%) of any container of recyclables and/or recovered materials shall be solid waste. Commercial customers shall maintain a Container for solid waste on the premises.
- H. Commercial Solid Waste** shall include any Garbage, Bulk Trash or Trash that is not Residential Solid Waste. Substantial effort shall be made not to commingle Garbage, Trash or Bulk Trash with Vegetative Waste.
- I. Commercial Solid Waste Collection Service** shall mean the collection of Commercial Solid Waste within the Service Area. Such service includes both Containers and Compactors, but does not include Roll-off Collection Services specifically for construction or demolition debris.
- J. Compactor** shall mean any container, which has compaction mechanism(s), whether stationary or mobile, all-inclusive.
- K. Construction and Demolition Debris (C&D)** shall mean materials generally considered not to be water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, roofing material, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project. Mixing of a de minimis amount of waste other than C&D from the construction site will not automatically cause it to be classified as other than C&D. Fencing material is considered Bulk Trash within this Agreement.
- L. Container** shall mean and include any container typically of one (1) cubic yard capacity or larger, designed or intended to be mechanically dumped into a loader packer type or hoisted onto the bed or rails of a truck. All Containers must be of standard industry specifications including size(s) and in common use in Palm Beach County.
- M. Container Residential Recycling Collection Service** shall mean the collection of Recyclable Materials by the Contractor from Dwelling Units in the Service Area that requires the use of Containers for the collection of Recyclable Materials and which also receive Residential Collection Service for solid waste, and the delivery of those Recyclable Materials to the Materials Recycling Facility or designated Solid Waste Authority transfer station.

- N. Container Residential Solid Waste Collection Service** shall mean solid waste collection service of all Dwelling Units whose Garbage, Trash, Bulk Trash or C & D debris is collected by means of a central or shared Container and not by means of a Garbage Can or Universal Container. Vegetative Waste shall not be commingled with Garbage, Trash, or Bulk Trash.
- O. Contract** shall mean this Agreement executed between the Village and the Contractor for the performance of the services as provided in this Agreement.
- P. Contractor** shall mean that person or entity set out initially above that has entered into this Agreement to provide the services described herein for the Service Area.
- Q. Contract Administrator** shall mean the person(s) designated by the Village who shall act as the Village's representative in the administration and supervision of this Agreement during its term.
- R. County** shall mean Palm Beach County, Florida.
- S. Curbside Residential Recycling Collection Service** shall mean the collection of Recyclable Materials by the Contractor from all Dwelling Units in the Service Area that also receive Curbside Residential Solid Waste Collection Service for Solid Waste and other Dwelling Units as are designated by the Village, and the delivery of those Recyclable Materials to the Solid Waste Authority's Materials Recycling Facility or designated Solid Waste Authority transfer station.
- T. Curbside Residential Solid Waste Collection Service** shall mean Residential Solid Waste and Vegetative Waste Collection service for all Dwelling Units who's Garbage and Vegetative Waste is collected in separate pick ups by means of a Universal Container or Garbage Receptacle or can at curbside or roadway. This also includes scheduled, trash and bulk trash collection.
- U. Department** shall mean the Florida Department of Environmental Protection.
- V. Disposal Costs** shall mean the "tipping fees", landfill or processing costs charged to the Contractor by others for disposal or processing of the waste collected by the Contractor.
- W. Designated Facility** shall mean a Solid Waste Authority of Palm Beach County owned or permitted facility.
- X. Dwelling Unit** shall mean any type of structure or building unit intended for or capable of being utilized for residential living other than a licensed Hotel or Motel unit.
- Y. Fiscal Year** shall mean the period between October 1 of a given year and September 30 of the following year during this Contract.
- Z. Garbage** shall mean all putrescible waste which generally includes but is not limited to kitchen and table food waste, animal, vegetable, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities. Vegetative Waste shall not be commingled with Garbage in the same collection. Garbage shall not include any material that falls within the definition of Special Waste.
- AA. Garbage Receptacle or Can** shall mean a can of rigid plastic or galvanized metal or heavy duty plastic bag which when full do not exceed 50 pounds in total weight or 45 gallons in size.

- BB. Hazardous Waste** shall mean solid waste as defined by the State of Florida Department of Environmental Protection as a hazardous waste in the State of Florida Administrative Code, or by any future legislative action or by federal, state or local law.
- CC. Hotel or Motel** shall mean a structure or building unit(s) capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven days or less. To meet this definition, the Hotel or Motel must be licensed to operate as such. "Transient" has the meaning as defined in Chapter 509, Florida Statutes (1987), or its successor law
- DD. Land Clearing** shall mean the removal of vegetation for the purpose of improving real property through remodeling, new construction or agricultural use. Land clearing shall include, but is not limited to, trees, brush, dirt, rocks or similar obstructions/materials being removed from a parcel of assessed residential land using mechanical devices such as a bobcat, backhoe, front-end loader, tractor, bulldozer, etc. Removal refers to the physical action of the equipment digging, scraping, bulldozing, and /or pulling debris from the ground. Transporting legally cut vegetation to the curb using a mechanical device does not constitute land clearing. A chainsaw is not to be considered a mechanical device in the removal process. Removal of debris from land clearing is not a service included in this Agreement.
- EE. Material Recycling Facility (MRF)** shall mean any facilities operated or managed by, for or on behalf of or designated by the Village for the purpose of receiving, sorting, processing, storing, and/or preparing Recyclable Materials for sale, as specifically designated by the Contract Administrator, in writing.
- FF. Mixed Paper** shall be defined as a mixture of paper products including magazines, catalogues, phone books, cereal boxes, soda and beer can boxes, chipboard, file folders, envelopes, letter paper, junk mail, notebook paper and any other clean paper products.
- GG. Peak Times** shall mean the period between November 1 of a given year and April 30 of the following year unless otherwise specified by the Village.
- HH. Public Awareness Program** shall mean that program developed by the Village to inform and encourage residential and commercial solid waste collection customers to use all solid waste and recycling collection services offered by the Village through the Agreement. It shall also mean information concerning level of service and changes in scope of service.
- II. Recovered Materials** means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste.
- JJ. Recyclable Materials** shall mean newspapers (including inserts), aluminum, plastic containers, glass bottles and jars, milk and juice cartons, aseptic containers, corrugated cardboard, brown paper bags, Mixed Paper, tin and ferrous cans, household dry-cell batteries (no wet-cell batteries), magazines, catalogues, telephone books and other solid waste materials added upon Agreement between the Village and the Contractor, when such materials have been either diverted from the remaining solid

waste stream or removed prior to their entry into the remaining solid waste stream.

- KK. Recycling Container** shall mean a rigid, nestable bin of approximately 18-gallon capacity made of plastic or other suitable substance that is used for the storage of Recyclable Materials. It may also be a Universal Container for Container Residential and Curbside Residential Recycling should the Solid Waste Authority authorize single stream collection of recyclable materials.
- LL. Residential Recycling Collection Service** shall mean Curbside Residential Recycling Collection Services and Container Residential Recycling Collection Service.
- MM. Residential Solid Waste** shall mean Garbage, Trash and Bulk Trash resulting from the normal housekeeping activities of a Dwelling Unit, but shall not include Vegetative Waste. Residential Solid Waste shall also mean Construction and Demolition Debris (C&D) resulting from minor home repair from the Dwelling Unit, not to exceed two (2) cubic yards of Construction and Demolition Debris material per collection.
- NN. Residential Solid Waste Collection Service** shall mean Curbside Residential Solid Waste Collection Service and/or Container Residential Solid Waste Collection Service.
- OO. Residential Vegetative Waste** shall mean vegetative waste generated from residential property, occupied by a dwelling unit, within the service area not exceeding ten (10) inches in diameter or six (6) feet in length excluding palm fronds. No single item shall weigh more than 50 pounds.
- PP. Residential Vegetative Waste Collection Service** shall mean Curbside Residential Vegetative waste Collection Service.
- QQ. Roll-off Collection Service** shall mean the Collection of C&D only roll-off containers, or the Collection of C&D by other mechanical means, within temporary locations in the Service Area, limited to new construction sites and remodeling or refurbishment sites. In order to provide these services a collection company must apply for and receive a license from the Village. Roll-off Collection Service shall also mean the collection of horticultural or agricultural wastes at horticultural or agricultural nurseries, but only when the customer chooses to use roll-off containers for horticultural or agricultural waste, and horticultural and agricultural waste shall not include any other type of waste, including, but not limited to, Special Waste, Garbage or Recyclable Material. Permanent businesses or manufacturing companies that generate C & D on site as part of their operations may obtain roll-off containers from any source for the purpose of recycling the C & D material only provided they also have a container for all other Commercial Solid Waste, which is collected exclusively by the Contractor.
- RR. Service Area** shall mean the area within the incorporated boundaries of the Village of Wellington, for which the mandatory solid waste collection and recycling collection program is administered.
- SS. Sludge** shall mean a solid or semi-solid, or liquid generated from any waste water treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilets and related operations, or any other such waste having similar characteristics or effects.
- TT. Solid Waste Authority Disposal Facility** shall mean place or places specifically managed, operated, or permitted by the Solid Waste Authority of Palm Beach County.

- UU.** **Special Services** shall mean any services requested or required by the customer which are in addition to, or a change in, Residential Solid Waste Collection Service, Residential Recycling Collection Service, Commercial Recycling Collection Service and Commercial Solid Waste Collection Service as set out or similar to those listed in Exhibit I.
- VV.** **Special Waste** shall include, but not be limited to, automobiles, boats, internal combustion engines, non-automobile tires, Sludge, dead animals, septic tank waste, Biohazardous or Biomedical Waste, liquid waste, and Hazardous Waste. Special Waste may also include items determined by the Contract Administrator to be reasonably unmanageable.
- WW.** **Trash** shall mean all refuse, accumulation of paper, rags, wooden or cardboard boxes and containers, sweepings, broken toys, tools, utensils, and all other accumulations of a similar nature other than Garbage, which are usual to housekeeping and to the operation of stores, offices and other business places, but shall not include Vegetative Waste.
- XX.** **Uncontrollable Forces** shall mean any event, which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing party. It includes, but is not limited to fire, flood, hurricanes, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.
- YY.** **Universal Container** Shall mean and include any waste or recycling storage receptacle made of heavy-duty plastic material and generally sized in 35, 65, 95 and 101-gallon capacities that are dumped by automated or semi-automated means into a packer or compartmented vehicle body. These containers shall be exclusively issued by and owned by the Village.
- ZZ.** **Vegetative Waste** shall mean any vegetative matter resulting from yard and landscaping maintenance by any party and shall include materials such as normal and reoccurring tree and shrub trimming materials, grass clippings, leaves, pine needles, fruit, palm seeds, weeds, palm fronds, tree branches and similar other matter usually produced as refuse in the care of lawns, landscaping and yards. Tree limbs and trunks shall be limited to ten (10) inches or less in diameter. Vegetative Waste, except palm fronds, must be no more than six (6) feet in length and no single item shall weigh more than 50 pounds, and shall be placed in a Village provided Universal Container if possible. Larger quantities shall be placed neatly at the curb for collection by special equipment. Natural Christmas trees will be collected as Vegetative Waste and any section must not be more than 8 feet in length and must be under 50 pounds. Vegetative Waste must originate from the residential property at which it is placed for collection. Vegetative Waste shall not include material generated as the result of a commercial activity located at a residential property. Vegetative Waste does not include tree stumps, root balls, or land clearing debris.
- AAA.** **Village** shall mean The Village of Wellington, Florida, a municipal corporation.

3. **SERVICES PROVIDED BY CONTRACTOR:** The Contractor shall provide mandatory Residential Solid Waste, Residential Vegetative Waste and Residential Recycling Collection Services in the Service Area. The right to provide such Collection Services in the Service Area shall be exclusive to the Contractor. The Village or its designee will be responsible for the billing and collection of payments for the mandatory Residential Solid Waste, Residential Vegetative Waste and Residential Recycling Collection Service.

The Contractor shall provide Commercial Solid Waste Collection Services in the Service Area, which shall be an exclusive right to the Contractor subject however, to the exception for Roll-off Collection Service of

Construction and Demolition Debris at new construction, demolition or rehabilitation sites provided for under separate annual permits as provided below. The Contractor shall be responsible for the billing and collection of Commercial Solid Waste Collection Service fees and disposal costs not being billed and collected by the Village or its designee.

Roll-off Collection Services of Construction and Demolition Debris (C & D) shall not be exclusive to the Contractor. Notwithstanding any other provision of this Agreement, collection of waste contained in roll-off containers excluded from Roll-off Collection Services of C & D for businesses in the Service Area is exclusive to the Contractor.

No other person or entity except the Contractor may offer or provide Residential Solid Waste Collection Service, Residential Recycling Collection Service or Commercial Solid Waste Collection Service in the Service Area. The Village agrees to assist the Contractor in taking timely action against any entity violating the provisions of this Section.

The Contractor shall provide Commercial Collection Services of Recyclable and/or Recovered Materials in the Service Area upon request by the customer or the Village, or through the solicitation efforts of the Contractor. Charges for such services are to be determined between the customer and Contractor based upon the terms of this Agreement. However, Commercial Collection Services of Recyclable and/or Recovered Materials are not exclusive to the Contractor in the Service Area.

The Contractor shall provide Solid Waste and Recycling Collection Services to all property owned, leased, rented or controlled by the Village of Wellington including, but not limited to, those designated by the Contract Administrator if acquired during the term of the Agreement. These services shall be provided at no charge to the Village, to include provision of Containers, collection service and maintenance fees.

The Contractor shall use good faith and its best efforts to cooperate with any Commercial Collection Services of Recyclable and/or Recovered Materials haulers providing such services to commercial customers in the Village.

