

BILL #2803

AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE A SOLID WASTE LICENSE AGREEMENT WITH ALLIED SERVICES, LLC, DBA REPUBLIC SERVICES OF BRIDGETON, FOR RESIDENTIAL SOLID WASTE, RECYCLING, AND YARD WASTE COLLECTION, HAULING, AND DISPOSAL WITHIN THE CITY OF WILDWOOD.

WHEREAS, Missouri Revised Statutes Sections 70.220 through 70.325, as amended, authorize political subdivisions to contract and cooperate with any private corporation for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service; and

WHEREAS, City, pursuant to Section 230.250 of the Code of Ordinances of the City of Wildwood, Missouri (the “Code”), has determined it to be to the benefit of the health safety and general welfare of the residents of the City to enter into an agreement granting the exclusive right to collect, transport, process and remove solid waste within the limits of the City, subject to the limitations and provisions therein; and

WHEREAS, consistent with Chapter 230 of the Code, the City published a Request for Proposal for Residential Solid Waste, Recycling and Yard Waste Collection, Hauling, Processing and Disposal, dated March 2, 2023, copies of which are on file in the Office of the City Clerk, and incorporated by reference herein (the “RFP”); and

WHEREAS, the City received no proposals that met the minimum requirements of the RFP; and

WHEREAS, consistent with the RFP the Code, the City may reject any and all proposals and negotiate more favorable terms; and

WHEREAS, Allied Services, LLC, dba Republic Services of Bridgeton, (“Republic”) submitted to the City a proposal to provide solid waste collection, disposal and recycling services within a portion of the City, such proposal being dated April 26, 2023, and on file in the office of the City Clerk of the City and incorporated by reference herein (the “Proposal”); and

WHEREAS, on May 2, 2023, the Administration and Public Works Committee of the City recommended that the City negotiate and enter into an agreement with Republic for providing solid waste collection and disposal and recycling services to the residents of the City consistent with the scope of services described in the Proposal; and

WHEREAS, after due evaluation of the Proposal, the City Council has determined that it is in the best interest of the City and its residents to grant a license to Republic; and

WHEREAS, Republic is qualified to provide solid waste collection, disposal and recycling services, and the has agreed to contract with Republic to provide such services for the City and its residents upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF

WILDWOOD, MISSOURI, AS FOLLOWS:

Section One. That the form, terms, and provisions of the Solid Waste License Agreement by and between the City of Wildwood, Missouri, and Allied Services, LLC, dba Republic Services of Bridgeton, attached hereto, marked as **Exhibit A**, and incorporated by reference herein (the “Agreement”), be and are hereby approved and the Mayor is hereby authorized, empowered and directed to further negotiate, execute, acknowledge, deliver and administer on behalf of the City such Agreement in substantially the form attached hereto. The City Clerk is hereby authorized and directed to attest to the Agreement and other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of the Agreement and this Ordinance.

Section Two. That the Mayor is hereby further authorized and directed on behalf of and in the name of the City to agree to do any and all other acts and things and to execute and deliver any and all other agreements, documents, instruments and certificates, all as may be necessary and appropriate to consummate the above mentioned Agreement, and to perform all of the terms, provisions and conditions of the Agreement. The execution by the Mayor of any agreement, document, instrument, check or certificate referred to in this Ordinance and the Agreement shall be conclusive evidence of the approval thereof and of all of the terms, provisions and conditions contained therein. Any and all acts which the Mayor may do or perform in conformance with the powers conferred upon them by this Ordinance are hereby expressly authorized, approved, ratified and confirmed.

Section Three. Except as set forth in Section One of this Ordinance, the City Council does hereby reject any and all proposals submitted in response to the RFP, and any and all acts the Interim City Administrator or Director of Public Works have or will perform consistent with this Section are hereby expressly authorized, approved, ratified and confirmed.

Section Four. Savings. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

Section Five. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section Six. This Ordinance shall be in full force and effect from and after its passage and approval.

This Bill was passed and approved this ____ day of _____, 2023, by the Council of the City of Wildwood, Missouri, after having been read by title or in full two (2) times prior to its passage.

Presiding Officer

James R. Bowlin, Mayor

ATTEST:

ATTEST:

City Clerk

City Clerk

SOLID WASTE LICENSE AGREEMENT

This Solid Waste License Agreement (the “**Agreement**”) is made and entered into this 1st day of August, 2023 (“**Effective Date**”), by and between the CITY OF WILDWOOD, MISSOURI (“**City**”), and ALLIED SERVICES, LLC, dba REPUBLIC SERVICES OF BRIDGETON, a Delaware limited liability company qualified to do and actually doing business in the State Missouri (“**Company**”).

RECITALS

WHEREAS, Missouri Revised Statutes Sections 70.220 through 70.325, as amended, authorize political subdivisions to contract and cooperate with any private corporation for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service; and

WHEREAS, City, pursuant to Section 230.250 of the Code of Ordinances of the City of Wildwood, Missouri (the “**Code**”), has determined it to be to the benefit of the health safety and general welfare of the residents of the City to enter into an agreement granting the exclusive right to collect, transport, process; and

WHEREAS, Company submitted to the City a proposal to provide solid waste collection, disposal and recycling services within a portion of the City, such proposal being dated April 26, 2023, and on file in the office of the City Clerk of the City and incorporated by reference herein (the “**Proposal**”); and

WHEREAS, after due evaluation of the Proposal, City has determined that it is in the best interest of the City and its residents to grant a license to Company; and

WHEREAS, City desires that Company provide Services as defined herein for the Location Types as set forth in this Agreement and Company desires to do so, all in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement, the parties agree as follows:

TERMS AND CONDITIONS

1. Sole and Exclusive License. Company is hereby granted the sole and exclusive license and privilege to provide for the collection and disposal of all conforming Waste Material and Recyclable Material (as defined in Exhibit A and Exhibit C) (the “**Services**”) for the following types of locations (“**Location Types**”) within the territory of the City depicted on Exhibit B (the “**Service Area**”):

Location Types

<input checked="" type="checkbox"/> Residential Units	<input type="checkbox"/> Large Commercial Units
<input type="checkbox"/> Small Commercial Units	<input type="checkbox"/> Industrial Permanent Units
<input checked="" type="checkbox"/> Municipal Facilities	<input type="checkbox"/> Industrial Temporary Units

2. Newly Developed Areas. If the City develops new areas (of the same Location Types as designated above) within the Service Area. The City shall provide Company with written notification of such newly developed areas, and within thirty (30) days after receipt of such notification, Company shall provide the Services as set forth in this Agreement in such newly developed area(s). If the City annexes any new areas that it wishes for Company to provide the Services for Location Types, the Parties shall negotiate a

mutually acceptable amendment to this Agreement adding such annexed areas to the scope of the Services and setting forth the rates that will apply for the Services in such area(s).

