

**THIRD AMENDMENT TO THE AGREEMENT FOR  
RESIDENTIAL SOLID WASTE COLLECTION AND  
DISPOSAL AND COLLECTION OF RESIDENTIAL SINGLE-  
STREAM RECOVERED MATERIALS**

Between

GWINNETT COUNTY, GEORGIA

And

RED OAK SANITATION, INC.

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**This** Third Amendment To The Agreement For Residential Solid Waste Collection And Disposal And Collection Of Residential Single-Stream Recovered Materials is hereby made and entered into this <sup>27<sup>th</sup></sup> day of ~~August~~<sup>September</sup>, 2022 (the “Effective Date”), between Gwinnett County, Georgia, a political subdivision of the State of Georgia organized and existing under the laws of the State of Georgia (the “County”), and, Red Oak Sanitation, Inc., a Georgia Corporation (hereinafter referred to as “Contractor”).

**W I T N E S S E T H**

**WHEREAS**, it is necessary for the County to promote, preserve and protect the public health of its citizens; and

**WHEREAS**, pursuant to Article 9, Section II, Paragraphs I(a) and III(a)(2) of the Georgia Constitution, the Georgia Comprehensive Solid Waste Management Act, O.C.G.A. §12-8-20, et. seq., the 2008 Comprehensive Solid Waste Management Plan, and Amendment of the Gwinnett County Solid Waste Collection And Disposal Services Ordinance entered March 2, 2010, as amended, Gwinnett County has the authority to determine the manner of collection and disposal of solid waste generated by residents of the County, and to enter into contracts for such purposes; and

**WHEREAS**, the granting of this exclusive Contract to a private corporation for the Collection Services as contemplated herein is a valid function of the County; and

**WHEREAS**, the parties entered into a previous Contract on May 23, 2010 for an eight-year term with a two-year option to renew the Contract; and

**WHEREAS**, the Settlement and Release Agreement entered on March 23, 2010, and the Consent Order resulting from such Settlement and Release Agreement, have been satisfied in full, and the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials and the First Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials are no longer subject to the terms of the Settlement and Release Agreement or the resulting Consent Order; and

**WHEREAS**, the County and Contractor entered into the First Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials on December 19, 2017 with an initial term beginning on July 1, 2018 and ending on June 30, 2026; and

**WHEREAS**, under the terms of First Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials, Contractor was given an exclusive Contract in the designated Service Area for a specified period of time for the Collection Services as outlined in the First Amendment; and

**WHEREAS**, the County and Contractor entered into the Second Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-

Stream Recovered Materials on June 16, 2020; and

**WHEREAS**, the Second Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials amended certain provisions to address changes in the law, changes in the recycling industry, and to clarify certain provisions related to breaches and liquidated damages; and

**WHEREAS**, since the County and the Contractor entered into the Second Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials, there have been unprecedented changes in the labor market and significant inflation across commodities and industries which have impacted the solid waste and recycling industry; and

**WHEREAS**, the County and the Contractor also acknowledge the need to amend the Second Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials to set forth specific key performance indicators (KPIs) to clarify Contractor performance measurements; and

**WHEREAS**, the County and Contractor desire to amend the Second Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials to amend certain provisions to address these changes in the labor market and inflation and to clarify certain provisions related to Contractor performance measurements; and

**WHEREAS**, it is deemed to be in the best interest of the County and the residents of the County for the County to enter into this Third Amendment to the Agreement For Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials with Contractor in order to ensure continued and high quality services by Contractor to the County within the designated Service Area at reasonable rates to County residents; and

**WHEREAS**, the County and Contractor have agreed to the conditions, terms, rates, provisions and considerations under which Contractor shall perform such solid waste collection and disposal services as herein set out, and for the compensation as hereinafter provided.

**NOW, THEREFORE**, in consideration of the covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Contractor agree as follows:

**1. TERM:**

The Term of this Third Amendment to the Agreement, as defined herein, shall be for the period beginning August 1, 2022, and expiring on June 30, 2026 (the "Initial Term"). Upon the expiration of the Initial Term, this Contract shall be automatically renewed for an additional two (2) year term ("Renewal Term", together with the Initial Term, the "Term") unless the County provides at least ninety (90) days prior written notice to the Contractor of its intent not to renew the Contract prior to the expiration of the Initial Term. The terms and conditions of this Contract during the Renewal Term shall be upon

the same terms, conditions and fees as set forth herein, unless agreed to otherwise in writing by both parties in an amendment to this Contract. Notwithstanding the foregoing, this Contract may be terminated during the Initial Term or Renewal Term pursuant to the provisions of section 29 below.

## 2. DEFINITIONS:

To the extent the definitions contained herein conflict with similar definitions contained in any federal, state or local law, such law 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.

**2.1 Acceptable Residential Municipal Solid Waste** shall mean any Residential Municipal Solid Waste, excluding sanitary waste in septic tanks and Unacceptable Waste.

**2.2 Adjustment Factor** shall have the meaning set forth in section 5 below.

**2.3 Base Collection Services** shall mean those Collection Services provided in exchange for the Service Fee, excluding the collection services for Yard Trimmings.

**2.4 Biomedical Waste** shall mean pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated, as further defined in State Rule 391-3-4-.15 of the Board of Natural Resources as such rule existed on January 1, 2006, or as amended from time to time, and other such waste material.

**2.5 Bulky Waste** shall mean discarded items that are larger than three (3) feet in any dimension, and/or heavier than fifty (50) pounds in weight, and therefore too large to be collected within an empty Residential Municipal Solid Waste Storage Cart, thus too large or too bulky to be collected during normal Residential Municipal Solid Waste Collection, including but not limited to items such as mattresses and box springs, indoor/outdoor furniture, swing sets, plastic swimming pools, large toys, bicycles, fish aquariums, and other similar items.

**2.6 Clear Zone** shall mean the unobstructed relatively flat area beyond the edge of the traveled way that allows a driver to stop safely or regain control of a vehicle that leaves the traveled way.

**2.7 Collect or Collection** shall mean to remove Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Yard Trimmings, Bulky Waste, or White Goods for transport elsewhere, or cause such to be done.

**2.8 Collection Services** shall mean the Collection, from a Service Unit, of Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Yard Trimmings, Bulky Waste, and White Goods, including related transportation, transfer, processing and/or disposal.

**2.9 Collection Vehicle** shall mean every device in, upon, or by which any Person or property is or may be transported or drawn for the purposes of performing the Collection Services.

**2.10 Construction and Demolition Waste (C&D Waste)** shall mean waste building materials and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings and other structures. Such waste includes, but is not limited to asbestos containing waste, wood, bricks, metal, concrete, wall board, paper, cardboard, carpeting, construction materials resulting from remodeling, inert waste landfill material, and other nonputrescible wastes which have a low potential for groundwater contamination.

**2.11 Consumer Price Index or CPI-U** shall mean the Consumer Price Index for All Urban Consumers, U.S. City Average, by expenditure category and commodity and service group, All Items less energy, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

**2.12 Contract** shall mean this Contract between the County and Contractor.

**2.13 Contract Year** shall mean July 1 through June 30 of each calendar year.

**2.14 Contractor** shall mean Red Oak Sanitation, Inc.

**2.15 County** shall mean Gwinnett County, Georgia.

**2.16 Day** shall mean calendar day.

**2.17 Default** shall mean a breach of this Contract by the Contractor or the County, which breach is not cured within the applicable cure period allowed herein.

**2.18 Designated Collection Location** shall mean where the edge of the Collection Cart and/or any Yard Trimmings, and/or any Bulky Waste, and/or any White Goods is placed within six (6) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or other such location agreed to by the Contractor that will provide a safe and efficient accessibility to the Contractor's collection crew and Collection Vehicle. For purposes of this Contract, public road or public right-of-way means a road owned and maintained by the State, County or special district, or a road on private property for which an easement has been granted to the public and such road is constructed and maintained to a standard whereby access is available by the Collection Vehicle.

**2.19 Disposal** shall mean dumping or depositing of Solid Waste into or onto a Disposal Facility so that the waste or any constituent thereof is introduced into the environment.

**2.20 Disposal Facility** shall mean a sanitary landfill or other solid waste disposal facility permitted by the Georgia Department of Natural Resources, Environmental Protection Division and/or other applicable regulatory agency with jurisdiction and utilized for the receipt or final disposition of solid waste generated within any Service Area.

**2.21 Duplex** shall mean a building designed exclusively for residential occupancy by two Families.

**2.22 Elective Services** shall mean collection services offered by the Contractor, for a charge in addition to the Service Fee, which are arranged between the Contractor and the Service Unit, including costs for delivery of and collection from an additional Cart pursuant to section 3.2 below, and billed for separately by the Contractor

excluding Yard Trimmings Collections.

**2.23 Environmental Protection Agency (EPA)** shall mean the United States Environmental Protection Agency, or any duly authorized official of said Agency.

**2.24 Facility** shall mean all contiguous land and structures, other appurtenances, and improvements on the land used for the storage, Processing, or Disposal of Solid Waste.

**2.25 Family** shall mean an individual or group of persons occupying a single dwelling unit.

**2.26 Garbage** shall mean food waste including waste accumulations of animal or vegetable matter used or intended for use as food, or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables, as per Georgia Department of Natural Resources Rule 391-3-4-.01. Garbage does not include Unacceptable Waste.

**2.27 Hazardous Waste** shall mean any solid waste which has been defined as hazardous waste in regulations promulgated by the United States Environmental Protection Agency or under Georgia Hazardous Waste Management Act.

**2.28 Holiday** shall mean New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and/or Christmas Day.

**2.29 Key Personnel** shall mean managers, supervisors, or similar personnel responsible for oversight and supervision of other personnel, services and/or equipment maintenance.

**2.30 Missed Collection** shall mean any Collection that does not occur on the scheduled day, except where the scheduled day is a Holiday.

**2.31 Mobile Home** shall mean a mobile or manufactured home receiving residential-type waste collection.

**2.32 Multi-Family Dwelling** shall mean a building designed exclusively for residential occupancy by more than one Family, except for Duplex, Triplex, and Quadraplex units.

**2.33 Municipal Solid Waste (MSW)** shall mean any solid waste derived from households including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family and multi-family dwellings, Duplexes, Triplexes, Quadraplexes, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes Yard Trimmings and commercial solid waste, but does not include Construction and Demolition Waste and Solid Waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

**2.34 New Customer** shall mean any Owner of a newly constructed Service Unit.

**2.35 Non-Curbside Collection** shall mean Collection of Residential Municipal Solid Waste and Residential Single-Stream Recovered Materials outside of the Designated Residential Collection Location, according to the reasonable rules established by the Contractor.

**2.36 Owner** shall mean any person, firm, corporation or other entity owning, leasing, renting, occupying, or managing any premises in unincorporated Gwinnett County.



**2.37 Person** shall mean the State of Georgia or any other state or any agency or institution thereof and any municipality, county, political subdivision, public or private corporation, solid waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association, or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste management activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.

**2.38 Person with a Disability** shall mean a service unit owner who, as a result of a physical or mental disability, is unable to place his residential municipal solid waste storage container or cart, residential recovered materials storage container, white goods, bulky waste and/or yard trimmings at the designated residential collection location for collection by the residential service provider, such that he satisfies this article so long as he or she obtains a physician's certificate certifying such challenge and provides the physician's certificate to the Contractor. Person with a Disability shall include an Owner of a Service Unit with a temporary disability not to exceed 90 days.

**2.39 Plan** shall mean the 2008 Comprehensive Solid Waste Management Plan developed for Gwinnett County and the Cities of Berkeley Lake, Dacula, Duluth, Grayson, Lawrenceville, Lilburn, Norcross, Snellville, Sugar Hill, and Suwanee as amended prior to or subsequent to the effective date of this Contract consistent with the terms of this Contract.

**2.40 Processing** shall mean any method, system or other treatment designed to change the physical form or chemical content of Solid Waste, and separation from Solid Waste or other handling of Recovered Materials for Recycling.

**2.41 Processing Facility** shall mean a Facility whose activities include, but are not limited to, the separation and preparation of Solid Waste for reuse or Disposal or separation and preparation of Recovered Materials or Yard Trimmings to produce a marketable commodity, and includes all aspects of its management (administration, personnel, land, equipment, building and other elements).

**2.42 Putrescible Waste** shall mean wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible waste include but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, dead animals, garbage and wastes which are contaminated by such wastes. Putrescible Waste does not include Unacceptable Waste.

