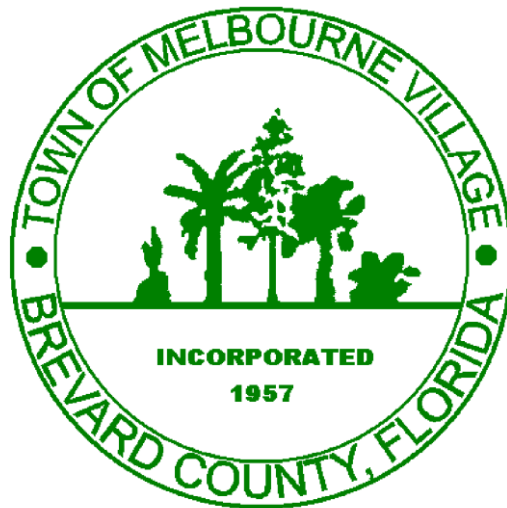


Town of Melbourne Village
SOLID WASTE
CONTRACT



February 2011

Town of Melbourne Village
And
Waste Pro, Inc.

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CONTRACT

THIS FRANCHISE CONTRACT made and entered into this 1st day of February, 2011, by and between the Town of Melbourne Village, Brevard County, Florida, hereinafter referred to as "the Town" and Waste Pro of Florida, Inc., hereinafter referred to as "the Contractor".

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Town and the Contractor hereby agree as hereinafter set forth:

SECTION 1 - DEFINITIONS

For the purpose of this article the following terms, phrases, words and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include singular number, and words in the singular number include the plural number. The "shall" is always mandatory and not merely directory.

A. BULKY WASTE

shall mean large discarded items generated from residences within the Town, such as furniture, bedding, refrigerators, stoves, and other household appliances.

B. CART, RESIDENTIAL (AKA TOTER)

shall mean a container mounted on wheels and designed for ease of use and durability, of not more than ninety six (96) gallons, with the option of a thirty two (32) gallon or sixty four (64) gallon upon residential request (unless otherwise approved by the Town) with an attached tight fitting lid. These containers are to be provided by the Contractor in accordance with the general specifications of the Contract.

C. COMMERCIAL, CART/TOTER PICK UP

shall mean garbage and trash collection service to commercial customers utilizing CARTS/TOTERS (96 gallons maximum).

D. COMMERCIAL FRONT OR REAR LOAD CONTAINER (DUMPSTER)

refers to a 2, 4, 6, or 8 yard mechanically emptied collection container.

E. COMMERCIAL RECYCLING COLLECTION

refers to collection, transportation, and recovery of recyclable materials by a Contractor from participating commercial units in the recycling service area. This Contract **does not include commercial recycling.**

F. COMMERCIAL TRASH

shall mean any and all accumulations of paper, rags, excelsior, wooden pallets, paper or cardboard boxes, or containers of sweepings, and any other

accumulations not included under the definition of garbage, generated by the operation of stores, offices, and other non-residential business places.

G. COMMERCIAL UNIT

shall mean all units other than those described in Section 1, CC Residential Units, and AHF and Town-owned property and buildings.

H. CONSTRUCTION AND DEMOLITION DEBRIS

means discarded materials generally considered to be not water-soluble and non hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including but not limited to rocks, soils, tree remains, trees, and other vegetative matter resulting from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris. The term also includes clean cardboard, paper, plastic, wood, and metal scraps from a construction project.

Effective January 1, 1997, except as provided in FS. 403.707(9) (j), unpainted, non treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non treated wood pallets, provided the wood scraps and pallets are separated from other solid waste where generated, and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other solid waste, and

De minimis amounts of other non hazardous wastes that are generated at construction or demolition projects provided such amounts are consistent with best management practices of the industry.

This term does not include debris resulting from weekend do-it-yourself projects. Any dispute regarding the classification of such shall be determined by the Town.

I. CONTRACTOR

shall mean Waste Pro of Florida, Inc. and its subcontractors who agree to perform the work or services as set forth in the Contract.

J. CUSTOMER

shall mean each and every residence, business, or other entity billed as an account under this agreement.

K. DESIGNATED RECOVERY FACILITY

shall mean the recycling/ processing center(s) specifically agreed upon by

the Contractor and Town for the recovery of recyclable materials.

L. EXCLUDED ACCOUNTS

shall mean the business accounts listed within the Town limits that are excluded from this Contract. **At the present time there are no excluded accounts.**

M. EXCLUDED WASTE

shall mean any and all debris and waste products generated by land clearing, building construction or alteration and hauled away by the respective Contractor (except do-it-yourself projects); public works type construction projects, whether performed by a governmental unit or by contract; waste produced by governmental agencies other than the Town of Melbourne Village; hazardous waste and items not allowed at the County landfill or other approved landfill. Yard waste produced by landscape maintenance Contractors which is required to be hauled away by same, as well as tree removal debris, except for owner-removed trees, is also included in this definition.

N. EXEMPT WASTE

shall mean vegetative garden and yard trash from land clearing operation or preparation for construction, or from removal of trees or tree trimming by a landscaping contractor or tree surgeon which shall be properly disposed of by the landscape contractor or tree surgeon.

O. GARBAGE

shall include and mean all accumulations of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruit, vegetables, and any other matter, of any nature whatsoever which is subject to decay, putrefaction and the generation of noxious and offensive gasses or odors, or which, during and after decay, may serve as breeding or feeding material for flies and/or other germ carrying insects; bottles, cans, or other food containers which due to their ability to retain water may serve as a breeding place for mosquitoes or other water-breeding insects This definition does not include recyclables.

P. GARBAGE CANS

shall be an approved plastic or galvanized metal container of a type commonly sold as a garbage can of a capacity not to exceed thirty-two (32) gallons. Each such container shall have two handles upon sides of container or bail by which it may be lifted, and shall have a tight fitting top.

Q. HOUSEHOLD TRASH

shall mean any and all accumulations of waste material from the operation of a home, which is not included within the definition of garbage. Household trash shall include all bulky wastes, yard toys, and building material waste from residential type do-it-yourself projects, but does not include vegetative matter.

R. MAYOR

shall mean the Town Mayor or his/her designee.

S. MULTI-FAMILY DWELLING UNITS

shall mean any building containing more than four (4) permanent living units that utilizes mechanically emptied containerized collection. **There are currently no units meeting this definition in the Town.**

T. NEIGHBORING COMMUNITY

shall mean municipalities within Brevard County.

U. RECOVERED MATERIALS

means metal, paper, cardboard, glass, plastic, textile, rubber materials, fluorescent light bulbs, and electronic waste otherwise known as E-waste, that have known recycling potential, can be feasibly recycled, and have been diverted and source-separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste.

V. RECYCLABLE MATERIALS

shall include brown paper bags, cereal boxes, envelopes with window, glossy paper, shredded paper, junk mail, magazines, office paper, phone books, soda & beer cartons, TV guides, newspaper and inserts, cardboard, aseptic packaging, steel cans, aluminum cans, green bottles, brown bottles, clear bottles and plastic bottles #1 through #7, and any items added in future by Brevard County Recycling.

W. RECYCLING BINS

shall mean a container with a flat bottom, four sides and an open top, designed for ease of use, either a 14 gallon or 18 gallon capacity. These containers are to be provided by the Contractor in accordance with the general specifications of this Contract.

X. RECYCLING CARTS/TOTERS

shall mean a container mounted on wheels and designed for ease of use and durability of not less than 32 gallons and not to exceed 96 gallons with a tight fitting lid. These containers are provided by the Contractor if Contractor elects to offer cart collection and the Town agrees in accordance with the general specifications of this Contract.

Y. RECYCLING SERVICE AREA

shall mean the entire area within the Town limits and as amended from time to time as a result of annexations and de-annexations to the Town.

Z. REFUSE

shall include and mean all garbage, dead animals, vegetative garden and yard trash, bulky wastes, household trash, commercial trash, and

construction and demolition debris

AA. RESIDENTIAL CURBSIDE COLLECTION

refers to collection, transportation, and recovery of garbage, vegetative garden and yard trash, bulk items, and recyclable materials by the Contractor from participating residential units in the entire area within the Town limit and as amended from time to time.

BB. RESIDENTIAL RECYCLING CONTAINERS

shall mean the receptacles as defined in W and X above.

CC. RESIDENTIAL UNIT

shall mean one single family or duplex dwelling or one living unit of an apartment or townhome which is served and billed as a residential account.

DD. ROLL OFF CONTAINERS

serviced by a specially-equipped truck.

Roll Off Compactor shall mean a container with closed sides, ends and top and a compaction unit located within the unit used for storing commercial and industrial waste for transportation and disposal ranging in size from 17 to 40 cubic yards.

Roll Off Open Top shall mean open top container with closed sides normally used for construction and demolition debris collection and hauling with most common of sizes being 20, 30 and 40 cubic yards.

EE. SOURCE SEPARATED

means the recovered materials are separated from solid waste where the recovered materials and solid waste are generated. The term does not require that various types of recovered materials be separated from each other and recognizes de minimis solid waste, in accordance with industry standards and practices, may be included in the recovered materials.

FF. TOWN

shall mean the Town of Melbourne Village, Brevard County, Florida, a municipal corporation, acting through the Town Commission, or Mayor, or an official designated by the Mayor or Commission as the case may be.

GG. TRASH

unless specifically provided to the contrary, the term trash shall include and mean commercial trash, household trash, and garden and yard trash as defined herein.

HH. VEGETATIVE GARDEN AND YARD TRASH

shall mean any and all accumulations of grass, palm fronds, leaves, branches, shrubs, vines, trees, tree stumps, and other similar items generated by the homeowner's maintenance of lawns, shrubs, gardens, and trees.

II. WORK

shall mean and refer to the tasks to be performed by the Contractor under this contract , including but not limited to the collection, transport, delivery and disposal of all refuse, bulky waste, and recyclable materials, vegetative garden and yard trash with or without a "claw" truck; refuse using roll-off containers; the furnishing, delivery, and pick-up of toters, commercial carts/toters, recycling bins and containers, roll-off containers, and recycling container carts/toters; the administration of and labor involved in performing the foregoing tasks; the obtaining, use, maintenance, and operation of equipment in furtherance of performance of this contract agreement; the marketing of recyclable materials; the establishment and operation of office facilities; the compliance with any safety regulations of laws, administrative rules or regulations, or ordinance; or the performance or non-performance of any requirements, duties, obligation, or tasks required to be performed by or for the Contractor pursuant to or as a result of this contract.