3. Scope of Services. Company shall furnish all equipment, trucks, personnel, labor, and all other items necessary to perform the Services. The Services shall not include the collection, disposal, or recycling of any Excluded Waste or Waste Material located at any Location Type not designated above, or any Waste Material/Service Types not designated in any exhibit attached hereto.
4. Out of Scope Services May Be Contracted for Directly with Customers. Company may provide collection and disposal or recycling service within the Service Area for any Waste Material and/or Location Types that are outside the scope of this Agreement pursuant such terms and conditions as may be mutually agreed upon by Company and such Customers. Such services and agreements are outside the scope of this Agreement, and this Agreement does not require such Customers to use Company for such services, but they may do so at their discretion. The City agrees that Company may use any information received from the City in marketing all of its available services to the Customers located within the City, whether included in the scope of this Agreement or not.
5. Exhibits. All Exhibits attached to this Agreement are an integral part of the Agreement and are incorporated herein.

Exhibit A Specifications for Municipal Solid Waste Services

Exhibit A-1 Municipal Solid Waste Pricing

Exhibit B The Service Area

Exhibit C Specifications for Recycling Services

Exhibit D Company's Performance Bond

6. Term. This Agreement begins on the Effective Date and expires five (5) years thereafter (the “**Initial Term**”) but shall automatically renew for successive five-year periods (each a “**Renewal Term**”) (the Initial Term and all Renewal Terms being collectively referred to as the “**Term**”) unless (a) City provides written notice of non-renewal at least sixty (60) days prior to the expiration of the then current Term, (b) Company provides written notice of non-renewal at least one (1) year prior to the expiration of the then current term, or (c) unless otherwise terminated in accordance with the terms of this Agreement. In the event of such extension, all terms and conditions of the Agreement shall be in full force and effect during each Renewal Term.
7. Rates for Services; Rate Adjustments; Additional Fees and Costs.

7.1 Rates for Services. The rates for all Services shall be as shown on Exhibit A-1, subject to the rate adjustments and additional fees and costs as set forth herein.

7.2 Annual Rate Adjustments. Company shall increase the rates for all Services effective on each anniversary of the Effective Date of this Agreement in an amount of four (4) percent.

In the event that one or more material elements of cost to provide Service under this Agreement experiences a year over year (YoY) change greater than 15% Company may increase the Annual Rate Adjustment above the 4%; provided, however, no Annual Rate Adjustment shall exceed the percentage increase in the Consumer Price Index for All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by United States Department of Labor, Bureau of Statistics (the “CPI”). For the CPI calculation, rates will be adjusted using the

most recently available trailing twelve (12) months average CPI compared to the twelve (12) months preceding. For purposes of this Section, A material element of cost shall be defined as a category of cost making up 5% or more of the annual costs to provide the Services pursuant to this Agreement.

7.3 Change in Law Adjustments. Subject to the limitations set forth in Section 7.2 of this Agreement, Company may increase the rates for Services as a result of actual, demonstrable and reasonable increases in costs incurred by Company due to (a) changes in local, state, federal or international rules, ordinances or regulations; (b) changes in taxes, fees or other governmental charges (other than income or real property taxes); (c) uncontrollable prolonged operational changes (i.e., a major bridge closure); and (d) increased fuel costs. Increases in the rates of Services as a result of the reasons set forth in this Section 7.3 shall not take effect unless written notice of such increase, and a detailed accounting justifying same, are provided to City at least thirty (30) days prior to the effective date of such rate increase.

8. Invoicing; Payment; Service Suspension; Reports.

8.1 Invoicing the Customer Directly. Company shall invoice each individual Customer for all Services rendered to such Customer under this Agreement within fifteen (15) days following the end of the month, and the Customer shall pay Company's invoices.

8.2 Payment. The Customer shall pay each of Company's invoices without offset within twenty (20) days of receipt Company's invoice. Payments not made on or before their due date may be subject to late fees of one and one-half percent (1.5%) per month (or the maximum allowed by law, if less). If the City or Customer, as applicable, withholds payment of a portion or entire invoice and it is later determined that a portion or all of such withheld amount is owed to Company, such amount shall be subject to the late fees provided herein from the original due date until paid.

8.3 Service Suspension.

8.3.1 Unpaid Invoices. If any amount due from the City is not paid within sixty (60) days after the date of Company's invoice, Company may suspend Services until the City has paid its outstanding balance in full and/or terminate this Agreement. If Company suspends Service, the City shall pay a service interruption fee in an amount determined by Company in its discretion up to the maximum amount allowed by Applicable Law. If any amount due to Company from an individual Customer is not paid within sixty (60) days after the date of Company's invoice, Company may suspend that Customer's Services until the Customer has paid its outstanding balance in full. If Company suspends Service, the Customer shall pay a service interruption fee in an amount determined by Company in its discretion up to the maximum amount allowed by Applicable Law.

8.3.2 Suspension at Direction of City. If the City wishes to suspend or discontinue Services to a Customer for any reason, the City shall send Company a written notice (email is acceptable as long as its receipt is acknowledged by Company) identifying the Customer's address and the date the Services should be suspended or discontinued. In the event of Service suspension, the City shall provide additional email notification to Company if/when it wishes to reactivate the suspended Services. Upon receipt of a notice of reactivation, Company shall resume the Services on the next regularly scheduled collection day. City will be responsible for any claims, suits, damages, or liabilities or expenses result that Company incurs as a result of City's direction to suspend services.