In order to provide the services, the Contractor shall provide, at their own expense, all labor, insurance, supervision, machinery and equipment, buildings, trucks, vehicles, a Nextel radio to the Village with all Contractor and contacts programmed in the radio at no charge to the Village, and any other tools, equipment, accessories and things necessary to maintain the highest quality and level of service standards of solid waste collection and recycling service set forth herein.

#### **4. SOLID WASTE AND VEGETATIVE WASTE COLLECTION SERVICE:**

Collection services for curbside, container and commercial customers provided by this Agreement shall be set forth in this Section. Collection of residential curbside garbage is by automated Universal Container. Residential trash is by manual collection and vegetation is a mix of semi-automated and manual collection.

The Contractor shall provide dumpster containers to any customer at no additional charge during any period that a solid waste compactor is out of service for repair for more than 48 hours. Standard container rates may be charged if the compactor maintenance is not the responsibility of the Contractor otherwise there shall be no additional charge.

A. **Curbside Residential Solid Waste Collection Services:** This service is provided to dwellings wherein Garbage, Bulk Trash, Construction and Demolition (C & D) Debris and Trash are placed within six (6) feet of the curb or roadside for collection by the Contractor. Exceptions to this location

for collection apply only to those who have been qualified as handicapped by the Contract Administrator and those who have contracted with the Contractor for Special Services. The Village or its designee shall be responsible for the billing and collection of payments from curbside residential customers for this service.

1. **Conditions and Frequency of Service:** All Curbside Residential Solid Waste shall be placed in a Universal Container provided by the Village and placed curbside, as required by the Village, for collection by the Contractor twice each week. The Contractor shall only be required to collect the contents of Universal Container(s) except for trash and bulk trash. Exceptions to the twice per week collection occur only on permitted holidays or in the case of a Village declared emergency or disaster. There shall be no less than forty-eight (48) hours or more than seventy-two (72) hours between regularly scheduled collection days. Customers are not to commingle Vegetative Waste with Residential Solid Waste however; the Contractor may collect moderately commingled wastes at its discretion and shall assume responsibility for disposal at a designated facility. There shall be and is no limit on the number of Village provided Universal Containers to be collected per customer.

Trash, Bulk Trash, and Construction and Demolition Debris (C & D) resulting from minor home maintenance and repair only shall be collected at the curb. Homeowner generated C & D debris may include, but is not limited to, drywall, lumber, roofing material, tile and paneling and all other related materials. In the event Bulk Trash contains Chlorofluorocarbons (CFC's), the Contractor shall collect the Bulk Trash items separately, in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFC's into the atmosphere, to the Authority landfill or to a scrap dealer located in Palm Beach County. Trash and C & D Waste are to be placed in the Universal Container with Residential Solid Waste for collection. The total weight of C & D should not exceed 100 pounds. There shall be no weight limit for any Bulk Trash item. Residents shall not commingle Trash, Bulk Trash or C & D Waste with Vegetative Waste. Contractor may collect commingled material and shall assume responsibility for disposal at a designated facility and notify the Contract Administrator accordingly. Trash, Bulk Trash and C & D Debris shall be collected on the vegetation collection day of the week. A full Universal Container shall not exceed 150 pounds to be collected.

- B. **Curbside Residential Vegetative Waste Collection Services:** The Village or its designee shall be responsible for the billing and collection of payments from Curbside Residential Customers for this service. This service is provided to dwellings wherein properly prepared Vegetative Waste is placed within six (6) feet of the curb or roadway for collection by the Contractor. There are no exceptions to the curb or roadside location for collection of Vegetative Waste. All Vegetative Waste including palm fronds that can be cut into several pieces shall be placed in the Universal Container(s) provided by the Village. However, when quantities of vegetative waste exceed the capacity of the Universal Container it shall be piled neatly beside the roadway for separate collection. Garbage cans and bags may be used for additional small Vegetative Waste.

1. **Conditions and Frequency of Service:** Curbside Residential Vegetative Waste shall be collected once each week from all curbside customers, which shall be on Monday, Tuesday or Wednesday in the core area of the Village, as mutually determined by the Contract Administrator and Contractor and shall be limited to approximately 50% of curbside customers. Should the scheduled day of Curbside Vegetative Waste Collection fall on a holiday, collection shall occur on the next scheduled Curbside Residential Solid Waste Collection day. Grass clippings, hedge trimmings, pine needles, palm seeds, fruit, coconuts and any other small items including items that can be cut or broken into smaller pieces shall

be placed into the Village provided green Universal Container, garbage can or plastic bag for collection. Vegetative Waste properly sized and piled next to garbage cans, container or Universal Containers shall be collected by the Contractor on the scheduled collection day unless the pile is tagged for special collection next day. Large items that cannot be cut or broken and placed in the Universal Container such as multiple palm fronds and tree limbs are to be piled up by the curb for collection. Except for palm fronds no single item shall be longer than six (6) feet in length nor weigh more than fifty (50) pounds. Limbs or tree trunks having a diameter greater than ten (10) inches will not be collected pursuant to this Agreement. There shall be a seven (7) cubic yard weekly limit per dwelling unit for bulk piles of Vegetative Waste. Residential Vegetative Waste shall be placed in one location at each residential property for collection. Multiple locations constitute additional or Special Services as provided for in Section 7, of this Agreement. There shall be and is no limit on the number of Village provided Universal Containers to be collected per Residential Curbside customer nor is there a limit on the number of Garbage Receptacles of Vegetative Waste to be collected weekly.

C. **Curbside Residential Recycling Collection Service:** The Contractor shall provide Curbside Residential Recycling Collection Services in the Service Area as provided for within this Agreement. The Village or its designee shall be responsible for the billing and collection of payments from Curbside Residential customers for these services. Curbside Residential Recycling Collection Service shall be governed by the following terms and conditions;

1. **Conditions and Frequency of Service:** The Contractor shall provide Curbside Residential Recycling Services to all Dwelling Units receiving Curbside Residential Solid Waste Collection Service located in the Service Area and to other such Dwelling Units as determined appropriate by the Contract Administrator. This service shall be provided once every week, unless otherwise specified by the Village, on a Scheduled Route basis that shall coincide with one of the two regularly scheduled solid waste collection pick-up days weekly. All Recyclable Materials to be collected shall be in a Recycling Container, with the exception of cardboard and / or paper bags and shall be placed within six (6) feet of the curb, roadway, closest accessible public right-of-way or such locations agreed to by the Contractor that will provide a safe and efficient accessibility to the Contractors collection crew and vehicle. No Recycle Containers shall be placed next to a mailbox or utility box for collection. The Contractor must collect as many Recycling Containers, bags, and bundles or flattened cardboard as the customer sets out. Cardboard shall be collected if flattened or cut to no larger than three (3) feet square and placed next to, on, under or inside of the Recycling Container. Non-Recyclable materials placed in Recycling Containers for collection are to be left in the Container by the Contractor's collection crew and tagged with the Contractors tag explaining why the material was not collected.

If a rear, side or front load packer vehicle is used for recycle collection it must have signage designating the vehicle as such.

2. **Recycling Containers:** The Village shall provide and the Contractor shall insure distribution of Recycling Containers to each unit that is to receive Curbside Recycling Collection Service within the Service Area. All Recycling Containers are the property of the Village. However, customers may use their own additional Recycling Containers or paper bags as long as they are similar and suitable for the Service. Should the Solid Waste Authority authorize single stream collection a change to Universal Container may be implemented on a phased schedule. Contractor shall be responsible for distributing these Universal Carts at no cost to the Village.

**D. Container Residential Solid Waste Collection Service:** The Contractor shall provide Container Residential Solid Waste Collection Service to all Dwelling Units in the Service Area that are suitable to receive such service and request such service. Commercial Container maintenance rates, terms, and provisions contained in the Agreement shall also apply to Containers provided for residential service. Normal Container Residential Solid Waste Collection Service, not including Bulk Trash collection, shall be twice per week. The size and location of the Container and frequency of collection shall be determined by the Contractor and the residential complex in accordance with this Agreement. In case of an unresolved dispute, the Contract Administrator shall resolve such issue and the same shall be final as to the dispute. The Contractor shall be paid the appropriate containerized unit collection rate in accordance with Exhibit I. Any service requested by the residential complex above twice per week for Container Residential Solid Waste collection and once per week Bulk Trash collection, shall also be paid in accordance with the "commercial solid waste collection" rates in Exhibit I. The Village or its designee shall be responsible for the billing and collection of payments from Container Residential customers for this collection service. The frequency of collection of Bulk Trash outside the container shall be no less than once per week unless otherwise agreed to by the customer and approved by the Contract Administrator. Any dispute as to the frequency of Bulk Trash collection shall be resolved by the Contract Administrator. In the event Bulk Trash contains Chlorofluorocarbons (CFC's), the Contractor shall collect the Bulk Trash items separately, in a non-compacting vehicle, and deliver the item, with every attempt not to release the CFC's into the atmosphere, to the Authority landfill or to a scrap dealer located in Palm Beach County. There shall be no weight limit for any Bulk Trash item.

1. **Conditions and Frequency of Service:** A minimum of twice a week service is required of all customers, or such other minimum frequency as provided by law but no less than twice a week. Such service shall be provided by Container as defined herein. The size of the Container and the frequency (above the minimum) of collection shall be determined between the customer and Contractor. However, size and frequency shall be sufficient to provide that no Residential Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer. The Contractor shall provide Containers at the approved maintenance rates as necessary; however, customers may own their Container provided that the customer is completely responsible for its proper maintenance and replacement. Such Containers shall be of a type that can be serviced by the Contractor's equipment. Customers may elect to use Universal Containers if space constraints do not allow for a Container. All Residential Solid Waste shall be placed in a Container. Vegetative Waste collection is not included in this service. Containers shall be placed in an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer. Any Container or Compactor damaged by the Contractor shall be repaired or replaced by the Contractor within five (5) business days. All Containers and Compactors provided by the Contractor shall be in good condition, painted and neatly labeled with the Contractors name, phone number and cubic yard size of the Container.

**E. Container Residential Recycling Collection Service will be governed by the following Terms and Conditions:**

1. **Conditions and Frequency of Service:** The Contractor shall provide this service to Dwelling Units as are designated by the Village and are located in the Service Area. This service shall be provided at least once every week on a scheduled route basis as set out below. If the customer requires additional collections per week they will be invoiced by the Contractor in accordance with the rates listed in Exhibit I of the Agreement.

All Recyclable Materials, with the exception of cardboard, are to be collected in a Recycling Container or Container designated for Recyclable Materials, which shall be in such location and Collected on a schedule as mutually agreed to by the owner or governing association (of the multiple residential complex or development being serviced) and by the Contractor that will provide safe and efficient accessibility to the Contractor's collection crew and vehicle. Cardboard shall be collected if placed next to, on or inside of the Recycling Container or Containers. If there is a large amount of cardboard placed outside of the Container often an alternate, larger Container shall be provided, upon agreement by the customer and the Contractor. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for pick-up, which decision shall be final.

- F. **Commercial Solid Waste Collection Service:** The Contractor shall collect and dispose of all Commercial Solid Waste in the Service Area, except Special Waste. Such Commercial Collection Service shall be governed by the following terms and conditions:
1. **Conditions and Frequency of Service:** A minimum of once a week service, or as otherwise provided by law, is required of all customers. Such service shall be provided by Container as defined herein. However, where a customer generates less than one (1) cubic yard per week of waste, alternate Universal Containers may be utilized. Commercial Customers utilizing a Universal Container shall be charged one-half the per cubic yard collection rate as established in Exhibit I and one-half the per cubic yard rate for disposal for each container. If the Commercial Customer generates less than one (1) cubic yard per week and uses a Universal Container the Commercial Customer shall be charged the monthly Residential Curbside Collection rate, as set out in Exhibit I. The size of the Container and the frequency of collection shall be determined between the customer and the Contractor. However, size and frequency shall be sufficient to provide that no Commercial Solid Waste need be placed outside the Container. Storage capacity shall be suitable for the amount of waste generated by the customer. The Contractor shall provide Containers as necessary; however, customers may own their Container provided that the customer is completely responsible for its proper maintenance and replacement. Such Containers shall be of a type that can be serviced by the Contractor's equipment. All Commercial Solid Waste shall be placed in a Universal Container, Container or Compactor. Vegetative Waste shall not be commingled with Garbage. When Vegetative Waste is placed in a Container (not loose or in a Roll-off or a Compactor), the Contractor may charge 1.5 times the commercial collection rate as set out in Exhibit I. Where Universal Containers are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All Containers or Compactors shall be kept in a safe, accessible location agreed upon between the Contractor and the customer. Any Universal Container, Container or Compactor damaged by the Contractor shall be repaired or replaced by the Contractor within five (5) business days. Compactors may be obtained by customers from any source provided that such Compactor must be of a type that can be serviced by the Contractor's equipment and the customer shall be completely responsible for its proper maintenance and replacement. Compactor frequency of collection shall be sufficient to contain the waste without spillage. All Containers and Compactors provided by the Contractor shall be in good condition painted and neatly labeled with the Contractor's name, phone number and size of Container in cubic yards.
  2. **Level, Type and Disclosure of Rates for Commercial Solid Waste Collection and Other Services:**
    - a) **Commercial Solid Waste Collection Service:** The Contractor shall only charge rates as

set out in Exhibit I or as otherwise allowed by this Agreement. A written agreement between the Contractor and the customer shall be required and entered into regarding the level and type of service to be provided and manner of collection of fees. The Contractor may not bill the customer more than thirty (30) days in advance unless otherwise requested by the customer. The terms and conditions of such agreement shall be in compliance with all provisions of this Agreement and the term shall not extend beyond the initial term of this Agreement as stated in Section 1. The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement, the Contract Administrator or his designee shall establish the level and type of service to be provided including the location, size of the Container and number of pick-ups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit I. The Contractor shall be responsible for the billing and collection of Commercial Solid Waste Collection Services, disposal-tipping fees, special fees and Container maintenance charges except as otherwise provided in this Agreement.