SECTION 2 - SCOPE OF WORK

Work will commence on February 1st, 2011. It is the intent of this Contract to provide for the total collection of all refuse in the Town of Melbourne Village, Florida, with the exception of exclusions which are specifically listed herein.

A. RESIDENTIAL UNITS

One single-family homesite (which may or may not include a guest cottage or efficiency apartment), or one living unit of an apartment or multi-unit development which is served and billed as a residential account. **Currently there are estimated to be 315 active units.**

B. GARBAGE, HOUSEHOLD TRASH, AND RESIDENTIAL RECYCLING

1. GARBAGE

a. **CARTS:** If the Contractor elects to provide optional use of Carts/Toters, the Contractor shall distribute up to two (2) carts to each residential unit, at no cost to the resident of a ninety six (96) gallon, sixty four (64) gallon or thirty-two (32) gallon capacity. Contractor shall maintain, at all times, a sufficient number of carts to ensure that all extra or replacement carts can be provided within three (3) working days upon notification by the Town or customer. New Carts shall be distributed to new residential units which are added during the term of this Contract within three (3) working days of request either by the Town or the residents. Carts that have been lost or damaged due to customers' abuse or negligence shall be repaired or replaced, at the expense of the customer utilizing the then current cost of the cart. Customer may purchase a third cart for a charge of \$70.00. New carts must identify the Contractor with company name. When a home changes owners and the former owners fail to leave containers at

the home, the Contractor shall provide containers to the home as to a new home, and shall pursue recovery or recompense from the former owner at the choice of the Contractor. Mandatory use of carts/toters may be instituted only after amendment of this contract by the Town Commission to allow such requirement.

b. **WHEN:** The Contractor shall collect garbage and trash from residences two (2) times per week. Bulk items, such as household furniture and appliances, shall also be removed by the Contractor. It shall be the responsibility of the garbage and trash route driver to note bulk items that are set out and notify the Contractor's dispatcher of the item to be picked up. The pickup shall then be scheduled within 72 hours after entry into tracking system, if available. If called in by the residential customer the Contractor will log the call into the tracking system and the collection must be made within seventy two (72) hours of the request.

All residential collection shall occur only on Monday through Friday between the hours of 8:00 AM and 8:00 PM, and Saturday between the hours of 10 am and 8 pm, inclusive.

Alternative route submissions will be considered by the Town. Normal routes are not to be scheduled on Saturday, Sunday or allowable Holidays.

Once established, any change in the collection day schedule must be approved by the Town Commission before the Contractor implements a collection schedule change. If the request for change of schedule is granted by the Town Commission it will be the responsibility of the Contractor to properly notify the residents of such change in a manner satisfactory to the Town Commission.

In extraordinary or unusual situations, such as imminent hurricanes, or during periods of declared emergency, the Town may approve temporary deviations from the regular schedule, and may approve an extension of pickup times and/or days.

If and when the Town Commission makes the determination to change service levels to one (1) time per week collection of residential solid waste the contractor agrees, upon proper notification by the Town to the Contractor which will be no less than one hundred twenty (120) days, to diligently pursue both a notification program and educational program to the residents of the pending change. Such program shall be approved by the Town which approval will not be unreasonably withheld. Cost to the Customers shall be those costs as submitted by the Contractor and attached as appendix A for one (1) time per week service, subject only to the cost increase such as CPI and fuel adjustment component within this contract.

c. **QUANTITY:** The Contractor shall be required to pick up all garbage and household trash generated by residential units. All vegetative garden and yard trash shall be picked up except for units with approved

exemptions, per Town ordinance.

d. **WHERE:** Complete garbage and refuse collection service is hereby provided for in this Contract. Collections of garbage shall be made from an area adjacent to a driveway or curbside and not over five (5) feet from the curb or ten (10) feet from the edge of pavement or edge of traveled way with the exception of handicapped or elderly where special arrangements will be made for backdoor or side-yard pickup upon receipt of proper written notice to the service provider from a medical doctor (on a form provided by the Town) at no additional cost to the resident or the Town. Household trash and bulk items, such as household furniture and appliances, shall be placed at the roadside.

e. **HOW:** The Contractor shall make collections with a minimum of noise and disturbance to the residents. Garbage receptacles shall be handled carefully by the Contractor and shall be thoroughly emptied and left in an upright position with the lids in place in the location where they are found within five (5) feet of the edge of the pavement. Refuse may be transferred from the residents' toters into tubs, cans, hampers, or other containers used by the Contractor in carrying refuse to collection trucks. All work shall be done in a sanitary manner. All garbage or trash spilled by the collector shall be picked up immediately by the Contractor's employees. Any item not collected by the Contractor will require the Contractor to place a Contractor provided written notice placed that day either on the container or a door hanger notice stating the reason(s) such items were not collected. At the option of the Town, on the same day, the Contractor will be required to deliver to the Town Office a copy of such notice(s) which will also include the address. The Contractor will submit a copy of the notices to the Town electronically using the electronic tracking system, or alternatively a method authorized by the Town.

f. Recyclable materials will be collected one time per week in a commingled state, single stream. Recycling bins shall be left in the position where they are found, behind the curb or within five (5) feet of the edge of pavement.

g. The Contractor shall collect and dispose of automobile tires generated by residential customers, at no additional charge, in accordance with state and federal disposal requirements; provided, however, that the Contractor may impose an additional charge, with prior notice to the customer, if the following annual maximums are exceeded by any residential customer: Four (4) automobile tires.

2. VEGETATIVE GARDEN AND YARD TRASH

a. **WHEN:** The Contractor shall collect all vegetative garden and yard trash from places of residence as specified in the routes accepted by the Town not less than one (1) day per week.

b. **QUANTITY:** The Contractor shall be required to pick up all vegetative

garden and yard trash generated by a residential unit. The Contractor shall inform the owners of residential units that items such as tree limbs, tree trunks, palm fronds, etc., shall be cut in lengths of no greater than four (4) feet, if the item's diameter is less than four (4) inches. No single item shall exceed fifty (50) pounds.

This Contract does not include vegetative garden and yard trash from land clearing operation or preparation for construction or removal of trees or tree trimming by a landscaping Contractor or tree surgeon which shall be properly disposed of by the landscape Contractor.

c. **WHERE:** Garden and yard trash shall be collected from the front of the premises within five (5) feet of the curb or roadway (curbside). On streets where no parkways or lawn areas near the street are available for placement of trash, the owner or occupant shall place trash adjacent to the driveway, but not farther than five (5) feet from the street, and not in the street or right of way. Where there is no suitable location in front of a residence, the Contractor and the Town shall agree on a location for that residence to use, possibly across the street.

d. **HOW:** The Contractor shall make collections with a minimum amount of noise and disturbance to the household. In the case of reusable containers or regular garbage cans the containers shall be handled carefully and shall be thoroughly emptied and left in an inverted position, not lying on its side, and in the case of toters/carts they will be thoroughly emptied and left in an upright position where they were found. Boxes and bags of garden and yard trash shall be collected and any spillage picked up immediately by the Contractor. All leaves and pine needles, clippings, and tree trimmings with branches less than 4 inches in diameter and less than 4 feet in length and not weighing over fifty pounds shall be containerized. Tree branches and palm fronds with high volume that cannot fit into the cart shall be cut in four (4) foot lengths and bundled and stacked at the curb for collection. Large volume vegetative waste collection requiring a "Claw" truck will be provided not less than one (1) time per week. It shall be the responsibility of the yard trash route driver to notice large volume pickups for loads they pass on to the Contractor's dispatcher. Contractor will also schedule large volume pickups noticed by Town or customers. All yard trash spilled by the collector shall be picked up immediately by the Contractor's employees. Any item not collected by the Contractor will require the Contractor to place a Contractor provided written notice, placed that day, either on the container or a door hanger notice stating the reason(s) such items were not collected. At the option of the Town, on the same day, the Contractor will be required to deliver to the Town Office a copy of such notice(s) which will also include the address. The Contractor will submit a copy of the notices to the Town electronically using the electronic tracking system, or alternatively by a method authorized by the Town.

3. MULTI-FAMILY UNITS- CONTAINERS EMPTIED BY MECHANICAL MEANS

Multiple family dwelling units not using toter containers shall be required to use containers emptied by mechanical means and shall be considered Commercial Units except for collection of recyclable materials for which the above would be considered residential dwelling units.

4. COMMERCIAL UNITS

Commercial customers shall be identified as, but not limited to, all office buildings, stores, filling stations, lodges, motels, laundries, hotels, all public buildings, food services, lodging establishments, service establishments, light industry, schools, churches, clubs, hospitals, nursing homes, condominiums and apartment buildings using mechanically emptied containerized collection or commercial toter collection.

a. **WHEN:** Refuse shall be collected Monday thru Saturday between the hours of 8:00 AM and 8:00 PM not less than twice per week and at a greater frequency if required to protect the public health. Collection service for customers using containers emptied by mechanical means and commercial toter collection will be available two (2) days per week, and the frequency of service will be as mutually agreed upon by the customer and the Contractor. Requests for frequency of service less than two times per week must be approved by the Town. Bulk items such as furniture and appliances shall be collected one (1) time per week on the same schedule as the Town's residential refuse collection. It shall be the responsibility of the garbage and trash route driver to note bulk items that are set out and to immediately notice the item to be picked up to the Contractor's dispatcher. The pickup shall be scheduled within 72 (seventy two) hours after entry into the tracking system. Bulk items may also be called in by the customer and the Contractor will collect such items requested within 72 (seventy two) hours of the request.

b. **QUANTITY:** All refuse generated at commercial and industrial establishments shall be collected except for excluded wastes and recyclable material collection. Commercial and industrial establishments may contract for recyclable material collection independent of this Contract in accordance with State Statutes, the Town of Melbourne Village Ordinances or the Brevard County Commercial Recycling Ordinance, as adopted or as may be amended from time to time. Collection of commercial yard waste is optional, as landscape maintenance Contractors may transport and dispose of generated commercial yard waste thereby considered excluded waste.