**2.43 Quadraplex** shall mean a building designed exclusively for residential occupancy by four Families.

**2.44 Recovered Materials** shall mean those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the Solid Waste stream for sale, use, reuse, or recycling whether or not requiring subsequent separation and processing.

**2.45 Recycling** shall mean any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products. Except for mixed Municipal Solid Waste

composting, that is, composting of the typical mixed Solid Waste stream generated by residential, commercial, and/or institutional sources, Recycling includes the composting process if the compost material is put to beneficial use.

**2.46 Recycling Processing Charge** shall mean an amount added to the Service Fee to reflect the costs to Contractor related to processing of Residential Single-stream Recovered Materials collected from Service Units.

**2.47 Residential Municipal Solid Waste** shall mean Municipal Solid Waste discarded by Single-Family Dwellings, Duplexes, Triplexes, Quadraplexes, or Mobile Homes.

**2.48 Residential Municipal Solid Waste Collection Services** shall mean the Contractor's Collection, Processing and Disposal of Residential Municipal Solid Waste, in accordance with the terms of this Contract.

**2.49 Residential Municipal Solid Waste Storage Cart** shall mean a leak-proof container with attached lid that will allow the automated or semi-automated collection of Residential Municipal Solid Waste, as per Cart Specifications in Appendix I.

**2.50 Residential Recovered Materials Collection Service** shall mean the Contractor's Collection and Processing of Residential Single-Stream Recovered Materials, in accordance with the terms of this Contract.

**2.51 Residential Recovered Materials Storage Cart** shall mean a plastic recycling cart that will allow collection of Recovered Materials, meeting Residential Recovered Materials Storage Cart Specifications in Appendix I. The deployment of Residential Recovered Materials Storage Carts as set forth in this amended agreement shall be effective beginning July 1, 2018.

**2.52 Residential Service Provider** shall mean Contractor.

**2.53 Residential Single-stream Recovered Materials** shall mean those materials as set forth in Appendix II, which may be amended in accordance with the provisions of Agreement, which have known use, reuse, or recycling potential; can be feasibly used, reused or recycled; and have been diverted or removed from the Residential Municipal Solid Waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

**2.54 Service Fee Adjustments** shall have the meaning set forth in section 4.1.1 below.

**2.55 Service Area** shall mean the "Service Zone" assigned to Contractor and described herein in Appendix IV.

**2.56 Service Fee** shall mean the monthly amount paid to the Contractor to provide Base Collection Services to a Service Unit, and in addition, the amount of the applicable Recycling Processing Charge.

**2.57 Service Unit** shall mean each unit or units within the following that set out their Residential Municipal Solid Waste in single-family residential-type storage containers and/or Residential Municipal Solid Waste Storage Carts: Single-Family Dwellings; Duplexes or two-unit Multi Family dwellings; Triplexes or three-unit Multi-Family dwellings; Quadraplexes or four unit Multi-Family dwellings; and Mobile Homes. Service unit shall not include any Multi-Family Dwellings (including condominium or townhome developments) of 5 units or more currently using commercial

solid waste hauling services unless such units request Residential Municipal Solid Waste Collection Services as provided by this Contract.

**2.58 Single-Family Dwelling** shall mean a building designed exclusively for residential occupancy by one Family.

**2.59 Solid Waste** shall mean any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include Unacceptable Waste; recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

**2.60 Special Programs** shall have the meaning set forth in Section 10.

**2.61 State** shall mean the State of Georgia.

**2.62 Term** shall have the meaning set forth in section 1 above.

**2.63 Tire** shall mean a continuous solid or pneumatic rubber covering designed for encircling the wheel.

**2.64 Transfer Station** shall mean a Facility, permitted by applicable law, used to transfer Solid Waste from one Collection Vehicle to another for transportation to a Disposal Facility or Processing Facility.

**2.65 Treated Wood** shall mean wood that has been treated or preserved with chromated copper arsenate (CCA), pentachlorophenol, or other chemicals which have been classified as known human carcinogens by the United States Environmental Protection Agency.

**2.66 Triplex** shall mean a building designed exclusively for residential occupancy by three Families.

**2.67 Unacceptable Waste** shall mean Hazardous Waste, Biomedical Waste, Tires, unsolidified paints, paint solvents, Treated Wood, unemptied aerosol cans, C&D Waste, compressed gas cylinders, large engine parts, small engines containing oils or fuels, chemicals, large glass panes, large tree debris, stumps, ammunition of any type, dead animals larger than 10 lbs, firearms, as well as any and all waste of which the acceptance and handling by Contractor would cause a violation of any permit condition, legal or regulatory requirement, substantial damage to Contractor's equipment or facilities, or present a substantial danger to the health or safety of the public or Contractor's employees.

**2.68 Unanticipated Events** shall mean severe weather events such as hurricanes, tornadoes, floods, ice storms or hail, snow storms, high winds exceeding 40 mph and other disasters such as fires, which may generate unexpected Municipal Solid Waste quantities.

**2.69 Uncontrollable Circumstances** includes Unanticipated Events, and shall mean any act, event or condition (excluding those which result from the willful or negligent

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

**2.70 White Goods** shall mean household appliances such as refrigerators, stoves, washers, dryers, water heaters and other large enameled appliances, which do not contain PCB or CFC units and have been officially certified to that effect, and in the case of freezers and refrigerators, which have had the doors removed.

**2.71 Yard Trimmings** shall mean leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations. The term does not include stumps, roots, or shrubs with intact root balls, and specifically excludes all Treated Wood.

**2.72 2010 Ordinance** shall have the meaning set forth in section 29.2 below.

### **3. SCOPE OF SERVICES TO BE PROVIDED BY CONTRACTOR**

#### **3.1 Services to be Provided by Contractor**

During Term of this Contract, Contractor shall provide the Collection Services in accordance with the terms of this Contract, and the right to provide the Collection Services, and if requested, the right to provide Residential Recovered Materials Collection Service and Collection of Yard Trimmings in the designated Service Area. Such rights shall be exclusive to the Contractor and no other person or entity except the Contractor may offer or provide the Collection Services, Residential Recovered Materials Collection Service, or Collection of Yard Trimmings in the designated Service Area. The County further agrees that so long as Contractor is not in default hereunder, it will not enter into any agreement with any other entity for performance of the Collection Services, Residential Recovered Materials Collection Service, or Collection of Yard Trimmings in the designated Service Area as contemplated hereby during the Term hereof. The Contractor may charge extra, in addition to the Service Fee, for providing Yard Trimmings Collection service, and may, but is not required, to offer the service or Residential Recovered Materials Collection Service, on a different day of the week than the other Collection services. Non-Curbside Collection must also be offered to Persons with a Disability requesting such service; provided however, Non-curbside Collection is available only if all adult persons residing in the Service Unit are also Persons with a Disability who have obtained a physician's certificates certifying such disability. Non-Curbside Collection is not available for Collection of Yard

Trimmings, Bulky Waste, and/or White Goods. Collection of Residential Municipal Solid Waste shall be mandatory for all Service Units in the designated Service Area and such Service Units shall be required by the County to use the Collection Services offered by Contractor. Accordingly, the Contractor shall provide Collection Services within this Service Area as described below:

### **3.1.1 Residential Municipal Solid Waste Collection**

The Contractor will provide once per week Collection of Residential Municipal Solid Waste from a Residential Municipal Solid Waste Storage Cart. Contractor shall not be deemed to be in default of this Contract in the event the Service Unit does not timely place for Collection such Residential Municipal Solid Waste Storage Cart in the Designated Collection Location.

### **3.1.2 Residential Single-stream Recovered Materials Collection**

In the event a Service Unit wishes to receive Residential Recovered Materials Collection Service, the Contractor will provide once per week Collection of Residential Single-stream Recovered Materials from a Contractor owned 65 gallon Residential Recovered Materials Storage Cart or a Contractor owned 18 gallon Residential Recovered Materials Storage bin. If not requested during new service set up, the Service Unit(s) must contact the Contractor directly to request Residential Recovered Materials Collection Service and shall timely place such Residential Single-stream Recovered Materials at the Designated Collection Location for Collection by the Contractor. Contractor shall not be deemed to be in default of this Contract in the event the Service Unit does not timely place for Collection such Residential Recovered Materials Storage Cart in the Designated Collection Location. The list of acceptable Recovered Materials to be Collected upon request by the Service Unit is listed on Appendix II, but is subject to change after an annual review by the parties and by the mutual consent of the parties during the Term.

### **3.1.3 Bulky Waste and White Goods Collection**

Once per week, the Contractor will provide Collection of up to two (2) items of Bulky Waste and White Goods from the Designated Collection Location of the Service Unit that generated the Bulky Waste and White Goods. It is the responsibility of the Service Unit to insure that prior to disposal, White Goods are empty of all foods and liquids, and that any CFCs and PCBs have been evacuated and captured by a certified technician in accordance with law, and that doors have been removed from freezers and refrigerators. The Contractor is not required to Collect White Goods that do not meet these standards. The Collector must, however, notify the Service Unit of the reasons that the White Goods were not Collected. Contractor shall not be deemed to be in default of this Contract in the event the Service Unit does not timely place for Collection such White Goods and/or Bulky Waste in the Designated Collection Location in compliance with this section 3.1.3.

### **3.1.4 Yard Trimmings Collection**

Yard Trimming Collection shall be done on a weekly basis, under a separate and elective arrangement with a Service Unit. The Contractor may charge the Service

Unit on a semi-annual, or annual, basis for Yard Trimming Collection, in addition to the Service Fee charged for the other Base Collection Services. Contractor shall offer collection of no more than three cubic yards per Collection of Yard Trimmings which any such individual Yard Trimmings included therewith shall not exceed four (4) inches in diameter or more than three feet in length, placed in sturdy paper bags designed or suitable for containing Yard Trimmings, excluding Residential Municipal Waste Storage Carts, Residential Recovered Materials Storage Carts, and plastic bags; or if greater than four (4) inches in diameter and not placed in a suitable container Yard Trimmings that are tied in a bundle weighing not more than fifty (50) pounds. The Service Unit(s) will contact the Contractor directly to request Collection of Yard Trimmings and shall timely place such Yard Trimmings at the Designated Collection Location for Collection by the Contractor. Yard Trimmings shall be Collected, and may upon collection be comingled with, Residential Municipal Solid Waste. In the event that the Contractor comingles Yard Trimmings with Residential Municipal Solid Waste, such materials shall be deposited in a landfill with a gas recovery system as provided by law.

### **3.2 Storage Carts**

Contractor will provide each Service Unit with one Residential Municipal Solid Waste Storage Cart ("Cart") and, if requested for the service, one 65 gallon Residential Single-stream Recovered Materials Storage Cart" or 18 gallon Residential Single-Stream Storage bin as requested by the Service Unit. Contractor shall deliver the approximately 95 gallon Residential Municipal Solid Waste Storage Cart unless the Service Unit Owner requests the smaller approximately 65 gallon Residential Municipal Solid Waste Storage Cart. Contractor will deliver carts and/or bins within ten (10) business days of the request by the Service Unit. These Carts may be new, or if in good working condition and clean, may be refurbished. All Carts must, however, meet the specifications set out in Appendix I hereto. Contractor will provide additional Cart(s) to any Service Unit requesting them. The Service Unit will reimburse the Contractor for all costs and expenses incurred in the delivery of additional Carts, and the Contractor shall be permitted to charge additional Service Fee for Collection from the additional Cart(s). Contractor will be responsible for the purchasing, assembly, delivery (including copies of the educational information, if any, provided by the County as camera ready copy), maintenance and replacement of all Carts used in providing Collection Services. All Carts will remain the property of the Contractor.

### **3.3 Missed Collections**

Contractor will be responsible for receiving all reports of Missed Collections from Service Units, rectifying the Missed Collection with Service Unit and providing Missed Collection information on required reports as provided herein.

**3.3.1** Missed Collection from a single Service Unit. Contractor shall receive all reports of Missed Collections and report them to the County by 9:00 p.m. on the day the report was received; provided, however, that any report received after office hours may be reported on the following business day. In the event the Missed Collection was due solely from the actions or omission of the Contractor and such Missed Collection was not due to

Uncontrollable Circumstances documented as provided in Section 20, Contractor shall provide the applicable Collection Service to the Service Unit within the time frame for resolving complaints set forth in Section 16.1. In the event the Missed Collection was due to any act or failure to act by the Service Unit and/or the County, Contractor shall not schedule or perform an additional pickup and Contractor shall continue to receive the entire Service Fee for the Service Unit.

