

**ORDINANCE NO. 2019-14**

**AN ORDINANCE AMENDING ORDINANCE NO. 2003-02, CAPTIONED “CITY OF BOERNE SOLID WASTE COLLECTION AND DISPOSAL FRANCHISE AGREEMENT”, DATED JANUARY 28, 2003, AND ENACTING A SECOND AMENDED CITY OF BOERNE SOLID WASTE COLLECTION AND DISPOSAL FRANCHISE AGREEMENT, ESTABLISHING THE RATES TO BE CHARGED FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL; AND PROVIDING THE TERMS AND CONDITIONS OF THE AGREEMENT”**

**WHEREAS**, from time to time it becomes necessary to update and amend ordinances;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:**

That Ordinance No. 2003-02, dated January 28, 2003, is hereby amended and superseded by the following ordinance:

**SECTION 1. SHORT TITLE.**

This ordinance shall be known and may be cited as the CITY OF BOERNE SOLID WASTE COLLECTION AND DISPOSAL FRANCHISE AGREEMENT.

**SECOND AMENDED MUNICIPAL SOLID WASTE AGREEMENT**

This SECOND AMENDED Municipal Solid Waste Agreement (this “Agreement”) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, between the City of Boerne, Texas (“City”), acting by and through its duly authorized City Manager, and Waste Management of Texas, Inc. (“Contractor”), acting by and through its duly authorized representative.

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

**WHEREAS**, City desires to grant to Contractor the exclusive right to operate and maintain the service of collection, transportation, and disposal of residential garbage and recyclables and commercial garbage over, upon, along and across the present and future streets, alleys, bridges, and public properties of the City, subject to the terms of this Agreement; and

**WHEREAS**, Contractor desires to operate and maintain the service of collection and transportation of residential garbage and recyclables and commercial garbage, over, upon, along and across the present and future streets, alleys, bridges, and public properties of the City, subject to the terms of this Agreement.

**NOW, THEREFORE**, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties hereto agree as follows:

## SECTION 1. DEFINITIONS.

- 1.01. **Bulky Waste:** Furniture, bicycles (without tires), refrigerators that have CFCs removed by a certified technician, stoves, loose brush greater than four (4) feet in length or four (4) inches in diameter, Bundles, and other oversized wastes which are customary to ordinary housekeeping operations of a Residential Unit and whose large size precludes or complicates its handling by normal solid waste collection, processing or disposal methods; however, Bulky Waste items must be of a size and weight that such item can be safely lifted and deposited in Contractor's truck.
- 1.02. **Commercial Unit:** All commercial and industrial businesses and establishments, including, but not limited to, stores, offices, restaurants, warehouses, construction sites, and manufacturing facilities, premises, locations or entities, public or private, within the corporate limits of the City.
- 1.03. **Commercial Waste:** All Garbage, Rubbish, Construction Debris, and Refuse generated by a Light Commercial Unit or a Commercial Unit, excluding Unacceptable Waste.
- 1.04. **Third Party Provider:** A commercial business enterprise or commercial service that is providing any type of services to Residential Units.
- 1.05. **Compactor:** Any container, regardless of size, which has a compaction mechanism, whether stationary or mobile.
- 1.06. **Construction Debris:** Waste building materials resulting from construction, remodeling, repair, or demolition operations that are directly or indirectly the by-products of construction work or that result from demolition of buildings or other structures, but specifically excluding inert debris, land-clearing debris, yard debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar materials.
- 1.07. **Contract Administrator:** That person, or his designee, designated by the City to administer and monitor the provisions of this Agreement.
- 1.08. **Contractor:** Waste Management of Texas, Inc.
- 1.09. **Customer:** The owner or tenant of a Residential Unit or Commercial Unit located within the City and identified by the City as being eligible for and in need of the services provided by the Contractor under this Agreement.
- 1.10. **Dead Animals:** Animals or portions thereof that have expired from any cause except those slaughtered or killed for human use.
- 1.11. **Disposal Site:** A duly permitted sanitary landfill selected by Contractor.
- 1.12. **Dumpster or Container:** Metal receptacle designed to be lifted and emptied mechanically for use only at Commercial Units or Industrial Units.
- 1.13. **Garbage:** Solid Waste consisting of putrescible or animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of

food, including waste materials from markets, storage facilities, handling and sale of produce and other food products, and all Dead Animals of less than ten pounds (10 lbs.) in weight, except those slaughtered for human consumption.

- 1.14. **Hazardous Waste:** Any Solid Waste identified or listed as a hazardous waste by the administrator of the Environmental Protection Agency under the Federal Solid Waste Disposal Act as amended by RCRA, 42 U.S.C. §6901, *et. seq.*, as amended.
- 1.15. **Light Commercial Unit:** A retail or light commercial type of business, which generates no more than one (1) cubic yard of Garbage, Rubbish, and Refuse per week, excluding Unacceptable Waste.
- 1.16. **Medical Waste.** Waste generated by health care related facilities and associated with health care activities, not including Garbage or Rubbish generated from offices, kitchens, or other non-health-care activities. The term includes Special Waste from health care-related facilities which is comprised of animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps as those terms are defined in 25 TAC §1.132 (relating to Definitions).
- 1.17. **Non Recyclables:** Any materials in the Single Stream Materials that are not Recyclables.
- 1.18. **Waste Cart:** A rubber-wheeled receptacle with a maximum capacity of approximately 96 gallons constructed of plastic, metal and/or fiberglass, designed for automated or semi-automated solid waste collection systems, and having a tight fitting lid capable of preventing entrance into the container by small animals. The weight of a Waste Cart and its contents shall not exceed 175 lbs.
- 1.19. **Recyclable Material or Recyclables:** Material that has been recovered or diverted from the non-hazardous waste stream for purposes of reuse, recycling, or reclamation. Recyclable Material is not solid waste; but may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste, with respect to the party actually abandoning or disposing of such material.
- 1.20. **Recycling Cart:** A Contractor owned rubber-wheeled receptacle with a maximum capacity of approximately 64 gallons (a 96 gallon recycling cart can be provided upon City request) constructed of plastic, metal and/or fiberglass, designed for automated or semi-automated collection systems, and having a tight-fitting lid capable of preventing entrance into the container by small animals. The weight of a Recycling Cart and its contents shall not exceed 175 lbs.
- 1.21. **Residential Unit:** A residential dwelling within the service area of the City occupied by a person or group of persons comprising not more than four families. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four units, shall be treated as a Residential Unit, except that each single-family dwelling within any such Residential Unit shall be billed separately as a Residential Unit.
- 1.22. **Residential Waste:** All Refuse, Garbage and Rubbish generated by a Customer

at a Residential Unit, excluding Unacceptable Waste.