c. **WHERE:** It is the duty of the commercial owners/operators to accumulate refuse in locations mutually agreed upon by the owners/operators and the Contractor, and which are convenient for collection by the Contractor. Where mutual agreement is not reached, the Town shall determine the location consistent with the ordinances and

requirements of the Town of Melbourne Village.

d. **HOW:** The Contractor shall make collections 8:00 AM thru 8:00 PM Monday thru Saturday with as little disturbance as possible to business and commercial establishments. This work shall be done in a sanitary manner and any refuse spilled by the Contractor shall be picked up immediately by the Contractor's employees. The Contractor shall be responsible for returning the container to the enclosure, closing the container lids, doors and the screened enclosure doors or gates. It will be a requirement of the Contractor to properly spray the container as directed by the Town with a sanitizing spray from the collection vehicle. In the event unsanitary conditions such as continually overflowing containers or otherwise inappropriately placed materials are encountered by the collection vehicle driver, it shall be the driver's responsibility to immediately radio the condition to the Contractor's dispatcher who shall in turn enter the location into the tracking system, to immediately notify the Town. Waste placed outside the container for pickup shall also be called into dispatch for entry into the tracking system for the purpose of either increasing their service or container size at that address, if needed. It shall be the responsibility of the collection vehicle driver to immediately notice any damage caused by his operation to the enclosure or gates thereto to the Contractor's dispatcher who will arrange for repairs at the Contractor's expense and immediately notify the Town.

e. **CONTAINERS:** Commercial and industrial establishments may use any of the following containers for accumulation of refuse:

(1) Refuse containers as defined in this Contract, See Section 1 definitions C, O & AA

(2) Containers emptied by mechanical means.

(3) Dumpster containers shall be made available to commercial customers in sizes of at least 96 gallon totes, 2 (two), 4 (four), 6 (six), and 8 (eight) cubic yard capacities. Service to commercial customers shall be provided with the same size containers currently in use and with the same frequency of pick up unless otherwise approved by the Town and the customer.

5. RECYCLING

a. **RECYCLABLE MATERIALS COLLECTION AND DISPOSAL:** The services to be performed under this Contract consist of curbside residential and multi-family residential collection of all recyclable materials, collection of all recyclable materials from Town-owned locations in the recycling service area, and transportation, and recovery of said recyclable materials to a designated recovery facility, or, if no market is available, to the nearest County landfill. The Contractor shall provide, as part of the quarterly Recycling report, weights and types of any recycled materials disposed of by landfill. This report shall include the reason for disposal rather than

recycling of these materials. The Contractor shall perform such services as are required to provide a complete recyclable materials program. Recycling collection services will be provided to the Town at Town-owned or occupied locations at no cost to the Town.

b. **PROPOSED SCHEDULE OF COLLECTION OF RECYCLABLES AND DESCRIPTION OF THE WORK:** The Contractor shall collect all recyclable material set out for the purpose of recycling from all residential units. The collection of curbside residential recyclables shall be conducted using the recycling bin(s) or carts furnished by the Contractor, for a single stream system for single family and 96 (ninety six) gallon totes furnished by the Contractor for multi-family using mechanically emptied containers.

c. **FREQUENCY OF COLLECTION:** The Contractor shall collect recyclable material within the service area a minimum of one (1) time per week.

d. **HOURS OF COLLECTION:** Collection shall begin no earlier than eight o'clock (8:00) a.m. and shall cease no later than eight o'clock (8:00) p.m. weekdays. If Saturday collection is scheduled collection shall not begin earlier than ten o'clock (10:00) a.m. and shall cease no later than eight o'clock (8:00) p.m. In the event of an emergency, or unforeseen circumstances, collection may be permitted at a time not allowed by this paragraph following approval by the Town.

e. **POINT OF PICKUP OF RECYCLABLE MATERIALS:** Collection of residential recyclable materials shall be at curbside. Multi-family recyclable materials shall be picked up at a location adjacent to the regular refuse, or other such locations as will provide ready accessibility to the Contractor's collection crew and vehicle. In the event an appropriate location cannot be agreed upon by or between the contractor and the customer, the Town shall designate the location. As with regular residential garbage collection, handicapped residents will be accommodated at no additional fee.

f. **RECEPTACLES:** The Contractor shall pick up all recyclable materials that have been properly prepared for collection, placed in recycling containers, and set at the appropriate location.

Each residence within the service area will be provided with a recycling container and, on occasion, additional containers will be supplied by the Contractor as directed by the Town.

Multi-family residential complexes utilizing mechanically emptied containers of 10 (ten) units or greater will utilize large totes (not less than 96 gallon) for collection of recyclable material. The totes are to be supplied by the Contractor.

g. **METHOD OF COLLECTION OF RECYCLABLE MATERIALS:** For residential units, unless otherwise agreed in writing, the Recycling shall be picked up as single stream. The Contractor shall make collections with a

minimum amount of noise and disturbance to the residents and commercial customers. The Contractor shall handle recycling containers with reasonable care and return them to the approximate location from which they were collected. Any recyclable materials spilled by the Contractor shall be picked up immediately. Recycling containers shall be thoroughly emptied and left in an upright or inverted position, whichever is appropriate, at the point of collection. The Contractor and the Town shall mutually develop a procedure to handle placement of incorrect material in recycling bins by residents. At a minimum, the Contractor shall leave the incorrect materials in the recycling bin along with a Contractor provided notice describing the proper materials and reason(s) items have not been collected. The Contractor will be required to place such notice either within the container or place a door hanger notice at the residence that day. Upon request by the Town the Contractor will be required to deliver to the Town a copy of the notice including the reason(s) items have not been collected and the address of the residence. This is to be done on the same day the notice is given to the residence. Also the copy of the notice shall be sent electronically to the Town.

For multi-family residential units, the Contractor shall transport the individual totes from the storage location, empty into the truck and return totes to their original location.

h. **RECYCLABLE MATERIAL:** The Contractor shall not be required to remit to the Town any revenue from the sale or disposal of recyclable materials.

i. **CHARGES FOR DISPOSAL OF RECYCLABLE MATERIAL:** In the event recyclable materials are not saleable and must be disposed of at a disposal facility, the Contractor will not charge the Town for the number of tons of material so disposed.

j. **RECYCLING BINS AND TOTES/CARTS CONTAINERS:** Residential recycling bins, totes and carts will be provided by the Contractor, and identified with the Contractor's name imprinted on the container, and distributed as needed by the Contractor. All requests for recycling bins, totes or carts by either the Town or a resident will be delivered by the Contractor within seventy two (72) hours of request. Type and size of multi-family residential recycling containers shall be approved by the Mayor and provided by the Contractor.

6. PROPERTY OWNED, LEASED, RENTED AND CONTROLLED BY THE TOWN OF MELBOURNE VILLAGE – (EXHIBIT "B")

The Contractor shall empty all refuse containers used by the Town as identified in Exhibit "B". The schedule may be amended during the term of the Contract upon the direction of the Mayor. The Town shall have the right to use regular commercial type trash containers, totes, or cans with covers. Servicing of these facilities shall be performed by the Contractor at no

additional cost to the Town.

7. MISCELLANEOUS

VACANT LOTS: The Contractor shall not be responsible for the collection of materials placed at vacant lots. The Contractor shall be responsible for placing a tag indicating the reason for non-pick up and notifying the Town thereof.

IMPROPERLY PLACED ITEMS REMOVED TO PUBLIC WORKS

COMPLEX: The Contractor shall be responsible for the collection and proper disposal of all used tires improperly deposited on Town right-of-ways and collected at the Public Works Complex.

The Contractor shall be responsible for the collection and proper disposal of all bulky items improperly deposited on Town right-of-ways and collected at the Public Works Complex

8. CHANGE IN COST OF DOING BUSINESS

The fees or compensation payable to the Contractor for the second and subsequent years of the term hereof may be adjusted upward or downward as of February 1st of each year of the Contract upon written request to the Town by the Contractor at least 90 (ninety) days before the anniversary date. If requested, the rate adjustment shall be equal to 100% of the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers, United States, South Urban, Not Seasonally Adjusted, all items less energy consumers, published by the U.S. Department of Labor, Bureau of Labor Statistics for the preceding twelve (12) month Contract period. The CPI adjustment will only be applied to the cost component of collection and will not be applied to the disposal costs or the fuel increase portion of the CPI. The fuel adjustment portion of the CPI will be applied in paragraph 10 below. The Contractor has the right to request a separate rate adjustment due to increases in disposal costs (See below). If a rate adjustment is not requested, the rate adjustment for that particular 12 (twelve) month period shall be deemed waived and shall not be taken into consideration in the future rate adjustments. The Town Commission, upon approval, shall incorporate those changes into the Contract by Resolution. The CPI index to be used will be from February to February for the previous twelve months.

9. UNUSUAL CHANGES OR COSTS

The Contractor may petition the Town on the anniversary date of the Contract for rate adjustments or at reasonable times on the basis of unusual changes in Contractor's cost of doing business, such as revised laws, ordinances, or regulations, changes in location of disposal sites or changes in disposal charges.

10. FUEL ADJUSTMENT COMPONENT

The Town shall adjust fees for the Contractor on an annual basis for either increase or decrease for the fuel cost to the Contractor for providing the service to the Town as per the Contract.

The total unit price shall be comprised of the sum of a collection fee and a Fuel Adjustment Component (FAC) which shall be subject to the fuel cost adjustment described below.

The Contractor shall base the FAC on the cost per gallon of diesel fuel at the end of each of the 12 preceding months as shown by the "On Highway Retail Diesel Prices" Lower Atlantic Region, U.S. Department of Energy, Energy Information Administration, or its successor, averaged.

The Contractor shall calculate the new FAC in the Fourth Quarter each calendar year, which begins on October 1 and ends on December 31.

The initial FAC is the Fuel Component submitted with the bid. The subsequent FAC shall be determined annually using the following formula:

FAC = new fuel cost per gallon divided by the initial fuel cost per gallon at the time of bid, times the initial FAC, rounded to the nearest penny.