- b) **Disclosure:** By October 1<sup>st</sup> of each year of this Agreement, the Contractor shall provide the customer an annual disclosure statement which may be placed either directly on the billing statement generated by Contractor's billing system or on a separate cover letter included with the billing statement. Contractor shall send a commercial customer list to the Village as well as a master copy of the disclosure statement, which includes the following language:

#### **"REGULATION BY THE VILLAGE OF WELLINGTON"**

The terms and conditions of this Commercial Solid Waste and Recycling Collection Service Agreement are regulated by an exclusive Franchise Agreement granted by the Village of Wellington. Should the customer have any questions relating to the terms and conditions of this Agreement, the customer may call the Contractor at (561)-547-4000 or the Contract Administrator at (561)-791-4003.

#### **"COMMERCIAL COLLECTION CONTAINERS"**

The commercial collection container shall be of a type that can be serviced by the Contractor's collection equipment. The customer may either purchase the commercial collection Container from any source or request such Container from the Contractor at the maintenance rate as approved by the Village, provided that such Container can be serviced by the Contractor's collection equipment. If the customer chooses to use a Compactor, the customer may rent, lease or own the Compactor from any source, provided that the Compactor can be serviced by the Contractor's collection equipment. Commercial collection Containers and Compactors shall be maintained in a serviceable, safe, and sanitary condition by the owner of the Container or Compactor. However, damage caused by the Contractor to a customer owned Container or Compactor shall be repaired at the cost to the Contractor.

#### **"SPECIAL SERVICES"**

If the customer requests, the Contractor is required to provide special services for collection of solid waste such as rolling Containers out of storage areas, opening doors or gates for access, or other such special services. However, such special services may be provided by the customer, through its own or other personnel. If the Contractor provides special services, such charge must be separately stated under the "RATES FOR SERVICES" disclosure statement. The maximum for these special service rates are fixed by the Village of Wellington. A copy of these rates can be obtained from the Contractor or Contract

Administrator.

The "RATES FOR SERVICES" statement shall incorporate or have attached a rate schedule which specifies the Collection Rate based on size of container and frequency of service: TYPE indicating whether the Container is for Solid Waste or Recycling, DISPOSAL based on a cost per cubic yard: CONTAINER MAINTENANCE expressed in a monthly flat rate based on the size of the Container; and the cost per month for each SPECIAL SERVICE REQUIRED BY THE CUSTOMER. The notification shall specify the size of container and frequency of collection of each container for each business, distinguishing between solid waste and recycling collection service. The notification shall specify the address where the business is located. The notification shall itemize each cost individually. A sample notification shall be approved by the Contract Administrator or his or her designee before distribution to the customer. Each disclosure statement to be provided annually to the customer by the Contractor will also be prepared in duplicate, with a copy being provided to the Village.

**G. Commercial Recycling Collection Service:** The Contractor shall provide Commercial Recycling Collection Services on behalf of the Village for any business in the Service Area where the Village has arranged, negotiated or contracted for such service, and Contractor shall have the right to solicit Commercial Recycling Collection Service agreements with any business in the Service Area upon terms and conditions consistent with this Agreement. This service shall also include Recovered Materials Collection Service. However, this service is not exclusive to the Contractor.

**1. Conditions and Frequency of Service:** The Contractor shall provide Commercial Recycling Collection Services to all business or commercial entities located in the Service Area resulting from its own solicitation, by request of the customer, or where a contract meeting the terms and conditions of the Agreement is arranged by the Contract Administrator or designee. The size and frequency of service of the Container designated for Recyclable Materials shall be determined and agreed to by the customer and the Contractor. However, size and frequency shall be sufficient to provide that no Recyclable and Recovered Materials need be placed outside the Container. Storage capacity shall be suitable for the amount of recyclable materials generated by the customer. The Contractor shall provide Bulk Containers as necessary; however, customers may own their Container provided that the customer is completely responsible for its proper maintenance and replacement. Such Containers shall be of a type that can be serviced by the Contractor's equipment. Compactors may be obtained by customers from any source provided that such Compactor must be of a type that can be serviced by the Contractor's equipment and the customer shall be completely responsible for its proper maintenance and replacement. Compactor frequency of collection shall be sufficient to contain the waste with spillage. All Commercial Recyclable and Recovered Materials shall be placed in a Container, Compactor or other acceptable Recycling Container. All Bulk Containers and Compactors provided by the Contractor shall be in good condition, painted and neatly labeled with the Contractor's name, phone number and size of Container, in cubic yards and type of materials to be placed in the container.

Recyclable and Recovered Material shall not be commingled with other solid waste. Where Recycling Containers or Universal Containers are used, they shall be placed at an accessible location or at such other single collection point as may be agreed upon between the Contractor and the customer. All containers shall be kept in a safe, accessible location agreed upon between the Contractor and the customer. Any Container or Recycling Container damaged by the Contractor shall be repaired or replaced by the Contractor within five (5) days.

**2. Level, Type and Disclosure of Rates for Commercial Recycling Collection and Other Services:** A written agreement between the Contractor and the customer shall be entered into regarding the level and type of service to be provided and manner of collection of fees. The terms and conditions of such agreement shall be in compliance with all provisions of this Agreement and

the term shall not extend beyond the term of this Agreement as stated in Section 1. The customer shall subscribe to a level of service sufficient to meet the needs of the customer in a sanitary and efficient manner. However, upon failure of the parties to reach such an agreement, the Contract Administrator, or his or her designee, at the election of the customer and Contractor may establish the level and type of service to be provided including the location, size of the Container and number of pick-ups per week and the "TOTAL RATE" to be charged within the approved rate limits contained in Exhibit I. The Contractor will be responsible for the billing and collection of payment for Commercial Collection Service of Recyclable and/or Recovered Materials charges except as otherwise provided in this Agreement. The written agreement between the Contractor and the customer shall be provided to the Contract Administrator. In the event the customer cancels a contract with the Contractor for Commercial Collection Services of Recyclable and/or Recovered Materials, the Contractor is not obligated to provide such services. Upon cancellation, the Contractor shall provide a written explanation, to the Village for the cancellation. The Contractor shall allow the Customer three days to rescind the cancellation after the written notification is provided. To the extent that a customer, who canceled Commercial Collection Services of Recyclable and/or Recovered Materials subsequently, requests such service, the Contractor may negotiate a separate rate with the customer for such service. The Contractor shall not be required to pay the Village the appropriate Contract Service Fee, as set forth in Section 5F of this Agreement, from revenues received from providing Commercial Collection Services of Recyclable and/or Recovered Materials.

3. **Ownership:** Notwithstanding any other provision of this Agreement, a commercial generator of Recyclable Materials retains ownership of those materials until he or she or it donates or sells, or contracts for the donation or sale of those materials to another person or entity. Nothing in this Agreement shall prevent a person or entity engaged in the business of recycling, whether for profit or nonprofit, from accepting and transporting Recyclable and/or Recoverable Materials, under contract with a commercial generator, from such commercial generator when such Recyclable and/or Recovered Materials have been purchased from or donated by the commercial generator and no charge is made to or paid by the commercial generator for the loading, collection, transporting or removal of such Recyclable and/or Recovered Materials. Provided however, that the transporter must report such information to the Village as may be necessary for the documentation of state mandated recycling or reduction goals.

H. **Accessibility:** Placement of Universal Containers and Bulky Trash and large quantities of Vegetative Waste for collection will provide for safe and efficient access to the Contractors crew and vehicle avoiding utility lines and boxes, mailboxes, fences and overhanging trees.

1. Curbside Residential Solid Waste, Vegetative Waste and Recycling to be collected curbside must be placed within six (6) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or such other location agreed to by the Contractor. In the event there is insufficient space between curb and sidewalk for placement of Universal Containers or Vegetative Waste alternatively they will be collected within two (2) feet of the sidewalk. For purposes of this Agreement, public road or public right-of-way means a road owned and maintained by the County, State or Village, or a road on private property for which an easement or right of entry agreement has been granted to the public and such road is constructed and maintained to a standard whereby access is available by the Contractor's collection vehicle. Curbside Residential Solid Waste, Vegetative Waste and Recycling will be collected at only one location on a residential property. Additional stops such as on two sides of a corner lot, for collection are considered a special service requiring an additional rate to be negotiated with the Contractor. All disputes herein shall be resolved by the Contract Administrator, which shall be final and binding upon the parties.

2. Container Residential Solid Waste and Recycling Containers will be kept in a location agreed upon by the customer and the Contractor; such location shall provide safe and efficient access to the Contractor crew and vehicle. Cardboard shall be collected if placed next to, on or inside of the Recycling container. If there is frequently a large amount an alternate, larger container shall be provided, upon agreement by the customer and Contractor. In the event an appropriate location cannot be agreed upon, the Contract Administrator shall mediate the dispute and designate the location for collection.
  3. Commercial Solid Waste and Recycling Containers shall be kept in a safe, accessible location agreed upon between the customer and the Contractor.
- I. **Method of Payment:** The Village or its designee will be responsible for the billing and collection of payments for Residential Solid Waste, Residential Vegetative Waste and Recycling Collection Services. Payments from the Village to the Contractor will be done and paid no later than the tenth day of the month following service. The collection service rate per unit per month shall be as set out in Exhibit I which may be modified from time to time but not more frequently than annually, pursuant to the provisions for an Extraordinary Rate Adjustment as provided herein or as agreed to by the Village. The Contractor shall be responsible for billing and collection of payments for Commercial Solid Waste and Recycling Collection Service, not to exceed the rates as set out in Exhibit I. The rates set out in Exhibit I shall be adjusted only as necessary in subsequent years pursuant to the provisions for an Extraordinary Rate Adjustment, as provided herein, or as agreed to by the Village. The Contractor may be asked to bill the Village or the customer for all or a part of the Containers used by the customer for commercial Recycling Collection Service, at the rate set out in Exhibit I, as determined by the Contract Administrator.
- J. **Method of Collection:** The Contractor shall provide all new enclosed packer loader-bodied vehicles to provide collection of Residential Solid Waste and Vegetative Waste. Bulk Trash, and large quantities of Vegetative Waste that cannot be containerized shall be collected by means of new open box vehicles equipped with grapples for loading the waste into the vehicle container. Curbside and Container Residential Recycling shall be collected by new compartmented bodied vehicles equipped for manual and semi-automated loading and lifting. Two (2) compartments are required to collect and transport two (2) streams of recyclables; containers such as glass bottles and jars, plastic bottles and aluminum cans; and fiber such as newsprint, magazines, catalogues and properly sized cardboard. Items to be collected as part of the Solid Waste Authority recycling program may be adjusted from time to time during the term of this Agreement.

Commercial and Container Residential Solid Waste shall be collected by new enclosed loader packer bodied vehicles or by new roll-off type vehicles servicing stationary compactors or open top containers. All collection equipment shall be equipped and operated in such manner as to avoid, at all times, spilling, dropping or blowing contents out of the vehicle or hopper onto public or private property to include all roads, streets, highways and right-of-ways. Transition and startup plan requirements are specified in Exhibit V.

- K. **Hours of Collection:** Residential Collection Services shall not be provided in the Service Area except between the hours of 7:00AM and 6:30PM Monday through Saturday. Non-residential customers may be serviced at any time provided there is no disturbance to any resident and the customer agrees to the time of collection, subject however to all laws, Village ordinances and codes, rules and regulations. The Contract Administrator shall resolve collection schedule disputes between a customer(s) and the Contractor. The Contract Administrator may restrict the hours of service to non-residential customers if in his or her judgment disturbance complaints warrant such action. Hours of collection may be extended or temporarily stopped due to extraordinary circumstances or conditions with the prior

consent of the Contract Administrator.

**L. Routes and Schedules:** The Contractor shall provide and keep current with the Contract Administrator or his or her designee, in a format acceptable to the Contract Administrator, an up-to-date route and schedule map for all Residential and Commercial Collection Service routes and schedules. The Contractor shall immediately notify the Contract Administrator in writing of any proposed change in any route or schedule three weeks prior to proposed change for review and approval by the Contract Administrator. In the event of a permanent change in the routes or schedules that will alter the pick-up day, the Contractor shall immediately notify the affected customer in writing or other method approved by the Contract Administrator not less than two (2) weeks prior to the change, at no cost to the Village and the customer. Notification includes any day changes to the customer prior to the beginning of this Agreement on October 1, 2008. Notification to Curbside customers shall be done twice – once two (2) weeks prior to the change and once one (1) week prior to the change. The Village reserves the right to deny Contractor's vehicles access to certain streets, alley and public ways inside the Village en-route to the disposal site where it is in the interest of the general public to do so because of the condition of the streets or bridges. The Contractor shall not interrupt the regular schedule or quality of service because of street closures of less than eight (8) hours in duration. The Village shall notify the Contractor of street closures of longer duration and arrangements for service will be made in a manner satisfactory to Contractor and the Village. The Contractor understands and agrees to the fact that at times during the year, the quantity of solid waste to be disposed may be increased by the influx of visitors or seasonal residents. This additional load will not be justification for the Contractor to fail to maintain the required collection schedules and routes.