- 1.23. **Roll-off:** Container provided by Contractor typically measuring 20 cubic yards, 30 yards or 40 cubic yards, generally intended for high-volume Waste or Construction Debris generating customers, construction projects, and any other Customers, which container is capable of pickup and transport to a landfill by loading of container onto rear of transporting vehicle, but excluding a Compactor.
- 1.24. **Rubbish or Refuse:** Nonputrescible Solid Waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).
- 1.25. **Single Stream Materials.** All materials deposited by a customer in the Customer's recycling container, including Recyclables and Non-Recyclables.
- 1.26. **Solid Waste or Waste:** **Waste:** All Residential Waste and Commercial Waste to be collected by Contractor pursuant to this Agreement. The term "Solid Waste" or "Waste" specifically excludes Unacceptable Waste.
- 1.27. **Special Waste:** Waste that requires special handling and management due to the nature of the waste, including, but not limited to, the following: (A) containerized waste (e.g. a drum, barrel, portable tank, box, pail, etc.), (B) waste transported in bulk tanker, (C) liquid waste, (D) sludge waste, (E) waste from an industrial process, (F) waste from a pollution control process, (G) residue and debris from the cleanup of a spill or release of chemical(s), or (H) any other waste defined by applicable law, rule or regulation as "Special Waste".
- 1.28. **Unacceptable Waste:** Any waste or material that (i) the acceptance and handling of which by Contractor would cause a violation of any permit, condition, legal or regulatory requirement, (ii) substantial damage to Contractor's equipment or facilities, or (iii) contains information (in hard copy or electronic format) that is protected or regulated under any local, state or federal privacy or data security laws, including without limitation, the Health Insurance Portability and Accountability Act (HIPAA), or (iv) presents a danger to the health or safety of the public or Contractor's employees, and/or (v) is or contains Hazardous Waste, Special Waste, untreated Medical Waste, Dead Animals weighing ten pounds (10 lbs.) or greater (does not apply to City Animal Control Facility), or (vi) is or contains solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit, or (vii) is soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements, or (viii) results from activities associated with the exploration, development, or production of oil or gas or geothermal resources.
- 1.29. **Unusual Accumulations:** As to Residential Units and Light Commercial Units, any Waste placed curbside for collection in excess of the volumes permitted by this Agreement, or placed outside a Polycart, and as to Commercial Units, any Waste located outside the Dumpster, Roll-off Bin or Compactor regularly used for

such collection service or in excess of the applicable weight limits of the Dumpster, Roll-Off Bin, or Compactor.

- 1.30. **Yard Waste:** Tree, shrub and brush trimmings securely tied together forming an easily handled package, not to exceed four (4) feet in length, six (6) inches in diameter, or fifty (50) pounds in weight.

## SECTION 2. GRANTING OF EXCLUSIVE FRANCHISE.

Contractor is hereby granted the exclusive right and privilege within the corporate limits of the City and extra-territorial jurisdiction where the City provides water or wastewater utility service to conduct business for the purpose of collection Residential Unit Waste and Recyclables, and Commercial Unit Waste, as described in this Agreement, subject to the terms hereof, including any tracts, territories and areas hereafter annexed to or acquired by City. This exclusive franchise includes permanent, recurring Roll-Off and Compactor services, but excludes temporary construction and demolition projects serviced by Roll-Offs and located within the City's incorporated limits and extra-territorial jurisdiction where the City provides water or wastewater utility service.

## SECTION 3: RESIDENTIAL AND LIGHT COMMERCIAL SERVICES.

- a. **WASTE SERVICES** – The Contractor shall provide a Waste Cart to each Residential Unit. Contractor will provide once per week curbside collection of all Residential Unit Waste properly placed into that Customer's Waste Cart(s). A Residential Unit may not use more than two (2) Carts for Waste collection. Residents shall not place any Waste outside or, on top of, or next to its Waste Cart, and Contractor has no obligation to collect such material.
- b. **BULKY WASTE/YARD WASTE.** Contractor agrees to collect Bulky Waste and Yard Waste from Residential Units once per month on the same day as Contractor collects Residential Unit Waste. Each Bulky Waste and Yard Waste pile shall be limited to no more than four (4) cubic yards in total. Contractor has no obligation to collect any Bulky Waste or Yard Waste in excess of 4 cubic yards.
- c. **RECYCLABLES CART COLLECTION** –The Contractor will provide once per week curbside collection of Single Stream Materials generated by the Residential Customers and properly placed into that Customer's Recycling Cart. Customers shall not place any Recyclables outside of, on top of, or next to the Recycling Cart, and Contractor has no obligation to collect such material. Contractor shall provide a Recycling Cart to all residential accounts.
- d. **RECYCLING SPECIFICATIONS** - Recyclable Materials and the corresponding specifications are set out in Exhibit B attached hereto and incorporated fully by reference.
- e. **LIGHT COMMERCIAL UNITS** -Contractor shall collect, remove, transport and dispose of Waste from Light Commercial Units once a week. Contractor shall provide a Waste Cart to each Light Commercial Unit.
- f. **DISABLED COLLECTIONS.** At no cost to City or the Residential Unit Customer, Contractor shall provide temporary collection service at the garage of up to 20

Residential Units to accommodate persons who may be disabled and unable to move their Cart. All such locations shall be qualified and approved by the City Manager, who shall provide the addresses to Contractor until otherwise notified in writing by the City Manager.