EXAMPLE 1:

New fuel cost per gallon = \$2.853

Initial fuel cost per gallon at the time of bid = \$2.315

Initial FAC at time of bid = \$2.00/residence/month

New FAC = $(2.853/2.315) \times (2.00) = \$2.46/\text{residence/month}$

EXAMPLE 2:

New fuel cost per gallon = \$2.2211

Initial fuel cost per gallon at the time of bid = \$2.315

Initial FAC at time of bid = \$2.00/residence/month

New FAC = $(2.2211/2.315) \times (2.00) = \$1.95/\text{residence/month}$

The Contractor shall notify the Town of a proposed change in the FAC by January 15th of each year and the Town will review the proposal and adjust the FAC at the January Commission Meeting.

11. RATE CHANGES FOR BILLING

Upon approval of any change to the rates charged to be collected by the City of Melbourne the Contractor shall prepare and present to the Town Clerk the new rate information in the format required by the City of Melbourne Utilities Department. The Town Clerk will verify the rates as approved and submit the changes to the City of Melbourne.

12. FAVORED RATE CLAUSE

In the event a neighboring municipality negotiates a more favorable rate than the Town of Melbourne Village has for the provisions of substantially the same services provided in this Contract, with the Contractor of this Contract, the Contractor shall be required to reduce the rates charged to the Town to be equal to or lower than the rates charged the neighboring municipality. Neighboring municipality shall mean municipalities within Brevard County.

SECTION 3 - STORAGE AND OFFICE FACILITIES

The Contractor shall establish and maintain an office and maintenance facility within forty (40) miles of the Town limits of the Town of Melbourne Village within Brevard County where requests for collection services such as stop-service, additional services or change of service, and complaints can be made within two (2) weeks after the award of the contract. It shall be equipped with sufficient toll-free telephones, shall have a responsible person in charge with the ability to communicate with the public, shall be sufficiently staffed during collection hours, and shall be open during the operational hours of this Contract, 8 AM to 8 PM. After hours of operation, the Contractor will provide a telephone answering service.

SECTION 4 - SCHEDULES AND ROUTES

A. IN GENERAL

The Contractor shall abide by the routes and schedules provided with the proposal documents. Routes shall not be designed in a way that require the vehicles to run off the paved surface of the road to make turns, (except for collection on un-paved roads). The Town reserves the right to deny the Contractor's vehicles access to certain streets, alleys, and public ways inside the Town or outside the Town in route to the disposal facilities, where it is in the best interest of the general public to do so due to conditions of streets, bridges or for other reasons determined by the Town. The Contractor shall not interrupt the regular schedule and quality of service because of such street access denial. Customers under this Contract shall be notified by the Contractor of the collection schedules to be provided. Individual route starting times and succession of pickup shall remain constant so as to promote and achieve regularity of service. Any and all route and/or schedule changes shall be approved by the Town.

The Town shall be notified of any route changes in the best interest of the general public and the Town reserves the right to change any such routes in the best interest of the general public with proper notification to the Contractor which will be not less than seven (7) days. Written notices of

changes in schedules shall be furnished to the customers by the Contractor, at least ten (10) days prior to the actual change in routes or schedules.

The Mayor is authorized to modify, extend or suspend schedules and routes in the event of natural disaster, health hazard or any other state of emergency, requiring such action.

Customers under this Contract shall receive reasonable notification, as approved by the Town, of the schedules provided by the Contractor prior to commencement of service.

NOTE: The Contractor's attention is directed to the fact that at various times during the year, the quantity of refuse to be disposed of is materially increased by fluctuations in the amount of garden and yard trash. This additional work-load will not be considered as adequate justification for failure of the Contractor to maintain the required collection schedules and routes.

B. STORM

The Contractor shall have a disaster response plan for removal and disposal of excessive amounts of debris or refuse accumulated by reason of a manmade disaster, storm of disastrous proportions, natural disaster, severe disturbance, riot, terrorist activity, or other calamity. The Contractor will provide the Town with a specific detailed plan for the first seventy two (72) hours of an event and is required to update and review the plan, which will include pricing and terms for work to be performed, with the Town annually before the start of each hurricane season. If the Contractor is selected to handle storm cleanup, the Town will agree to pay the FEMA rates stated at the time of the named event for the first seventy two (72) hours. The Town has the sole option of invoking a collection action following such an event listed above. For any additional collection required after the first seventy two (72) hours of the event, the Contractor will revert to the pre-agreed pricing and terms. The plan submitted by the Contractor must describe in detail the responsibilities of the Contractor. The Contractor agrees the Town will have total and absolute authority to direct and monitor the Contractor during any such event as to how, when, and where action must be taken by the Contractor to accomplish the task of clean-up and clearing of roads and property, and the Contractor will not be entitled to any reimbursement without the prior written authorization of the Town for any action taken.

The Contractor shall have, at all times, written contracts with sub—contractor(s) for collection, hauling and disposal relating to an event should the Contractor not have sufficient resources of its own to affect a timely clean-up. Such contract(s) should contain operational details and unit pricing for collection and hauling with actual disposal cost to be an add-on charge. The initial sub-contractor contracts are to be an addendum to this Contract

with annual renewals to be reviewed and agreed to by the Town. The Contractor's emergency response plan should also have operational details and unit pricing. Contractor and sub-contractor contracts must be reviewed and agreed to by the Town prior to May 1st each year.

Should an event occur, the Mayor or his designee and the Contractor will meet as soon as possible to formulate and agree upon a cleanup plan.

The Town reserves the option to utilize the Contractor forces, Contractor's sub—contractors, services other than provided by this Contract (Town's own contractors), Town forces, mutual-aid contracts or any combination thereof.

C. FORCE MAJEURE

The performance of any act by the Town or Contractor hereunder may be delayed or suspended at any time while either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any other cause beyond the reasonable control of such party (force majeure). Provided, however, the Town shall have the right to provide substitute service from third party contractors or Town forces. Should such event last longer than one week, the Contractor shall refund customers proportionally. If a condition of force majeure exceeds a period of 14 (fourteen) days, the Town may, at its option and discretion, cancel or renegotiate this Contract.

D. EXCLUSIVE RIGHTS

The Contractor shall have sole and exclusive rights to collect refuse, as defined in the Contract, within the corporate limits of the Town with the following exception: contractors, commercial, and residential customers engaged in building or remodeling operations shall be permitted to remove the waste accumulated as a result of their operations with their own trucks and labor or may contract with another licensed hauler to remove construction and demolition debris. No other waste removal will be permitted by another solid waste contractor, other than excluded waste, commercial recycled materials, hurricane debris collected by the Town or another contractor chosen by the Town or the County. The Town reserves the rights to pick up refuse relating to, or incidental to, street maintenance and other activities relating to Town functions or ordinances. Contractor shall have the exclusive right to collect and haul recyclable and recovered material, except source separated recovered material at commercial establishments as such terms are defined under state law.

Homeowners retain the right to dispose of all materials elsewhere as they wish prior to placing for collection.

The Town has a tradition of "neighborhood reuse" – that is neighbors retrieving items such as furniture, tools, firewood, etc from each other's refuse. This practice shall be allowed under this contract.

Items placed in the Contractor's recycle bins or carts shall be deemed to belong to the Contractor from the point of placement at the street and shall not be removed by anyone other than the homeowner or the Contractor.

E. MISCELLANEOUS

The Contractor shall not be responsible for scattered refuse unless the same has been caused by the Contractor's acts or those of any of the Contractor's employees, in which case all such scattered refuse shall be picked up immediately by the Contractor. Employees of the Contractor shall not be required to expose themselves to the danger of being bitten by vicious dogs or other animals in order to accomplish refuse collection in any case where the owner or tenants have such animals at large; in such occurrence the Contractor shall immediately notify the customer and Town, in writing, of such conditions and of the Contractor's inability to make collection because of such conditions.

F. HOLIDAYS

Should the Contractor elect to forgo pickup on a holiday, a pickup scheduled twice a week will be collected the next regularly scheduled collection day and a pickup scheduled once a week will be rescheduled within two days.

The Contractor will notify all residential and commercial customers of observed holidays. Notification can be made by way of direct mail, door hangers, newspaper advertisement, or notice for the Town Bulletin Board one (1) week prior to the holiday date of non-collection. The notification must include a statement of the makeup day or upcoming regular collection day the waste, recycling or yard waste will be collected.

**SECTION 5 - DURATION OF CONTRACT -
COMMENCEMENT OF WORK - EXTENSION OF CONTRACT**

The term of this Contract shall be for a period of three (3) years with work commencing February 1st, 2011, and terminating on January 31, 2014, unless terminated or breached at an earlier date.

The initial term of this Contract may be extended for three (3) additional five (5) year terms, under the existing terms and conditions or as modified through additional negotiations, if either party notifies the other in writing, not less than 180 (one hundred and eighty) days prior to the expiration of the initial term or subsequent term. This Contract may be extended with the mutual consent of both parties. Any extensions of the duration of the Contract shall be ratified by resolution of the Town Commission and shall become a written amendment to the Contract.

SECTION 6 - CONTRACTOR'S RELATION TO THE TOWN

A. CONTRACTOR AS INDEPENDENT CONTRACTOR

It is expressly agreed and understood that the Contractor is, in all respects, an Independent Contractor as to the work notwithstanding in certain respects the Contractor is bound to follow the direction of designated Town officials, and that the Contractor is in no respect an agent, servant, or employee of the Town. The Contract specifies the work to be done by the Contractor, but the method, employees, equipment, tools, and devices to be employed to accomplish this work shall be the responsibility of the Contractor, unless otherwise provided in the Contract.

B. SUBLETTING CONTRACT

The Contract, or any portion thereof, shall not be sublet, or sub-contracted, except with the prior written consent of the Town Commission which may be withheld for any reason or for no reason. No such consent will be construed as making the Town a party of or to such subcontract, or subjecting the Town to liability of any kind to any subcontractor. No subcontract shall, under any circumstances, relieve the Contractor of its liability and obligation under this Contract, and despite any such subletting the Town shall deal through the Contractor. Subcontractors will be dealt with as workmen and representatives of the Contractor and, as such, will be subject to the same requirements as to character and competence as are other employees of the Contractor.

C. SUPERVISION OF CONTRACT PERFORMANCE

The Contractor's performance of this Contract shall be reviewed by the Town and the Contractor shall be notified in writing by the Town of any issues with the Contractor's performance. If performance is unsatisfactory to the Town, the Contractor, upon notification by the Town, shall increase the force, tools and equipment as needed to properly perform this Contract. The failure of the Town to give such notification shall not relieve the Contractor of its obligation to perform the work at the time and in the manner specified by this Contract.