8.5 Monthly Reports. On or before the fifteenth (15th) day of each month during the Term, Company shall submit to City reports, in Microsoft Excel format, that shall include, the following data for the month immediately preceding the month the report is provided to City:

- The number of Residential Units served.
- The number of Residential Units participating in Recycling Services (based on accurate counts by Company).
- The number of Residential Units subscribing to the Yard Waste collection program.
- The amount (in tons) of Recyclable Materials and Yard Waste collected in the Service Area diverted from a landfill.
- The amount (in tons) of Waste Material collected in the Service Area and disposed of in a landfill.

If the 15th day of the month falls on a weekend, the said reports may be submitted the following Monday.

9. Termination. If either party breaches any material provision of this Agreement and such breach is not substantially cured within ten (10) days after receipt of written notice from the non-breaching party specifying such breach in reasonable detail, the non-breaching party may terminate this Agreement by giving thirty (30) days' written notice of termination to the breaching party. All terms, conditions and specifications of the Agreement are considered material, and failure to perform any part of the Agreement shall be considered a breach of the Agreement. However, if the breach cannot be substantially cured within ten (10) days, the Agreement may not be terminated if a cure is commenced within the cure period and for as long thereafter as a cure is diligently pursued. Upon termination, Company shall collect its equipment, and Company shall have no further obligation to perform any Services under this Agreement.

Notwithstanding the foregoing, City reserves the right to terminate this Agreement in the event that Company (a) fails to provide Services to any Customer whose Services are not suspended pursuant to Section 7.3 of this Agreement, and fails to cure such failure within one (1) business day following Company's receipt of written notice from City by United States mail, first class, detailing the failure; (b) is found by a court of competent jurisdiction, or by final order of any state or federal agency, to be in violation of any regulation, order or ruling of any regulatory body having jurisdiction over Company relative to the collection, disposal or processing of solid waste, but only to the extent such finding or order materially relates to the provision of Services pursuant to this Agreement; (c) shall be adjudged bankrupt, either by voluntary or involuntary proceedings, and in no event shall this Agreement be, or be treated as, an asset of Company after adjudication of bankruptcy; or (d) fails to collect solid waste, yard waste or recyclables for any five (5) day period beyond the scheduled collection day as provided herein (other than delays caused by force majeure as set forth in this Agreement), the City is authorized to execute against the Performance Bond, and, notwithstanding any other provision of this Agreement to the contrary, City may terminate this Agreement without further notice to Company.

9.1. Transition After Termination. At the end of the Term, or should either party terminate this Agreement, Company agrees to cooperate with City in effecting an orderly transition to a new provider of Services.

9.1.1. Communication. Not less than ninety (90) days prior to the end of the Term, Company shall provide written notification to Customers of the date that Company's Services

pursuant to the Agreement will cease. Such notice shall also state the date by which the containers will be collected from the Residential Unit.

9.1.2. Billing. Company's final billing statement must include a statement that the Agreement is terminated and that this is a final bill for Services from Company.

9.1.3. Containers. Company must collect from each Residential Unit and all Municipal Facilities all containers during the last week of the Term of the Agreement following the Customer's last scheduled collection.

9.1.4. Customer List. Company must provide to City, not less than 120 days prior to the end of the Term, a list of all then current Customers within the Service Area, in Microsoft Word or Excel formats. This list shall include: Locator Number, House Number, Service Address (street, city, and zip) Name, Account Holder Name, Account Billing Address, Account Contact Phone #'s and Account E-mail Address(s), and Account Optional Services.

9.1.5. Information to City. Not less than one hundred twenty (120) days prior the end of the Term, Company shall provide to City the following:

9.1.5.1. A copy of Company's notification to Customers that Contractor's contract with the City will expire and the date(s) when the Contractor's rental containers will be collected from the customer's property address.

9.1.5.2. Copy of the Customer's final billing statement.

10. Compliance with Laws. Company warrants that the Services will be performed in a good, safe and workmanlike manner, and in compliance with all applicable federal, state, provincial and local laws, rules, regulations, and permit conditions relating to the Services, including without limitation any applicable requirements relating to protection of human health, safety, or the environment ("**Applicable Law**"). Company reserves the right to decline to perform Services, which, in its judgment, it cannot perform in a lawful manner or without risk of harm to human health, safety or the environment. Nothing herein shall be construed as an abrogation or limitation by City of any of its police powers, and irrespective of this Agreement, the City may amend or enact any legislation or law within the scope of its authority as a Charter city of the State of Missouri.

11. Title. Title to Waste Material shall pass to Company when loaded into Company's collection vehicle or otherwise received by Company. Title to and liability for any Excluded Waste shall at no time pass to Company.

12. Excluded Waste. If Excluded Waste is discovered before it is collected by Company, Company may refuse to collect the entire waste container that contains the Excluded Waste; provided that Contractor shall have provided notice to the City of any decision to decline collection within seven (7) days thereof. In the event Excluded Waste is present but not discovered until after it has been collected by Company, Company may, in its sole discretion, remove, transport, and dispose of such Excluded Waste at a facility authorized to accept such Excluded Waste in accordance with Applicable Law and, in Company's sole discretion, charge the depositor or generator of such Excluded Waste for all direct and indirect costs incurred due to the removal, remediation, handling, transportation, delivery, and disposal of such Excluded Waste. The City shall provide all reasonable assistance to Company to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Company in connection with such Excluded Waste. Company shall release City from any

liability for any such costs incurred by Company in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the City.

13. Equipment; Access. Any equipment that Company furnishes or uses to perform the Services under this Agreement shall remain Company's property. Customers shall use the equipment only for its proper and intended purpose and shall not overload (by weight or volume), move, or alter the equipment. If the equipment and/or Waste Material is not accessible so that the regularly scheduled pick-up cannot be made, such Waste Material will not be collected until the next regularly scheduled pick-up, unless the Customer calls Company and requests an extra pick-up, in which case an extra service charge will apply. Except in the case of Contractor's negligence or willful misconduct, Company shall not be responsible for any damages to any property or equipment located adjacent to the collection receptacles, nor to any pavement, curbing, or other driving surfaces resulting from Company's providing the Services under this Agreement.
14. Indemnification. Company shall, at all times, fully indemnify, hold harmless, and defend City and its officers, and employees from and against any and all third party claims and demands, actions, causes of action, and cost and fees of any character whatsoever made by anyone whomsoever on account of or in any way growing out of the negligent performance of this Agreement by Company and its employees, or because of any negligent act, negligence or misconduct of Company, its employees and agents or its subcontractors including, but not limited to, any claims that may be made by the employees themselves for injuries to their person or property or otherwise; provided, however, the foregoing shall not apply to the extent caused by any intentional act, negligence or misconduct of City and its officers and employees.