- g. UNUSUAL ACCUMULATIONS. In the event that Residential Unit Customers may desire collection of Unusual Accumulations or services not contemplated by the ordinance, such Customers should make independent arrangements with the Contractor. For Commercial and Industrial Unit Customers, Contractor has the right to assess an overage charge for an Unusual Accumulation and will document the Unusual Accumulation by a digital photo.
- h. CARTS:
  - (i) Residential Unit Customers shall place the Waste and Recyclables Carts in a location that is readily accessible to Contractor and its collection equipment, not to exceed three (3) feet from the curb or edge of the travel portion of the street, road or alley, and not to be located in a manner that will block the driveway or mailbox or otherwise inhibit proper servicing. The City shall aid Contractor in resolving problems of Cart location by the Customer. Customers shall not overload Carts, and the Carts shall be loaded such that the lids shall close securely.
  - (ii) Contractor shall not be required to collect (i) any Residential Waste that is not placed in a Waste Cart, (ii) any Residential Waste from a Waste Cart that is overloaded, or (iii) a Waste Cart that is not properly placed curbside.
  - (iii) The Carts furnished by the Contractor hereunder shall remain the property of Contractor, and the Customer will have no interest in the Carts. The Carts shall remain at the location of the Residential Unit where delivered by Contractor. The Customer shall be responsible for lost or missing Carts. Contractor will provide replacement Carts at no cost to replace those Carts that are damaged. Additional Carts are available for residential Customers at an additional charge to be paid by the Customer. In the event a Cart at a Residential Unit should become lost or is missing, Contractor agrees to replace such lost or missing Cart with a new Cart, at a cost of \$70.00 to the City.
- i. AT YOUR DOOR PROGRAM. Contractor agrees to provide to Residential Units the collection of certain specialized wastes under its At Your Door program, the terms of which program are set out in Exhibit C attached hereto.
- j. UNACCEPTABLE WASTE: Contractor shall not be obligated to collect Unacceptable Waste. Title to Unacceptable Waste shall not pass to Contractor, and liability for any unacceptable Waste shall remain with the generator of such Waste.

#### SECTION 4: COMMERCIAL UNIT SERVICES

Contractor shall have the exclusive right to collect and transport Commercial Waste and Construction Debris from the Commercial Units, utilizing Dumpsters, Compactors or Roll Off containers, unless otherwise approved in writing by the City and Contractor for specific Commercial Units. The frequency of collection and the number of Dumpsters, Compactors, or

Roll-Off Containers to be used shall be as reasonably requested by such Commercial Unit Customer and agreed to by Contractor. The Dumpster, Compactor or Roll Off Container shall be located on a concrete pad to accommodate equipment and at a location reasonably acceptable to Contractor. Contractor may, at its sole option, require Commercial Customers to enter into individual contracts with Contractor, subject to the terms of this Agreement. The hours for Commercial Waste collection shall be as stated in this Agreement.

#### SECTION 5. COMPLIANCE WITH LAWS AND ORDINANCES.

The Contractor shall at all times during the life of this franchise, be subject to all lawful exercise of the police power by the City, and to such reasonable regulations as the City shall by ordinance hereafter provide. In addition, Contractor will observe all state laws regulating the collection and disposal of garbage as well as the collections, removal, handling, and sale of recyclable materials.

#### SECTION 6. LIABILITY.

It is expressly understood and agreed by and between City and Contractor that the Contractor shall indemnify and save harmless the City, its officers, officials, and employees of and from any and all loss, liability, claims, demands, causes of actions or suits including reasonable attorney's fees incident thereto, of any and every kind arising from the negligent acts or omissions or willful misconduct of Contractor, its agents, or employees in the performance of services under this franchise agreement. Contractor shall be deemed to be an independent contractor and not an agent or employee of the City with respect to any acts or omissions on the part of the Contractor.

Contractor shall not be obligated to collect Unacceptable Waste. Title to Unacceptable Waste shall not pass to Contractor, and liability for any Unacceptable Waste shall remain with the generator of such Waste.

#### SECTION 7. INSURANCE REQUIREMENTS.

Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in conjunction with the performance of the work hereunder by the Contractor, its agents, representatives, employees, or subcontractors. The City shall be named as an additional insured under the policies, except for workers' compensation, subject to Contractor's indemnities set forth herein. Contractor shall provide the City with a certificate of insurance reflecting the City's additional insured status. The cost of such insurance shall be borne by the Contractor.

##### Minimum Limits of Insurance:

| <b>Type of Coverage</b>      | <b>Per Occurrence Minimum</b>                                      | <b>Aggregate Minimum</b> |
|------------------------------|--|--------------------------|
| Workers Compensation         | As required by law and shall cover all employees including drivers | As required by law.      |
| Commercial General Liability | \$1,000,000  | \$1,000,000              |
| Business Auto Liability      | \$1,000,000  | \$1,000,000              |
| Bodily Injury                | \$1,000,000  |                          |
| Property Damage              | \$ 500,000   |                          |

All insurance so maintained shall be with a reputable insurance company authorized and licensed to do business within the State of Texas or otherwise meeting the prior approval of the City. Certificates evidencing such coverage shall be deposited with the City Secretary of the City and shall contain a provision that written notice of cancellation by the insurer shall be delivered to the City at least thirty (30) days in advance of the effective date thereof. Contractor agrees to give the City notice of any material change in such policies at least 30 days in advance to the City.

#### SECTION 8. PERFORMANCE BOND.

Contractor agrees to furnish the City a good and sufficient performance bond in the amount of \$50,000 within ten (10) days after notice of award and said performance bond shall be in standard form for the purpose of guaranteeing the faithful performance of the work and fulfillment of each and all provisions and requirements of this franchise agreement, whether expressed or implied. Such bond shall be submitted to and approved by the City prior to the effective date thereof. Said bond will show Contractor as principal and a surety company authorized to transact business in Texas as surety.

#### SECTION 9. SERVICE STANDARDS.

The Contractor shall maintain and operate its collection and disposal system and equipment in order to render efficient service subject to the terms of this franchise. The following shall be considered as mandatory requirements.