**M. Recycling Containers for Residential Dwelling Units:**

1. If required, the Village shall supply and the Contractor shall distribute to each residence within the Village a minimum of two (2) containers for Recyclable Materials to be collected. The cost of these Containers will be borne by the Village. All Recycling Containers are the property of the Village. Any Containers distributed prior to the commencement of this Agreement provided by the Contractor shall also become the property of the Village on October 1, 2008. The Village shall maintain an adequate supply of Containers to provide for new residents.
2. The Contractor will replace at its expense any Container, Universal Container or Recycling Container damaged through the fault or negligence of the Contractor or its employees. The Contractor shall replace the Universal Container or Recycling Container within three (3) business days of request by the customer or the Village.
3. The Contractor shall promptly deliver replacement Recycling Container, or Containers damaged by its employees, or when notified by the Contract Administrator, or his or her designee, or the occupant of a Dwelling Unit where a Recycling Container, Universal Container or Container is damaged or missing, and shall monthly report all such replacements to the Village. The Contractor shall also promptly deliver, Recycling Containers or Containers as requested by the Village on behalf of the residential customers for the purpose of excess Recyclable Materials or for new residential customers within three (3) business days of the request by the customer or the Village.

**N. Materials Recycling Facility:** The Contractor shall deliver all Recyclable Materials collected from the Service Area to the Solid Waste Authority Materials Recycling Facility (MRF) or facility designated, in writing, by the Contract Administrator.

- O. **Change in Scope of Recycling Collection Service:** From time to time, at the sole option of the Village it may be necessary to modify the scope of Recyclable Materials or the method of collecting recyclables that will be included in Recycling Collection Service. Should this occur, the Village and the Contractor agree to enter into good faith negotiations to amend this Agreement to reflect the impact of any such modification(s).

5. **CHARGES, RATES AND LEVEL OF SERVICES:**

- A. **Solid Waste and Recycling Collection Rates:** Charges for all Collection services performed by the Contractor pursuant to the Agreement shall be based on the rates established in Exhibit I, and as may be subsequently adjusted pursuant to the provisions for Extraordinary Rate Adjustment and CPI, if any, as provided herein in this Agreement or as agreed to by the Village. The Contractor shall supply the Village with such information as determined to be necessary to make the calculations to determine the rate adjustment in accordance with the Agreement. No change in rates, as provided by this Agreement, shall be made without the approval of the Village Council. Rate adjustments shall be effective the following October 1, unless otherwise mutually agreed by the Village and the Contractor.

An income and expense statement stating gross revenues paid to the Contractor and expenses for the collection and recycling services and the cost of operations provided under this Agreement, as well as disposal fees paid to the Authority, shall be prepared by the Contractor in accordance with generally accepted accounting principles for each quarter during the term of this Agreement. The quarterly statement shall be submitted within forty-five (45) days after the reported quarter and shall be in a format similar to that as set out in Exhibit IV, as may be further revised by the Contract Administrator from time to time.

Within 120 days after the end of the Contractor's fiscal year, the Contractor shall deliver to the Village, in a format as shown in Exhibit III, as may be further revised by the Contract Administrator from time to time, a Audited Financial Statement including, at a minimum, a Balance Sheet and an Income Statement representing the financial position and the Results of Operations respectively of the Contractor for the Service Area. The report must include the opinion of a Florida Certified Public Accountant, who has conducted an audit of the Contractor's books and records in accordance with generally accepted auditing and accounting principles and standards which include tests and other procedures necessary, that the Financial Statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles.

Should the Village expand the use of Universal Containers for Vegetation Collection into non-automated areas or implement automated single stream collection of recyclables it will do so on a phased schedule and there shall be no increase in rates associated with such changes. The Contractor shall be responsible for distribution of Universal Containers to expansion area curbside units at no cost to the Village.

B. **Village's Obligation - Billing, Collection, Payments:**

1. The Village, or its designee, will be responsible for the billing and collection of payments for those units included in the Village's mandatory Residential Solid Waste and Vegetative Waste Collection Services and the Residential Recycling Collection Services programs. The Village shall make monthly payments in arrears to the Contractor for these Services pursuant to this Contract. The Contractor shall be entitled to payment for the Collection Services specified here irrespective of whether or not the Village collects from customers for such service. Payments from the Village to the Contractor will be due and paid no later than the

tenth day of the month following the month during which services were rendered.

On or before October 1, and before commencement of work by the Contractor under the terms of this Agreement, the Village or its designee shall provide to the Contractor the estimated total number of units to be serviced. By November 1 of each Fiscal Year, the Village or its designee shall provide to the Contractor a copy of the annual assessment roll providing a detailed listing of all the units to receive these services. Thereafter, and for the duration of this Agreement, the Village, or its designee, shall monthly notify the Contractor of new residential units to be served and/or deleted and payments will be adjusted accordingly. New Dwelling Units, which are added for Collection service during the Village's Fiscal Year, will be added to the customer service list and payment for said services will be paid by the Village to the Contractor in the Contractor's monthly payment. Payment will be effective and commence beginning on the first day of the month following the month of issuance of a C.O. The payments from the Village to the Contractor for units added by Certificate of Occupancy are paid no later than the tenth day following receipt of the Contractor's invoice. Once the new units are placed on the non-advalem assessment roll payments in accordance with Exhibit VI will cease.

2. In the event the Contractor provides service to Dwelling Units whose parcel was not included on the annual assessment roll provided by the Village, the Contractor must provide a written list of such Dwelling Units and the length of time for which service was provided to the Contract Administrator within 90 days receipt of the assessment roll or monthly notice of new occupancy is received. Upon receipt of such written list by the Village, the Contract Administrator will verify the customer address and that service to the unit is proper within 30 days, and if proper, shall remit monthly payments to the Contractor for such service effective as of October 1 of that Fiscal Year or the date service began, whichever is earlier but for no period more than 90 days in arrears. If the Village has not received notification within 90 days by the Contractor, no adjustments to payment will be made until the next Fiscal Year annual roll is certified for the same units. However, the Village reserves the right to correct any errors or omission or commission per the laws and rules that govern the Village. In the event the Village pays the Contractor for a residential unit in error for whatever reason, the Contractor shall notify the Contract Administrator. Upon determination of any overpayment, the Contract Administrator will verify the error and make appropriate adjustment to the Contractor's payment to correct the error.

- C. **Solid Waste Disposal Costs:** Collection service costs and solid waste disposal costs shall be treated separately for the solid waste Collection services being provided pursuant to this Contract. The Contractor's payments for Collection are set out in Exhibit I. Residential and commercial solid waste disposal costs shall be separated from residential and commercial collection service costs as shown in Exhibit I. Residential disposal costs will be part of the special assessment billed by the Solid Waste Authority of Palm Beach County (Authority) except as otherwise provided in this Agreement. The Contractor will be assigned disposal credits for each residential unit as calculated by the Authority annually as shown in Exhibit I. The non-assessed portion of the commercial disposal costs will be part of the service charge billed by the Contractor. The Contractor shall pay the Authority for all solid waste disposal costs incurred for disposing of all solid waste at the Authority's Disposal Facilities except for the portion of disposal costs, which have been separately credited by the Village. The Village accepts no responsibility or financial liability for quantities of Residential Solid or Vegetative Waste required to be collected pursuant to the terms and conditions of this Agreement. Disposal costs for non-assessed residential units shall be compensated in accordance with procedures set forth in Exhibit VI of the Agreement.

- D. Extraordinary Rate Adjustment:** The Contractor may petition the Village at any time for an additional rate adjustment on the basis of extraordinary and unusual changes in the cost of operations that could not reasonably be foreseen by a prudent operator. The Contractor's request shall contain substantial proof and justification, as determined by the Village, to support the need for the rate adjustment. The Village may request from the Contractor, and the Contractor shall provide, such further information as may be reasonably necessary in making its determination. The Contractor shall submit for an extraordinary rate adjustment within twelve (12) months of the event(s) necessitating the adjustment, but not before January 31<sup>st</sup> nor later than March 31<sup>st</sup> of any calendar year. The Village shall approve or deny the request, in whole or in part, within sixty (60) days of receipt of the request and submittal of all other additional information required by the Village. The Contractor shall supply the Village with such information as may be necessary to make the calculations to determine the rate adjustment in accordance with the Agreement. No change in rates, as provided by this Agreement, shall be made without the approval of the Village Council. Rate adjustments shall be effective the following October 1, unless otherwise mutually agreed by the Village and the Contractor. The Contractor shall not file for an Extraordinary Rate Adjustment more than once every twelve (12) months beginning October 1st each year however, no adjustment may be requested nor will one be granted during the last year of the Agreement. The Village shall be the sole determiner of such extraordinary rate adjustment or compensation as contemplated herein.
- E. ANNUAL RATE ADJUSTMENT:** On a yearly basis, and commencing on the October 1, 2009 and every year thereafter that this renewal Agreement is in effect, and subject to the limitations provided above the Contractor shall receive a standard CPI rate adjustment for all collections made hereunder, as set forth in Exhibit I of this Agreement, subject however to those collections specifically excluded in this Agreement. Should any dispute arise as to the standard CPI rate adjustment herein the parties agree the Village's decision shall be final and binding. Regardless of the foregoing, in order for the Contractor to be entitled to this standard CPI rate adjustment it shall not be in breach of this Agreement.
- F. Contract Service Fee:** To compensate the Village for the cost of administration, supervision and inspection rendered for the effective performance of this Agreement, as well as other costs related to Collection, the Contractor shall pay to the Village a fee of five percent (5%) of all gross revenues billed arising out of any services or operations conducted in the Service Area excluding revenue from collection of Commercial Collection Services of Recyclable and/or Recovered Materials. Solid waste disposal costs paid by the Contractor to the Authority under this Agreement shall be deducted from the gross revenue total prior to applying the 5% for calculation of the Contract Service fee due to the Village. Contract Service fees for each calendar quarter shall be payable within forty-five (45) days following the last day of such calendar quarter. A late charge of 1.5% of the monies due for the Contract Service fee shall be calculated monthly until payment is received. Misrepresentation of revenues by Contractor shall result in the following; 1) Contractor must pay the Village the calculated difference determined from the misrepresentation within five (5) business days, 2) Contractor must also pay an additional 20% penalty fee of the misrepresented amount, 3) Contractor shall submit a Certified Financial Statement on a quarterly basis for the remainder of the Agreement. The report must include the opinion of a Florida Certified Public Accountant who has conducted an audit of the Contractor's books and records in accordance with generally accepted auditing and accounting standards which include tests and other procedures necessary, that the Financial Statements are fairly presented, in all material respects, in conformity with generally accepted accounting practices and standards.
- 6. HOLIDAYS:** The Contractor shall not be required to collect Commercial Solid Waste, Commercial Recycling, Residential Solid Waste, Vegetative Waste and Residential Recyclable Material or maintain office hours on

Thanksgiving Day and Christmas Day. All Residential Solid Waste, Recyclable Material and Vegetative Waste not collected on Thanksgiving Day and Christmas Day shall be collected on the next scheduled service day including any waste in excess normal limitations or containers used. The Contractor shall not be required to maintain office hours on Memorial Day, Labor Day, Independence Day, New Year's Day, Thanksgiving Day and Christmas Day. However, on all holidays except Thanksgiving Day and Christmas Day, the Contractor shall provide for operations personnel to accept calls from the Village and the Contractor's customers.

7. **SPECIAL SERVICES:** Where the resident of a dwelling unit is physically unable to deliver Residential Solid Waste, Vegetative Waste or Residential Recycling to the curbside and is qualified as handicapped by the contract Administrator an alternative location may be arranged between the customer and the Contractor at no extra cost to the resident. The Contract Administrator shall resolve any dispute by designating the alternate location. If a residential structure is located in such a manner as to provide non-accessibility to the Contractors crew or vehicle an alternate may be arranged between customers and Contractor at no cost to the resident. Any dispute will be resolved by the Contract Administrator.

Rates charged for Special Services may not exceed the special service rate listed in Exhibit I. If the Resident requests Special Services, such as back door service (off curb service), these services shall be billed directly to the Customer by the Contractor in accordance with Exhibit I, such charges shall then be established through negotiations between the Contractor and the Customer. In the event the Customer and the Contractor cannot reach an agreement on the cost, the Contract Administrator shall determine the cost. Any special service(s) negotiated between the Contractor and a customer shall be in the form of a written agreement and signed by both parties. The Contractor shall provide a copy of this agreement to the Contract Administrator within five (5) days of the execution of the agreement.

8. **PUBLIC AWARENESS PROGRAM:** The Contractor shall, at no cost to the Village, prepare and distribute to all Village Residential and Commercial customers no later than September 15, 2008 an informational document such as a mailer, door hanger etc. that includes, at a minimum, the following: Name of Contractor, Commencement Date of Service, Commercial Account Business telephone, Village Customer Service telephone, Days of Garbage, Vegetation, Recycling Collection service and limitations and prohibitions. The Contractor shall submit the proposed informational document to the Contract Administrator and receive Village approval prior to printing and distribution of this or any other informational material that is to be distributed to Village customers. The Contractor shall assist the Village with the Public Awareness Program to inform residential and commercial customers of the requirements for solid waste, vegetative waste and recycling collection and the requirements for automated collection, which shall include, but not be limited to brochures and other materials approved by the Village as well as by distributing door hangers, stickers, flyers or other medium for distribution to residential and commercial customers as requested by the Village. The Village and the Contractor will share responsibility for the promotion of the recycling programs. The Village and the Contractor will cooperate in the design of promotional events and educational programs and the preparation of the above referenced promotional materials. However, the Village's contribution shall be subject to budget, review and approval by the Village. The Contractor shall distribute written service information to the residential participants on a periodic basis. The Contractor further agrees to conduct presentations for schools, civic groups, homeowners associations and other appropriate citizens groups as requested.

The Commercial Recycling customer will also be notified, by the Village through the Contractor, about special commercial recycling events, workshops, educational forums and symposiums and other activities, as requested. Village personnel may be available to assist the Contractor's marketing staff in expanding commercial marketing service.