Such indemnity shall not be limited by reason of the enumeration of any insurance coverage herein provided.

Nothing contained herein shall be construed as prohibiting City, its directors, officers, agents, or its employees from defending through the selection and use of their own agents, attorneys and experts, any claims, actions or suits brought against them.

Anything to the contrary contained in this Agreement notwithstanding, no provision, term, or condition in this Agreement shall constitute, or be construed as, a waiver of the defenses of sovereign immunity, official immunity, or governmental immunity, by whatever name, as set forth in Section 537.600 RSMo. et. seq., for any monetary amount whatsoever, or of any other defenses, howsoever named, that are, or in the future may become, available to City by statute or common law..

15. Insurance. Company shall procure and maintain for the duration of the Agreement, including any extension thereof, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Company, its agents, representatives, employees or subcontractors, including those insurance coverages set forth below. All such insurance policies shall name City as an ADDITIONAL INSURED via blanket-form endorsement, with the exception of the Worker's Compensation/Employer's Liability Policy. Each insurance policy required by this clause, except Worker's Compensation/Employer's Liability and Umbrella Liability, shall be endorsed, via blanket-form endorsement, to state that coverage shall not be cancelled, materially changed, or non-renewed, except after thirty (30) days prior written notice. or by such other method approved by City, has been given to City. Insurance is to be placed with insurers with a Bests' rating of no less than A:VI. The cost of such insurance shall be included in Company's rates.

MINIMUM LIMITS OF INSURANCE

Company shall maintain limits no less than:

- a. Workers' Compensation for statutory limits and Employer's Liability coverage with a minimum \$1,000,000 limit.
- b. Comprehensive General Liability or Broad Form Comprehensive General Liability to cover claims which may arise from operations under this Agreement. The policy shall include, but not be limited to, protection for the following hazards:
 - i. Premises and Operations – Bodily Injury & Property Damage Liability
 - ii. Independent Contractors Liability Coverage
 - iii. Products & Completed Operations Liability coverage to apply one year beyond completion and acceptance of the work specified by this Agreement.
 - iv. Personal Injury Liability and Advertising Injury Liability
 - v. Broad Form Property Damage
 - vi. Contractual Liability
 - vii. Explosion, collapse, and underground damage, if applicable

The above policy shall be written with limits of at least \$3,000,000 per occurrence, and \$5,000,000 aggregate, which may be satisfied by umbrella/excess liability policies.

- c. Business Automobile Policy (Comprehensive Automobile Liability Insurance) provides coverage for all owned, non-owned, and hired vehicles. Minimum limits should be at least \$3,000,000 Each Occurrence Bodily Injury Liability and Property Damage Liability and include MCS-90 endorsement for pollution liability coverage.
- d. Umbrella/Excess Liability – Limit of \$3,000,000 which will be excess of the primary limits for General Liability, Auto Liability and Employer Liability.

OTHER INSURANCE PROVISIONS

Company shall also obtain and pay for insurance policies that contain, or are endorsed to contain, the following provisions:

- a. The Company's insurance coverage SHALL BE PRIMARY INSURANCE as respects City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officers, officials, employees or volunteers.

Company's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

VERIFICATION OF COVERAGE

Company shall furnish City with an ACORD 25 certificates of insurance and a blanket-form additional insured endorsements (“AIE”) issued by each applicable insurance carrier to evidence the coverages required pursuant to this Agreement, utilizing ISO Forms CG 20 10 (04 13), and CG 20 37 (04 13), or equivalent forms with equivalent coverage. The certificates for each insurance policy are to be signed by a person authorized by that insurer to sign on its behalf, and are to be received by City.

SUBCONTRACTORS

Company shall include all subcontractors as additional insureds under its policies or shall furnish separate certificates of each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

16. Force Majeure. Except for City’s obligation to pay amounts due to Company, any failure or delay in performance under this Agreement due to contingencies beyond a party’s reasonable control, including, but not limited to, strikes, riots, terrorist acts, compliance with Applicable Laws or governmental orders, fires, bad weather and acts of God, shall not constitute a breach of this Agreement, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Agreement during the term of such event and for a reasonable time thereafter. The collection or disposal of any increased volume resulting from a flood, hurricane or similar or different Act of God over which Company has no control, shall not be included as part of Company’s service under this Agreement. In the event of increased volume due to a Force Majeure event, Company and the City shall negotiate the additional payment to be made to Company. Further, the City shall grant Company variances in routes and schedules as deemed necessary by Company to accommodate collection of the increased volume of Waste Materials.
17. Performance Bond. Company shall furnish to City a Performance Bond in favor of the City, specified by name, in the amount of twenty (20) percent of the annual amount invoiced by Company to Customers pursuant to this Agreement, up to a maximum of \$1,000,000.00. The Performance Bond guaranteeing performance shall remain in effect for the Term of the Agreement and shall be delivered upon execution of this Agreement. A new Performance Bond shall be delivered to City at least thirty (30) days prior to the expiration date of an existing bond.
18. Non-Discrimination. Company shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin in its performance of Services under this Agreement.
19. Licenses and Taxes. Company shall obtain all licenses and permits (other than the license and permit granted by this Agreement) and promptly pay all taxes required by the City and by the State.
20. No Guarantees or Liquidated Damages. Unless specifically provided herein, Company provides no guarantees or warranties with respect to the Services. No liquidated damages or penalties may be assessed against Company by City.
21. Miscellaneous. (a) This Agreement represents the entire agreement between the Parties and supersedes all prior agreements, whether written or verbal, that may exist for the same Services. (b) Company shall have no confidentiality obligation with respect to any Waste Materials. (c) Neither party shall assign this Agreement in its entirety without the other party’s prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Company may assign this Agreement without the City’s consent to its parent company or any of its subsidiaries, to any person or entity that purchases any operations from Company or as a collateral assignment to any lender to Company. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their permitted successors and assigns.