- a. EQUIPMENT. All equipment, including motor vehicles and trucks necessary for the performance of this franchise shall, at the beginning of the period, be in good condition and repair. A stand-by vehicle shall always be available. The packer bodies used in the collection of garbage or refuse shall be all metal, water-tight, and completely enclosed, and that are designed and manufactured for the collection of garbage and rubbish, mounted on the properly sized truck. Said collector vehicles shall be painted and numbered and shall have Contractor's name and telephone number painted in letters of a contrasting color on each side of the vehicle. All vehicles shall be kept in a clean and sanitary condition and shall be cleaned inside and outside at least once a week.
- b. COLLECTION HOURS: Collection of Residential Waste shall begin no earlier than 7:00 A.M. and shall generally not extend beyond 6:00 P.M. No collection shall be made on Sunday. Collection of Commercial Waste shall be collected at such hours as may be determined by Contractor. No collection shall be made on Sunday, unless requested by a Customer and agreed to by Contractor.
- c. SPILLAGE. Contractor shall, if necessary, hand clean all spillage resulting from its collection activities; however, this excludes spillage resulting from overfilled containers. Contractor is not required to clean up any spillage not created by its operation, but shall report the residential location and such condition to the City so the proper notice can be given to the occupant of the residence to properly contain refuse.
- d. HOLIDAYS. The following shall be holidays for purposes of this Agreement:

New Year's Day  
Thanksgiving Day  
Christmas Day



Contractor shall be responsible for providing make-up collection for Residential Unit routes that occur on holidays. Contractor will notify the City in advance if Contractor designates any other days as Holidays.

- e. DIRECT CUSTOMER CONTACT Contractor shall establish and maintain a telephone and email service to handle calls, emails, complaints, and inquiries received by telephone, email (or otherwise) and the action taken thereon shall be carried out by the Contractor. A daily log of all service calls, complaints, and inquiries shall also be maintained by the Contractor. The Contractor shall notify the City of location of office and primary telephone numbers of same. Contractor shall also assign a qualified person to be in charge of the operations in the City; such person shall be responsible for responding to request for service and complaints relative to inadequate service. The Contractor shall provide this service from 9:00 a.m. to 5:00 p.m. every day except Saturday, Sunday and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- f. CHANGES IN TIMES AND ROUTES OF COLLECTION. Contractor reserves the right to change or alter the times and routes of collection. Contractor shall give at least fifteen (15) days' notice if any such action is contemplated. No changes in collection schedule shall be made by Contractor without notification to the City Manager and Utility Office Manager. Contractor shall also provide the City with a copy of the collection route and any changes made thereafter.
- g. DISPOSAL OF SOLID WASTE. Contractor shall have the responsibility for the disposal of all Waste collected under this Agreement and all of said materials shall be disposed of in compliance with the laws of the State of Texas. Said disposal shall be accomplished outside the corporate limits of the City. Contractor must own, have a fixed lease on, or have a contractual agreement covering the life of this franchise for use of a disposal site approved by the Texas Commission on Environmental Quality, and agree not to convey same during the term of the franchise; or shall have a lease on such a site for a term of years equal to the term of the franchise.
- h. FAILURE TO COLLECT. It is specifically agreed by and between the City and Contractor that if the owner or occupant of any premises fails to timely (in accordance with existing City Ordinance) place a container out on his curb, in maintaining improper or inadequate waste containers, or is otherwise in violation of applicable ordinance with respect to the location of waste containers or the nature, volume or weight of waste to be removed from the premises, Contractor may refrain from collecting all or a portion of such waste and shall notify City and the owner or occupant of the premises of the reason for non-collection. When City is notified that Waste has not been removed from his premises on the scheduled collection day and where no notice of non-collection nor a change in collection schedule has been received from Contractor, City will conduct an investigation. If such investigation discloses Contractor has failed to collect the subject premises without cause, Contractor will collect the same within twenty-four (24) hours after a collection order is issued by City.

#### SECTION 10. TERM OF FRANCHISE.

- a. The term of this Amended Agreement shall commence on January 1, 2020

("Commencement Date"), and the services and rates will follow the terms below as regarding services and rates that Contractor is providing on beginning January 1, 2020. The parties acknowledge that the City has approved changes in the services that Contractor shall provide and the rates that shall take effect on the date that Contractor has delivered a Recycle Cart and Waste Cart to all applicable Customers. The rates for all of the services that Contractor shall provide under this Amended Agreement once the Carts are delivered are set forth in Schedule A attached hereto. The initial five-year term of this Agreement shall remain in full force and effect through December 31, 2024; provided, however, the term of this Amended Agreement shall automatically extend without further action of the parties for additional terms of two (2) years, each, unless, not less than one hundred eighty (180) days before the termination of the then current term, one party advises the other in writing of its desire to terminate this Agreement at the conclusion of the then current term of the Agreement.

#### SECTION 11. TERMINATION.

- a. **BREACH BY CONTRACTOR.** In the event of an alleged breach by Contractor of any of the terms of the Agreement herein contained, the City shall notify Contractor of such alleged breach, and if the same is not cured within ten (10) days from such notice, City may, after hearing, revoke and cancel this agreement in which event the rights and privileges granted Contractor hereinunder shall be null and void. The hearing upon any such revocation or cancellation shall be held and conducted by the City Council of said City and shall not occur sooner than ten (10) days after notice in writing thereof has been given Contractor. Such notice shall be given by registered mail and shall be deemed to have been given on the date of mailing to the Contractor at the last known address of Contractor. The notice shall specify the time and place of the hearing and shall include the alleged reasons for revocation or cancellation of this agreement. Any such hearing shall be public and Contractor shall be allowed to be present, and shall be given full opportunity to answer such charges and allegations as are set forth in the notice. If the findings of fact made after such hearing indicate that a breach of terms, covenants, or conditions of this agreement, as set forth in the notice, has occurred, the Council may revoke and cancel this Agreement.
- b. **BANKRUPTCY.** It is agreed that if the Contractor is adjudged bankrupt, either voluntarily or involuntarily, then this agreement shall terminate effective on the day the bankruptcy petition is filed.
- c. **BREACH BY CITY:** In the event of an alleged breach by City of any of the terms of the Agreement, Contractor shall notify City of such alleged breach, and if the same is not cured within ten (10) days from such notice, Contractor may give City written notice of its intent to terminate the Agreement no earlier than 30 days from the date of the termination letter.