9. **MANNER OF COLLECTION:** The Contractor shall collect Residential Solid Waste, Vegetative Waste and Recyclable Materials and Commercial Solid Waste and Recycling with a minimum of noise and as little disturbance as possible and shall leave any all containers at the same point it was collected and leave no container in a location blocking vehicle access to a driveway. Any Garbage Can, Universal Container, Recycling Container or container damaged by the Contractor will be replaced by the Contractor within three (3) business days at no cost to the customer and Village, unless otherwise provided within this Agreement. The replacement must be similar in style, material, quality and capacity. The Village will provide Universal Containers and Recycling Containers for distribution by the Contractor. Throwing of any Garbage Can, Universal Container or Recycling Container is prohibited. The Contractor shall neatly re-place all Containers, and Garbage Cans to the point of collection. Employees of the Contractor shall not be required to expose themselves to the danger of being bitten by vicious dogs, or similar animals, in order to accomplish Curbside Residential Solid Waste, Vegetative Waste and Recycling Collection Service. In any case where the owner or tenants have such animals at large, the Contractor shall immediately notify the Contract Administrator of such condition and of its inability to provide service because of such conditions. Collection crews will immediately clean up any spillage created in the process of collecting Residential Solid Waste Vegetative Waste and Recyclable Material. The Contractor is required to tag any solid or vegetative waste or recyclables not collected on the scheduled day of service with an explanation as to why collection did not occur. Failure to tag Solid Waste, Recycling, Vegetation or Bulk Trash for improper set outs shall result in penalties being assessed.

10. **PERSONNEL OF THE CONTRACTOR:**

- A. The Contractor shall assign a qualified person or persons to be in charge of the operations within the Service Area and shall give the name(s) office and cellular telephone numbers of the person(s) to the Contract Administrator.
- B. The Contractor's solid waste collection employees shall wear a uniform or shirt bearing the Contractor's name during operations in the Village.
- C. Each driver of a collection vehicle shall at all times carry a valid Florida driver's license for the type of vehicle that is being driven.
- D. The Contractor shall provide operating and safety training for all personnel and documentation as proof of training.
- E. The Contractor's employees shall treat all customers in a polite and courteous manner.
- F. The Contractor shall provide emergency contact numbers for all key personnel. In addition, the contractor shall supply at no cost to the Village one Nextel radio with the numbers of all contacts pre-programmed into the phone for Village use.
- G. Supervisory personnel must be present on all routes to direct operations in a safe and satisfactory manner. All supervisory personnel shall operate a non-collection vehicle that is clearly marked with Contractor's name and office telephone number.
- H. Contractor shall provide personnel sufficient to complete all routes. Supervisory personnel may temporarily operate collection vehicles in an emergency situation only with prior notification to and consent from the Contract Administrator.
- I. The Contractor shall keep all contact information provided to the Village current at all times.

11. **SPILLAGE:** The Contractor shall not litter or cause any spillage of waste, recyclables or fluids to occur upon the premises, roadway or the right-of-way wherein collection shall occur. During hauling, all solid waste, vegetative waste and recyclable material shall be contained, tied, or enclosed so that leaking, spilling and blowing is prevented. In the event of any spillage or leakage by the Contractor, for any reason or source, the Contractor shall clean up all spillage and leakage within two (2) hours of notification at no cost to the Village or the customer the same day of occurrence unless otherwise specified within this Agreement or some other period as approved by the Contract Administrator.

The Contractor shall include spill containment kits in each vehicle operating in the Village. Additionally, the Contractor will install and maintain, at his own expense, a lockable storage unit in a designated area of the Village Public Works yard containing sufficient quantities of spill containment absorbent material to effectively contain and clean up the loss of 50 gallons of fluid. Sufficient bags of gray Portland cement and heavy-duty brush brooms will also be stored to cover an area 25 feet wide and 40 feet long.

The Contractor shall pay the Village for any cost it incurs for damage repairs to its roads and rights-of-ways resulting from fluid leaks from the Contractor's equipment. Payment shall be made to the Village within 30 days of invoicing or the full amount will be deducted from the Contractor's next monthly payment.

12. **SOLID WASTE AND MATERIAL RECYCLING FACILITIES:** All Residential Solid Waste, Commercial Solid Waste, Vegetative Waste and Recyclable Material shall be hauled to a Designated Facility. Facilities managed and operated by the Solid Waste Authority are periodically closed for maintenance (an average of 30 business days every four (4) years). In the event a Designated Facility is closed, the Contractor shall take the solid waste, Vegetative Waste and Recyclable Materials to another Designated Facility at no charge to the Village.

In the event that a load of Recyclable Materials delivered to a Designated Facility contains more than 12%, by volume of the total load, material which is not Recyclable Material or that there is more than 12% paper products within the other commingled Recyclable Material or 5% commingle by volume within a load of paper products, the Authority or its designee has the right to reject the load and to charge the Contractor the full disposal fee for each ton within the load. In the event the same vehicle delivers repeat loads of contaminated Recyclable Materials, Contractor shall be penalized the base fine of \$250.00 times the number of offenses (Example: 4 offenses = \$1,000.00). In the event that a load of Commercial Collection Recyclable Materials delivered to the designated facility contains more than 10% by volume of the total load of commingle within a load of paper products the Authority has the right to reject the load and to charge the Contractor the full disposal fee for each ton within the load. The Contractor may pass this cost through to a commercial customer in the event that the Contractor can prove that the customer caused the contamination to the satisfaction of the customer. It is the responsibility of the Contractor to notify the Village of any customer who has on more than three occasions contaminated the Recyclable Materials.

13. **COLLECTION EQUIPMENT:** The Contractor shall provide all new collection equipment for all Collection Services required in this Contract by October 1, 2008 and have on hand at all times and in good working order such equipment as shall permit the Contractor to adequately and efficiently perform the contractual duties specified in this Agreement. Upon execution of this Agreement and semi-annually thereafter, the Contractor shall provide in a format specified by the Contract Administrator a list of the equipment to be used by the Contractor to provide services relating to this Agreement. Residential Solid Waste collection equipment shall be of the automated enclosed loader packer type, and other equipment that meets industry standards and is approved by the Contract Administrator. All Equipment shall be kept in good repair, appearance and in a sanitary, clean condition at all times. Recycling Materials collection equipment shall be a dual compartment

equipment (one compartment for paper products; one compartment for other Recyclable Material), separate trucks or other equipment that meets industry standards and is approved by the Contract Administrator, and must be compatible for unloading at the designated recycling facility or transfer station. Unless otherwise provided within this Agreement, in the event a compacting vehicle is used for the collection of Recyclable Materials, compaction pressure may not exceed 50 pounds per square inch for the commingled non-paper Recyclable Materials to avoid glass breakage. Equipment utilized for the collection of Recyclable Materials shall be clearly identified for that purpose. The Contractor shall have available new reserve equipment, which can be put into service within two (2) hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the assigned equipment used by the Contractor to perform the contractual duties. However, back up equipment can be rear or front load packers with lifters. Equipment is to be painted uniformly with the name of the Contractor, business telephone number and the number of the vehicle in letters not less than five (5) inches high on each side of the vehicle. The rear of the vehicle shall contain signs warning the public of frequent stops. All vehicles shall be numbered and a record kept of the vehicle to which each number is assigned. No advertising shall be permitted on vehicles, except of events sponsored by the Village. All containers shall have the container size listed in cubic yards displayed on the front of the container. For each collection vehicle assigned to the Village the Contractor shall provide by vehicle number its assigned Solid Waste Authority disposal decal number to the Contract Administrator. All non-metal fluid lines shall be completely covered by a separate protective sleeve to prevent leaks.

Should the contract option period be granted by the Village the Contractor shall have seven (7) months from renewal of extension date to provide all new collection equipment in the same manner as required in the initial Agreement including reports submitted to the Contract Administrator.

14. **SPECIAL WASTE, HAZARDOUS WASTE, BIOHAZARDOUS OR BIOMEDICAL WASTE AND SLUDGE:** The Contractor shall not be required to collect and dispose of Special Waste, Hazardous Waste, Biohazardous or Biomedical Waste, or Sludge, but may offer such service in the Village. All such collection and disposal for those types of waste in this Section are not regulated or exclusive under this Agreement, but if provided by the Contractor shall be in strict compliance with all federal, state and local laws and regulations.
  
15. **OFFICE AND EQUIPMENT YARD:** The Contractor shall maintain an office within Palm Beach County where complaints shall be received. It shall be equipped with sufficient telephones, with no less than two telephone lines, and shall have responsible persons in charge during collection hours and shall be open during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. The Contractor shall provide a fax machine and/or computer to receive complaints from the Village, which shall be operable 24 hours a day. The Contractor shall provide an answering machine during non-office hours for customer requests and questions to be responded to during the following business day. The Contractor shall provide a contact person for the Village to reach during all non-office hours. The contact person must have the ability to authorize Contractor operation in the case of Village direction or situations requiring immediate attention. The Contractor's Equipment Yard and office are located at 651 Industrial Way, Boynton Beach, FL. Equipment Yard means a real property location that shall be utilized by the Contractor for the storage and keeping of all equipment needed by the Contractor to provide all services under this Agreement in the Service Area.
  
16. **COMPLAINTS:** All service complaints received from the Solid Waste Authority, Contract Administrator or made directly to the Contractor shall be directed to the Contract Administrator, or designee by the Contractor. The complaint will be forwarded to the Contractor by telephone, computer or electronic media at least twice daily where the Contractor shall record it on a complaint log. The complaint shall be resolved by 5:00pm the day after the Contractor receives it. When the complaint is received by 12:00 noon on a Saturday or the day preceding Thanksgiving Day and Christmas Day, it shall be resolved by the Contractor the same day it is

received however, if received after 12:30 noon no later than 5:00pm the next regular working day.

When the Contract Administrator or designated agency notifies the Contractor of a complaint, the Contractor shall take the appropriate steps that may be necessary to resolve the complaint by 5:00pm the day after its receipt. If a complaint cannot be resolved by 5:00pm the next day, the Contract Administrator shall be notified immediately of the reasons for the delay. If the reasons are approved by the Contract Administrator the resolution period will be adjusted.

The Contractor shall provide the Contract Administrator or his or her designated agency with a full written explanation of the disposition of any complaint involving a claim of damage to private or public property as a result of actions of the Contractor's employees, agent, or sub-contractors. Any damage shall be repaired within five (5) business days with written disposition submitted within five (5) days following resolution. Damaged mail boxes shall be replaced within 24 hours of notification even if it is temporary.

The Contractor shall prepare and maintain, in accordance with a format and method approved by the Village, a register on all complaints, and shall indicate thereon the disposition of each complaint. Such record shall be submitted to the Village by the 10<sup>th</sup> of each month for the preceding month. The record shall indicate the day and hour on which the complaint was received and the day and hour on which it was resolved. The complaints received by the Contractor, both residential and commercial customers by service type and their disposition shall be delivered electronically daily to the Contract Administrator. The Contracts Administrator shall determine legitimacy of challenged complaints and their decision shall be final.

It is recognized that disputes may arise between the Village and Contractor with regard to the collection of certain items due to disputes over the specific language of the Agreement. The Contract Administrator may from time to time notify the Contractor by telephone to remove all such refuse. Should the Contractor fail to remove the refuse within twenty-four (24) hours from the time of notification, the Village will do so and all costs incurred by the Village shall be deducted from compensation due the Contractor. This action taken by the Village shall not be deemed a breach of this Agreement, the parties understand that the Village has the unilateral right to off set such amounts and such action by the Village shall not be deemed a breach of this Agreement. Notice of the amount deducted shall be given to the Contractor. If it is determined by the Village or its designee that disputed refuse did not conform to contract specification, the Contractor shall be entitled to additional compensation for removal.

17. **QUALITY OF PERFORMANCE OF CONTRACTOR:** It is the intent of this Agreement to ensure that the Contractor provides a quality level of solid waste and recycling Collection services. To this end, all complaints received by the Contact Administrator, or his designee, and reported to the Contractor shall be promptly resolved pursuant to the provisions of Section 16 and all other terms and conditions of this Agreement. Complaints shall not include customer informational requests or Recycling Container requests. A complaint not resolved by 5:00pm the next day, unless otherwise provided in this Agreement, shall count as two complaints. In the event complaints received from curbside customers within the Service Area, as determined by the Contract Administrator, or his designee, exceed the limits shown in the tabulation below, the Contract Administrator shall levy \$100.00 per incident administrative charges for those actions related to service as listed within this Agreement. These administrative charges shall be in addition to other administrative charges levied by the Contract Administrator.

Type of Complaint	Monthly Limit (%)	Fiscal Year (Annual) Limit %
Garbage and Damage	0.50%	3.00%
Recycling	0.15%	1.00%
Vegetation	0.25%	1.50%

All Others	<u>0.10%</u>	<u>0.50%</u>
	1.00%	6.00%

The Contract Administrator may also levy administrative charges for all other infractions of this Agreement at \$100.00 per day per incident, as determined by the Village or its designee, without regard to the percentage of customer complaints including:

1. Commingling solid waste with Vegetative Waste and/or Recyclable Materials
2. Throwing of garbage cans or recycling containers
3. Failure to collect Recyclable Materials, solid waste or Vegetative Waste on schedule
4. Failure to replace Garbage Cans, Universal Containers, Containers or Recycling Containers to the point of collection
5. Failure to provide clean, safe, sanitary equipment
6. Failure to maintain office hours as required
7. Operator not licensed or improperly licensed
8. Failure to provide documents and reports in a timely and accurate manner such as listed in A. below
9. Damaged container, Universal Container or Recycling Container not replaced within three (3) business days (48 hours for residential)
10. Failure to clean up spillage of garbage, trash, recyclables or vegetation
11. Failure to repair damage to Customer property within five (5) business days or otherwise as provided in this Agreement.
12. Failure to cover materials on collection vehicle(s)
13. Collection employees out of uniform
14. Name and phone number, and if applicable, size not displayed on equipment, Containers or Subcontractors equipment
15. Not providing current route schedule and route maps
16. Traffic violation within the Village issued by law enforcement
17. Using improper truck to service commercial or residential customer
18. Failure to submit disclosure notice's as required in the Agreement to either customer or Contract Administrator
19. Failure to accurately report Residential Solid and Vegetative Waste and recycling and tonnage activity monthly (on or before the 10th day of the following month) in a format determined with the Village, for the purpose of tracking and verifying generation rates
20. Failure to collect Recyclable Materials, Solid Waste or Vegetative Waste on schedule for any customer who has been missed more than three times per Fiscal Year
21. Failure to respond to customer calls, including commercial recycling and solid waste collection service customers, and residential containerized solid waste collection and recycling collection customers, in a timely and appropriate manner
22. Failure to place a tag on any waste or recyclables not collected on schedule
23. Failure to replace or provide containers or Recycling Containers within three (3) business days.