- 3.3.2** Missed Collection from an Area. An Area is defined as more than five (5) contiguous Service Units or an unfinished route. If Contractor determines that a route will be delayed or unfinished, resulting in Missed Collections at more than five (5) contiguous Service Units, Contractor shall report this to the County by email which identifies the area that was not served with specificity, the number of residential units affected, the reason the route was delayed or unfinished and the estimated day and time the service will be completed. Contractor shall update the County's Customer Relationship Management (CRM) System by identifying the address and parcel/PIN number for which service was not provided This report shall be sent to the County and entered into the CRM System by 9 p.m. on the day of the Missed Collection, and Contractor shall provide the applicable Collection Service by the end of the following day, except if Missed Collection deadline falls on Sunday or a Holiday, then the deadline will be end of the day the next business day. Within sixty (60) days of the effective date of this Third Amendment, Contractor shall implement a notification system to notify Service Units in a Missed Collection Area of such Missed Collection. Contractor shall be responsible for notifying the Service Units in the Missed Collection Area by 9 p.m. on the day of the Missed Collection. Contractor shall include the notification manner and time in the report sent to the County and entered into the CRM System.

#### **4. FEES AND PAYMENTS FOR SERVICES**

##### **4.1 Service Fees**

The price per Service Unit to be paid as a Service Fee to Contractor by the County for the Base Collection Services including Residential Recovered Materials Collection Services (if so desired by the residential unit) shall be \$17.91 for the period from January 1, 2018 through June 30, 2018. The price per Service Unit to be paid as a Service Fee to Contractor by the County for the Base Collection Services including Residential Recovered Materials Collection Services (if so desired by the residential unit) shall be \$16.66 per Service Unit per month beginning on July 1, 2018 (the Service Fee). This Service Fee for the Base Collection Services constitutes a seven percent (7%) reduction from the Service Fee for Base Collection Services scheduled to be effective on January 1, 2018. The price per Service Unit to be paid as a Service to Contractor by the County for the Base Collection Services including the base Residential Recovered Materials Collection Services (if so desired by the residential unit) shall be \$20.02 per Service Unit per month beginning January 1, 2023. In the event that the Service Unit receives a Senior Discount, however, the County shall pay the Contractor the Service Fee less the amount

of the Senior Discount for such Service Unit. The Contractor shall be entitled to a Service Fee for each Service Unit if Contractor has delivered a Cart to the Service Unit and the Owner of that Service Unit has not notified Contractor in writing or notified the County that the Service Unit is no longer occupied. The Service Fee shall be subject to adjustment as provided in section 4.1.1 below which adjustments shall be made in accordance with section 4.1.2 below. The Service Fee includes Residential Recovered Materials Collection Services if elected by the Service Unit, provided however, to encourage Recycling, there will be no reduction in the Service Fee if Residential Recovered Materials Collection Services is not elected. Beginning in 2023, the Contractor shall receive an additional flat rate of eighty-two cents (\$0.82) per Service Unit for Residential Recovered Materials Collection. Furthermore, Contractor may, within its Service Area, contract directly with residents on a semi-annual basis for the collection and disposal of Yard Trimmings at a rate of \$60.00 per Service Unit for such collection and disposal service to be paid semi-annually without proration for service provided at any time during any of the six (6) months of January through June or at any time during any of the six (6) months of July through December. The semi-annual rate may be charged to a resident only if service is provided during a six-month period as aforesaid. Contractor may suspend Yard Trimmings Collection services for nonpayment upon notice to County and Owner. In the event that an owner of a Storage Unit requests collection and disposal of Yard Trimmings and agrees to twelve (12) months of continuous Yard Trimmings service, the Contractor shall provide a twenty-five percent (25%) discount for collection and disposal of Yard Trimmings effective July 1, 2018. The Service Fees will be invoiced and calculated as provided in section 4.2 below. The Contractor shall be paid the Service Fees irrespective of whether or not the County collects amounts owed from the Service Unit.

#### **4.1.1 Adjustments to Service Fee**

The Service Fee shall be adjusted for increases in the CPI-U (as provided in section 5.1 below), increases and decreases in cost of Diesel Fuel (as provided in section 5.2 below), and increases due to Change in Law. (as provided in section 5.3 below) (collectively "Service Fee Adjustments").

#### **4.1.2 Payment of Adjustments to Service Fees**

The Service Fee Adjustments shall be calculated annually by the Contractor and submitted to the County on or before May 1 of each Contract Year ("Service Fee Adjustment Notice"). The Service Fee Adjustments shall be based on the 12-month period from April 1 to March 31 of each year during the Term ("Base Year"). The Service Fee Adjustments will be included in all payments of the Service Fee commencing January 1 of the year following the year in which the Adjustment Notice is submitted to the County, commencing January 1, 2020 ("Service Fee Adjustment Date").

#### **4.1.3 Discounts for Seniors**

Contractor shall provide a twenty-five percent (25%) discount to each Service Unit for which an owner of the Service Unit has submitted an affidavit to the Contractor verifying that such owner is sixty-two (62)



years of age or older and verifying that the Service Unit address is the owner's primary residence. The Senior Discount shall commence on the first day of the second month following the owner's submission of the affidavit.

#### **4.2 Invoicing**

Prior to the effective date of this Contract, Contractor will provide the County with an electronic list containing the street address of each Service Unit and total number of Service Units within the Contractor's Service Area ("Initial Service List"). Without additional fees or payments the County shall cooperate with Contractor in completing the Initial Service List and shall provide that electronic stored information in the County's possession or control that is or may be helpful to Contractor in compiling the Initial Service List. Thereafter, each month along with its invoice (as provided below), Contractor shall provide an electronic list containing the addresses and total number of Service Units, the Owners of which have provided Contractor with written notice that the Service Unit is no longer occupied, Collection Services need to be discontinued and the Cart(s) and Bin picked up or the Service Unit has subsequently become occupied or reoccupied, Collection Services needed to be commenced or recommenced. No later than the second (2nd) day of each calendar month, the Contractor shall submit to the County a statement of the Service Fees and Service Fee Adjustments the Contractor believes to be due and owing to Contractor for Collection Services rendered by the Contractor during the previous calendar month (the "Statement of Service Fees"). Such Statement of Service Fees shall list monthly payments due the Contractor based on the Service Fee, Service Fee Adjustments, and upon the calculation of Service Units determined by the Contractor pursuant to section 4.1 and this section 4.2. The statement must include:

- 4.2.1 The number of Service Units calculated in accordance with sections 4.1 and 4.2;
- 4.2.2 Any liquidated damages assessed by the County; and
- 4.2.3 Service Fee Adjustment

#### **4.3 County Administration Fee**

The County may charge each Service Unit for administration and related expenses ("County Administration Fee") which may be modified by the County at its discretion. The County Administration Fee shall be retained by the County.

#### **4.4 Payment**

No later than the tenth (10th) day of each calendar month, the County shall pay to the Contractor the amounts set forth in the Statement of Service Fees in accordance with this section. Within thirty (30) days of receipt of the Statement of Service Fees issued by the Contractor, the County shall notify the Contractor of any dispute it may have with respect to the Contractor's Statement of Service Fees

## **5. SERVICE FEE ADJUSTMENTS**

All service fee adjustments related to this section or any other section in this agreement shall be provided to the County by May 1 of the calendar year preceding the calendar year the adjustments are to be effective for consideration as part of the annual Service Fee Adjustment Notice process. Any notifications received after May 1 will be considered during the next annual Service Fee Adjustment Notice process. All service fee adjustments become effective on the Service Fee Adjustment date (January 1 of the year following the Adjustment Notice to the County).

### **5.1 Service Fee CPI-U Adjustment**

The CPI-U shall be used to calculate Service Fee Adjustments subject to the provisions of sections 4.1.1 and 4.1.2 above. During the Term, the Service Fee shall be adjusted based upon the Adjustment Factor beginning on January 1, 2023. The Adjustment Factor shall be equal to 100 percent (100%) of the increase, if any, in the inflation index, CPI-U, which occurred during the preceding Base Year. The Contractor's then current Service Fees for each Collection Service shall be adjusted by multiplying each by the Adjustment Factor. The Service Fee CPI-U Adjustment will be paid in accordance with section 4.1 above. Provided, however, and subject to section 5.3 below, Service Fee Adjustments for increases in the CPI-U during the Initial Term shall not exceed 21% in the aggregate.

### **5.2 Service Fee Fuel Adjustment**

During the Term, the Service Fee shall be adjusted for increases and decreases in the average cost of No. 2 Diesel Ultra Low Sulfur Fuel ("Fuel") as reported by the U.S. Department of Energy, Energy Information Administration, [www.eia.doe.gov](http://www.eia.doe.gov), Lower Atlantic East (PADD 1C) No 2 Diesel Ultra Low Sulfur (0-15ppm) Retail Sales by All Sellers, including taxes (the "Index") for each Base Year over or under the Base Cost per Gallon of Fuel of \$2.76 per gallon. Each "Base Year" shall have the same meaning as set forth in section 4.1.2.

#### **5.2.1 Determination of Annual Fuel Usage and Fuel Adjustment**

For the purpose of calculating the Service Fee Fuel Adjustment, Fuel Usage for the Initial Term shall be calculated as follows:

On or before April 15, 2019, all contractors providing Collection Services in Gwinnett County pursuant to the Residential Solid Waste Collection and Disposal and Collection of Residential Single Stream Recovered Materials contract (the "Hauler Contracts" or "Hauler Contract"; each contractor with a Hauler Contract shall be referred to in this section 5.2 as "Haulers" or "Hauler") shall report to the County the number of gallons of Fuel used in providing Collection Services under the Hauler Contracts by each Hauler in that First Contract Year through March 31, 2019 (July 1, 2018 through March 31, 2019). The Fuel Usage for the First Contract Year through March 31, 2019 shall be annualized by dividing the total Fuel Usage for all the Haulers by the number of completed months 9 and multiplying the result by 12, the result shall be referred to as the gallons of Fuel used in the First Contract Year. Notwithstanding the amount of fuel actually consumed by the Haulers, for all Contract Years, Fuel Usage

shall mean the gallons of Fuel used in the First Contract Year by all Haulers, as determined above, reduced by 1.5% cumulative each Contract Year (“Annual Fuel Usage”). To determine Service Fee Fuel Adjustment for each Hauler, for each Base Year, the Base Costs per gallon of Fuel (\$2.76) will be subtracted from the daily average cost of Fuel per gallon for each Base Year as reported on the Index. The positive or negative result of the immediately preceding calculation will then be multiplied by the applicable Annual Fuel Usage for the Contract Year that terminates within the Base Year. The result of this calculation will be divided by the average number of Service Units within the County receiving Collection Services from all the Haulers for the First Contract Year to obtain the average Per Unit Fuel Adjustment. The total Annual Fuel Adjustment for each Hauler for each Base Year shall be obtained by multiplying the average Service Units in that Hauler's Service Area during the First Contract Year by the average Per Unit Fuel Adjustment to obtain the Annual Fuel Adjustment for each Hauler. The Annual Fuel Adjustment for each Hauler will be paid in equal monthly installments (1/12) as provided in section 4.1.2. Except as otherwise provided in section 5.3 below, for the purpose of this calculation only, the average number of Service Units within the County and the average number of Service Units in each such Hauler Service Area will remain fixed during the Initial Term.

The above calculation is represented by the following Formula:

A	Annual Fuel Usage which is consumption of Fuel during the First Contract Year for all Haulers, reduced by a cumulative 1.5% per year for each Contract Year after the First Contract Year.
B	The positive or negative result from subtracting the Base Cost per gallon of Fuel (\$2.76) from the daily average of Fuel during each Base Year as reported on the Index.
C	Average number of Service Units in the County during First Contract Year.
D	Average number of Service Units in each contractor Service Area during the First Contract Year.

$A \times B =$  Global Fuel Adjustment for all Haulers for each Base Year (GFA)

$GFA \div C =$  Per Unit Fuel Adjustment (PUFA)

$PUFA \times D =$  Annual Fuel Adjustment for each Hauler (HAFA)

HAFAs ÷ 12 = Monthly Service Fee Fuel Adjustment for each Hauler paid under section 4.1.