#### SECTION 12. NON-TRANSFERABILITY OF FRANCHISE RIGHTS.

The Contractor shall not accept, sell, transfer or assign his rights or system under this franchise to any other person or corporation without the approval of the City of Boerne, which shall not be unreasonably withheld, conditioned, or delayed.

### SECTION 13. RATES, COLLECTION, PAYMENT.

- a. The rates to be charged and received by Contractor are as shown in Exhibit A attached hereto and incorporated fully by reference.
- b. City shall assume the duty to bill and collect from all Residential Unit Customers hereunder. Within 10 days of the end of each month, Contractor shall submit to the City an invoice setting forth sums due by the City to Contractor for services rendered under this Agreement for the prior month. City shall pay Contractor for the Residential Unit services set forth in Contractor's invoice regardless of the rate charged by City. The City has the right to add and retain any administrative or other fees for residential billing purposes. The City will add charges for billing and collecting as set by its Fee Ordinance. Both of these charges will be retained by the City. The City shall remit payment to Contractor for its services within 30 days after receipt of the invoice. Past due invoices shall bear interest at the highest rate permitted by law. The City will add charges for billing and collecting as set by its Fee Ordinance. Both of these charges will be retained by the City.
- c. Contractor shall provide billing and bill collection services for all Commercial Unit Customers and Light Commercial Units, including multi-family dwelling and trailer park customer (at the rates shown on Exhibit A hereto, which includes the City's 5% franchise fee). Contractor shall pay the City for the 5% franchise fee based on payments actually received by Contractor from the Customers that Contractor invoices, for the privilege of using the streets, public rights-of-way, and alleys of the City in connection with this franchise. Contractor shall pay the City the Franchise Fee based on net revenue received by Contractor from such Customers for collection and disposal of Commercial Waste and Industrial Waste. Net revenue excludes sales tax and the Franchise Fee itself. Contractor shall remit the Franchise Fees to the City within 30 days after the last day of the month of Contractor's actual receipt of such monies.
- d. Contractor will bill such Commercial Unit and Light Commercial Unit Customers on a monthly basis, and such Customers shall remit payment to Contractor within 30 days of the invoice date. Past due invoices shall bear interest at the highest rate permitted by law. Contractor will notify any Customer who is delinquent in payment, and Contractor has the right to suspend services for such delinquency in its statement for such the following month. If Contractor suspends service to a Customer for failure to timely pay Contractor invoices, Contractor has the right to charge a service reactivation fee. If Contractor suspends service to a Customer for failure to timely pay Contractor invoices, Contractor has the right to assess a finance charge or late payment fees if such service to the Customer is reinstated.

Contractor shall have no obligation to collect Unusual Accumulations; however, if Contractor chooses to collect Unusual Accumulations, Contractor has the right to charge for such collections.

### SECTION 14. ADJUSTMENT OF RATES.

- a. DUMPSTER AND ROLL-OFF COLLECTION SERVICE RATES. Base Rates charged by Contractor for providing services and equipment to Commercial and Industrial Units using Dumpsters or Roll-Offs are set forth in Exhibit A. Effective January 1, 2021, the

Base Rates for the Dumpster and Roll-Off services and equipment shall increase by five percent (5%). Effective January 1, 2022, Base Rates for the Dumpster and Roll-Off services and equipment shall increase by the CPI Adjustment and Natural Gas/Fuel Adjustment methodology set forth in Section 14.b. and c. or by three percent (3%), whichever percentage is higher. Effective January 1, 2023 and every January 1 thereafter, Base Rates for the Dumpster and Roll-Off services and equipment shall increase by the CPI Adjustment and Natural Gas/Fuel Adjustment methodology set forth in Section 14.b. and c. The adjustments set forth in this subsection 14.a. shall also apply to the Municipal Wastewater Treatment Plant Sludge Haul Rate set out in Exhibit A.

- b. **CPI ADJUSTMENT.** Base Rates charged by Contractor for Residential Unit services will remain fixed as set forth on Exhibit "A" and will not be increased or decreased for changes in the CPI (as hereinafter defined), until January 1, 2021. Continuing annually on each January 1 thereafter, Base Rates for services shall be adjusted by 80% of the percentage that the Consumer Price Index, US City Average for All Urban Consumers, Water, Sewer, Trash Collection, Not Seasonally Adjusted, Base Period December 1997= 100 Series ID CUUR0000SEHG, CUUS0000SEHG (published by the United States Bureau of Labor Statistics, Consumer Price Index) (the "C.P.I.") shall have increased or decreased during the preceding twelve month period for which the data has been published. The C.P.I. published on the first Monday prior to the end of November (or the first business day thereafter if such Monday is a Federal Holiday) shall be used. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the C.P.I., the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.
- c. **NATURAL GAS/FUEL ADJUSTMENT.** Annually on each anniversary date of this Agreement, the Base Rates shall be adjusted by 20% of the average percentage that the Producer Price Index Commodity Data published by the Bureau of Labor Statistics, Series ID WPU0531, Fuels and Related Products & Power, Natural Gas ("PPI"), has increased or decreased from the twelve period ending in the month of October that immediately precedes the January 1 effective date of the rate adjustment. The average will be computed by calculating the changes in the PPI each month during the 12-month period.

Contractor agrees that the annual CPI and Natural Gas/Fuel adjustment increase or decrease will not exceed five percent (5%) in any one year regardless of the index values.

- d. **ADDITIONAL ADJUSTMENTS.** Contractor shall also be entitled to request from the City an increase in rates from time to time during the term of this Agreement to offset any uncontrollable change in conditions which increase the Contractor's costs, including but not limited to, increases in disposal costs, increases in landfill fees, changes in the ordinances under which the Contractor is to operate, or changes in foreign or domestic laws, rules or regulations or the implementation thereof. Contractor will submit documentation of the reason for such requested increase to the City and the City shall have forty-five days from receipt of Contractor's request to either approve or deny the request. The City's approval of the request shall not be unreasonably withheld, conditioned or delayed. If the City denies Contractor's request for the increase, then Contractor has the right to terminate this Agreement on 180 days' written notice to the City.