D. MAYOR or HIS DESIGNEE'S AUTHORITY

To prevent misunderstanding and any litigation, the Mayor shall decide any and all questions which may arise concerning the quality and acceptability of the work and services performed, the sufficiency of performance, the interpretation of the Contract provisions, and the acceptable fulfillment of the Contract on the part of the Contractor; and the Mayor will determine whether or not the amount, quantity, character and quality of the work performed is satisfactory. The Mayor shall make such explanation as may be

necessary to complete, explain or make definite the provisions of this Contract. Contractor may appeal the Mayor's final findings and conclusions to the Town Commission. The Town Commission decision shall be final and binding upon both parties.

E. INSPECTION OF WORK

The Contractor shall furnish the Town with every reasonable opportunity for ascertaining whether or not the work as performed is in accordance with the requirements of the Contract. The Contractor shall designate, in writing, the person to serve as agent and liaison between his organization and the Town. The Town may appoint persons to inspect the Contractor's operation and equipment at any reasonable time. The Contractor shall admit authorized representatives of the Town to make such inspections at any reasonable time and place with proper notice by the Town to the Contractor, not less than twenty four (24) hours in advance of the inspection.

F. DISAGREEMENTS – REFUSE TO BE COLLECTED - HOW

It is recognized that disagreements may arise between the Town and the Contractor with regard to the collection of certain items due to interpretation of the specific language in the Contract.

In the event a disagreement arises and refuse needs to be collected and disposed of, the Mayor may notify the Contractor of the location of refuse which has not been collected due to disagreement between the Town and the Contractor, and it shall be the duty of the Contractor to remove all such refuse within twenty four (24) hours of the notice. Should the Contractor fail to remove the refuse, the Town will remove the refuse and the Town shall bill costs incurred to the Contractor.

G. TAXES and FEES

The Contractor shall pay all federal, state and local fees and taxes, including but not limited to sales tax, social security, workmen's compensation, unemployment insurance, and other required taxes and fees which may be chargeable against labor, material, equipment, real estate and any other items necessary to and in the performance of this Contract.

H. TOWN NOT LIABLE FOR DELAYS

It is expressly agreed that in no event shall the Town be liable or responsible to the Contractor or to any other person on account of any stoppage or delay in the work provided for herein, by injunction or other legal or equitable proceedings brought against the Contractor, or from or by or on account of any delay from any cause over which the Town has no control.

I. REPORTS OF OPERATIONS and FRANCHISE FEES

Reports and Franchise Fees are to be submitted to the Town by the end of April, July, October, and January for the previous quarter. Contractor may report monthly if Contractor prefers.

Franchise fee: The parties agree that there is a ten percent (10%) franchise fee for all residential solid waste collection, commercial solid waste collection, and recycle collection, to be paid on all charges collected by the Contractor, as allowed by law, to the Town of Melbourne Village.

Report elements:

- Residential garbage, recycling and garden and yard trash allocated tonnage
- Used tire allocated tonnage and separate bulky goods allocated tonnage
- Commercial collection allocated tonnage
- Periodically actual tonnage amounts may be requested by the Town and shall be provided.
- Summary of service and complaint log and if requested by the Town a complete copy of the service and complaint log

J. PAYMENTS FOR SERVICES

For and in consideration of the services to be performed by the Contractor the Contractor is authorized to bill each service location (residential or commercial) at the rates stated in this agreement (as adjusted). The Contractor may bill this service separately or may contract with the City of Melbourne or any other utility provider in the Town to provide billing services. All expenses involved in billing and collection shall be born by the Contractor.

K. CANCELLATION OR ANNULMENT OF CONTRACT

The Contractor and the Town recognize that it is of paramount importance that the Contract be performed and the individual customers receive service. If the Contractor fails to begin work at the time specified, or fails to perform the work with sufficient number of workers and sufficient and adequate equipment to ensure the proper and substantial performance of said refuse collection work, or performs the work unsuitably, or discontinues the prosecution of the work or any portion thereof, or for any other cause whatsoever, excepting only force majeure, does not carry on the work as aforesaid, or if the Contractor becomes insolvent or declares bankruptcy or commits any act of bankruptcy or insolvency, or allows any final judgment for the payment of money to stand against the Contractor unsatisfied, and if the Town, through its Mayor, gives notice of such default, and the Contractor fails to cure such default within seven (7) days after giving of such notice by the Town, then the Town may thereupon, by action of the Town Commission, declare the Contract cancelled. Upon declaration of cancellation, the Town may, at no cost to the Town or compensation to the Contractor, take over the work and take possession, without further notice

to the Contractor and without judicial proceedings, of any and all equipment of the Contractor and operate the same in performance of the work and services described in this Contract for the unexpired term of the Contract, or for a period of three (3) months, whichever the Town elects, or the Town may enter into contracts with others for the performance of the work and services herein contracted for. Such cancellation of the Contract shall not relieve the Contractor or the surety of liability for failure to faithfully perform this Contract, and in case the expense incurred by the Town in performing or causing to be performed the work and services provided for in this Contract shall exceed the proposal price of the Contractor then the Contractor and the surety shall be liable to the Town for said amount. Contractor's surety or security will not be released until such time as the term of this Contract would otherwise have expired.

L. OPERATION DURING DISPUTE

In the event the Town has not cancelled the Contract in accordance with the terms provided above, and there remains a dispute between the Contractor and the Town, the Contractor agrees to continue to operate and perform under the terms of this Contract while said dispute is pending, and agrees that in the event a suit is filed for injunctive or other relief, to continue to operate the system until the final adjudication of the court.

SECTION 7 - QUALITY OF SERVICE

A. CHARACTER OF WORKERS AND EQUIPMENT

The direction and supervision of refuse collection and disposal and salvage operations shall be by competent, qualified and sober personnel, and the Contractor shall devote sufficient personnel, time and attention to the operation to assure performance satisfactory to the Town. No person convicted of a crime, crimes and/or repeated non-criminal violations of traffic laws which demonstrate a propensity to unfaithfully fulfill the duties of employment such as, but not limited to, larcenous activity, sexual offenses, aggravated battery or other violence, those relating to the operation of motor vehicles, and any crime for which civil rights have been removed within two (2) years, shall be employed by the Contractor within the Town. All subcontractors, superintendents, foremen and workmen employed by the Contractor shall be careful and competent. It is mandatory that the Contractor shall also provide uniforms with either a reflective safety vest or reflective safety shirt and name tag or badge. In no case or under any circumstances will the employees conduct themselves negligently, disorderly, or dishonestly in the due and proper performance of the employees' duties. The Contractor shall see to it that its employees serve the public in a courteous, helpful and impartial manner. Contractor's employees collecting garbage will be required to follow the regular walk for pedestrians while on private property. No Contractor employee shall meddle with property that does not concern him/her. Care shall be taken to prevent damage to property, including shrubs, flowers and other plants. After

emptying containers, employees shall return them to the same location from which they were taken, in an upright or inverted position, whichever is appropriate.

B. TEMPORARY WORKERS PROHIBITED

Due to safety risks involved with the employment of temporary laborers as drivers and helpers, no temporary labor force will be allowed under this Contract without prior written authorization by the Town. Only employees covered by the Contractor's workers' compensation policy will be authorized to work within the Town.

C. COOPERATION OF CONTRACTOR REQUIRED

The Contractor shall cooperate with authorized representatives of the Town in order to facilitate the progress of the work contemplated under this Contract. The Contractor shall have at all times a supervisor in the Town during the days the Contract work is being performed. This person shall be competent and able to communicate with the public. The Contractor will supply the Supervisor with mobile communication with a published phone number for direct contact with the Town as well as Residential and Commercial accounts for any situation that may arise. A daily roster of employees and equipment will be supplied to the Town on an "as requested" basis.

D. HANDLING COMPLAINTS

The Contractor shall perform a service of high-quality and keep the number of legitimate complaints to a minimum. The Contractor shall maintain a telephone listing in the name in which it is doing business as a Contractor and provide adequate employees for those customers needing to contact the Contractor during collection hours Monday through Friday. After hours, an answering service will be provided. An electronic telephone answering machine will not be acceptable. Contractor may substitute a voice mail system that forwards messages to a Contractor employee who shall receive them in real time.

In order that the Town may be informed of the quality of service, the Contractor must enter into the electronic tracking system all calls regarding complaints, requests and compliments from the residential and commercial customers. This system is provided for the Town and the Contractor to record all complaints and resolution of said complaints or inquiries of service for inspection by the Town. The Contractor also agrees to provide a single point of contact in order for the Town or more specifically the Mayor to have immediate access to Contractors personnel to deal with various situations which may arise from time to time. The Contractor agrees to furnish a quarterly report of all complaints, listing the name and address of the person complaining, the nature of the complaint, and disposition of such complaint. All complaints whether received in person, by mail or telephone, shall be recorded into the electronic tracking system as received. Complaints

received before noon shall be serviced the same day and complaints received after twelve noon shall be serviced by twelve noon of the following day. Complaints not serviced and resolved satisfactorily within these time frames shall be considered as un-serviced legitimate complaints. For each month in which the number of un-serviced legitimate complaints reaches twenty (20) or more, whether for garbage, trash, recycling or any other cause, the Town shall be entitled to claim liquidated damages of one hundred (\$100) dollars per complaint including the first twenty, to recompense the Town staff for dealing with the collection. Each complaint shall be considered legitimate unless satisfactory disposition of the claim is furnished. The decision of the Mayor shall be final.

E. SURETY/PERFORMANCE BOND

The Contractor shall obtain, and present to the Town, a performance surety bond or letter of credit in the amount of \$10,000 valid for the initial period of the contract. Extension of the contract shall require extension of the bond for the same period.

SECTION 8 – EQUIPMENT

A. TYPE

The Contractor agrees collection vehicles for routine collection shall not exceed ten (10) years in age during the term of the contract. Prior to any renewal or extension term of this Contract, all equipment and conditions of such equipment is subject to negotiations between the Town and the Contractor. All equipment must be maintained and freshly painted, with bodies which are water tight to a depth not less than eighteen (18) inches, with solid sides, using pneumatic tires. All vehicles shall be equipped with operational radio transceivers capable of communicating with the Contractor's dispatcher from anywhere within the Town of Melbourne Village.