(d) Company may provide any of the Services covered by this Agreement through any of its affiliates or subcontractors, provided that Company shall remain responsible for the performance of all such services and obligations in accordance with this Agreement. (e) No intellectual property rights in any of Company's IP are granted to City under this Agreement. (f) All provisions of the Agreement shall be strictly complied with and conformed to by the Parties, and this Agreement shall not be modified or amended except by written agreement duly executed by the undersigned parties. (g) If any provision of this Agreement is declared invalid or unenforceable, it shall be modified so as to be valid and enforceable but so as most nearly to retain the intent of the Parties. If such modification is not possible, such provision shall be severed from this Agreement. In either case, the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected thereby. (h) Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. (i) If any litigation is commenced under this Agreement, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding. (j) This Agreement shall be interpreted and governed by the laws of the State of Missouri excluding its principles of conflicts of laws and the parties hereto irrevocably commit to the jurisdiction and venue of the courts of St. Louis County to resolve any disputes arising hereunder or related hereto. (k) This Agreement may be signed in any number of counterparts, and if so signed and delivered, the counterparts, taken together and bearing the parties' signatures, shall together be deemed to be an original and shall constitute but one and the same binding Agreement. (l) City and Company agree that electronic signatures are valid and effective, and that an electronically stored copy of this Agreement constitutes proof of the signature and contents of this Agreement, as though it were an original. (m) The headings of this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part of it. (n) This Agreement cannot be modified or amended except by written agreement of the parties hereto.

22. Notices. Except as otherwise set forth in this Agreement, and except during the continuance of a known interruption of mail delivery service, in which event personal delivery or another means of delivery reasonably calculated to result in verifiable delivery shall be used, all notices, requests, demands and other communications required hereunder shall be deemed to have been duly given if the same shall be in writing and shall be delivered personally or sent by registered or certified mail, postage prepaid, and addressed as set forth below:

IF TO COMPANY:

Allied Services LLC
12976 St. Charles Rock Road
Bridgeton, Missouri 63044
Attn: Susan Piazza

IF TO CITY:

City of Wildwood, Missouri
16860 Main Street
Wildwood, Missouri 63040
Attn: Director of Public Works

Any party hereto may change the address to which notices are to be addressed by giving the other party notice, in the manner herein set forth.

23. Authorization and Capacity. City and Company each represent to the other that it has the full right, power and authority to enter into this Agreement and to fully perform its obligations. Each person executing this Agreement warrants and represents that each has the authority to execute this Agreement in the capacity stated and to bind City and Company, respectively, except as otherwise specifically set forth herein. Each person will furnish to the other such ordinances, resolutions, certificates and agreements as are reasonably necessary in order to confirm such authority and capacity of City and Company and the persons who are to execute this Agreement.

IN WITNESS HEREOF, the parties have entered into this Agreement as of the date first written above.

CITY OF WILDWOOD, MISSOURI

ALLIED SERVICE, LLC, dba
REPUBLIC SERVICES OF BRIDGETON

By: _____

By: _____

Name: James R. Bowlin

Name: _____

Title: Mayor

Title: _____

Date: _____

Date: _____

EXHIBIT A

SPECIFICATIONS FOR MUNICIPAL SOLID WASTE SERVICES

1. Waste Material. The following Waste Material shall be considered in scope during the Term of this Agreement:

<u> X </u> Municipal Solid Waste (MSW)	<u> X </u> Bulky Waste
<u> X </u> Yard Waste	<u> </u> Construction Debris

2. Definitions.

2.1 Bulky Waste – Furniture, mattresses, box springs and other similar items with weights and/or volumes greater than those allowed for the waste container supplied. All bulk material must be able to be safely collected by one (1) person. Bulky Waste excludes appliances, “white goods” and electronic waste.

2.2 Bundle – Tree, shrub and brush trimmings securely tied together forming an easily handled package not exceeding four (4) feet in length or thirty-five (35) lbs. in weight. No bundle shall exceed eighteen (18) inches in diameter; no tree limb shall exceed four (4) inches in diameter.

2.3 Construction Debris – Excess building materials resulting from construction, remodeling, repair or demolition operations.

2.4 Container (Cart) - Leak-proof, waterproof, and fly-tight containers with an attached flip-open style lid that: i) have handles, bails or other suitable lifting devices or features, ii) are constructed of nonabsorbent lightweight, sturdy plastic that does not become brittle in cold temperatures, iii) and has a minimum of two (2) wheels. For purposes of collection of Municipal Solid Waste Company each Container (Cart) provided by Company to Customers is 95 gallons in volume, or a second optional Container (Cart) acquired by Customer, subject to a fee, that is between 65 gallons and 95 gallons in volume.

2.5 Customer – An occupant or operator of any type of premise within the City that is covered by this Agreement and who generates Municipal Solid Waste and/or Recyclable Material, if applicable.

2.6 Disposal Site – A Waste Material depository including, but not limited to, sanitary landfills, transfer stations, incinerators, recycling facilities and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal of Waste Material.

2.7 Excluded Waste – Excluded Waste consists of Special Waste, Hazardous Waste, and any other material not expressly included within the scope of this Agreement including, but not limited to, any material that is hazardous, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic hazardous waste as defined by Applicable Law or any otherwise regulated waste.

2.8 Hazardous Waste – Any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other Applicable Law.

2.9 Municipal Facilities – Those specific municipal premises as set forth on Exhibit A-1 of this Agreement, if any.

2.10 Municipal Solid Waste (or “MSW”) – Useless, unwanted or discarded nonhazardous materials (trash or garbage) with insufficient liquid content to be free-flowing that result from residential, commercial, governmental and community operations. Municipal Solid Waste does not include any Excluded Waste.

2.11 Residential Unit – A single-family dwelling or two-family dwelling (as those terms are defined in Section 415.030 of the Code or Ordinances of the City of Wildwood, Missouri) where a person or group of people live.