#### SECTION 15. CITY'S OBLIGATIONS:

The City agrees to perform all obligations required of the City pursuant to the terms of this Agreement, including, but not limited, the following:

- (a) The City shall communicate City decisions to Contractor on a timely basis from time to time as required under this Agreement;
- (b) The City shall provide the total number of Residential Units to the Contractor no later than the 25<sup>th</sup> day of each month (i.e., the total house count that to receive Contractor services). Contractor will use that monthly Residential Unit total in its next invoice to the City. Contractor has no responsibility for any incorrect house counts provided by the City, but has the right, in its discretion, to verify the Residential Unit count information provided by the City. Any error or mistakes in the Residential Unit count provided by the City to Contractor shall be corrected within six months of the date provided or the mistake is waived and released by both parties;
- (c) The City shall timely pay Contractor pursuant to this Agreement;
- (d) The City shall timely inform Contractor of complaints made by Customers;
- (e) The City shall work with Contractor in good faith to resolve complex Customer service issues; and
- (f) The City shall educate Customers to encourage, promote and obtain proper Waste disposal and recycling as required by this Agreement, including educating Residential Unit Customers to assure proper and timely Waste set out, and proper recycling techniques to minimize commingling of Waste and Recyclables.

#### SECTION 16: DISASTER EVENT:

Contractor and City understand and agree that, in the event of a hurricane, tornado, major storm, flood, natural disaster, war, act of terrorism, or other act of God ("Disaster Event"), Contractor shall have no obligation under this Agreement to collect any material or debris resulting from the Disaster Event. The City has the right to engage a contractor of its choice to collect material or debris resulting from a Disaster Event.

#### SECTION 17. RECORDS AND REPORTS.

City shall have access at all reasonable hours and upon reasonable request to all Contractor's records, customer service cards, and all papers relating to the operation of said Contractor within the City. The following records and reports shall be filed monthly by the fifteenth (15th) day with the City Manager of the City of Boerne.

- a. Reports of the results of all complaints and investigations received and completed by Contractor.
- b. A listing of all commercial accounts served. This list shall include customer's name, address, frequency of pickup, size of container or type of service and charges for same.
- c. The Contractor shall weigh each load of Municipal Wastewater Treatment Plant

sludge, maintain accurate records of each load and report the weight of each shipment (load) to the Utilities Director and Utility Customer Service office monthly.

- d. Monthly report on collection services, recycling report, customer service detailed report sent to the Utilities Director and Utility Customer Service office.

#### SECTION 18. REGULATION OF COMMERCIAL COLLECTION CONTAINERS.

The Contractor shall provide, at his own expense, containers to the owner or occupant of any premises wherein he contracts for commercial storage, collection and disposal of solid waste, subject to the following requirements:

- a. All such containers shall be constructed according to specifications which are acceptable to and approved by the City.
- b. All such containers shall be equipped with suitable covers to prevent blowing or scattering refuse or garbage while being transported for disposal of their contents.
- c. All such containers shall be maintained by the Contractor so as to be in good repair. The owner or occupant shall be responsible for odor, insect and rodent control.
- d. All such containers shall be clearly marked with Contractor's name and telephone number in letters not less than two inches (2") in height.
- e. Contractor will reimburse the owner of any premises where such waste containers are placed for any damage caused by the negligence or misconduct of Contractor's employees to screening fences, buildings, gates or other improvements on such property.

#### SECTION 19. ADMINISTRATIVE CHARGES:

The City may assess and withhold the following administrative charges from payment owed Contractor as provided below. No administrative charges will be imposed (i) during the first 60 days of this Agreement to allow for a reasonable transition period, or (ii) during or as a result of a Force Majeure event or a Disaster Event. Prior to deducting any administrative charges from payments due to the Contractor, the City shall provide Contractor with written notice and details of all claims giving rise to any charges it plans to assess, and allow the Contractor to respond or disprove the claims event. Contractor shall send its response and/or proof to the City within 14 days after receipt of notice. If Contractor fails to respond to the City's notice of claimed administrative charges or fails to provide information refuting the claim, then the City may automatically deduct the total charge from the payment due to the Contractor.

| <b>Act/Omission</b>  | <b>Administrative Charge Amount</b>                               |
|--|---|
| Failure of Contractor to collect Residential Waste that was timely set out and verified by Contractor as missed within one business day (excluding Saturday and Sunday). | \$25.00 each incident to a maximum of \$250.00 per truck per day. |

|   |                      |
|---|----------------------|
| Failure to clean up spilled Waste or Recyclables caused by Contractor (not due to overfilled or overloaded containers). | \$25.00 per incident |
| Contractor's failure to timely respond to a Customer complaint  | \$50.00 per incident |
| Contractor's failure to maintain its vehicle in a manner that prevents nuisances such as leaky seals or hydraulics      | \$100 per incident   |

## SECTION 20: DISPUTE RESOLUTION

The parties shall endeavor to settle all disputes under, or relating to, this Agreement by amicable negotiations. Except as otherwise provided herein, any claim, dispute, disagreement or controversy that arises among the parties under or relating to this Agreement that is not amicably settled shall be submitted to mediation. If the parties remain unable to resolve the controversy through mediation, then either party may pursue their claim, dispute, disagreement or controversy in a court with proper venue in the state within which the services are being performed.