Prior to purchasing equipment it shall be the responsibility of the Contractor to determine the available space, turning radius, ceiling heights, etc. of the likely buyers or processors of the recyclable materials. Replacement and additional vehicles shall be comparable equipment unless otherwise agreed by the Town. Such reserve equipment shall correspond in size and capacity to the equipment used by the Contractor to perform the contractual duties.

B. AMOUNT

The Contractor shall provide sufficient equipment, in proper operating condition, so regular schedules and routes of collection can be maintained. This will include a vehicle for the supervisor overseeing the Town operations, a "rat pack" or other small vehicle with a lift assembly to service areas inaccessible to the larger equipment and one (1) "clam" shell truck available to the Town at all times.

C. CONDITION

Equipment is to be maintained in a reasonable, safe, working condition, painted uniformly, the company name, telephone number, and the number of the vehicle printed in letters not less than five (5) inches high, on each side of the vehicle, and vehicles shall be numbered and a record kept of the vehicle to which each number is assigned. No advertising other than Contractor's standard company logo shall be permitted on vehicles, totes, dumpsters, or roll off containers servicing Melbourne Village. (Appropriate County and City logos and slogans are permitted – i.e. "Brevard Recycles".) The Contractor is required to keep collection vehicles and commercial containers emptied by mechanical means, cleaned and painted to present a pleasing appearance. The Contractor shall submit, as part of the proposal, a schedule showing the frequency of the cleaning and painting of the vehicles. The Contractor shall at the beginning of the seventh month of the Contract, September 2011, begin a program which will provide for each commercial customer to receive a reconditioned or new container during the succeeding twelve (12) month period and each twelve (12) month period thereafter. It is the intent of this subsection to provide each customer who uses a container emptied by mechanical means, a new or renovated container on a regular schedule. This will include permanent roll off open top containers.

The Contractor will submit to the Mayor, prior to the start date of this Contract, for the Mayor's approval, a schedule showing how the change-out of containers is to be accomplished during the Contract term.

D. OPERATION

Each non-packer trash vehicle shall be equipped with a cover which may be a net with mesh not greater than one and one-half inches, or tarpaulin, or fully enclosed metal top. Such cover shall be kept in good order and used to cover the load going to and from the disposal facility during loading operations or when parked, if the contents are likely to be scattered if not covered. Vehicles shall not be overloaded so as to scatter refuse; however, if refuse is scattered from the Contractor's vehicle for any reason, it shall be picked up immediately. Each vehicle shall be equipped with a spill kit, pitch fork, rake, shovel and broom for this purpose. Safety equipment is also required, such as a fire extinguishers and reflectors. The Town will have the authority to spot-inspect the equipment during route operations for compliance. The Contractor's vehicles are not to interfere unduly with vehicular or pedestrian traffic and vehicles are not to be left standing on streets unattended except as made necessary by loading operations, and shall move with the traffic flow. To the extent practical, the Contractor shall avoid pickup on major travel ways during the morning and evening rush hours.

E. SAFETY STANDARDS

The Contractor warrants that the product(s) supplied to the Town and

all operations conducted within the Town shall conform in all respects to the standards set forth in the Occupational Safety and Health Act of 1970 as amended, and shall be in compliance with applicable Florida Statutes as well as any industry standards applicable. Any toxic substance cited by Florida Administrative Code as requiring such and delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).

SECTION 9 - EMPLOYMENT AND WORKING CONDITIONS

The Contractor shall comply with all applicable state and federal laws relating to wages and hours, and all other applicable laws relating to the employment or the protection of employees now or hereafter in effect. The Contractor is required and hereby agrees, by accepting this Contract, to pay all employees not less than the federal or state minimum wage, whichever is greater, and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act as amended and changed from time to time.

SECTION 10 - DISPOSAL OF REFUSE

Refuse collected by the Contractor is currently disposed of at the Brevard County disposal sites located at, Central Disposal Facility Landfill 2250 Adamson Road, Cocoa, Florida 32926, Transfer Station 3379 Sarno Road, Melbourne, Florida 32935 and a Transfer Station located at 4366 South Street, Titusville, Florida 32780. **The Sarno Road Transfer Station facility is the closest County Disposal location to the Town of Melbourne Village**, The Town will not be responsible for disposal fees charged by the County or other disposal operators for the Contractor to use any facility. Currently both residential units and commercial units using either garbage cans, toter/carts or containers emptied by mechanical means, front end load (FEL) or rear end load (REL) are assessed disposal fees through the County by way of the tax collector. Therefore, the Contractor is not charged a disposal tipping fee for those units.

SECTION 11 - COMPLIANCE WITH LAWS & REGULATIONS

The Contractor hereby agrees to abide by all applicable federal, state, county and Town laws and regulations. The Contractor and his surety hereby indemnify and save harmless the Town, all its officers, representatives, officials, agents and employees against and for any claim or liability arising from or based on the violation of any such laws, ordinances, regulations, order or other decree, whether by the Contractor, its employees or its subcontractor. This clause shall survive this contract and apply as well as to

any claims, liabilities, or damages which are based on the Contractor's conduct during the term of this Contract and in the event the Town is charged with the responsibility, jointly or severally, for the aforementioned conduct as a successor to the Contractor. The Contractor affirms the receipt of additional and special consideration for the hold harmless and indemnification provision.

SECTION 12 - INSURANCE

The Contractor shall not commence work under this Contract until it has obtained all insurance required under this Contract and such insurance coverage has been verified by the Mayor of the Town of Melbourne Village, nor shall the Contractor allow any subcontractor or sub-subcontractor to commence work on subcontracts or sub-subcontracts until similar insurance of the subcontractor or sub-subcontractor has been obtained and has been verified in writing by the Mayor or the Town. All insurance required by this Section shall be with a company licensed to do business in the State of Florida, shall include the Town as a named insured, and shall be otherwise satisfactory to the Town. All insurance shall issued by companies rated by A. H. Best's Rating Guide as A+ or better with a financial quality rating of VII or better. Insurance shall not be claims-made insurance but shall be occurrence-based.

A. WORKERS' COMPENSATION INSURANCE

The Contractor shall provide and maintain during the life of this Contract, at the Contractor's own expense, Workers' Compensation Insurance for all of the Contractor's employees, who are employed in connection with the work, and in case the work is sublet or sub-sublet, the Contractor shall require the subcontractor or sub-subcontractor to also provide Workers' Compensation Insurance for all the latter's employees, unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this Contract are not protected under the Workers' Compensation Statute, the Contractor shall provide, and shall cause each subcontractor or sub-subcontractor to provide, adequate insurance coverage for the workers' compensation protection of its employees not under or otherwise protected.

B. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

The Contractor shall provide and maintain during the life of this Contract, at its own expense, such public liability and property damage insurance, with the Town of Melbourne Village being named as an additional insured, as shall protect the Contractor and any subcontractor or sub-subcontractor performing work, from claims for property damage and personal injury which may arise from operations under this Contract, whether such operations be by the Contractor or by a subcontractor or sub-subcontractor, or anyone directly employed

by the Contractor, or subcontractor, or sub-subcontractor and the amount of such insurance shall be as follows: at least \$100,000 per person and \$200,000 per incident or occurrence.

C. COMMERCIAL GENERAL LIABILITY INSURANCE

Commercial General Liability Insurance, including coverage for operations, independent contractors, products-completed operations, contractual, broad-form property damage, and personal injury on an "occurrence" basis insuring the Contractor and any other interests, including but not limited to any associated or subsidiary companies involved in the work.

Automobile Liability Insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Contractor or in any way connected with the work which is the subject of this Contract. The insurance shall include coverage for owned, hired, and non-owned vehicles.

THE LIABILITY INSURANCE SHALL NAME THE TOWN AS AN ADDITIONAL INSURED.

The limit of liability shall be a combined single limit for bodily injury and property damage of no less than \$5,000,000. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$5,000,000.

D. PROOF OF INSURANCE

The Contractor shall furnish the Mayor, prior to the start of any operations under this Contract, satisfactory proof of carriage of the insurance required with a **certified** copy of the insurance policy and a completed and effective declaration page with an insurance company satisfactory and acceptable with the Town. Certificates of insurance are not acceptable proof of insurance coverage. All such policies shall be issued by companies of recognized responsibility licensed by the State of Florida Insurance Commissioner to do insurance business for the type of policy issued pursuant to this contract agreement in Florida and rated by Best's Insurance Reports or Best's Key Rating Guide or any successor publication of comparable standing as determined by the Town and carrying a rating of A+ or better with a financial quality of at least VII or better or the then equivalent of such rating. Insurance required by this contract agreement shall be continuously maintained by the Contractor and all sub-contractors and sub-subcontractors, if any, with current copies of all policies and active and effective copies of all declaration pages being maintained in the offices of the Town of Melbourne Village. No policy is acceptable to the Town which can be canceled by the insurer in less than ten (10) days after the insured

has received written notice of such cancellation provision of the policy. To be acceptable to the Town, each insurance policy shall contain a clause substantially as follows:

“This policy cannot be canceled or non-renewed by the insurer in less than thirty (30) days after the insured has received written notice of such cancellation or non-renewal, and equal notification has been made to the Town of Melbourne Village.

In the event that the Contractor should fail for any reason to procure or maintain insurance coverage at the minimum amounts required herein or otherwise consistent with this Contract, or at the written request of the Contractor, the TOWN, at the Town’s sole discretion, may secure insurance coverage at the Contractor’s expense, or may declare the Contractor in default. The Contractor shall reimburse the TOWN for the cost of such insurance coverage secured by the TOWN within thirty (30) days of Contractor’s receipt of an invoice from the TOWN for such insurance coverage. The Contractor shall be responsible for the payment of any applicable deductibles set out in the insurance policy secured by the TOWN. Any bill for insurance by the TOWN shall be regarded as additional “Contractor Cost”, which if not paid within said thirty (30) day time period shall bear interest at the rate of ten percent (10%) per year on the amount so paid by the TOWN; provided, that in no event shall the interest rate ever exceed the then lawful rate of interest. The Town also reserves the right to withhold from the monthly payment to the Contractor any amounts due the TOWN for securing such insurance.