Exhibit 2 attached hereto provides an illustration using assumption of how and when the Service Fee Fuel Adjustment is calculated.

### **5.2.2 CAP**

Except as otherwise provided in section 5.3 below, during the Initial Term the Service Fee Fuel Adjustment shall not exceed \$4.00 per gallon over \$2.76.

## **5.3 Other Service Fee Adjustments**

The County agrees that Contractor may also increase rates from time to time, to adjust for the following: increases in operational costs or expenses incurred by the Contractor as a result of a "Change In Law," whether imposed retroactively or prospectively. If any increases in operational costs or expenses are incurred by the Contractor as the result of a Change In Law that is enacted after the May 1 service fee adjustment deadline, the County will work with the Contractor to reimburse such increased costs or expenses resulting directly from the Change In Law. A Change In Law means any amendment to, or promulgation of any federal, state, county, city, or local statute, regulation, or ordinance after the date of this Contract that imposes, changes, modifies, and/or alters requirements upon: (i) performing the Collection Services; (ii) the operation of the applicable Disposal Facility, Transfer Station or Processing Facility; or (iii) the disposal of Residential Municipal Solid Waste, Residential Single-Stream Recovered Materials, Yard Trimmings, Bulky Waste and/or White Goods, or which statute, regulation, or ordinance requires the Contractor to seek either an amendment or modification to, or reissuance of any required permits, licenses, certificates of public convenience and necessity, approval or authorization issued by any governmental body entitling the Contractor to perform the Collection Services. Change in Law shall include fees, surcharges, or other charges imposed by ordinance or agreement for a waste disposal facility by a host local government pursuant to the provisions of O.C.G.A. 12-8-39(d). The term Change in Law shall not include an amendment to Gwinnett County Solid Waste Ordinance or the Gwinnett County Solid Waste Management Plan.

### **5.3.1. Host Fee Adjustment**

In 2018, the Georgia General Assembly passed House Bill 792 which amended Code Section §12-8-39(d) to increase the mandatory minimum surcharge fee payable to host communities (host fee) by private landfill facilities in the amount of \$1.50 per ton, which increased the mandatory host fee payable to host local governments to \$2.50 per ton effective July 1, 2019. Pursuant to House Bill 792, the County has paid and shall directly pay the Contractor \$0.18 per residential unit per month from January through December 2020, which includes the total fee increase for the 18-month period of July 1, 2019, through December 31, 2020. In addition, the County shall pay the Contractor \$0.12 cents per residential unit per month for the period January 1, 2021, through December 31, 2021. Beginning January 1, 2022, this fee shall be included as part of the residential service fee and

will be included on individual property tax bills until such time as there is a change in state law.

### **5.3.2 2022 Fee Adjustments**

**5.3.2.1 Residential Recovered Materials.** To account for the continued costs of providing Residential Recovered Materials Collection, the Residential Recovered Materials service fee will be increased by seventy-one cents (\$0.71) per Service Unit effective as of January 1, 2022, and the County shall directly pay the Contractor a lump sum of seventy-one cents (\$0.71) per Service Unit for the period from January 1, 2022, through December 31, 2022.

**5.3.2.2 Residential Solid Waste.** To account for unprecedented increases in costs to the Contractor to perform residential solid waste collection services in 2022, the County will pay the Contractor thirty-two cents (\$0.32) per Service Unit per month effective as of January 1, 2022. The County shall directly pay the Contractor a lump sum of thirty-two cents (\$0.32) per Service Unit per month for the period from January 1, 2022, through December 31, 2022. During the remaining term of this Agreement, should costs rapidly increase or decrease outside of the normal adjustment period as they have in 2022, at the request of either party, the parties agree to negotiate in good faith to amend the Agreement to account for such rapid increases or decreases in costs.

### **5.4 Undue Hardship**

Contractor may provide notice to the County that the cap on the Service Fee CPI-U Adjustments (section 5.1) or the caps on the Service Fee Fuel Adjustment (section 5.2) are overly burdensome. Upon such notice, the County will negotiate in good faith to amend in a commercially reasonable manner how Service Fee Adjustments are calculated or the caps are adjusted. Furthermore, if at any time after the first Contract Year the Service Area is modified, County and Contractor agree to negotiate in good faith to modify how fuel usage is determined for the purpose of calculating the Service Fee Fuel Adjustment under section 5.2.

## **6. GENERAL PERFORMANCE REQUIREMENTS FOR COLLECTION SERVICES**

Collection of Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Yard Trimmings, Bulky Waste and/or White Goods from each Service Unit will be performed weekly by Contractor in accordance with all performance requirements set forth in this Contract.

### **6.1 Contractor Responsibilities**

**6.1.1 Initiation of Service:** Contractor will only be responsible for initiating Base Collection Services for a New Customer and only upon receiving notice from the Owner or the County that the Service Unit has become occupied.

**6.1.2 Direct Billing:** Contractor's billing and collection responsibilities shall be limited only to Elective Services and to Collection of Yard Trimmings. Collection of Yard Trimmings from each Service Unit will be performed under a separate and elective arrangement with a Service Unit. The Contractor may charge the Service Unit for Collection of Yard Trimmings, in addition to the Service Fee charged for the other Base Collection Services.

**6.1.3 Termination of Service:** Contractor shall have the right to suspend any Collection Service due to nonpayment of the Service Fees including any Service Fee Adjustments, by the County upon 14 days' actual notice to the County, and shall have the right to pursue all other rights and remedies available to the Contractor pursuant to this Contract or otherwise at law or in equity, in the event of such nonpayment. Further, Contractor shall have the right to terminate or suspend all Elective Services or any Yard Trimmings collection service, and shall have the right to pursue all other rights and remedies available to the Contractor pursuant to this Contract or otherwise at law or in equity, in the event of nonpayment of fees due and owing to the Contractor by the Service Unit.

**6.1.4 Collection, Processing and Disposal:** Contractor shall deliver all Residential Municipal Solid Waste, Residential Single-Stream Recovered Materials, Yard Trimmings, Bulky Waste, and/or White Goods collected by Contractor to a Transfer Station, Processing Facility or Disposal Facility as determined by the Contractor. Any processing and/or disposal fees are to be paid to the applicable Transfer Station, Processing Facility or Disposal Facility by Contractor. Contractor shall maintain accurate records of the quantities of materials transported to such Transfer Station, Processing Facility, or Disposal Facility for a period of three (3) years. Such records shall include, but not be limited to, tonnage figures showing total recovered materials collected by type, and proof of recycling in the form of manifests, bills of sale, or other records showing adequate proof of delivery of the material to a recognized recycling facility. Within thirty (30) days following the close of each calendar quarter ending March 31, June 30, September 30, and December 31 of each year of operation under the service agreements, each Residential Service Provider shall submit to the County reports of operation showing this information.

**6.1.5 Suitable Yard Trimming Set-Outs:** If so requested by a Service Unit, the Contractor will collect Yard Trimmings set-outs that meet the specifications set forth in section 3.1.4.

**6.1.6 Notification of Improper Set-Outs:** The Contractor will be responsible for clearly communicating County, to a Service Unit, any legitimate ground for refusal to provide Collection Services for any Residential Municipal Solid Waste, Bulky Waste, White Goods, Residential Single-stream Recovered Materials, or Yard Trimmings placed by the Service Unit for Collection. The Contractor shall use a standard form, which has been approved by the County, for all notices provided under this subsection. Legitimate grounds for refusal to provide Collection Services shall include, but are not limited to, failure of the Service Unit to (i) with respect to White Goods, empty all foods and liquids, have any CFCs and PCBs evacuated and captured by a certified technician in accordance with law, and/or

remove doors from freezers and refrigerators, (ii) timely place for Collection any Residential Municipal Solid Waste, Bulky Waste, White Goods, Residential Single-stream Recovered Materials, or Yard Trimmings at the Designated Collection Location in accordance with this Contract, (iii) placement of Residential Municipal Solid Waste in the Residential Recovered Materials Storage Cart intended for Residential Single-stream Recovered Materials or (iv) placement of Unacceptable Waste in the Residential Municipal Solid Waste Storage Cart.

## **6.2 County Responsibilities**

**6.2.1 Initiation of Accounts and Billing:** The County will be responsible for billing and collecting the Service Fee for all Base Collection Services from existing Service Units and New Customers based upon occupancy permits issued by the County.

**6.2.2 Public Education and Outreach:** In coordination with and at the direction of Gwinnett County, the Contractor will be responsible for conducting formal public education programs and outreach related to the Collection Services. The County may provide public education/information materials to the Contractor as camera-ready copy, including information to be included in packages to be distributed by the Contractor with the Carts. The public education and outreach provisions of this amended agreement shall be effective beginning on July 1, 2018.

**6.2.3 Service Referrals:** The County will be responsible for referring to Contractor any Service Unit service requests and/or complaints of which the County becomes aware that are not reported directly to the Contractor.

**6.2.4 Monitoring Contractor Compliance:** The County is responsible for monitoring Contractor compliance with all provisions of this Contract, including complaint resolution. Except as otherwise provided herein, Contractor shall input any and all service unit data into the CRM System within twenty-four (24) hours of receipt such information by the Contractor or if the information is received on a Sunday or a Holiday then by the end of the next business day. The County may, from time to time, audit the Contractor with respect to this Contract and the work performed hereunder, to assure all work is being completed in a timely manner and in compliance with this Contract in accordance with section 26 of this Contract.

## **7. SCHEDULE OF COLLECTION**

**7.1 Hours of Collection:** All Collection must be performed between the hours of 7:00 am and 6:30 pm during the Contract Year, Monday through Friday (or Monday through Saturday during a Holiday week). Contractor or County may request a variance to these normal hours of operations when special or unforeseen incidents occur.

**7.2 Holidays:** The Contractor shall not be required to perform Collection Services or maintain office hours (as defined in Section 16.1) on Holidays. The collections that would have been made on a Holiday will be made the Day following the Holiday. All subsequent collections during the week in which the Holiday occurs will take place on

the Day following the scheduled Collection day, and Contractor agrees that up to two (2) additional bags of residential solid waste may be picked up per Service Unit.

**8. ELECTIVE SERVICES**

In the event a Service Unit requests a service not included within this Contract, the Contractor may directly negotiate with the Service Unit for the rate. The Contractor shall be responsible for billing and collection of payment for all Special Services.

**9. PUBLIC EDUCATION**

In coordination with and at the direction of Gwinnett County, the Contractor shall implement a comprehensive, ongoing public education program promoting recycling and reduction of waste, including public meetings supported with Website, folders, brochures and other printed material. The Contractor will be named a "partner" in achieving the County's waste reduction and diversion goals. In coordination with Gwinnett County, the Contractor shall create a website to explain why Gwinnett County emphasizes the need to recycle certain materials and to answer frequently asked questions regarding Recycling. The website shall provide a means by which a customer may electronically request and schedule large item pickups. The Contractor shall ensure that its personnel is adequately trained to correctly answer questions from customers regarding all aspects of the Recycling procedure. The Contractor and the County shall confer and coordinate efforts in order to achieve consistency of information disseminated to the public through the website. Contractor will print and distribute educational information, provided by the County as camera-ready copy, on Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Glass, Bulky Waste, White Goods, and/or Yard Trimmings including, but not limited to, program brochures and improper set-out notices to Service Units, where applicable, when performing Collection services under the Contract. The Contractor shall provide the County with quarterly reports of such activities. Contractor shall not distribute any public information material or website information without prior County approval.

**10. SPECIAL PROGRAMS**

Contractor agrees to coordinate efforts with the County to service all Special Programs sponsored by the County in the Service Areas. Contractor shall be paid a "per event" Service Fee of \$1500. When Special Programs sponsored by the County occur within the Service Area, the Contractor agrees, at the request of the County, to deliver and pick up a roll-off box container and deliver the contents for Processing/Disposal.

**11. PERSONNEL OF THE CONTRACTOR:**

**11.1 Qualified Personnel:** Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical and other personnel as may be necessary to provide the Collection Services in a safe, economical and efficient manner. All drivers shall be trained and qualified in the operation of Collection Vehicles and must have in effect a



valid Commercial Drivers License, of the appropriate class, issued by the Georgia Department of Driver Services.

**11.2 Operational and Safety Training:** Contractor shall provide operational and safety training for all of its employees who utilize or operate Collection Vehicles or equipment for collection of materials under the Contract. Contractor shall train its employees in Solid Waste collection to identify, and not collect, Hazardous Waste or Biomedical Waste.