## SECTION 21: FORCE MAJEURE

The performance of this Agreement may be suspended and the obligations of either party excused in the event of and during the period that such performance is prevented or delayed by a Force Majeure occurrence. "Force Majeure" shall mean:

- (a) An act of God, including hurricanes, tornadoes, landslides, lightning, earthquakes, weather conditions, fire, flood, explosion, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot, civil disturbance, strike or other labor disturbances, governmental actions or regulations, governmental requests or requisitions for national defense, or breakdown or injury to, or shortage in, facilities used for the handling, processing or transportation of Solid Waste or any other cause beyond the reasonable control of either party;
- (b) The order or judgment of any federal, State, or local court, administrative agency or governmental body (excluding decisions of federal courts interpreting federal tax laws, and decisions of State courts interpreting State tax laws) if it is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon; provided that neither the contesting in good faith of any such order or judgment nor the failure to so contest shall constitute or be construed as a measure of willful misconduct or negligent action or inaction of such party;
- (c) The suspension, termination, interruption, denial, or non-renewal of any permit or approval essential to the operation of the Contractor; or
- (d) A Change in Law. "Change in Law" means (i) the adoption, promulgation, or modification or reauthorization after the date of this Agreement of any law, regulation, order, statute, ordinance, rule or binding judicial or administrative ruling that was not adopted, promulgated, modified or reissued on or before the date of this Agreement, or (ii) the imposition of any material conditions in connection with the issuance, renewal, or modification of any permit, license, registration, notice of intent or approval after the date

of this Agreement, which in the case of either (a) or (b) establishes requirements affecting a party's operation under this Agreement more burdensome than the requirements that are applicable to such party and in effect as of the date of this Agreement. A change in any federal, State, county, or other tax law or workers compensation law shall not be a Change of Law. However, in the event that a federal, State or local entity imposes a fee, charge or tax after the date of this Agreement that applies to a party's operations per se, such fee, charge or tax shall be treated as a Change in Law.

## SECTION 22. INVESTIGATIONS AND PUBLIC HEARINGS.

The City Council shall have full power to examine or cause to be examined upon reasonable notice to Contractor, the books, papers and records of Contractor with relation to the operation of the solid waste and recycling collection and disposal system within the City. In this connection, the City shall have the right, through its Council, to take testimony and compel the attendance of witnesses or the production of books, papers, and records and to examine witnesses under oath and under such rules and regulations as it may adopt. If Contractor or any officer or agent or employee of Contractor refuses to give testimony before said Council, Council shall have by ordinance the right to declare this franchise in default and terminate it.

## SECTION 23. NOTICES.

Where written notices are provided for in this ordinance, same shall be sufficient to notify Contractor if mailed by certified mail to WASTE MANAGEMENT OF TEXAS, INC., 1777 NE Loop 410, SUITE 1001, SAN ANTONIO, TEXAS 78217, and shall be sufficient to notify CITY OF BOERNE if mailed by certified mail to P.O. BOX 1677, BOERNE, TEXAS 78006.

## SECTION 24. SPECIAL TERMS AND CONDITIONS.

- a. CITY SERVICE. The Contractor shall, at no cost to the City of Boerne, provide Dumpster(s) and collection at the per week frequency set forth in Exhibit D attached hereto and dispose of all Solid Waste generated at the Boerne City Hall, New City Hall December 2019, Public Works Department City Police Department, Municipal Library, City Water Plant, City Sewer Plant, (except sludge), Street Department Maintenance Shop, City Animal Control Facility, Boerne Convention and Visitor's Bureau, Park Warehouse, Fire Station, Swimming Pool, City Park, and Utility Warehouse.
- b. Additionally, Contractor will provide the following containers and one haul per container, at no charge, at all the following City sponsored festivals and activities: 5 City sponsored events per year. 3 smaller events requiring no more than 4 containers; 2 large events requiring no more than 8 containers. The City agrees to provide Contractor with at least 14 days' written notice prior to each City sponsored event.
- c. A Spring and Fall Cleanup Week will be designated by the City with Contractor's consent to provide extra emphasis for City cleanup. Contractor will furnish a dumpster/hauls as needed for a maximum of two times per year. The City shall contact Contractor when the Dumpsters need to be serviced.



SECTION 25. SEVERABILITY.

Should any section, subsection, sentence, provision, clause or phrase hereof be held to be invalid, void or unconstitutional for any reason, such holding shall not render invalid, void or unconstitutional for any other section, subsection, sentence, provision, clause or phrase of this agreement, and the same are deemed severable for this purpose.

SECTION 26. LAW GOVERNING AGREEMENT; VENUE

This Agreement shall be governed by and construed in accordance with the law of the State of Texas. The parties agree that venue of any lawsuit filed by one party against the other shall be in Bexar County or Kendall County, Texas or if a federal action, the U.S. District Court with jurisdiction in such county.

PASSED and APPROVED this the 23<sup>rd</sup> day of April, 2019.

PASSED, APPROVED and ADOPTED this the \_\_\_\_ day of May, 2019.

APPROVED:

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Secretary

EFFECTIVE AS OF THE \_\_\_\_ DAY OF \_\_\_\_\_, 2019.

**CITY:**

CITY OF BOERNE, TEXAS

**CONTRACTOR:**

WASTE MANAGEMENT OF TEXAS, INC.

\_\_\_\_\_  
BY: \_\_\_\_\_

ITS: \_\_\_\_\_

\_\_\_\_\_  
BY: \_\_\_\_\_

Its: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Secretary,  
City of Boerne, Texas

**EXHIBIT A**  
**SCHEDULE OF RATES**  
**Effective Date: January 1, 2020**

**Waste Management of Texas, Inc.**  
**City of Boerne**

| CATEGORY | FREQUENCY OF COLLECTION |  | RATE PER MONTH |
|----------|-------------------------|--|----------------|
|----------|-------------------------|--|----------------|

**Residential Collection Service**

**Per Home**

|   |         |    |          |
|---|---------|----|----------|
| <b>Residential Garbage &amp; Recycle (curbside)</b> | 1/wk    | \$ | 14.30    |
| <b>Brush and Bulk (curbside)</b>                    | 1/month |    | included |
| <b>Household Hazardous Waste (AYD)</b>              | On Call |    | included |

**\*Residential Rate DOES NOT include City Franchise Fee\***

**\*\*See Section 14 for future year rate adjustments\*\***

**Commercial Collection Service**

**Per Container**

**2 CY Container**

|      |    |        |
|------|----|--------|
| 1/wk | \$ | 78.05  |
| 2/wk | \$ | 125.81 |
| 3/wk | \$ | 186.35 |
| 4/wk | \$ | 238.53 |
| 5/wk | \$ | 298.16 |
| 6/wk | \$ | 366.75 |