2.12 Special Waste – Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special Waste includes, but is not limited to (a) waste generated by an industrial process or a pollution control process; (b) waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals; (c) waste which is nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (“RCRA”); (d) waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes; (e) waste which may contain free liquids and requires liquid waste solidification; (f) containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are “empty” as defined by RCRA; (g) asbestos containing or asbestos bearing material that has been properly secured under existing Applicable Law; (h) waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA); (i) waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and (j) Municipal Solid Waste that may have come into contact with any of the foregoing.

2.13 Waste Material – All nonhazardous Municipal Solid Waste and, as applicable, Recyclable Material (as defined in Exhibit C to the Agreement), Yard Waste, Bulky Waste and Construction Debris generated at the Location Types covered by this Agreement. Waste Material does not include any Excluded Waste.

2.14 Yard Waste – Grass, leaves, flowers, stalks, stems, tree trimmings, branches, and tree trunks. For yard waste collection services, grass, pine needles, leaves, flowers, stalks, stems, and small tree trimmings (less than two (2) feet in length and less than two (2) inches in diameter) shall be in a container, bag or box the weight of which shall not exceed thirty-five (35) pounds . Larger tree trimmings shall be laid neatly in piles at curbside. The maximum weight of any item placed out for yard waste collection shall be thirty-five (35) pounds. Branches in excess of two (2) feet in length are not required to be in a container, bag or box.

3. Collection Operations.

3.1 Location of Containers, Bags and Bundles for Collection. Each container, bag and bundle containing Waste Material shall be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled City roadways. Containers, bags and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, containers, bags and bundles shall be placed as close as practicable to an access point for the collection vehicle. Company may decline to collect any container, bag or bundle not so placed or any Waste Material not in a container, bag or bundle.

3.2 Frequency of Collection and Hours of Collection Operations. Company shall collect Municipal Solid Waste Materials and Yard Waste once per week at every eligible Residential Unit within the Service Area and provide pricing for additional weekly pick-ups. Company shall collect Bulky Waste once per month upon request within the Service Area and provide pricing for additional monthly pick-ups. Under no circumstances shall any collection occur on Sundays, unless previously approved by the City. Collection

of Waste Material shall be conducted between the hours of 7:00 A.M and 6:00 P.M., Monday through Friday with a provision for Saturday as an alternate day. Exceptions to collection days and hours required by this Section shall be affected only upon prior approval by the City.

3.3 Routes of Collection. Collection routes shall be established by the Company. Company shall submit the Residential Unit and Municipal Facility collection routes to the City at least two (2) weeks in advance of the commencement date for such route collection activity. The Company may from time to time make changes in routes or days of collection affecting Residential Units or Municipal Facilities, provided such changes in routes or days of collection are submitted to the City at least two (2) weeks in advance of the commencement date for such changes. Company shall promptly give written or published notice to the affected Residential Units.

3.4 Residential Collection. Company shall be obligated to collect no more than two containers (carts) per week from each Residential Unit . Any collections needed by a Residential Unit in excess of such amount must be individually contracted by the Residential Unit Customer with Company under terms, prices and documents acceptable to both the Residential Unit Customer and Company.

3.5 Holidays. The following shall be holidays for purposes of this Agreement: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Company may suspend collection service on any of these holidays, but such decision in no manner relieves Company of its obligation to provide collection service at least once per week.

3.6 Complaints. All service-related complaints must be made directly to the Company and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Company shall investigate and, if such allegations are verified, shall arrange for the collection of Waste Material not collected within one business day after the complaint is received.

3.7 Collection Equipment. The Company shall provide an adequate number of vehicles meeting standards and inspection requirements as set forth by the laws of the State for regular municipal waste collection services. For Waste Material collection, all vehicles and other equipment shall be kept in good repair and appearance at all times. Each vehicle shall have clearly visible on each side the identity of the Company.

3.8 Disposal. All Waste Material collected within the City under this Agreement shall be deposited at a Disposal Site selected by Company and properly permitted by the State.

3.9 Customer Education. At least thirty (30) days prior to the Effective Date, Company shall provide a minimum of one (1) printed education letter and/or brochure to be distributed to each eligible Residential Unit within the Service Area for the purpose of explaining the Services. Such materials shall be provided Company’s own cost.

Prior to the first anniversary of the Effective Date, Company shall provide educational materials/brochures to each eligible household one (1) time. Educational materials shall be delivered to households with adequate time before changes are implemented. Educational materials shall include all of the following information:

- Contact information for the Contractor – Address, phone number(s), email address(es) and website information
- Any changes to the rates for service
- Any changes to the services provided
- Waste collection procedures and days scheduled for pick-up(s)

- Recycling collection procedures, schedules and appropriate recyclable materials
- Yard waste collection procedures, schedules and appropriate yard waste materials
- Bulk pickup procedures and schedules including for appliances

Any other pertinent information deemed necessary to communicate any changes to rates or services provided to the City.

City shall approve the form and content of the educational materials/letter/brochure and advertisement prior to their dissemination. Such letter or brochure and advertisement shall be in addition to City's own educational material. City requires thirty (30) days' notice prior to approval of materials being sent to Residential Units.

Upon request of City and within reasonable notice, Company shall also make available personnel for presentations at meetings or other similar gatherings to explain the collection program throughout the term of the contract. The number of meetings shall not exceed two (2) per calendar year, unless requested by the City Council.

3.10 Litter or Spillage. Company shall not litter premises in the process of making collections, but Company shall not be required to collect any Waste Material that has not been placed in approved containers. During hauling, all Waste Material shall be contained, tied or enclosed so that leaking, spillage or blowing is minimized. In the event of spillage by Company, Company shall be required to clean up the litter caused by the spillage. Company shall be required to immediately clean up and remove all vehicle fluid leaks or spills resulting from hauling vehicles that occur upon the streets or ground during hauling operations.