**11.3 No Tipping:** Contractor shall not, nor shall it permit its employees to, demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for services provided under the Contract.

**11.4 Employee Decorum:** Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. Contractor shall regularly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct collection crews to perform the work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by the Contract, Contractor shall take all appropriate corrective measures. If Contractor has received directly or the County has notified Contractor of a complaint related to discourteous or improper behavior, Contractor will consider reassigning the employee to duties not entailing contact with the public while Contractor is pursuing its investigation and corrective action process.

**11.5 Participation in Federal Work Authorization Program:** Contractor affirms, via Appendix III, that the Contractor and all its subcontractors, have registered for, and are participating in, the federal work authorization program as defined by O.C.G.A. § 13-10-90(2) to verify information for all new employees. All of the Contractor's documents and records of these verification processes shall be retained for a period of three (3) years following completion of this Contract.

**11.6 Supervisor Qualifications:** Contractor shall designate qualified employees as supervisors of field operations. Supervisors will be in the field inspecting Contractor's work and will be available by radio or phone during the Contractor's hours of operation to handle calls and complaints from the County and/or Service Units, or to follow up on problems and inspect Contractor's operations.

**11.7 Uniforms:** All employees of the Contractor performing work under the Contract shall wear a uniform while operating in the field, the shirt of which shall show their association with the Contractor. Contractor shall provide a list of current employees and subcontractors to the County upon request.

**11.8 No Scavenging:** Contractor shall assure that no employees remove materials from the Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Bulky Waste, White Goods, or Yard Trimmings collected (scavenging) for their personal use or for sale. Contractor shall include in its regular training sessions this prohibition against scavenging. If any employee is found to be scavenging or not to be performing services in the manner required by the Contract, Contractor shall take all appropriate corrective measures. If the County has notified Contractor of a complaint related to scavenging previously by an employee and this event constitutes the second or greater scavenging complaint, Contractor will consider removing the employee

from work under the Contract.

**11.9 Employee Training:** Contractor will train its employees as to the County's collection rules and regulations; ensuring employees can answer questions from Service Units and follow the County's collection rules at the curb. This training is to be ongoing and reaching new hires. Contractor employees will also leave notices of improper set-out when applicable. All drivers and Collection Vehicle crews shall be specifically trained in recognizing Acceptable Residential Municipal Solid Waste, Residential Municipal Single-stream Recovered Materials, Bulky Waste, White Goods and Yard Trimmings and the Contract requirements with respect to litter, and litter and spillage clean-up procedures.

## **12. LITTER AND SPILLAGE**

The Contractor shall not litter or cause any spillage to occur upon the premises, roadway or the right-of-way wherein the collection shall occur. During hauling, all Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Yard Trimmings, Bulky Waste, or White Goods, shall be contained, tied, or enclosed so that leaking, spilling and blowing is prevented. If any Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Bulky Waste, White Goods, or Yard Trimmings are spilled during Collection, or any spillage or leakage occurs, including but not limited to, spillage or leakage of hydraulic and other fluids from the Collection Vehicle or materials such as paint the Contractor shall promptly remove and clean up all spilled materials. Each Collection Vehicle shall carry all necessary equipment, including a broom and shovel, at all times for this purpose.

## **13. DESIGNATED DISPOSAL AND PROCESSING LOCATIONS**

- 13.1 Residential Municipal Solid Waste and Residential Single-Stream Recovered Materials:** All Residential Municipal Solid Waste Residential Single-Stream Recovered Materials Collected by the Contractor shall be delivered to the applicable Processing Facility, Transfer Stations or Disposal Facilities determined by the Contractor. A Transfer Station may serve as the initial receiving Facility prior to delivery of the Residential Municipal Solid Waste to a Disposal Facility. Acceptable Residential Municipal Solid Waste must be stored in enclosed, leak proof Collection Vehicles on the days the designated Disposal Facility or Transfer Station is unavailable.
- 13.2 Yard Trimmings:** All Yard Trimmings collected by a Contractor shall be delivered to a Processing Facility or Disposal Facility permitted to accept Yard Trimmings as determined by the Contractor. Acceptable Yard Trimmings collected will need to be stored in enclosed, leak proof Collection Vehicles on the days this designated Processing Facility and/or Disposal Facility is unavailable.
- 13.4 Bulky Waste:** All Bulky Waste collected by a Contractor shall be delivered to a Processing Facility and/or Disposal Facility determined by the Contractor.
- 13.5 White Goods:** All White Goods collected by a Contractor shall be delivered to a Processing Facility and/or Disposal Facility determined by the Contractor.

## 14. COLLECTION EQUIPMENT

Contractor shall provide a fleet of Collection Vehicles sufficient in number and capacity to efficiently perform the work required by the Contract in strict accordance with its terms. Contractor shall have available on days of Collection, sufficient back-up Collection Vehicles for each type of Collection Vehicle used to respond to complaints and emergencies. The County requires the use of Collection Vehicles that are reliable, safe, well maintained, clean, and in good working order. Contractor shall remove from service and repair any Collection Vehicle that continuously leaks hydraulic fluid, oil, gas or other fluids. Contractor may use Collection Vehicles older than 10 years, but if it chooses to do so, those Collection Vehicles may be required to have a semi-annual inspection by a certified mechanic chosen by the County, and any costs and expenses of such inspections will be paid by the Contractor. Additionally, the County's representative(s) reserves the right to inspect all Collection Vehicles to be used in servicing this Contract no later than thirty (30) Days before Contract begins and at any time upon 48 hours' notice. The County shall notify Contractor about the failure of any Collection Vehicle to meet this requirement within ten (10) Days of inspection.

- 14.1 Specifications:** All Collection Vehicles used by Contractor in providing collection of materials under the Contract shall comply with all applicable local, County, State, and federal regulations. Collection Vehicles must be enclosed and designed to prevent leakage, spillage or overflow. All such Collection Vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. Contractor shall also ensure that Gross Vehicle Weight (GVW) of all Collection Vehicles, even when loaded, does not exceed Collection Vehicle license limitations to protect the highways of Gwinnett County.
- 14.2 Collection Vehicle Identification:** Contractor's name, local telephone number, and a unique Collection Vehicle identification number designated by Contractor for each Collection Vehicle shall be conspicuously displayed in at least three places on all Collection Vehicles, in letters and numbers no less than six (6) inches high. Contractor shall not place the County's name or logo on its Collection Vehicles.
- 14.3 Equipment Inventory:** In addition to the above required information, Contractor shall furnish the County a written inventory of all Collection Vehicles used in providing service and shall update the inventory annually at the beginning of each Contract Year including the first Contract Year. The inventory shall list all Collection Vehicles by manufacturer, ID number, date of acquisition, model year, type, and capacity.
- 14.4 Cleaning and Maintenance:** Contractor shall maintain all of its properties, facilities and equipment used in providing service under the Contract in a safe, neat, clean and operable condition at all times.
- 14.5 Dual Use Collection Vehicles:** Contractor shall be permitted to utilize Collection Vehicles to Collect Residential Single-stream Recovered Materials in Collection Vehicles that have been used to collect Residential Municipal Solid Waste, Bulky Waste, and/or Yard Trimmings provided that the Contractor shall have cleaned the interior of the Collection Vehicle body after each use and the

Contractor shall identify each Collection Vehicle that is used to collect Residential Single-stream Recovered Materials as a "RECYCLING" Collection Vehicle in letters twelve (12) inches in height.

- 14.6 Washing of Collection Vehicles:** Collection Vehicles used in the Collection services under the Contract shall be thoroughly washed on a regular basis so as to present a clean appearance. The County may inspect Collection Vehicles at any time to determine compliance with sanitation requirements.
- 14.7 Maintenance of Collection Vehicles:** Contractor shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be taken out of service until they are repaired and do operate properly. Contractor shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Contractor shall keep accurate records of all Collection Vehicle maintenance, recorded according to date and mileage, and shall make such records available to the County upon request to the extent necessary to ensure compliance of manufacturer's recommended scheduled Collection Vehicle maintenance service. The County may inspect the Contractor's vehicles and maintenance records upon 48 hours' notice to the Contractor.
- 14.8 Repair of Collection Vehicles:** Contractor shall repair, or arrange for the repair of, all of its Collection Vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall maintain accurate records of repair, which shall include the date/mileage, nature of repair and the signature of a maintenance supervisor that the repair has been properly performed.
- 14.9 Storage of Collection Vehicles:** Contractor shall arrange to store all Collection Vehicles and other equipment in safe and secure location(s), where applicable, in accordance with all applicable laws and regulations.

## **15. UNACCEPTABLE WASTE**

The Contractor shall not be required to collect or dispose of Unacceptable Waste set out by any Service Unit. Title to Unacceptable Waste shall at all times remain with the generator of such Unacceptable Waste regardless of whether the Unacceptable Waste is loaded or unloaded. Contractor shall, however, notify the Service Unit of the reasons for rejection of the Waste, as required by Paragraph 6.1.4 above.

## **16. COMPLAINTS**

- 16.1** The Contractor shall maintain and adequately staff a Customer Service call center to handle customer calls and complaints throughout the Term of the Contract. At a minimum, the office hours of the call center shall be from 8:00 am until 5:00 pm, Monday through Friday. Contractor's call center shall use a computerized customer database that shall be updated by the Contractor's employees. All service requests or complaints shall initially be directed to Contractor's Customer Service Department. All legitimate complaints resulting

solely from the actions or omission of the Contractor and not due to Uncontrollable Circumstances documented as provided in Section 20, including but not limited to reports of individual Missed Collections, shall be resolved within twenty-four (24) hours from the initial receipt of the complaint, unless the complaint was received on a Sunday or a Holiday, then the complaint shall be resolved by the end of the next business day. The County hereby authorizes Contractor to reenter an area in order to provide remedial services.

**16.2** Contractor will generate an electronic work order outlining all complaints received. The work order will contain:

**16.2.1** Identification number

**16.2.2** Date and time of initial call

**16.2.3** Date and time of any follow up call(s)

**16.2.4** Customer name, service address, and phone number

**16.2.5** Type of service request or complaint

**16.2.6** Contractor contact by whom service request or complaint was received

**16.3** Contractor will issue a work order for each complaint. Upon resolution of the customer complaint, and no later than 9 p.m. of the day the complaint is resolved, Contractor will close the work order and enter the results into the call center database and the CRM System. The closed work order information will include all of the above data, plus:

**16.3.1** Contractor's determination as to legitimate or non-legitimate service request or complaint

**16.3.2** Action taken to satisfy request or resolve complaint

**16.3.3** Date of communication with Service Unit

**16.3.4** Date and time of action taken

**16.4** Contractor shall configure the computerized customer database that stores the service request and complaint records, and those records shall be provided to the County simultaneously as data is entered into the record.

**16.5** Contractor shall summarize work orders and complaints on a monthly basis.

## **17. QUALITY OF PERFORMANCE OF CONTRACTOR**

**17.1 Key Performance Indicators:** The parties agree that the purpose of this Agreement, in part, is to aid the County in providing residential solid waste and recovered materials services to protect the health, safety, and general welfare of Gwinnett County and its residents. The parties further agree that the quality of the performance of Contractor impacts the ability of the County to protect the health, safety, and general welfare of the County and its residents. To ensure that the County's ability to protect the health, safety, and welfare of its residents is maintained with respect to solid waste and recovered materials services and that

residents receive quality services for fees remitted, the quality of Contractor's day-to-day performance under this Agreement shall be measured by key performance indicators (KPIs) as outlined in this Section 17.

**17.2 Breach of Contract:** Except as otherwise provided for herein, the failure of Contractor to meet the KPIs outlined herein shall be considered a breach of the Contract with the County.

**17.3 Liquidated Damages:** The Parties agree that injury to the County caused by such breach or breaches will be difficult or impossible to estimate accurately and the amount of damages set forth below for each breach are reasonable estimates of the County's probable losses. Therefore, for the purpose of computing damages under the provisions of the Contract, the County may deduct from payment due, or to become due, the Contractor, the amounts set forth in Subsection 17.4 as liquidated damages. The parties further agree that these amounts are damages and not penalties against the Contractor.