Repeat offences at the same location within a twelve (12) month period shall constitute the base fine of \$100.00 multiplied by the number of offences (Example: 4 offences = \$400.00 fine)

The Contract Administrator shall assess administrative charges for the following, as set forth herein:

- Changing routes including starting point or schedules without proper notification will result in a \$1,500.00 fine per incident and return to approved route.
- Failure to respond to and clean up spillage of any substance within two (2) hours of notification such as, but not limited to, hydraulic fluid or diesel fuel, will result in a \$5,000.00 fine per day, per incident in addition to all expenses and charges incurred by the Village to repair or replace the damaged property.

- Failure to deliver any Commercial or Residential Solid Waste, Vegetative Waste or Recyclable Materials to a Designated Facility will result in the following penalties:
  1. First offense, \$5,000.00 fine.
  2. Second offense, \$10,000.00 fine
  3. Third and subsequent offenses \$25,000.00 each.
- Commingling of waste in contradiction of this Agreement carries the same penalties as immediately above.
- Failure to complete, either partially or totally, a route on the regular scheduled pick-up day shall be \$500.00 for each route per day not completed.
- Filing of Requested Information and Documents:
  1. In addition to any other requirements of this Agreement, the Contractor shall be required to file pertinent statistical and aggregate cost information pertaining to solid waste collection and recycling collection services that is requested by the Village. At a minimum the Contractor shall submit the following information, in a format acceptable to the Village by the tenth (10<sup>th</sup>) of the month:
    - Contractor customer daily complaint log for the previous month,
    - Container and compactor customer account list showing at least customer name, address, number and size of container and compactor and service frequency
    - Accurate tonnage reports for all waste and materials collected for the previous month in the following categories: garbage, bulk trash, vegetation and recyclables,
    - Other information as may be reasonably requested, in writing, by the Contract Administrator.
  2. The Contractor shall file and keep current with the Village all documents and reports required by this Agreement. By September 1st of each year this Agreement is in effect, the Contractor shall ensure and certify to the Village that all required documents such as, but not limited to, certificates of insurance, audits, performance bond or letter of credit, Collection Routes and Schedules and maps, drivers license certifications, and list of collection equipment vehicles with SWA disposal decal number for each, are current and on file with the Village. Collection Route maps shall be provided in a format as provided by the Village. Failure to file any document or report within five (5) working days of the required filing date, except where granted an extension by the Contract Administrator, may result in the levy of an administrative fine as provided in Section 16 and 17.
  3. Universal Container damage replacement \$100.00, repair \$75.00

For the purpose of this Section, the Contract Administrator may deduct any charges from payments due or to become due to the Contractor and the Village shall not be deemed in default hereunder. The Contract Administrator may assess charges pursuant to this Section on a monthly basis in connection with this Agreement and shall at the end of each month during the term of this Agreement notify the Contractor and the Village in writing of the administrative charges assessed and the basis for each assessment. In the event the Contractor wishes to contest such assessment it shall, within five (5) days after receiving such monthly notice, request in writing to the Contract Administrator an opportunity to be heard by the Village and present its defense to such assessment.

The Village shall notify the Contractor in writing of any action taken with respect to Contractor's claims and the decision of the Village will be final.

- 18. NATURAL DISASTERS:** In the event of a hurricane, tornado, major storm or other natural disaster, the Contract Administrator may grant the Contractor a variance from regular Collection Routes and Schedules. As soon as practicable after such natural disaster, the Contract Administrator shall advise the Contractor when it is anticipated that normal Collection Routes and Schedules can be resumed. The Contract Administrator shall make an effort through the local news media to inform the public when regular services may be resumed. If authorized by the Contract Administrator, The Contractor 's clean-up activities from some natural disasters may require that the Contractor hire additional equipment, employ additional personnel, or work existing personnel

on overtime hours to clean debris resulting from the natural disaster. The Contractor shall receive compensation above the normal compensation contained in this Agreement to cover the costs to at least include rental equipment, additional personnel, overtime hours, and other documented expenses provided the Contractor has first secured written authorization and approval from the Contract Administrator prior to the work being performed. In addition, the Village may require the Contractor to provide Village-wide emergency Vegetative Waste Collection service prior to a pending natural disaster such as a storm. The Village's Contract Administrator and Cost Accountant shall audit all such costs prior to payment. No provision of this Agreement shall be construed to grant any right to the Contractor for collection, processing or disposal of storm-generated debris. During the month of March each year, the Contract Administrator will review the Village's current disaster preparedness plan to initially coordinate the activities of the Contractor in the event of a natural disaster. On January First of each year of this contract the Contractor is required to provide a disaster preparedness plan to the Contract Administrator for review and approval. This plan shall include provisions for additional manpower and equipment and will establish a reasonable, verifiable rate for collection in the event of a natural disaster to be compensated through the Village's Contract Service fees. In the event that excess work resulting from a natural disaster is compensated by the Federal Emergency Management Agency, or any other local, state or federal agency, the extra compensation shall be subject to such agency's approval. The Contractor shall update his natural disaster plan each year of the term of the Agreement for the Contract Administrator's review and approval. The parties hereto understand that there shall be no double billing for services hereunder.

19. **UNCONTROLLABLE CIRCUMSTANCES:** Neither the Village nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. However, the Village is not required to compensate the Contractor for services that are not provided.

Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

20. **PERMITS AND LICENSES:** The Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect. Any changes of the licenses or permits shall be reported to the Village within ten (10) working days of the change.
21. **PERFORMANCE BOND:** The Contractor shall furnish to the Village a performance bond executed by a surety company licensed to do business in the State of Florida and/or a clean irrevocable letter of credit issued by a bank within Palm Beach County to ensure the faithful performance of this Agreement and all obligations arising hereunder in the appropriate amount determined in accordance with Exhibit III, attached. The clean irrevocable letter of credit or bond provided hereunder, each may be substituted for the other upon approval by the Village. The form of this bond or letter of credit, and the Surety Company, shall be acceptable to the Village Attorney and the Contract Administrator and shall be maintained during the term of this Agreement as provided in Section 1. The bond shall not be canceled, limited or non-renewed until after thirty (30) days' written notice has been given to the Village. Current performance bond evidencing required coverage must be on file at all times. The Bond/ irrevocable letter of credit is due 30 days prior to commencement of this Contract and shall be adjusted annually to reflect changes in the Contract Amount, if any.

22. **EMPLOYEE WAGES AND BENEFITS:** The Contractor shall comply with all applicable Local, State and Federal laws, rules, regulations, codes, and ordinances relating to wages, hours, overtime and all other applicable laws relating to the employment or protection of employees, now or hereinafter in effect. The Contractor shall provide a salary and benefits to employees that are competitive in Palm Beach County for the Solid Waste Collection Industry. Conditions of employment shall be published and conspicuously posted so all employees may be informed. The Contractor shall furnish reasonable uniforms, rain gear and safety equipment at its expense.
23. **INSURANCE:** During the term of the Agreement, the Contractor shall procure, maintain and provide, at its own expense, the Village with certificates of insurance or evidence of the insurance required under this Section. Cancellation or modification of said insurance shall not be affected without thirty (30) days prior written notice to the Village. All insurance policy(ies) required by this Contract shall be written on an occurrence basis where available and be in a form acceptable to the Village. The Contractor shall endeavor to submit certification or evidence of insurance to the Village Purchasing Manager by August 31<sup>st</sup> but not later than September 10<sup>th</sup> of each year for the next Village fiscal year which begins October 1<sup>st</sup> of each year.
- A. **Worker's Compensation Insurance:** Worker's Compensation coverage must be maintained in accordance with Florida statutory requirements as well as Employer's Liability Coverage in an amount not less than \$100,000.00 per each accident, \$100,000.00 by disease and \$500,000.00 aggregate by disease.
- B. **Liability Insurance:** The Contractor shall, during the term of this Agreement, and any extensions hereof maintain in full force and effect commercial general liability insurance policy and automobile liability insurance policy, which specifically covers all exposures incident to the Contractor's operations under this contract. Such insurance shall be with a company acceptable to the Village and each policy shall be in an amount of not less than \$1,000,000.00 Combined Single Limit for personal bodily injury, including death, and property damage liability and the general liability shall include but not be limited to coverage for Premises/Operations, Products/Completed Operations, Contractual, to support the Contractor's Agreement or indemnity and Fire Legal Liability. In addition to the above liability limits, the Contractor shall maintain a \$5,000,000.00 umbrella and/or excess liability coverage. All policy(ies) shall be written on an occurrence basis where available. Policy(ies) shall be endorsed to show the Village, a municipal corporation in the State of Florida, as an additional insured as its interests may appear. Current certificates of insurance evidencing required coverage must be on file with the Village at all times. Contractor expressly understands and agrees that any insurance protection furnished by Contractor shall in no way limit its responsibility to indemnify and save harmless Village under the provisions of Section 25 of this Agreement.
24. **INDEMNIFICATION:** The Contractor will hold the Village harmless from any and all liabilities, losses or damages the Village may suffer as a result of claims, demands, costs or judgments against the Village arising out of the negligence, gross negligence, willful acts and wrongful acts or omission of the Contractor or its employees, which said liabilities, losses, damages, claims, demands, costs or judgment arise directly out of the matters which are the subject of this Agreement and the work to be performed thereby. The Contractor shall not be responsible for nor be required to indemnify or hold the Village harmless for any act, omission, negligence or other liability to the extent caused by the act or omission in whole or in part of the Village or any one of its employees or agents. In connection with any legal proceedings arising hereunder, the Village reserves the right to retain counsel of its choice and at its own expense, or, in the alternative, approve counsel obtained by the Contractor. The parties hereto acknowledge that the indemnification herein is supported by adequate

consideration. The Contractor represents that the indemnification herein is supported by adequate consideration.

25. **ACCESS AND AUDITS:** The Contractor shall maintain within Palm Beach County adequate separate financial and operating records for the Service Area of the solid waste collection and/or recycling services during the Fiscal Year and for one year following the end of each Fiscal Year during the term of the Agreement. The Village or its designee shall have the right to review all applicable records maintained by the Contractor upon 24 hours written notice.

The Contractor shall provide the Village an Audited Financial Statement including, at a minimum, a Balance Sheet and an Income Statement representing the financial position and the results of operations respectively of the Contractor specifically for the Service Area. The report must include the opinion of a Florida Certified Public Accountant, who has conducted an audit of the Contractor's books and records in accordance with generally accepted accounting principles which include tests and other procedures necessary, that the Financial Statements are fairly presented, in all material aspects, in conformity with generally accepted accounting principles. The annual audit shall reflect, at the very least, information regarding the statement of Income and Expenses in the format shown in Exhibit II and shall be delivered to the Village within one hundred and twenty (120) days of the twelve (12) month period ending the Contractor's fiscal year.

26. **POINT OF CONTACT:** All dealings, contacts, notices, and payments between the Contractor and the Village shall be directed by the Contractor to the Contract Administrator or designee.

27. **NOTICE:** Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As to the Village:

**Village of Wellington  
14000 Greenbriar Boulevard  
Wellington, Florida 33414**

**Attention: Contract Administrator**

**Copy to: Village Manager**

**As to the Contractor: John Casagrande  
Vice President  
Waste Management Inc. of Florida  
2700 N.W. 48<sup>th</sup> Street  
Pompano Beach, FL 33073**

**Copy to: Ron Kaplan  
Florida Counsel  
Waste Management  
2700 N.W. 48<sup>th</sup> Street  
Pompano Beach, FL 33073**

Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made from time to time by written notice. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

**28. DEFAULT OF CONTRACT:**

- A. The Village may cancel this Agreement, except as otherwise provided below in this section, by giving Contractor thirty (30) days advance written notice, to be served as hereafter provided, upon the happening of any one of the following events, which will be deemed to be a material breach of contract.
1. Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the re-adjustment of its indebtedness under the Federal bankruptcy laws or under any other law or state of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
  2. By order or decree of a Court, Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of cancellation shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or
  3. By or pursuant to or under authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the Contractor, and such possession or control shall continue in effect for a period of sixty (60) days; or
  4. The Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the Village pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto, whether such default is considered minor or major, and said default is not cured within thirty (30) days of receipt of written notice by Village to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by Contractor of written demand from Village to do so, Contractor fails to commence the remedy of such default within said thirty (30) days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate [a] that the default cannot be cured within thirty [30] days, and [b] that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time).
- B. However, notwithstanding anything contained herein to the contrary, for the failure of Contractor to provide scheduled routed collection service for a period of three (3) consecutive scheduled working days, the Village may secure the Contractor's billing records (at the request of the Village, the Contractor shall provide such records) on the sixth working day in order to provide interim Contract collection services until such time as the matter is resolved and the Contractor is again able to perform pursuant to this Agreement; provided, however, if the Contractor is unable for any reason or cause to resume performance at the end of thirty (30) working days all liability of the Village under this Agreement to the Contractor shall cease and this Agreement may be deemed immediately terminated

by the Village.