EXHIBIT A-1

MUNICIPAL SOLID WASTE PRICING

PRICING OPTION 1					
	4% PRICE INCREASE YEARS 2 thru 5 on 8/1				
	Year 1	Year 2	Year 3	Year 4	Year 5
REG Rate	\$ 31.93	\$ 33.21	\$ 34.54	\$ 35.92	\$ 37.35
Senior Rate	\$ 27.14	\$ 28.23	\$ 29.36	\$ 30.53	\$ 31.75
REG Opt YW	\$ 18.80	\$ 19.55	\$ 20.33	\$ 21.15	\$ 21.99
SR Opt YW	\$ 15.98	\$ 16.62	\$ 17.28	\$ 17.98	\$ 18.69

Pricing Option 1 includes all rental truck costs calculated into the monthly residential rate

Monthly rate above includes:

Trash and Recycling

Weekly collection - curbside only - cart contents only

Additional carts can be leased for a monthly rate of \$5.00 from Republic Services

Bulk Items

Two items collected monthly, on service date to be determined (ie "last trash day of month")

Yard Waste - Optional Service

Weekly Collection - January thru December

Must be in biodegradable/paper bags or in own containers marked with an "X"

10 bag/container limit; not to exceed 50 lbs each

Senior Rate - 15% discount

Available to 1-2 person households with at least one person age 65 or older

City Event containers as outlined in proposal packet

Municipal Containers as outlined in proposal packet

MUNICIPAL FACILITIES

Company will provide adequately sized dumpsters for the weekly collections of solid waste and recyclables at all Municipal Facilities at no additional cost. Municipal Facilities include:

- City Hall (solid waste and recycling)
- Anniversary Park (recycling only)

EXHIBIT B

SERVICE AREA

The Service Area shall include the territory of the City depicted in red, below, subject to any revisions requested by the Company and approved by the City Administrator, in writing.

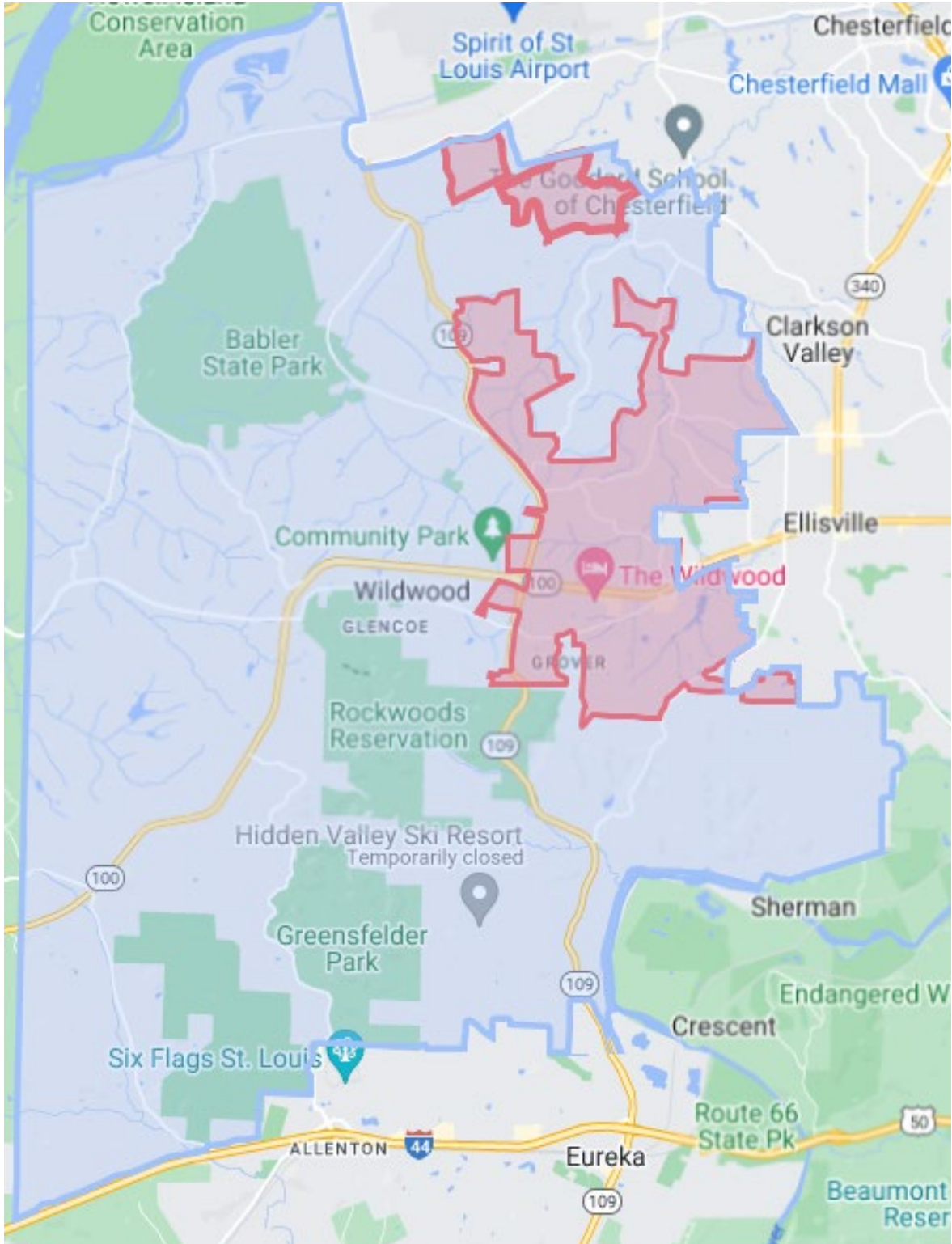


EXHIBIT C
SPECIFICATIONS FOR RECYCLING SERVICES

1. Recycling Services Definitions.

1.1 “**Container (Cart)**” shall have the same meaning as set forth in Exhibit A to the Agreement, provided, however, that for purposes of the collection of recyclable materials, the container shall be 65 gallons in volume.

1.2 “**Recyclable Materials**” are used and/or discarded materials that are capable of successful processing and sale on the commodity market.

1.3 “**Acceptable Material**” means the materials listed in Section 8 below.

1.4 “**Unacceptable Material**” means the materials listed in Section 9 below. All Recyclable Materials collected for delivery and sale by Company shall be hauled to a processing facility selected by Company for processing (“Recycling Services”).