**17.4 Specific Key Performance Indicators and Liquidated Damages Amounts.** The following subsections set forth the parties agreed upon KPIs and associated liquidated damages:

**17.4.1 Missed Collections**

**17.4.1.1 Missed Collections - Individual.**

Failure to collect residential solid waste from a Service Unit resulting in Contractor having more than one (1) Missed Collection per every 1,000 Service Units in Contractor's Service Area per calendar week. Each individual Missed Collection of residential solid waste above 1 per 1,000 Service Units shall result in the imposition of a liquidated damage in the amount of \$25.

Failure to collect recovered materials from a Service Unit resulting in Contractor having more than one (1) Missed Collection per every 1,000 Service Units in Contractor's Service Area per calendar week. Each individual Missed Collection of recovered materials above 1 per 1,000 Service Units shall result in the imposition of a liquidated damage in the amount of \$25.

Missed Collections of residential solid waste or recovered materials shall be calculated by the Solid Waste Division from its CRM System by dividing the total number of complaints coded as Missed Collections for residential solid waste or recovered materials, as applicable, by the number of Service Units in the Service Area.

In the event Contractor provides evidence sufficient to the County to demonstrate that a failure to collect residential solid waste or recovered materials did not result solely from the actions or omission of the Contractor or was due to Uncontrollable Circumstances documented as provided in Section 20, such failure to collect shall not be considered as a Missed Collection for purposes of this subsection or subsection 17.4.1.2. In making its determination, the County will consider all

evidence provided by Contractor, including but not limited to, photographic or other evidence that a cart or bin was not present or was set out improperly, a cart or bin was overloaded, additional residential solid waste or recycled material was placed outside of the cart or bin, or materials not acceptable for collection were placed in the cart or bin.

**17.4.1.2 Failure to Correct Missed Collections- Individual.** Failure to correct a Missed Collection in accordance with Section 3.3.1 above, resulting in Contractor having more than one (1) failure to correct a Missed Collection per every 10,000 Service Units in Contractor's Service Area per calendar week. Each failure to correct above 1 per 10,000 Service Units shall result in the imposition of a liquidated damage in the amount of \$50. Failure to correct Missed Collections shall be calculated by the Solid Waste Division from its CRM System by dividing the total number of complaints coded as Missed Collections that are not collected in the prescribed time by the number of Service Units in the Service Area.

**17.4.1.3 Chronic Problems.** Failure or neglect to correct chronic problems in any category of service, at the same premises. Chronic problems shall mean three similar incidents at the same premises within a three-month period. Each failure to correct a chronic problem shall result in the imposition of a liquidated damage in the amount of \$500 for the third occurrence at the same address within a three-month period. Failure to correct chronic problems shall be calculated by the Solid Waste Division from its CRM System from the listing of total number of complaints coded within a three-month period.

After each chronic liquidated damages assessment at the same premises, the chronic problem process will restart such that Contractor will not be assessed liquidated damages pursuant to this subsection until three additional problems have been reported. Nothing in this section precludes the County from assessing liquidated damages pursuant to other provisions of this Section for the first or second incident.

**17.4.1.4 Failure to Correct Missed Collections – Area.** Failure to correct Missed Collections from an Area in accordance with Section 3.3.2 above, resulting in more than three (3) occurrences per calendar quarter. The fourth Missed Collection and each subsequent occurrence per calendar quarter shall result in the imposition of a liquidated damage in the amount of \$2,000. Missed Collections for an Area shall be calculated by the Solid Waste Division from its CRM System from the listing of total number of complaints for an Area coded within a calendar quarter.

## **17.4.2 Reporting.**

**17.4.2.1 Contractor Reports.** Failure to notify the County of delayed or unfinished routes in accordance with Section 3.3.2 above. Each missing or untimely report shall result in the imposition of a liquidated damage in the amount of \$1,000. Missing and untimely reports shall be determined by the Solid Waste Division conducting a site audit after receipt of a report of Missed Collections in an Area. Pictures and a map will be documented in the CRM System and provided to Contractor.

**17.4.2.2 Contractor CRM Utilization.** - Failure to enter complaints into the CRM System as required. Each missing or untimely entry in excess of one (1) per every 1,000 Service Units in Contractor's Service Area per week shall result in the imposition of a liquidated damage in the amount of \$15 if an entry is not contained in either the CRM System or Contractor's customer service records system. Missing and untimely entries shall be determined by the Solid Waste Division comparing daily records from the CRM System with work orders entered in Contractor's customer service records system.

**17.4.2.3 Missed Area Notification** – Failure to notify Service Units within a Missed Collection Area of the Missed Collection by 9 p.m. on the day of the Missed Collection shall result in the imposition of a liquidated damage in the amount of \$250 per occurrence.

## **17.4.3 Maintaining Clean Operations.**

**17.4.3.1 Residential Municipal Solid Waste or Recovered Materials Spills.** Failure to clean up spilled Residential Municipal Solid Waste or, if requested by the Service Unit, Residential Single-stream Recovered Materials or Glass resulting from loading and/or transporting. Each incident shall result in a liquidated damage in the amount of \$100. Incidents shall be determined by the Solid Waste Division site audit of any complaints received. Pictures will be documented in the CRM System and provided to Contractor along with notification to clean up the spill.

**17.4.3.2 Hydraulic/Motor Oil or other Spills.** Failure to remove or clean up spills as required. When a hydraulic oil, motor oil or other spill resulting from equipment breakdowns or leaks occurs, the Contractor shall immediately apply Oil Dry or a similar product. After removing such product, the Contractor shall apply degreaser or oil stain remover, as applicable. Thereafter, the affected area shall be steam cleaned. During this cleaning process, the Contractor shall post a notice of the remediation process outside the clear zone and within the County's right of way. In the event that a Contractor's equipment leaks hydraulic fluid more than 2 times in any calendar quarter, the Contractor shall replace all hydraulic hoses and fittings on the equipment within 5 days of the County's receipt of the report of the third such spill.

Each incident of a failure to remove and clean up spills as required shall result in the imposition of a liquidated damage in the amount of \$250



for the first occurrence and \$500 for each subsequent occurrence within the same calendar quarter. Incidents shall be determined by the Solid Waste Division site audit of any reports received. Pictures will be documented in the CRM System and provided to Contractor along with notification to clean up the spill.

**17.4.4 Collection Container Delivery.** Failure to deliver requested carts and/or bins in accordance with Section 3.2. Each occurrence in excess of one (1) per every 10,000 Service Units in Contractor's Service Area per calendar week. Each failure to deliver above 1 per 10,000 Service Units shall result in the imposition of a liquidated damage in the amount of \$50. Failures to deliver shall be calculated by the Solid Waste Division from its CRM System listing of total complaints coded as missed cart/bin delivery.

**17.4.5 Commingling.** Commingling of Residential Single-stream Recovered Materials with Residential Municipal Solid Waste without explicit written authorization from the County. Each occurrence of unauthorized commingling of Residential Single-stream Recovered Materials with Residential Municipal Solid Waste shall result in the imposition of a liquidated damage in the amount of \$250. Commingling violations shall be determined by the Solid Waste Division investigating any reports received.

**The KPIs in Section 17.4 are summarized in the following table on the following page.**

**KPI Table - Performance Area: Service Quality and Reliability**

<b>Specific Performance Measure</b>	<b>Minimum Performance Level</b>	<b>Tracking Method</b>	<b>Liquidated Damages Amount</b>
Missed Collections- Individual	Less than 1/1,000 Service Unit per week.	CRM Data	\$25 per occurrence
Failure to Correct Missed Collections- Individual	Less than 1/10,000 Service Unit per week.	CRM Data	\$50 per occurrence
Chronic Problems	Less than 3 occurrences at same address in a 3-month period	CRM Data	\$500 for 3 <sup>rd</sup> occurrence at the same address
Failure to Correct Missed Collection- Area	No more than 3 per calendar quarter	CRM Data	\$2,000 for 4 <sup>th</sup> and subsequent occurrences
Contractor Reports	No missed or untimely reports	CRM Data and Site Audit	\$1,000 per failure to communicate occurrence
Contractor CRM Utilization- Entry of Complaints	Less than 1/1,000 Service Unit per week.	CRM Data and data from Contractor's customer service records system	\$15 per record not in either system
Missed Collection Area Notification	No missed or untimely notifications	Contractor Reports and CRM Data	\$250 per occurrence
Residential Municipal Solid Waste or Recovered Materials Spills	No failure to clean up spills	Reports of spills and site audit	\$100 per occurrence
Hydraulic/Motor Oil or other Spills	No failure to clean up spills	Reports of spills and site audit	\$250 for the first occurrence; \$500 for each subsequent occurrence in a calendar quarter
Collection Container Delivery	Less than 1/10,000 Service Units per week.	CRM Data	\$50 per occurrence
Commingling	No failure from commingling	Reports of commingling	\$250 per occurrence

**17.5** The County shall provide written notification to the Contractor of the assessment of any liquidated damages under this Section within thirty (30) days of the date of breach giving rise to the assessment of liquidated damages. Such notice shall set forth in reasonable detail the section under which liquidated damages are being assessed and reasonable detail regarding the breach including location, date, and type of breach. Such notices shall be mailed to:

Red Oak Sanitation  
Stub Luce  
President  
2 Ruby Street  
Gainesville, GA 30501

**17.6 Appeals Process for Assessment of Liquidated Damages:** Within 20 business days of the assessment of any liquidated damages, the Contractor may submit a written appeal to the person designated by the County setting forth Contractor's arguments for why such damages are unjustifiable. The County shall consider all such appeals in good faith. Within 5 business days of the submittal of the appeal, the person designated by the County shall notify the Contractor in writing of any action taken with respect to Contractor's claims.

## **18. MANNER OF COLLECTION GENERALLY**

The Contractor shall collect Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Yard Trimmings, Bulky Waste, or White Goods, with as little disturbance as possible and shall leave Carts at the Designated Collection Location. Contractor will use reasonable efforts to leave the Carts in an upright position with the lids closed. The Carts shall at all times remain the property of Contractor. Any Cart damaged by the Contractor will be replaced by the Contractor within five (5) Business Days at no cost to the Service Unit; provided however it shall be the responsibility of the Service Unit to properly use and safeguard the Contractor's Carts. Each Service Unit shall have the sole responsibility, and shall be liable, for all loss and damage, normal wear and tear excepted, to such Carts and for the cleanliness and safekeeping of such Carts. Contractor shall have the right to charge the Service Unit for the cost of repair or replacement of Carts, including any delivery fees, if such repair or replacement is required as a result of abuse, misuse or damage, fire, or theft. Throwing of any Cart or other Collection Receptacle is prohibited.

## **19. NATURAL DISASTERS**

In the event of a hurricane, tornado, major storm including but not limited to snow storm, high winds in excess of 40 mph, or other natural disaster, the Contractor's responsibility shall be to reestablish regular routes and schedules for the Collection Services on the Day following the event. If Collection is not possible on the Day following the event, Collection shall resume on the Day and schedule agreed upon by the General

Manager of the Contractor and the Chairman of the Board of Commissioners. The Collection and Disposal of Municipal Solid Waste shall be the highest priority. The Collection and Disposal of debris generated by a natural disaster shall not be the responsibility of the Contractor. Under a separate contract, the County may procure Collection and Disposal services for debris generated by a natural disaster. The Contractor agrees to provide reasonable cooperation with the County and the debris Collection contractor in the aftermath of a natural disaster in an effort to return the County to its pre-disaster state, and resume normal Collection Services.

**20. UNCONTROLLABLE CIRCUMSTANCES**

Neither the County nor Contractor shall be considered to be in Default of this Contract if delays in or failure of performance shall be due to Uncontrollable Circumstances, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The non-performing 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 Contract. Any such notice provided by Contractor shall also include, if applicable, a listing of any KPIs that Contractor will be unable to meet due to the described Uncontrollable Circumstances along with any associated requests for waivers of liquidated damages, and a proposal for notification of Service Units of any potential service disruptions. The County shall provide written confirmation of receipt of the notice confirming any liquidated damages the County agrees should be waived due to the Uncontrollable Circumstances and approving any needed notification to Service Units.

Notwithstanding any other provision of this Agreement to the contrary, the parties agree that if Contractor provides notice of an inability to provide all or specified Collection Services due to Uncontrollable Circumstances, the County may withhold payment for the Residential Solid Waste Collection Service or Residential Recovered Materials Collection Service not provided and may enter into any agreement with any other entity for performance of the Collection Services not provided due to any Uncontrollable Circumstances.

**21. PERMITS AND LICENSES**

The Contractor shall obtain, at its sole 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 County within ten (10) business days of the change.