SECTION 13 - TOWN HELD HARMLESS FROM INJURIES, DAMAGES AND CERTAIN OTHER ACTS OF THE CONTRACTOR

Indemnification: The Contractor shall indemnify and hold harmless the Town of Melbourne Village including but not limited to its agents, officers, volunteers, and employees, both in their official and individual/personal capacities, from and against all claims, damages, losses, and expenses, including but not limited to attorneys’ and paralegals’ fees and court and witness fees whether in litigation, appeal or as a part of settlement negotiations, arising out of or resulting from the Work of the Contractor (or non-performance thereof); including claims for damages, losses and expenses caused in whole or in part by any negligent act or omission or as an act of intentional misconduct of the Contractor, any subcontractor, any sub-subcontractor or anyone directly or indirectly employed or contracted by any one of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder, except the Contractor shall not have to indemnify and hold harmless the Town if such claim, damage, loss and expense is the result of the sole negligence or as an act of intentional misconduct of the Town or of

anyone employed by the Town.

The Contractor agrees to indemnify and save the Town and its agents, officers, volunteers, and employees, both in their official and individual/personal capacities, harmless from all suits or actions arising from the Contractor's infringement of patent, trademark, or copyright, including any acts or non-acts of subcontractors or sub-subcontractors or those individuals under the control or direction of any of the foregoing.

The Contractor agrees to indemnify and hold harmless the Town and its agents, officers, volunteers, and employees, both in their official and individual/personal capacities, harmless from all suits or actions arising from any acts or non-acts by the Contractor, and subcontractors or sub-subcontractors or those individuals under the control of direction of any of the foregoing, without limitation, for any of the following:

Performance or the omission to perform the collection, transport, delivery, and disposal of Refuse, Bulk Waste, and Recyclable Materials, Vegetative Garden and Yard Trash with or without a "claw" truck, Refuse using Roll-Off Containers;

The furnishing or failure to furnish, deliver, or pick-up any Toters, Commercial Carts/Toters, Recycling Bins and Containers, Roll-Off Containers, and Recycling Carts/toters;

The administration of or failure to administer this contract agreement;

The hiring or omission to hire or supervise any employees or labor in or for the performance of the Work pursuant to this contract agreement;

The obtaining, use, maintenance, and operation of equipment in furtherance of the performance of Work pursuant to this contract agreement;

The employment of or failure to employ safety measures or equipment in the performance of the Work pursuant to this contract agreement;

The marketing or Recyclable Materials;

The establishment and operation of office facilities;

The billing and collection of collection fees;

The compliance with or failure to comply with any laws, administrative rules or regulations, or ordinances in the performance of (or failure to perform) the Work pursuant to this contract agreement; and

The performance or non-performance of any requirements, duties, obligations, or tasks required to be performed by or for the Contractor pursuant to or as a result of this contract agreement.

The Town reserves the right to select its own attorneys and paralegals to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of Contractor under this indemnification agreement, the cost and fees of which shall be timely and promptly paid for by the Contractor. Nothing contained herein is intended to nor shall it be construed to waive Town's rights and immunities under the common law, the U.S. or Florida Constitution, or Section 768.28 Florida Statutes as amended from time to time. The Contractor agrees that this contract or any subcontract or sub-subcontract hereof, or contract relating to the collection of Refuse or Construction and Demolition Debris shall not be construed to be an agreement subject to Section 725.06 or 725.08, Florida Statutes, and the Contractor hereby waives any such claim in the event of an action to enforce this contract agreement and this section hereof.

This section shall be in addition to and separate from any insurance or bond provided for by or pursuant to this contract agreement. This section relating to indemnification shall survive the termination of this contract agreement.

The consideration for any and all indemnification and hold harmless provisions in this contract/agreement is extra and beyond any other consideration mentioned herein.

SECTION 14 - ADMINISTRATIVE CHARGES/LIQUIDATED DAMAGES

Should the Contractor fail to perform in accordance with the provisions of this Contract and/or refuse to pay liquidated damages upon receipt of invoice from the Town, the Town shall, in addition to the amounts provided in other provisions of this Contract, be entitled to claim against the performance bond of the Contractor as provided in Section 7-E page 26 or invoice the Contractor the following amounts, not as a penalty, but as Administrative Charges/liquidated damages for such breach of the Contract:

- (a)** Failure to collect missed customers by 8:00 P. M. the same day when given notice before noon, or by 12:00 noon the following day when given notice between 12:00 noon and 8:00 P. M.
See Section 7, "D"
\$100 per incident, a maximum of \$300 per truck per day
- (b)** Legitimate complaints over twenty (20) in a single month.
See Section 7 "D"
\$100 per incident including the first twenty (20)
- (c)** Collection of commercial, residential solid waste and/or recyclables before 8:00 A.M. or after 8:00 P. M. Exceptions stated in Section 4, "C".
See Section 2, A.1. (A), (a) and Section 2, B, 4
\$100 per incident
- (d)** Failure to clean spillage caused from residential or commercial route vehicles leaking from collected garbage.
See Section 8, EQUIPMENT, A. TYPE
\$150 per incident
- (e)** Failure to replace damaged residential containers within seventy two (72) hours or damaged commercial containers within five (5) days.
Section 2 "A"
\$100 per incident
- (f)** Failure to handle waste receptacles carefully, thoroughly empty and return containers or garbage receptacles in a vertical upright position to original location as per Contract.
See Section 1, (A), (d)
\$250 per incident
- (g)** Failure to repair damage to customer's property within seven (7) days.
See Section 7 and 13
\$200 per incident

- (h)** Failure to provide clean, safe and sanitary equipment at beginning of each work schedule.
See Section 8, C
\$500 per incident
- (i)** Failure to maintain office hours as required.
See Section 3
\$200 per incident
- (j)** Equipment operator not properly licensed.
See Section 7, A
\$500 per incident
- (k)** Failure to provide documents and reports in a timely and accurate manner as per Contract.
See Section 6, I
\$100 per incident
- (l)** Failure to cover materials, if appropriate, on all collection vehicles.
See Section 8, D
\$100 per incident
- (m)** Name and phone number not displayed on all equipment and containers.
See Section 8, C
\$100 per incident
- (n)** Failure to comply with requested employee roster, proper uniforms and employee identification and safety equipment as per Contract.
See Section 7, C
\$150 per incident
- (o)** Failure to respond to complaints and customer calls in a timely and appropriate manner as per the "customer service policy" as agreed to by the Town and the Contractor.
See Section 7, D
\$200 per incident
- (p)** Failure to complete a route on the regular pick-up day.
See Sections 4, A and 6, H
\$250 per day for each route not completed
- (q)** Failure to provide proper notification prior to residential route changes.
See Section 4, A
\$250 per route day
- (r)** Causing skid marks, spillage marks on roadways, private driveways or any thoroughfare within the service area.
See Section 7, A

\$150 per incident

- (s)** Failure to follow established reporting operation or administrative procedures.
See Section 6, I
\$150 per incident
- (t)** Failure to comply with the current schedules and routing maps.
See Section 4, A
\$250 per incident
- (u)** Failure to provide monthly tonnage and recycling data reports.
See Section 6, I
\$250 per incident
- (v)** Failure to close gates on dumpster enclosures as well as container lids and locking all locks on commercial customer locations.
See Sections 2, 2, C, Commercial Units
\$250 per incident
- (w)** Causing hydraulic spills or leaks as well as any other fluids having potential to damage or stain asphalt, concrete or other roadway surfaces. |
See Sections 7, A and 8, C
\$500 per incident
- (x)** Failure to report accidents, damage, spillage to the Town immediately and provide a copy of a written report in the same day to the Town.
See Sections 6, I and 11
\$250 per incident
- (y)** Loaded vehicles left standing on street unnecessarily.
See Section 8, "D"
\$150 per incident
- (z)** Failure to drive in the proper direction.
See Section 8 "D"
\$100 per incident
- (aa)** Commingling solid waste with vegetative waste, recyclable materials, c & d materials, or other waste material.
See Sections 1, H, (a) & (b) and 2(d)
\$250 per incident
- (bb)** Failure to report recycling activity monthly in the format determined by the Contractor, for the purpose of tracking and verifying Town-wide recycling activity.
See Section 2,B,1
\$100 per incident

- (cc)** Failure to have the required number of functioning “clam” trucks available within the Town at all times as required by Contract.
See Section 2, A, 2, d
\$250 per day

Each complaint shall be considered legitimate, unless satisfactory evidence to the contrary is furnished to the Mayor by the Contractor. The decision of the Mayor shall be final.

This provision shall not limit other claims of the Town arising against the Contractor under the terms of this Contract.

Note: The Contractor has the right to cure any and all service problems, which are stated guidelines within the Contract. Failure to cure in a timely manner and within the guidelines of the Contract shall constitute failure to perform in accordance with the provisions of this Contract and the Town may levy liquidated damages and shall have the right to other remedies and to termination as elsewhere provided.

SECTION 15 - TOWN ORDINANCES

Except as otherwise provided, nothing contained in any ordinance of the Town hereafter adopted, mentioning or pertaining to the collection of garbage and trash shall in any way be construed to affect, change or modify or otherwise alter the duties, responsibilities and operation of the Contractor in the performance of the terms of this Contract. It is the intention hereof that the Contractor be required to strictly perform the terms of this Contract, regardless of the effect or interpretation of any municipal ordinances which in any way relate to garbage and trash and which are clearly inconsistent with this contract.

SECTION 16 - AMENDMENTS

The Town shall have the right to amend this Contract by ordinance from time to time as necessary to comply with federal, state and local laws and regulations, as amended from time to time. Such amendments shall take effect within thirty (30) days of the Contractor's receipt of the written amended Contract. Amendments which are consistent with the purposes of this Contract may be made with the mutual consent, in writing, of the parties and in accordance with the Town Charter and other applicable laws and ordinances.