2. Education. Company shall make a reasonable effort to educate its Customers regarding Acceptable and Unacceptable Materials and to encourage its Customers to place only Acceptable Materials in their recycling containers.

3. Right to Inspect/Audit. Company may visually inspect the collected Recyclable Materials to ensure loads are at or below the Unacceptable Material Threshold. If Company’s visual inspector determines that loads of Recyclable Material are consistently above the Unacceptable Material Threshold, Company will notify City of the issue and the parties agree to promptly negotiate in good faith (a) an agreed upon procedure to audit a representative sample of City’s Recyclable Material to determine its actual composition of Unacceptable Material; and (b) an updated Collection and Processing rate commensurate with the composition of Unacceptable Material.

4. Changes in Market Conditions. If market conditions develop that limit or inhibit Company from selling some or all of the Acceptable Material, Company may at its option and upon reasonable notice to City (i) redefine Acceptable and Unacceptable Materials,; or (ii) dispose of the Acceptable Material (as currently defined) in a landfill and update the pricing to City accordingly. Any such actions, if taken, may be reversed or further changed as market conditions dictate.

5. Acceptable Material. All Recyclable Material must be empty, clean and dry. Company may modify the following list of Acceptable Materials in its sole and absolute discretion but will provide City with at least thirty (30) days’ prior written notice of any such modifications.

- Aluminum food and beverage containers - aluminum soda and beer cans, cat food cans, etc.
- Ferrous Cans - soup, coffee cans, etc.
- P.E.T. plastic containers with the symbol #1 - no microwave trays
- H.D.P.E. natural plastic containers with the symbol #2 - milk jugs and water jugs containers only (narrow neck containers)
- H.D.P.E. pigmented plastic containers with the symbol #2 - detergent, shampoo, bleach bottles without caps (narrow neck containers); butter and margarine tubs
- Polypropylene plastic food and beverage containers symbol #5 - yogurt containers
- Mixed Paper (54), as defined in the most recent ISRI Scrap Specifications Circular

- Sorted Residential Paper and News (56), as defined in the most recent ISRI Scrap Specifications Circular
- Kraft Paper Bags
- Old Corrugated Containers (OCC) - no wax coated
- Magazines (OMG) - Coated magazines, catalogues and similar printed materials, junk mail, and soft cover books
- Aseptic Cartons - Juice boxes, gable top milk and juice containers, soy milk and soup cartons
- Glass food and beverage containers - Flint (clear), Amber (brown), Emerald (green)

6. Unacceptable Material. Company may modify the following list of Unacceptable Materials in its sole and absolute discretion but will provide City with at least thirty (30) days' prior written notice of any such modifications.

- Yard Waste
- Styrofoam
- Pizza Boxes, unless free of *any* food or grease residue
- Food
- Any liquids
- Diapers
- Clothing/textiles
- Plastic Bags or bagged material (newsprint may be placed in a Kraft bag)
- Plastic containers with #3, #4, #6, or #7 on them or no # at all
- Mirrors, window or auto glass, light bulbs, ceramics
- Oil or antifreeze containers
- Coat hangers
- Paint cans
- Medical Waste/Sharps
- Any Acceptable Material that is no longer acceptable due to its coming into contact with or being contaminated by Unacceptable Material.

7. Collection Operations.

7.1 Location of Containers. Each container containing Recyclable Material shall be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled City roadways. Containers shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, containers shall be placed as close as practicable to an access point for the collection vehicle. Company may decline to collect any container not so placed or any Recyclable Material not in a container.

7.2 Frequency of Collection and Hours of Collection Operations. Company shall collect Recyclable Material once per week at every eligible Residential Unit within the Service Area and provide pricing for additional weekly pick-ups. Under no circumstances shall any collection occur on Sundays, unless previously approved by the City. Collection of Recyclable Material shall be conducted between the hours of 7:00 A.M and 6:00 P.M., Monday through Friday with a provision for Saturday as an alternate day. Exceptions to collection days and hours required by this Section shall be affected only upon prior approval by the City.

7.3 Routes of Collection. Collection routes shall be established by the Company. Company shall submit the Residential Unit and Municipal Facility collection routes to the City at least two (2) weeks in advance of the commencement date for such route collection activity. The Company may from time to time make changes in routes or days of collection affecting Residential Units or Municipal Facilities, provided such

changes in routes or days of collection are submitted to the City at least two (2) weeks in advance of the commencement date for such changes. Company shall promptly give written or published notice to the affected Residential Units.

7.4 Residential Collection. Company shall be obligated to collect no more than one container (cart) per week from each Residential Unit. Any collections needed by a Residential Unit in excess of such amount must be individually contracted by the Residential Unit Customer with Company under terms, prices and documents acceptable to both the Residential Unit Customer and Company.

7.5 Holidays. The following shall be holidays for purposes of this Agreement: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Company may suspend collection service on any of these holidays, but such decision in no manner relieves Company of its obligation to provide collection service at least once per week.

7.6 Complaints. All service-related complaints must be made directly to the Company and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Company shall investigate and, if such allegations are verified, shall arrange for the collection of Recyclable Material not collected within one business day after the complaint is received.

7.7 Collection Equipment. The Company shall provide an adequate number of vehicles meeting standards and inspection requirements as set forth by the laws of the State for regular municipal waste collection services. For Recyclable Material collection, all vehicles and other equipment shall be kept in good repair and appearance at all times. Each vehicle shall have clearly visible on each side the identity of the Company.

7.8 Disposal. All Recyclable Material, collected within the City under this Agreement shall be deposited at a Disposal Site selected by Company and properly permitted by the State.

7.9 Litter or Spillage. Company shall not litter premises in the process of making collections, but Company shall not be required to collect any Recyclable Material that has not been placed in approved containers. During hauling, all Recyclable Material shall be contained, tied or enclosed so that leaking, spillage or blowing is minimized. In the event of spillage by Company, Company shall be required to clean up the litter caused by the spillage. Company shall be required to immediately clean up and remove all vehicle fluid leaks or spills resulting from hauling vehicles that occur upon the streets or ground during hauling operations.

EXHIBIT D
COMPANY'S PERFORMANCE BOND

Will be included after contract is fully executed.