- C. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Section, in the event that Contractor's record of performance shows that Contractor has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor, in the opinion of Village and regardless of whether Contractor has corrected each individual condition of default, Contractor shall be deemed a "habitual violator", shall forfeit the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively, shall constitute a condition of irredeemable default. The Village shall thereupon issue Contractor final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, Village may terminate this Agreement upon the giving of written Final Notice to Contractor, such cancellation to be effective upon the fifteenth consecutive calendar day following the date of Final Notice, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and Contractor shall have no further rights hereunder. Immediately upon receipt of said Final Notice, Contractor shall proceed to cease any further performance under this Agreement.
- D. In the event of any of the aforesaid events specified in paragraphs A, B, and C above and except as otherwise provided in said paragraphs, termination shall be effective upon the date specified in the Village's written notice to Contractor and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of the Village under this Agreement to the Contractor shall cease, and the Village shall have the right to call and claim against the performance bond and shall be free to negotiate with other Contractors for the operation of the herein specified services. The Contractor for failure to perform shall reimburse the Village all direct and indirect costs of providing interim collection service in addition to all other remedies the Village may have against the Contractor.
- E. This Agreement may be terminated by the Village pursuant to fiscal funding in accordance with Florida Law.
29. **PUBLIC WELFARE:** The Village shall have the power to make changes in or to impose new and reasonable rules and regulations, and terms and conditions on the Contractor under this Agreement relative to the method of collection and disposal of Garbage, Trash, Bulk Trash, Vegetative Waste or Recyclable Materials as shall from time to time be necessary and desirable for the public welfare; provided, however, that any such rule or regulation, terms and conditions shall be delivered to and receipted for by the Contractor, or if the Contractor is a corporation, by an officer thereof. The Village shall give the Contractor reasonable notice of any proposed change and an opportunity to be heard concerning those matters. The method of collection and disposal of solid waste and recyclables set out herein shall also be liberally construed to include, but not limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Contractor. The Contractor shall be reasonably and appropriately compensated as determined by negotiation and Agreement between the Village and the Contractor for any additional services or other obligations required of the Contractor due to any modification in the Agreement under this Section.
30. **RIGHT TO REQUIRE PERFORMANCE:** The failure of the Village at any time to require performance by the Contractor of any provisions hereof shall in no way affect the right of the Village thereafter to enforce the same. Nor shall waiver by the Village of any breach of any provisions hereof be taken or held to be waived of any succeeding breach of such provisions or as a waiver of any provision itself.

31. **TITLE TO WASTE:** The Village shall, at all times, hold title and ownership to all Residential Solid Waste, Vegetative Waste, Trash, Recyclable Material and all other waste collected by the Contractor pursuant to this Agreement and the Contractor shall have no right to take, keep, process, alter, remove or otherwise dispose of any such materials without specific written authorization from the Contract Administrator. The Village shall, at all times, hold title and ownership to all Commercial Solid Waste, Vegetative Waste, Trash, Recyclable Material and all other waste collected by the Contractor pursuant to this Agreement, except for the ownership rights provided for under **Section 4.G.3. Ownership:** and the Contractor shall have no exclusive right to take, keep, process, alter, remove or otherwise dispose of any such materials except as provided in this Agreement.
32. **GOVERNING LAW AND VENUE:** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County and the Agreement will be interpreted according to the laws of Florida. This Agreement shall not be construed against the party who drafted the same as all parties to this Agreement have hired legal and business experts to review the adequacy of the same.
33. **COMPLIANCE WITH LAWS:** The Contractor shall conduct operations under this Agreement in compliance with all applicable laws, rules, regulations, ordinances and codes.
34. **SEVERABILITY:** The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.
35. **ASSIGNMENT AND SUBLETTING:** The Contractors may be permitted to assign or sublet this Agreement, with prior Village approval, which approval may be withheld, only for the provision of portable sanitation services for Community Services or Special Events as noted in Section 44 and for the collection of large piles or quantities of more than two (2) cubic yards of vegetation and trash requiring specialized equipment fitted with grappling devices. Subcontractor's equipment shall be equipped with signs on both sides identifying them as subcontractors to the Contractor. All liability for subcontractors shall be the responsibility of the Contractor. Otherwise, subcontractors will not be permitted under the terms of this Agreement. No assignment of this Agreement or any right occurring under this Agreement shall be made in whole or part by the Contractor without the express written consent of the Village. The Village shall have full discretion to approve or deny, with or without cause, any proposed assignment or assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the Village shall be null and void and shall be grounds for the Village to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to the Contractor, and upon the date of such notice this Agreement shall be deemed immediately terminated, and upon such termination all liability of the Village under this Agreement to the Contractor shall cease, and the Village shall have the right to call the performance bond and shall be free to negotiate with other contractors or any other person or company for the service of the contract Service area which is the subject of this Agreement. In the event of any assignment, assignee shall fully assume all the liabilities of the Contractor.

It is also acknowledged that in the event of any assignment, that the Village would incur additional costs as a result of the transition to another Contractor. The parties acknowledge that in that instance, the Contractor agrees the Village would be entitled to additional costs and/or other damages incurred to mitigate potential tangible or intangible impacts incurred by the Village during the transition period, as mutually agreed to between the parties. This Agreement is binding upon the parties hereto, their heirs, successors and assigns.

36. **MODIFICATION:** This Agreement constitutes the entire contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties hereto. Such modification shall be in the form of an Amendment executed by both parties.

37. **INDEPENDENCE OF AGREEMENT:** It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners between the parties hereto, or as constituting the Contractor as the agent, representative or employee of the Village for any purpose whatsoever. The Contractor is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

38. **ANNEXATIONS:** Adjustments to Service Area boundaries and the rights of the parties to this Agreement due to municipal annexation or contraction will be as provided by Florida Statutes Section 171.062, as amended, or its successor.

Adjustments to Service Area boundaries and the rights of the parties to this Contract due to incorporation will be as provided by Florida law.

39. **CHANGE OF LAW:** The parties understand and agree that the Florida Legislature from time to time has made comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future, whether federal, state or local, which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law.

To the extent that any law effective after the opening and awarding of bids for this Agreement is in conflict with, or requires changes in, the provisions of Collection Service or exclusive rights set out in this Agreement, the parties agree to enter into good-faith negotiations for the resolution of any such changes in this Agreement as a result of change in law.

40. **OTHER RATE ADJUSTMENTS:** The Village will strictly enforce all of the provisions of the Agreement including penalty clauses for any performance quality problems. The Contractor shall not be allowed rate increases on the basis that the Contractor bid too low or agreed to do the work for a lower bidder's price. Non-performance of Agreement or a request for a rate increase, either of which are attributed to the Contractor accepting the Agreement award at an insufficiently low rate, shall result in cancellation of the Solid Waste and Recycling Collection Service Agreement between the Village and the Contractor. This section shall not be interpreted to apply to annual rate adjustments intended to offset normal increases in the cost of doing business.

41. **PUBLIC ENTITY CRIMES:** No Contractor may be a person or affiliate identified on the Department of

General Services "convicted vendor" list. This list is defined as consisting of persons and affiliates who are disqualified from public contracting and purchasing process because they have been found guilty of a public entity crime. The Contractor is required to comply with Florida Statutes Section 287.133, as amended, or its successor.

42. **SUBSTANTIAL COMPLIANCE:** The Contractor shall promptly collect all materials disposed of by the customer, provided the materials are prepared and placed within substantial compliance with the guidelines as set forth herein. Any dispute as to the standards of substantial compliance shall be determined by the Contract Administrator.
43. **COMMUNITY SERVICE:** The Contractor shall provide Containers, placement and collection pull service each Fiscal Year, at no cost to the Village and for all special Village functions and sponsored events, including, but not limited to parades, art shows, carnivals, or other such special events, as deemed appropriate by the Contract Administrator. Such services shall include both large centralized containers and smaller decentralized containers for both solid waste and recyclable materials.
44. **CONTRACT PREPARATION:** Prior to the commencement of the term of this Agreement, the Contractor shall prepare for the collection services in the Service Area in a responsible manner and, at a minimum, shall adhere to the requirements as set out in Exhibit VI. The Contractor shall also adhere to all aspects of their transition plan, as provided to the Village by the Contractor, as revised, as necessary, by the Village. In the event the Contractor fails to meet the deadlines of any one of the tasks outlined in Exhibit VI or in the transition plan, the Village has the right to fine and collect \$10,000 for each task deadline or transition plan component missed. Appeal of any fines pursuant to this section made as is provided elsewhere in this agreement. The Contractor shall pay fines levied by the Village within Thirty- (30) days of receipt of an invoice for the fines. Failure to meet this deadline may result in the Village declaring a default of the Contract. Failure to meet the deadline of more than two tasks may lead to loss of the right to provide solid waste collection and recycling services pursuant to the Agreement for the Service Area.
45. **Fiscal Funding:** The terms of this Agreement as provided for herein shall remain unchanged provided that the Village annually approves an appropriation for solid waste and recycling collection services.
46. **Competitive Equality:** Should the Contractor herein, enter into an agreement with any other government jurisdiction located within a six (6) mile radius of the Village that provides for a lower curbside residential rate, for the same service, the same rate shall be afforded to the Village commencing on the first day of the month following execution of the said agreement.

In Witness Whereof, The Village of Wellington, at a regular meeting thereof, by action of the Village Council authorizing and directing the foregoing be adopted, has caused these presents to be signed by the Mayor of the Village, and the Village 's seal to be hereunto affixed, and Thomas M. Wentham, has executed this Agreement all as of the day and year first above written.

**Village of Wellington**

Witness:

1. Janeta Rogers  
2. Joscha Blas

By: Thomas M. Wentham  
Village Mayor

Approved as to Form and Legal Sufficiency:

By: [Signature]  
Village Attorney

ATTEST:

By: Rosilda Rodriguez  
Village Clerk

(Seal)

Contractor: Waste Management Inc. of Florida

Attest:

[Signature]  
Asst. Corporate Secretary

By: John Casagrande  
Signature

Name: John Casagrande  
Title: V.P.

Witness:

1. Paul Carter  
2. Rosalina Vega

(Seal)

**EXHIBITS**

**EXHIBIT I**

**Approved Contractor Rate Schedule  
Monthly Residential Rates (1 October through 30 September)**

**Residential Curbside Collection (per unit)**

Services	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Solid Waste (2X / wk)	\$6.69							
Vegetative (1.0 X / wk)	\$2.35							
Recycling (1.0X / wk)	\$2.45							
<b>Total</b>	<b>\$11.49</b>							

**Residential Container Collection (per unit)**

Services	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Solid Waste (2X / wk)	\$6.69							
Recycling (1X / wk)	\$2.45							
<b>Total</b>	<b>\$9.14</b>							

**COMMERCIAL RECYCLING AND SOLID WASTE COLLECTION RATES  
(1 October – 30 September)**

Services	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Container Rate (per cubic yard: pcy)	\$5.69							
Compactor Rate (8cy or less: pcy) 3 times container rate	\$17.04							
Compactor Rate (8cy or more) Per pull rate	\$265.00							
Roll-off Rate Per Pull	\$265.00							

Note: (1) Container Residential customers requiring more than 1.0 collection of recycling containers per week will be charged 75% of the container recycling service rate per month per unit. The contractor shall provide for a written agreement with the customer for this additional service and shall invoice the customer separately in accordance with the signed agreement.

(2) Commercial Solid Waste Collection Rate for commercial customers receiving Universal Container Collection Service shall be the same as the Residential Solid Waste Collection Rate, above. If frequency of service is more or less than twice a week (2x/wk), then the commercial collection rate shall be prorated accordingly

(3) The Contractor shall provide containers and collection services for all Village owned, rented or leased properties at no cost to the Village.

(4) In the event that a new Solid Waste Authority facility opens within the Service Area during the term of this Agreement, negotiations will occur to revise the rates, above and as necessary, to reflect the reduction in hauling distance due to the additional facility(ies).

(5) Contractor shall receive an annual adjustment to the rates on this page calculated effective October 1<sup>st</sup> by 80% of the local urban area Consumer Price Index as of July 1<sup>st</sup> each year.

**EXHIBIT I (continued)**  
**RATES DETERMINED BY THE VILLAGE**  
**(NOT TO BE ADJUSTED DURING TERM)**  
**MONTHLY CONTAINER MAINTENANCE RATES**

<b>CONTAINERS (NON-COMPACTING)</b>	
<b>SIZE (cubic yards)</b>	<b>RATE w/out locking mechanism</b>
*Universal Container	\$5.00
1 YD	\$19.00
2 YD	\$20.00
3 YD	\$21.00
4 YD	\$22.00
6 YD	\$25.00
8 YD	\$27.00

**Commercial Solid Waste and Vegetative Disposal Charge Calculation**

The Village will determine the commercial disposal fee rates (\$/cubic yard) each Fiscal Year based on the same calculation utilized by the Solid Waste Authority of Palm Beach County (Authority) tipping fee for disposal as charged by the Authority. The calculation for non-compacted Garbage and Trash is 134 lbs/cubic yard times the Authority's tipping fee (\$/ton) times 1 ton/2000 lbs = \_\_\_\_ \$/cy. Commercial non-compacted Vegetation is calculated at 275 lbs/cubic yard times the Authority's tipping fee (\$/ton) times 1 ton/2000 lbs = \_\_\_\_ \$/cy. The compacted rate for commercial solid waste or vegetative waste may be billed at either actual expense or three times the rate for non-compacted solid waste or vegetative rate, respectively.