SECTION 17 - NOTICES

Notices for purposes of the Contractor as called for under this Contract should be forwarded to:

District Manager

Notices to the Town should be forwarded to:

**Mayor
Town of Melbourne Village
555 Hammock Road
Melbourne Village, Florida 32904**

All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person; or dispatched by certified U.S. mail, postage prepaid, return receipt requested, addressed as set forth above; dispatched by nationally recognized overnight courier (*i.e.* – Federal Express, United States Postal Service, United Parcel Service, *etc.*), delivery paid for by the party giving notice, addressed as set forth above. Notice shall be interpreted as having been given upon delivery, if hand delivered, or upon deposit into the U.S. mail, or with an overnight courier, if given as set forth above. A party to this contract agreement may unilaterally change its address or addresses by giving notice in writing to the

other party as provided in this section. Thereafter, notices, demands and other pertinent correspondence shall be addressed and transmitted to the new address.

SECTION 18 - ASSIGNMENT AND CHANGE OF CONTROL

A. Assignment, Changes in Ownership and Subletting of Contract

(1) Neither this Contract, nor any portion hereof or the duties set forth herein, shall be assigned or sublet. Any change in ownership of the Contractor shall be construed as an assignment of this contract. There will be no assignment of this contract except with the prior written consent of the Town Commission, which may be withheld for any reason. No such consent will be construed as making the Town a party of or to such transfer or assignment, or subjecting the Town to liability of any kind to any subcontractor. Assignment, changes of ownership or subletting of Contract shall be a direct or indirect, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of twenty five percent (25%) or more at one time within a one hundred and eighty (180) day period of the ownership or controlling interest of Contractor, or fifty percent (50%) cumulatively over the term of the Contract of such interest to a corporation, partnership, trust, or association, or person or group of persons acting in concert or a change in control. A "transfer" shall include but not limited to any transfer or assignment to a person controlling, controlled by, or under the same common control as the Contractor at the effective date of this Contract. Moreover, transfer shall not mean a public offering issuance which either changes the Contractor status from a privately held corporation to that of a publicly held corporation or which is intended to provide additional capitalization for the Contractor, provided the public offering does not result in a change in Contractor's management personnel. Within the term of this Contract and any subsequent renewals if an assignment or transfer of this Contract is granted by the Town, the Contractor will pay the Town an assignment/transfer fee for the first assignment/ transfer in the amount of twenty five thousand dollars (\$25,000.00) for a second and all subsequent assignment/ transfers the Contractor will pay the Town fifty thousand dollars (\$50,000.00) upon such consent for said assignment or transfer.

(2) No assignment or subcontract shall, under any circumstances, relieve the Contractor of the liabilities and obligations under this Contract, and despite any such assignment, the Town shall deal through the CONTRACTOR. Subcontractors shall be dealt with as employees and representatives of the CONTRACTOR and, as such will be subject to the same requirements as to character and competence as are other employees of the CONTRACTOR.

If and when the Town Commission makes the determination to change service levels to one (1) time per week collection of residential solid waste the contractor agrees, upon proper notification by the Town to the

Contractor which will be no less than one hundred twenty (120) days, to diligently pursue both a notification program and educational program to the residents of the pending change. Such program shall be approved by the Town which will not be unreasonably withheld. Cost to the Customers shall be those costs as submitted within the RFP submission by the Contractor for one (1) time per week service and subject only to the cost increase such as CPI and fuel adjustment component within this contract.

SECTION 19 - SEVERABILITY

If any article, section, provision, sentence, phrase, or word of this Contract or of any supplements or riders thereto, should be held invalid, unenforceable, unconstitutional, by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Contract and of any supplements or riders thereto or the application of such article or section to persons or circumstances other than those to which it has been held invalid, unenforceable, unconstitutional, or as to which compliance with or enforcement of has been restrained, shall not be affected thereby.

SECTION 20 - GOVERNING LAW

The laws of the State of Florida shall govern this Contract and the venue for any litigation arising out of the Contract shall be in Brevard County, Florida. The Contractor and the Town waive and relinquish any right to the jurisdiction of any other court.

SECTION 21 - ATTORNEY'S FEES

In the event of litigation arising out of or interpreting the terms and conditions of this Contract, the Town and the Contractor shall each pay its own attorneys' fees, experts' fees, paralegal fees, and court costs for both trials and appeals.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed in duplicate original this _____ day of _____, 20____, effective as of the _____ day of _____, 20____.

WITNESSES:

THE TOWN OF MELBOURNE VILLAGE

By:

L. Scott McCoy, Mayor

Attest: _____
Gail Griswold Town Clerk

STATE OF _____ **COUNTY OF** _____

I HEREBY CERTIFY that on this _____ day of _____ before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared _____, well known to me to be _____ of _____ and that he/she executed the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

Notary Public

WITNESSES:

Waste Pro of Florida, Inc.

By:

_____ Print Name

_____ Title

Attest: _____

STATE OF _____ **COUNTY OF** _____

I HEREBY CERTIFY that on this _____ day of _____ before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared _____, well known to me to be _____ of _____ and that he/she executed the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

Notary Public

Appendix A - Rates

Town of Melbourne Village - Request for Proposal
Residential and Commercial Solid Waste Collection Services

RESIDENTIAL GARBAGE COLLECTION AND DISPOSAL Alternative Proposals will be Considered

Residential curbside collection of refuse:

2 x per week Residential curbside refuse collection \$ 7.85 Monthly

Fuel Component \$ 0.79 Monthly

1x per week collection of Yard Trash \$ 2.61 Monthly

Fuel Component \$ 0.26 Monthly

1x per week collection of Recycling \$ 2.46 Monthly

1 x per week of bulk collection component: \$ 0.00 Monthly

Fuel Component: \$ 0.00 Monthly

Total: 2x per week Residential Collection \$ 13.97 Monthly

Additional Residential Services provided as needed:

Bulk Yard Trash Pick-up for Tree Services \$ 9.00 per cubic yard

Bulk Debris Pick-up for Contractors (may require use of roll-off container) \$ 5.00 per pick-up
or Per Cubic Yard (specify)

COMMERCIAL CONTAINER COLLECTION AND DISPOSAL RATE
(Indicate any size or service not available or proposed by "N/A")

Front Load "Dumpster"

Per Cubic Yard Collection rate: Per collection \$ 4.45 Per Cubic Yard (PCY)

Fuel Component: Per collection \$ 0.45 (PCY)

Total per cubic yard per collection \$ 4.90 (PCY)

Commercial Hand Pickup Collection: \$ 25.00 Monthly

Fuel Component: \$ 2.50 Monthly

Total Commercial Hand Pickup Monthly: \$ 27.50 Monthly

Additional desired charges monthly for commercial FEL customers:

Wheels on containers: \$ 25.00 Monthly

Locks & Locking Bars: \$ 25.00 Monthly

Other _____: \$ _____ Monthly

FRONT OR REAR LOAD COMMERCIAL CONTAINER MONTHLY RENTAL

2 CUBIC YARD \$ 20.00 MONTHLY

3 CUBIC YARD \$ 21.00 MONTHLY

4 CUBIC YARD \$ 22.00 MONTHLY

6 CUBIC YARD \$ 24.00 MONTHLY

8 CUBIC YARD \$ 26.00 MONTHLY

Note: The Contractor will bill the customer direct for all container rental and additional allowable charges. The Contractor will deliver to the Town each month by the 15th a report of all additional revenues billed for the previous month along with a payment to the Town in the amount of ten percent (10%) of the gross billing as a franchise fee.

ROLL OFF COMPACTOR

25 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

Fuel Component: \$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost. Total per pull excluding disposal cost: \$ 181.50

30 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

Fuel Component: \$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost.
Total per pull excluding disposal cost: \$ 181.50

34 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

Fuel Component: \$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost.
Total per pull excluding disposal cost: \$ 181.50

35 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

Fuel Component: \$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost.
Total per pull excluding disposal cost: \$ 181.50

40 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

Fuel Component: \$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost.
Total per pull excluding disposal cost: \$ 181.50 81

ROLL OFF - OPEN TOP - PERMANENT ACCOUNTS

20 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

\$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost. Total per pull excluding disposal cost: \$ 181.50

30 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

Fuel Component: \$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost.

Total per pull excluding disposal cost: \$ 181.50

40 Cubic Yard

Roll Off per pull: \$ 165.00 Per Pull

Fuel Component: \$ 16.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost.

Total per pull excluding disposal cost: \$ 181.50

ROLL OFF - OPEN TOP - TEMPORARY ACCOUNTS

20 Cubic Yard

Roll Off per pull: \$ 181.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost. Total per pull excluding disposal cost: \$ 181.50

30 Cubic Yard

Roll Off per pull: \$ 181.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost. Total per pull excluding disposal cost: \$ 181.50

40 Cubic Yard

Roll Off per pull: \$ 181.50 Per Pull

Disposal Component: Pass thru to customer of the actual disposal cost. Total per pull excluding disposal cost: \$ 181.50

Delivery Fee: \$ 75.00

Relocate Fee: \$ 75.00

Note: The Contractor will bill the customer direct for all temporary open top container allowable charges including disposal charges. The Contractor will deliver to the Town each month by the 15th a report of all additional revenues billed for the previous month along with a payment to the Town in the amount of ten percent (10%) of the gross billing excluding disposal cost as a franchise fee.

FRONT LOAD COMPACTOR CONTAINER MONTHLY RENTAL

2 CUBIC YARD \$ 200.00 MONTHLY
3 CUBIC YARD \$ 215.00 MONTHLY
4 CUBIC YARD \$ 230.00 MONTHLY
6 CUBIC YARD \$ 260.00 MONTHLY
8 CUBIC YARD \$ 290.00 MONTHLY

Note: The Contractor will bill the customer direct for all FEL Compactor container rental and additional allowable charges. The Contractor will deliver to the Town each month by the 15th a report of all additional revenues billed for the previous month along with a payment to the Town in the amount of ten percent (10%) of the gross billing as a franchise fee.

Additional desired charges monthly for commercial customers:

Wheels on containers: \$ 25.00 Monthly
Locks & Locking Bars: \$ 25.00 Monthly

Alternate Proposal:

Once per week residential solid waste service will be offered with all other factors remaining the same. The change will reduce the rate by \$2.09 per month.

Single stream recycling will be offered with a 64 gallon cart for an additional \$0.65 per month.

Appendix B – Town and AHF Properties

555 Hammock Road – Town Office/Police Dept./AHF

Hall Road – Town Garage

Hall Road – Community House/Swimming Pool

Hall Road – Bulk Goods and Yard Trash accumulated by Public Works Dept.