**22. PERFORMANCE BOND**

The Contractor shall furnish to the County a Performance Bond or Irrevocable, Direct Pay Letter of Credit conditioned upon the true and faithful performance of the Contract in the

amount equal to \$150,000.00. The Performance Bond shall be written for a period of one (1) year and renewed on an annual basis by the Contractor and maintained throughout the Term of Contract. Upon the Contractor's successful completion of the Contract the County will release the Performance Bond. In the event of an uncured Default by Contractor, the County may procure services from other sources and shall hold the Contractor responsible for any costs to the County to procure the services of a new Contractor and for the costs to the County for providing the services in the interim period between the Default and the procurement of a new Contractor. The County shall draw on the Contractor's Performance Bond or Letter of Credit as necessary for such new Contractor and services.

**23. EMPLOYEE WAGES AND BENEFITS**

The Contractor shall comply with all applicable Local, State and Federal laws 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 furnish reasonable uniforms, rain gear and safety equipment at its expense.

**24. INSURANCE**

Contractor shall maintain, during the Term of Contract, at its own expense, appropriate and adequate insurance policies as required by the County, including, but not limited to the following:

- a) Statutory workers' compensation insurance
  - Employer's liability for bodily injury by accident: \$500,000 each accident
  - Employer's liability for bodily injury by disease: \$500,000 policy limit \$500,000 each employee
- b) Commercial general liability insurance
  - \$1,000,000 limit of liability per occurrence for bodily injury and property damage
  - \$1,000,000 limit of liability per occurrence for personal injury
  - Commercial general liability written on an occurrence form, which includes contractual liability, broad form property damage, incidental medical malpractice, severability of interest, and extended bodily injury.
  - Additional insured endorsement which includes ongoing operations and completed operations.
- c) Auto liability insurance
  - \$1,000,000 limit of liability per occurrence for bodily injury and property damage
  - Comprehensive form covering all owned, non-owned, leased, hired, and borrowed Collection Vehicles

- Coverage for cleanup of pollutants due to an accident, including Pollution Liability Broadened Form endorsement.
  - If the auto policy does not include this endorsement form, must have a separate Contractors Pollution Liability Policy endorsed with the Transportation Pollution Liability form with a minimum limit of \$1,000,000.
- d) Excess liability insurance – Minimum \$5,000,000 limit of liability
- The excess liability coverage must be an occurrence form policy including coverage for all required endorsements and no additional exclusions.
  - The excess liability policy must extend over the general liability, automobile liability, and employers' liability policy forms.
  - The excess liability policy must have concurrent effective dates with the primary coverage parts.
- e) Gwinnett County, Georgia and the Gwinnett County Board of Commissioners should be shown as additional insureds on general liability, auto liability, and Excess liability policies.
- f) The cancellation provision must provide 90 Days' notice of cancellation.
- g) The certificate holders and additional insureds must be added as specified above, and must read as follows:
- Gwinnett County, Georgia and Gwinnett County Board of Commissioners  
75 Langley Drive  
Lawrenceville, GA 30046
- h) Insurance companies must have an A.M. Best Rating of A-6 or higher. Certain workers' comp funds may be acceptable by the approval of the County. European markets including those based in London and domestic surplus lines markets that operate on a non-admitted basis are exempt from the requirement provided that the Contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best Rating of A-6 or better.
- i) The Georgia Department of Insurance must license the insurance company to do business in the State of Georgia unless otherwise approved by the County.
- j) Certificates of insurance, and any subsequent renewals, must reference Solid Waste Collection and Disposal services.
- k) The Contractor shall agree to provide summaries of current insurance policies, if requested, to verify compliance with these insurance requirements.
- l) The Contractor shall incorporate a copy of the insurance requirements as herein provided in each and every subcontract with each and every subcontractor in any tier, and shall require each and every subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason its subcontractor fails to procure and maintain insurance as required, all such required insurance shall

be procured and maintained by Contractor at Contractor's expense.

- m) No Contractor or subcontractor shall commence any work of any kind under this Contract until all insurance requirements contained in this Contract have been complied with and until evidence of such compliance satisfactory to the County as to form and content has been filed with the County. The Accord Certificate of Insurance or a pre-approved substitute is the required form in all cases where reference is made to a certificate of insurance or an approved substitute.
- n) Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor (service provider) and all subcontractors of the liability provisions of the Contract.
- o) Contractor and all subcontractors shall comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, and any other laws that may apply to this Contract.
- p) Contractor shall at a minimum apply risk management practices accepted by the Contractor's industry.
- q) Contractor shall waive all rights of subrogation against the County, the Gwinnett County Board of Commissioners, and their officers, officials, employees, and volunteers from losses arising from work performed by the Contractor.

## **25. INDEMNIFICATION**

Contractor agrees to indemnify, defend and save harmless the County, its agents, officers and employees, against and from any and all claims by or on behalf of any person, firm, corporation or other entity arising from any negligent act or omission or willful misconduct of the Contractor, or any of its agents, contractors, servants, employees or contractors, and from and against all costs, counsel fees, expenses and liabilities incurred in or about any such claim or proceeding brought thereon. Promptly after receipt from any third party by the County of a written notice of any demand, claim or circumstance that, immediately or with the lapse of time, would give rise to a claim or the commencement (or threatened commencement) of any action, proceeding or investigation (an "asserted claim") that may result in losses for which indemnification may be sought hereunder, the County shall give written notice thereof (the "claims notice") to the Contractor provided, however, that a failure to give such notice shall not prejudice the County's right to indemnification hereunder except to the extent that the Contractor is actually and materially prejudiced thereby. The claims notice shall describe the asserted claim in reasonable detail, and shall indicate the amount (estimated, if necessary) of the losses that have been or may be suffered by the County when such information is available. The Contractor may elect to compromise or defend, at its own expense and by its own counsel, any asserted claim. If the Contractor elects to compromise or defend such asserted claim, it shall, within 20 business days following its receipt of the claims notice (or sooner, if the nature of the asserted claim so required), notify the County of its intent to do so, and the County shall cooperate, at the expense of the Contractor, in the compromise of, or defense against, such asserted claim. If the Contractor elects not to compromise or defend the asserted claim, fails to notify the County of its election as herein provided or contests its obligation to provide indemnification under this

agreement, the County may pay, compromise or defend such asserted claim with all reasonable costs and expenses borne by the Contractor. Notwithstanding the foregoing, neither the Contractor nor the County shall settle or compromise any claim without the consent of the other party; provided, however, that such consent to settlement or compromise shall not be unreasonably withheld. In any event, the County and the Contractor may participate, at their own expense, in the defense of such asserted claim. If the Contractor chooses to defend any asserted claim, the County shall make available to the Contractor any books, records or other documents within its control that are necessary or appropriate for such defense.

Notwithstanding the above, the Contractor shall not be responsible for, nor be required to indemnify or hold the County harmless for, any such damages caused by acts or omissions of the County or any one of its officers, representatives, employees or agents. The foregoing sentence, does not modify or effect the insurance coverage required under the terms of this Contract for the benefit of the County.

**26. ACCESS AND AUDITS**

The Contractor shall maintain within the County adequate records of the Collection Services performed by the Contractor during the Contract Year and for one year following the end of each Contract Year. During the term hereof, Contractor shall maintain records of Contractor's fuel usage. The County shall have the right to review all records maintained by the Contractor pursuant to this Contract upon 24 hours written notice. In addition to the above, the County shall be entitled upon request to receive from the Contractor any records or documents maintained by the Contractor to perform such audits or investigations reasonably calculated to assess the performance by the Contractor under this Contract or to verify fuel adjustments as provided for under this Contract.

**27. POINT OF CONTACT**

All dealings, contacts, notices, and payments between the Contractor and the County shall be directed by the Contractor to the person designated by the County.

**28. NOTICE**

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by a nationally recognized overnight delivery service, or certified mail, postage prepaid as follows:

**As to the County:**

Gwinnett County  
c/o Director of Support Services  
75 Langley Drive  
Lawrenceville, GA 30046



With a copy to:  
Gwinnett County Attorney  
Law Department  
75 Langley Drive  
Lawrenceville, GA 30046

**As to Contractor:**

Red Oak Sanitation, Inc  
Stub Luce  
President  
2 Ruby Street  
Gainesville, GA 30501

Notices shall be effective upon delivery or refusal of delivery at the address as specified above. Changes in the respective addresses to which such notice is to be directed, may be made from time to time by written notice.

**29. DEFAULT OF CONTRACT**

**29.1 Rights and Remedies Upon Default:** If a party is in Default, then, at the option of the non-Defaulting party, this Contract may be immediately terminated or suspended upon written notice to the Defaulting party, or this Contract may be continued in force and the non-Defaulting party shall have the right to take whatever action at law or in equity deemed necessary or desirable to collect any amounts then due or thereafter to become due under this Contract, or to enforce performance of any covenant or obligation of the Defaulting party under this Contract. The rights and remedies under this paragraph shall be in addition to those otherwise allowed by law or in equity. In the event that the County terminates this Contract, the County may immediately assign the Service Units previously serviced pursuant to this Contract to other haulers with whom the County has an Agreement for Residential Solid Waste Collection and Disposal and Collection of Residential Single-Stream Recovered Materials at the time of such termination. Such assignment of Service Units shall be at the sole discretion of the County.

**29.2 Events of Default by Contractor:** Except to the extent caused by the occurrence of an Uncontrollable Circumstance or the County's fault, any unwarranted and intentional neglect, failure or refusal of the Contractor to comply with any material provision of the Amendment of the Gwinnett County Solid Waste Collection And Disposal Services Ordinance entered March 2, 2010 ("2010 Ordinance"), as amended, or this Contract within 30 days after written notice from the County setting forth the specific provision and noncompliance, said notice to be mailed to Contractor at its principal place of business by certified mail, return receipt requested, shall be deemed a breach of the 2010 Ordinance and this Contract, and the County, upon notice to the Contractor and hearing, may, for good cause declare this Contract forfeited and exclude the Contractor

from further use of the County streets and the Contractor shall thereupon surrender all rights in and under this Contract. In order for the County to declare a forfeiture pursuant to the above, the County shall fully comply with the procedures set forth within section XVIII of the 2010 Ordinance which are incorporated herein by reference.

**29.2.1** The Contractor being insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver trustee, or liquidator for a substantial part of its property; or a bankruptcy, winding up, reorganization, insolvency, arrangement, or similar proceeding instituted by the Contractor, under the laws of any jurisdiction, or against the Contractor, if the Contractor does not take the appropriate action to dismiss said proceedings; which proceedings have not been dismissed within one-hundred and twenty (120) Days of the institution of such proceedings; or any action or answer by the Contractor approving, consenting to, or acquiescing in, any such proceedings; or the event of any distress, execution, or attachment upon the property of the Contractor which shall substantially interfere with its performance hereunder.

**29.2.2.** The County shall, as soon as practical, notify Contractor of any failure on Contractor's part to comply with the terms of this Contract. After receipt of notice from the County, Contractor shall acknowledge receipt of such notice and shall promptly provide the County with notice of what corrective action has or shall be taken by the Contractor, within a reasonable time, in light of the circumstances.

### **29.3 Events of Default by the County:**

The following shall constitute events of Default on the part of the County, except to the extent excused by the occurrence of an Uncontrollable Circumstance or Contractor's fault unless otherwise specified herein:

**29.3.1** A failure by the County to timely perform any obligation under the terms of this Contract or the 2010 Ordinance, as amended, and the continuance of such failure after (i) written notice thereof has been provided by the Contractor specifying such failure and requesting that such condition be remedied, and (ii) County's failure to cure the Default or immediately initiate and diligently pursue reasonable action and cure such nonperformance within fifteen (15) Days after receiving notice from the Contractor (provided, if such failure is of a nature that it cannot be cured within such fifteen (15) day period, the County shall not be in Default if County commences the curing of such failure within such fifteen (15) Day period, and diligently pursues the curing thereof and both the County and Contractor agree that the failure cannot be cured in fifteen (15) Days); or

**29.3.2** The County being insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property; or a bankruptcy, winding

up, reorganization, insolvency, arrangement or similar proceeding instituted by the County under the laws of any jurisdiction or against the County, if the County does not take appropriate action to dismiss said proceedings, which proceedings have not been dismissed within ninety (90) Days of the institution of such proceedings; or any action or answer by the County, approving of, consenting to, or acquiescing in, any such proceedings; or the levy of any distress, execution or attachment upon the property of the County, which shall substantially interfere with its performance hereunder.