In the unlikely event the Authority charges a tipping fee for Recyclable Materials, the Contract Administrator will determine the conversion factor and calculate the factor times the tipping fee for Recyclable Materials. The Contractor will be responsible for billing Commercial Recycling Collection customers for the Recyclable Materials disposal fee.

\* Provided by the Village at a rate to be determined annually.

**(This space intentionally left blank)**

**Exhibit I (continued)**  
**RATES DETERMINED BY THE VILLAGE**  
**(NOT TO BE ADJUSTED DURING TERM)**  
**SPECIAL SERVICES**

Service	Rate per service
Rolling Out Commercial Universal Container with 10 or more feet per direction	\$1.00 / Container / Service (no charge for residential or commercial less than 10 feet per direction)
Rolling Out Container (and returning it to original location)	\$2.70 /Container / month (more than 10 feet per direction)
Back Door Service (Residential Curbside Only)* Solid Waste and Recycling only.	Negotiable between the parties but not to exceed \$21.00 / month / unit
Opening (and closing) Doors or Gates	No Charge
Locks for Containers	\$9.00 (one time) Charge for Replacements based on cost +10%
Unlocking Containers	\$1.35/Container/Service
Supplying (and retrofitting) locking mechanism on container***	\$55.00
Adding wheels to or changing wheels on Containers	No Charge for Contractor owned Containers (see rate below for other containers)
Adding lids to or changing lids on Containers	No Charge for Contractor owned Containers (see rate below for other containers)
Moving Container Location Per Customer Request	No Charge for Contractor owned Containers
Changing Out Sizes (above once per year)**	\$25.00
Additional Scheduled Pick-ups of solid waste for Residential Container Customers	Same as Applicable Commercial Collection Rates (No Disposal Charges)
Additional Unscheduled pick-ups by end of business the following day, but not including "on-call" pick-ups for Commercial and Residential Container Customers	\$85.00 special service fee plus 3 times Applicable Commercial Rates per dumpster (No Disposal Charges for Residential)
Cut tree and canopy removal	\$12.00 per cubic yard plus \$75.00 service charge

\* There will be no charge for those residents medically unable to bring solid waste, vegetative waste or recyclable materials to curbside as delineated in Section 7.

\*\* The first change is free to the customer.

\*\*\* Determination of necessity of locking mechanisms is based on customer requirement.

**NOTE:** Customer requested maintenance on non-contractor owned Containers shall be at cost plus 15% on pre-work authorization signed by the Customer.

EXHIBIT I (continued)

**Residential Solid Waste Disposal Credit Calculation**

Category	Type	Generation Factor (Tons/Year) *	Times (x) Garbage Tipping Fee	Annual Credit per unit
I	Single Family	1.10	x	=
II	Multi-family, 4 or less units	0.67	x	=
III	Mobile Homes	1.10	x	=
IV	Multi-family, more than 4 units	0.74	x	=

**Residential Vegetative Waste Disposal Credit Calculation**

Category	Type	Generation Factor (Tons/Year) *	Times (x) Vegetation Tipping Fee	Annual Credit per unit
I	Single Family	0.85	x	=
II	Multi-family, 4 or less units	0	x	=
III	Mobile Homes	0.58	x	=
IV	Multi-family, more than 4 units	0	x	=

(\*) Generation factors estimated based on waste generation studies prepared by the Authority; in the event the actual disposal exceeds these estimates, the Contractor shall pay the excess disposal fees at no cost or liability to the Village or the customer. The Village accepts no responsibility or financial liability for waste generation rates or quantities produced by Village residents during the term of this agreement or any extensions of the agreement.

## **EXHIBIT II**

### **ANNUAL FINANCIAL REPORTING FORMAT**

The Contractor shall submit to the Village an audited comparative operating cost statement prepared in accordance with general accepted accounting standards for each residential and commercial operation within the Service Area.

The Contractor shall disclose all methods of allocations used to distribute costs recognized in the operating cost statement for the Service Area and/or commercial and residential operations. The disclosure shall be in narrative form and include the basis for the allocation method.

The Contractor shall provide a description of the expenses classified as Other Operating Expense and Other General and Administration.

The Contractor shall submit to the Village any adjustments made during the annual audit that have an effect upon the previously submitted monthly revenue statements for the twelve (12) months of the Fiscal Year being audited.

Any allocations made will need to be disclosed in a narrative format, along with the basis for those allocations. Additionally, it is understood that the Contractor shall utilize the accrual basis of accounting for income and expenses. And although the Town reserves the right to audit or review the information supplied, the Contractor is not required to provide an audit of the accompanying information.

Attached is the required format for financial statement reporting in accordance with this Agreement.

Neither revenues nor expenses associated with collection of Commercial Recyclable and Recovered Materials shall be included in any financial report.

**EXHIBIT II (continued)**

**(Contractor)  
Statement of Income and Expenses  
(Residential or Commercial) Service Area  
For (month, year) ended (month, year)**

<b>Revenues:</b>		
(list by type)	\$ _____	
Total Revenue		\$ _____
<b>Operating Expenses:</b>		
Depreciation - Vehicles	\$ _____	
Disposal fees paid to the Authority	\$ _____	
Contract Service Fees paid to the Town	\$ _____	
Fuel and Oil	\$ _____	
Labor and Fringe Benefits	\$ _____	
Other Operating	\$ _____	
Truck Maintenance - Labor	\$ _____	
Truck Maintenance - Parts	\$ _____	
Total Operating Expenses		\$ _____
<b>General and Administrative</b>		
Salaries and Wages	\$ _____	
Officer's Salaries	\$ _____	
Other General and Administrative	\$ _____	
Total General and Administrative		\$ _____
<b>Income before Provision for Income Taxes</b>	\$ _____	
<b>Provision for Income Taxes</b>	\$ _____	
<b>Net Income</b>		\$ _____

"The Accompanying Notes are an Integral Part of this Statement"

**EXHIBIT III**

**PERFORMANCE BOND REQUIREMENT**

The annual performance bond due to the Village from the Contractor is calculated as:

Net Annual Revenues (Gross Annual Revenues Minus Disposal Fees paid to the Solid Waste Authority) multiplied by thirty-three percent (33%) = Performance Bond Required

Sample Performance Bond Requirement

Gross Revenue	\$1,800,000
Less Disposal Fees	<u>500,000</u>
Net Annual Revenue	\$1,300,000

Annual Performance Bond Requirement = Thirty-three Percent (33%) of Net Annual Revenue, which shall be calculated annually, in August by the Contractor and submitted to the Village Purchasing Manager by August 31<sup>st</sup> of each year for the next fiscal year.

Gross revenue shall not include revenues for collection of commercial recycling or recovered materials.

**EXHIBIT IV  
QUARTERLY FINANCIAL REPORTING FORMAT**

The Contractor shall submit to the Village within forty-five (45) days of the end of each quarter a revenue statement prepared in accordance with general accepted accounting principles individually for each residential and commercial operation within the Service Area.

The Contractor shall disclose all methods of allocations used to distribute revenues between Service Area commercial and residential operations. The disclosure shall be in narrative form and include the basis for the allocation method.

The required format for quarterly financial statement reporting in accordance with this Agreement is shown below.

**(Contractor)  
Statement of Revenues and Disposal Expenses  
(Residential or Commercial) Service Area  
For (month, year) ended (month, year)**

**Revenues:**

(list by type - commercial and residential,  
including collection rates, container maintenance,  
special service rates, etc.)

Total Revenue  
\$ \_\_\_\_\_

\$ \_\_\_\_\_

**Disposal Expenses:**

Disposal fees paid to the Authority

\$ \_\_\_\_\_

**Net**

\$ \_\_\_\_\_

**Contract Service Fees (Net \* .05)**

\$ \_\_\_\_\_

"The Accompanying Notes are an Integral Part of this Statement"

**Exhibit V**  
**Contract Preparation Requirements**

Task	Deadlines	
	Minimum Start Date	Maximum Completion Date
Submit schedule for collection equipment receipt	April 1, 2008	April 15, 2008
Submit list of all equipment assigned with vehicle no. SWA decal no. and date of manufacture	August 30, 2008	Sept. 15, 2008
Confirm Operations Manager appointment	June 1, 2008	June 30, 2008
Hire Village Route Supervisor(s)	June 15, 2008	July 15, 2008
Submit maintenance staff training on auto vehicles	July 15, 2008	July 30, 2008
Submit Container Residential and Commercial Container placement or rehabilitation schedule	July 1, 2008	August 1, 2008
Begin curbside routing	June 15, 2008	July 15, 2008
Submit curbside routing plans to Village for review and approval including grapple truck	July 30, 2008	August 15, 2008
Hire Drivers	August 1, 2008	August 30, 2008
Train drivers on new equipment	August 1, 2008	September 1, 2008
Drivers and supervisors run routes (new employees)	September 1, 2008	September 30, 2008
*Prepare and mail Disclosure Notices to commercial customers w/ copies to the Contract Administrator	September 15, 2008	September 20, 2008
*Mailer to all curbside customers on new collection schedule and set out requirements	September 2, 2008	September 15, 2008
*Door hangers on all curbside customers door on new collection schedule and set out requirements	September 15, 2008	September 30, 2008
Submittal of Special Service "Off Curb" signed Agreement to Contract Administrator	September 1, 2008	September 20, 2008

(1)\* Contractor and Contract Administrator to agree on schedule of distribution

(2) Failure to comply with the pre-commencement Contract preparation requirements may result in financial penalties of up to \$25,000.00 or determined by the Village. If the financial penalty is not paid within 20 days of receipt of notice from the Village the amount will be deducted from the Contractors first monthly payment.

## EXHIBIT VI

### NON-ASSESSED RESIDENTIAL DISPOSAL COMPENSATION PROCEDURE

The purpose of this exhibit is to establish the procedures and schedule whereby the Village will compensate the Contractor disposal fee for non-assessed residential units.

The Village will use generation rates for the four (4) residential categories established by the Solid Waste Authority (SWA), as shown in Table II, times the new units listed each month by the Village as having received a Certification of Occupancy (CO) times the number of months remaining in that fiscal year before the unit becomes an assessed unit, times the then current disposal fee set by the SWA. The attached Table I sets the number of months from issuance of a CO until the unit(s) become assessed for which disposal fees will be paid to the Contractor.

Disposal fee due on units that remain non-assessed units in the following fiscal year after issuance of a CO. Disposal fees will be paid to the Contractor in the same month of the year as the month of their CO issuance using the formula described above times the months remaining until the unit becomes an assessed unit. The Village will not compensate the Contractor disposal fees per unit in excess of the amount collected by the Village. The formula to be used is no. of units x generation rate for garbage / trash and vegetation for category of unit ÷ by 12 months x months remaining in the fiscal year x the SWA per ton disposal fee for garbage / trash or vegetation. Examples of this formula calculations are shown in Tables III a & b.

The Village will pay the Contractor disposal fees monthly for new non-assessed residential unit based upon the method detailed above during the term of the Contract, which expires on September 30, 2015.

Table I

Non-Assessed Residential Unit  
Payment Schedule  
(Months Until Assessed)

	October	November	December	January	February	March
1 <sup>st</sup> yr.	12	11	10	9	8	7
2 <sup>nd</sup> yr.	0	0	0	12	12	12
	April	May	June	July	August	September
1 <sup>st</sup> yr.	6	5	4	3	2	1
2 <sup>nd</sup> yr.	12	12	12	12	12	12

Table II  
Solid Waste Authority  
Residential Unit Waste Generation Rates

Unit Type	Garbage Trash Tons Per Year	Vegetation Tons Per Year	Total Tons Per Year
Single Family	1.10	.85	1.95
Multi-family (less than 5 units)	.67	.00	.67
Mobile Home	1.10	.58	1.68
Multi-family (More than 4 units)	.74	.00	.74

### Table III a

Example #1 of Calculating Non-Assessed  
Residential Unit Disposal Fees  
November CO Residential  
Units: 74 SF and 8 MF (Cat. 4)

1<sup>st</sup> Year November – September

Solid Waste: 74 single family units x 1.10 tons ÷ 12 months x 11 months x \$28.00 per ton = \$2,089.26 or \$28.23 per unit.

Vegetation: 74 single family units x .85 tons ÷ 12 months x 11 months x \$25.00 per ton = \$1,441.45 or \$19.47 per unit.

Solid Waste: 8 multi family units x .74 tons ÷ 12 months x 11 months x \$28.00 per ton = \$151.94 or \$18.99 per unit.

2<sup>nd</sup> Year November – No Payment Due

Table III b  
Example #2 of Calculating Non-Assessed  
Residential Unit Disposal Fees  
March 2004 CO Residential  
Units: 121 SF and 25 MF (Cat. 2)

1<sup>st</sup> Year March – September

Solid Waste: 121 single family units x 1.10 tons ÷ 12 months x 7 months x \$28.00 per ton = \$2,173.96 or \$17.96 per unit.

Vegetation: 121 single family units x .85 tons ÷ 12 months x 7 months x \$25.00 per ton = \$1,499.89 or \$12.39 per unit.

Solid Waste: 25 multi-family units x .67 tons ÷ 12 months x 7 months x \$28.00 per ton = \$273.58 or \$10.94 per unit.

2<sup>nd</sup> Year – Due in March

Solid Waste: 121 single family units x 1.10 tons ÷ 12 months x 12 months x \$28.00 per ton = \$3,726.79 or \$30.79 per unit.

Vegetation: 121 single family units x .85 tons ÷ 12 months x 12 months x \$25.00 per ton = \$2,571.24 or \$21.24 per unit.

Solid Waste: 25 multi-family units x .67 tons ÷ 12 months x 12 months x \$28.00 per ton = \$468.99 or \$18.75 per unit.