**29.3.3** Contractor shall, as soon as practical, notify the County of any failure on the County's part to comply with the terms of this Contract. After receipt of notice from the Contractor, the County shall acknowledge receipt of such notice and shall promptly provide the Contractor with notice of what corrective action has or shall be taken by the County, within a reasonable time, in light of the circumstances. Failure to promptly provide acknowledgement of receipt of notice, or notice of planned corrective action, shall constitute an event of Default by the County.

**30. RIGHT TO REQUIRE PERFORMANCE**

The failure of either party at any time to require performance by the other party of any provisions hereof shall in no way affect the right of such party thereafter to enforce the same. Nor shall waiver by either party of any breach of any provisions hereof be taken or held to be a waiver of any succeeding breach of such provisions or as a waiver of any provision itself.

**31. TITLE TO WASTE**

Subject to section 15 of this Contract, the Contractor shall hold title and ownership of Residential Municipal Solid Waste, Residential Single-stream Recovered Materials, Yard Trimmings, Bulky Waste, and White Goods, once placed in the Designated Collection Location by the Service Unit. Notwithstanding the above, title to Unacceptable Waste shall not pass to the Contractor.

If any future Legislation is passed by the Congress of the United States that creates financial benefits for Contractor based solely on Contractor's ownership or control of Single Stream Recovered Materials which exceeds any related increase in costs to Contractor from or related to the same Legislation, Contractor will negotiate in good faith with the County regarding the appropriate allocation of those financial benefits between the County and Contractor.

**32. GOVERNING LAW, DISPUTE RESOLUTION**

This Contract shall be governed by and interpreted under the laws of the State of Georgia.

**33. COMPLIANCE WITH LAWS**

Each of the County and the Contractor shall conduct operations under this Contract in compliance with all applicable federal, state and local laws.

**34. SEVERABILITY**

The invalidity, illegality, or non-enforceability of any provision of this Contract, or the occurrence of any event rendering any portion or provision of this Contract void, shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void.

**35. TRANSFER AND ASSIGNMENT**

No assignment or transfer of this Contract or any right occurring under this Contract shall be made in whole or part by the Contractor without the express written consent of the County, such consent not to be unreasonably withheld or delayed. The County in its discretion may assign this Contract to an Authority created by law to administer solid waste management and collection within the County.

The parties acknowledge and agree that the Service Areas are determined pursuant to the 2010 Ordinance, as amended, in which the terms contemplate adjustment of Service Zones. This provision is not intended to preclude a Contractor or other company from acquiring or merging with another authorized Contractor providing Collection Services under a Contract with the County at the time of such acquisition or merger, subject to County consent as provided above.

For purposes of this section a parent subsidiary or holding company shall mean any person, corporation, company or other entity holding, owning or in control of more than 10% stock or financial interest of another person, corporation, company or other entity.

**36. MODIFICATION**

Except for the 2010 Ordinance, as amended, to which this Contract is made subject, this Contract 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 PARTIES TO AGREEMENT**

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing a partnership relationship between the parties hereto, or as constituting the Contractor as the agent, representative or employee of the County for any

purpose whatsoever. The Contractor is to be and shall remain an independent contractor with respect to all services performed under this Contract.

**38. CHANGE OF LAW**

The parties understand and agree that the Georgia 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 may require changes or modifications in some of the terms, conditions or obligations under this Contract. Nothing contained in this Contract shall require any party to perform any act or function contrary to law.

**39. BINDING EFFECT**

This Contract shall inure to the benefit of and shall be binding upon the Contractor, the County and their respective successors and assigns, subject, however, to the limitations contained in this Contract.

**40. TIME IS OF THE ESSENCE**

Time is of the essence of this Contract with respect to the obligations of the Contractor hereunder.

**41. COUNTERPARTS**

This Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**42. CAPTIONS; DESIGNATIONS**

The captions and headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Contract. Whether the context of this Contract requires, the masculine gender includes the feminine or neuter and the singular number includes the plural.

**43. REPRESENTATIONS**

The parties signing this Contract warrant that they have been authorized to do so by the Gwinnett Board of Commissioners or by the appropriate board or officer as the case may be. The Contractor shall provide to the County written authorization by the appropriate officer that the Contractor is authorized by the governing body of the corporation to enter into this contract and to be bound by its terms and obligations. In addition, the County represents, warrants to Contractor and covenants and agrees as follows:

**43.1** The County validly exists as a political subdivision under the laws of the State of Georgia. The County has full power and authority to enter into this Contract and to fully perform all of its duties and obligations hereunder. The County's Board

of Commissioners has duly authorized the execution and delivery of this Contract and the County's performance of all of its duties and obligations contained herein, and this Contract constitutes a valid and legally binding obligation of the County, enforceable in accordance with its terms. Notwithstanding the foregoing, the County may take any further actions it deems necessary to approve, adopt, enter, and perform this Contract.

**43.2** The County is not aware of any additional consents or approvals required to enter or perform this Contract by the County. Furthermore, the County is not aware of any statute, rule, regulation, ordinance, agreement, instrument, judgment, decree, or order to which the County is a party or by which the County or its assets is bound that conflicts with the entering into or performance of this Contract.

**43.3** To the best of the County's knowledge and belief, there is no action, suit, judgment, consent order or investigation or proceeding pending or threatened, relating to this Contract. The County will notify Contractor promptly if any such action, suit, investigation or proceeding is instituted or threatened. The County will notify the Contractor promptly upon receipt of any complaint or notice of non-compliance with all applicable federal, state and local laws, rules, regulations, orders, ordinances, judgments, permits, licenses, approvals, and variances.

**44. RECITALS**

The parties hereto acknowledge and agree that the "whereas" recitals set forth above are accurate, true and correct and, by this reference are made a part hereof and are incorporated herein.

**45. CONSTRUCTION AND MODIFICATION**

This Contract is to be construed consistent with the 2010 Ordinance, as it may be amended from time to time. To the extent this Contract cannot be construed consistent with the 2010 Ordinance, the Parties agree that this Contract shall be amended to the extent necessary to comply with the 2010 Ordinance. The parties agree to execute any and all amendments necessary to amend this Contract consistent with the 2010 Ordinance as amended prior to or subsequent to the effective date of this Contract. In addition, the Settlement and Release Agreement entered on March 23, 2010, and the Consent Order resulting from such Settlement and Release Agreement, have been satisfied in full, and this Agreement and the Amendment to this Agreement are no longer subject to the terms of the Settlement and Release Agreement or the resulting Consent Order.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date evidenced on the first page hereof.

SIGNATURES TO COMMENCE ON THE PAGES FOLLOWING THIS PAGE

**GWINNETT COUNTY, GEORGIA.**

**By:**

*Nicole L. Hendrickson*

Nicole L. Hendrickson, Chairwoman

**ATTEST:**

**By:**

*Tina M King*

Tina King, County Clerk  
(SEAL)



Approved as to form:

*[Signature]*

Deputy County Attorney

**RED OAK SANITATION, INC**

**By:**

*[Signature]*

Stub Luce, President

**ATTEST:**

**By: \_**

*[Signature]*

Secretary or Other Authorized Officer  
(SEAL)



## APPENDICES



**FIRST AMENDMENT TO THE AGREEMENT FOR RESIDENTIAL SOLID WASTE  
COLLECTION AND DISPOSAL AND COLLECTION OF  
RESIDENTIAL SINGLE-STREAM RECOVERED MATERIALS**

**LIST OF APPENDICES**

- I. Cart Specifications
- II. Residential Recovered Materials
- III. Federal Work Authorization Program Certification
- IV. Service Area

## Appendix I

### Cart Specifications

The following specifications represent the minimum standards required by the County with respect to the Carts. Unless otherwise stated within this Appendix I the term "Cart" shall mean "Residential Municipal Solid Waste Storage Cart" or "Residential Recovered Materials Storage Cart." The County may consider Carts which do not comply with one or more of the following specifications. Acceptability of alternative specifications is, however, the sole determination of the County.

1. The Carts are new or refurbished and are compatible with both standard American semi-automated bar-locking lifters (ANSI type B) as well as automated arm lifters (ANSI type G).
2. The Carts shall have lift points compatible with the standard American semi-automated bar-locking lifters. The lower bar shall be one-inch in diameter, galvanized steel or integrally molded plastic catch bar.
3. The Carts are designed to contain Residential Single-Stream Recovered Materials and Residential Municipal Solid Waste materials, as applicable, including paper, fibers, garbage, refuse, and rubbish. Residential Single-Stream Recovered Materials placed in the 95 gallon Cart will not be recycled. The 65 gallon Recycling Cart is designed to contain Residential Single-Stream Recovered Materials.
4. The Carts are provided with adequate wheels and handles so that it can be pushed or pulled with little effort.
5. The body of the Carts are composed of linear, medium or high-density polyethylene with no bolt on attachments except the lid. Contractor shall provide a copy of Cart specification sheets.
6. The capacity of the Residential Municipal Solid Waste Storage Cart shall be either approximately 95 or 65 U.S. gallons, excluding domed lid. The capacity of the Residential Recovered Materials Storage Cart is 65 U.S. gallons. Residential Recovered Materials Storage Carts shall be clearly marked "Recycling."
7. The Residential Municipal Solid Waste Storage Cart is designed to accommodate a load of three hundred thirty (330) pounds or two hundred thirty (230) pounds, excluding the weight of the Cart.
8. The Residential Municipal Solid Waste Storage Cart has wheels and galvanized, solid steel axles that are designed to support the weight of the Cart and its contents up to 330 pounds or 230 pounds.

9. The Carts are made with plastic materials using hot melt compounding that are specifically prepared to be colorfast so that they do not alter appreciably in normal use.
10. The Carts will have a color of Black, Gray, Brown, Green, Tan, Maroon, Burgundy, Blue, or certain other colors approved by the County. These colors must be stabilized against ultraviolet light attack with not less than one half of one percent (1/2 of 1%) UV 531 or equivalent.
11. The lid of the Cart (Lid) is designed to facilitate water run-off and configured so that it will not warp, slump or distort during container life. Lid shall open 270° using hinges. Living hinges and counterweights are unacceptable.
12. The Cart lid is held closed by its weight only. No latches are used or required.
13. The Carts, when empty, will not overturn when the lid is thrown fully open.
14. Each Cart will display the Contractor's company name.

## Appendix II

### Acceptable Residential Recovered Materials

The list of acceptable Recovered Materials to be collected upon request by the Service Unit is listed below. This list is subject to change after an annual review by the parties and upon the mutual consent of the parties during the Term.

<p><b>NEWSPAPER</b> Newspapers &amp; Inserts</p> <p><b>CARDBOARD</b> Cardboard Boxes (Broken Down) Pizza Boxes (with no food or grease)</p> <p><b>KRAFT PAPER</b> Kraft Paper Paper Grocery Bags Shopping &amp; Lunch Bags- Paper</p> <p><b>PAPERBOARD</b> Paperboard Cereal Boxes Tissue Boxes Paper Towel Cores Tissue Paper Cores Soda &amp; Beer Cartons Shoe Boxes</p> <p><b>MAGAZINES</b> Magazines Shopping Catalogues</p> <p><b>JUNK MAIL</b> Discarded Mail Greeting Cards Envelopes</p>	<p><b>MIXED PAPER</b> Calendars School Papers Carbonless Forms-Paper</p> <p><b>OTHER PAPER</b> Computer Paper Old Phone Directories Paperback Books</p> <p><b>ALUMINUM</b> Aluminum Beverage Containers Aluminum Baking Tins Aluminum Food Containers</p> <p><b>STEEL</b> Steel Food Containers Empty Aerosol Cans Clean Metallic Lids</p> <p><b>PLASTIC</b> Plastic Soda &amp; Water Bottles (#1) Milk Jugs (#2) Plastic Detergent Bottles (#2)</p>
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**APPENDIX III**

GWINNETT COUNTY, GEORGIA  
CERTIFICATION OF PARTICIPATION  
IN FEDERAL WORK AUTHORIZATION PROGRAM

This will affirm that and its subcontractors have registered for and are participating in the federal work authorization program defined by O.C.G.A. § 13-10-90(2) to verify information for all new employees. All documents and records of this verification process shall be retained for a period of three (3) years following completion of the contract.

By:

  
\_\_\_\_\_

Date 9/12/22

Anthony Godoladuro  
Printed Name