**3 CY Container**

|      |    |        |
|------|----|--------|
| 1/wk | \$ | 86.78  |
| 2/wk | \$ | 140.17 |
| 3/wk | \$ | 212.60 |
| 4/wk | \$ | 272.13 |
| 5/wk | \$ | 340.15 |
| 6/wk | \$ | 418.41 |

**4 CY Container**

|      |    |        |
|------|----|--------|
| 1/wk | \$ | 108.32 |
| 2/wk | \$ | 176.75 |
| 3/wk | \$ | 240.41 |
| 4/wk | \$ | 307.73 |

|                       |      |    |        |
|-----------------------|------|----|--------|
|                       | 5/wk | \$ | 384.67 |
|                       | 6/wk | \$ | 473.14 |
| <b>6 CY Container</b> | 1/wk | \$ | 133.76 |
|                       | 2/wk | \$ | 214.92 |
|                       | 3/wk | \$ | 307.24 |
|                       | 4/wk | \$ | 393.27 |
|                       | 5/wk | \$ | 491.61 |
|                       | 6/wk | \$ | 604.64 |
| <b>8 CY Container</b> | 1/wk | \$ | 178.36 |
|                       | 2/wk | \$ | 286.46 |
|                       | 3/wk | \$ | 396.37 |
|                       | 4/wk | \$ | 507.35 |
|                       | 5/wk | \$ | 634.18 |
|                       | 6/wk | \$ | 780.03 |

**EXTRA PICKUPS: (available only on regular service days)**

**Per Haul**

|                       |    |       |
|-----------------------|----|-------|
| <b>2 CY Container</b> | \$ | 17.30 |
| <b>3 CY Container</b> | \$ | 20.74 |
| <b>4 CY Container</b> | \$ | 22.05 |
| <b>6 CY Container</b> | \$ | 26.38 |
| <b>8 CY Container</b> | \$ | 35.06 |

**Per Cart**

|   |    |       |
|---|----|-------|
| <b>Commercial Light Load (96 gallon Cart)</b>             | \$ | 14.30 |
| <b>Trailer Park Rate Per Unit (96 gallon Cart)</b>        | \$ | 14.30 |
| (Not to exceed five 96 gallon carts per business account) |    |       |

**Roll-Off Collection Service**

**Per Container**

|                                       |    |        |
|---------------------------------------|----|--------|
| <b>Initial Delivery Per Container</b> | \$ | 112.00 |
| <b>Rental Per Month Per Container</b> | \$ | 95.54  |

**Roll Off Haul Rates**

**Per Haul**

|   |    |        |
|---|----|--------|
| <b>20 CY</b>  | \$ | 325.00 |
| <b>30 CY</b>  | \$ | 380.98 |
| <b>40 CY</b>  | \$ | 420.00 |
| <b>Receiver Box Rent Per Month</b>  | \$ | 95.54  |
| (If weight of debris is over 10 tons per load, additional \$24.77 per ton over 10 tons) |    |        |

**Municipal Rolloff Rates**

|       |    |        |
|-------|----|--------|
| 20 CY | \$ | 305.00 |
| 30 CY | \$ | 360.98 |
| 40 CY | \$ | 400.00 |

|  |    |                 |
|--|----|-----------------|
| <u>Municipal Wastewater Treatment Plant Sludge Rate Per Haul</u> |    | <b>Per Haul</b> |
| 20 CY Container Roll-off Service                                 | \$ | 299.15          |

**\*All Commercial and Roll Off Collection Rates INCLUDE City Franchise Fee (5%)\***

**\*\*See Section 14 for future year rate adjustments\*\***

## EXHIBIT B – RECYCLABLES SPECIFICATIONS

**RECYCLABLES** must be dry, loose (not bagged) and include **ONLY** the following:

|  |  |
|--|--|
| Aluminum cans - empty  | Newspaper, Mail  |
| PET bottles with the symbol #1 – with screw tops only - empty  | Glass food and beverage containers – brown, clear, or green - empty  |
| HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.) – empty | Magazines, glossy inserts and pamphlets                              |
| Plastic containers with symbols #3-#7 – empty (no Styrofoam/extruded polystyrene foam)                     | Uncoated paperboard (ex. cereal boxes; food and snack boxes)         |
| Steel and tin cans – empty   | Uncoated printing, writing and office paper                          |
| Phone books  | Old corrugated containers/previously used cardboard boxes (uncoated) |

**NON-RECYCLABLES** include, but are not limited to the following:

|   |   |
|---|---|
| Plastic bags and bagged materials (even if containing Recyclables)  | Microwavable trays  |
| Mirrors   | Window or auto glass  |
| Styrofoam (extruded polystyrene foam)   | Propane tanks, batteries  |
| Aseptic containers/shelf -stable containers (ex. juice, soup, broth, & wine boxes)  | Cartons/Gable Top (ex. refrigerated milk, cream & egg substitute containers)  |
| Light bulbs   | Coated cardboard  |
| Porcelain and ceramics  | Plastics unnumbered   |
| Glass and metal cookware/bakeware   | Coat hangers  |
| Hoses, cords, wires   | Household appliances and electronics  |
| Flexible plastic or film packaging and multi-laminated materials  | Yard waste, construction debris, and wood                                     |
| Food waste and liquids, containers containing such items  | Needles, syringes, IV bags or other medical supplies                          |
| Excluded Materials or containers which contained Excluded Materials (non-recyclable materials inside of other non-recyclable materials) | Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)               |
| Any Recyclable materials or pieces of Recyclables less than 4” in size in any dimension   | Napkins, paper towels, tissue, paper plates, paper cups, and plastic utensils |

### DELIVERY SPECIFICATIONS:

Effective January 1, 2020, Residential Unit Single Stream Materials shall not contain more than 27%. Non-Recyclables and may not contain any Excluded Materials. “Excluded Materials” means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local,

state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances.

Contractor may reject in whole or in part, or may process, in its sole discretion, Recyclables not meeting the specifications, after notice and cost report, the City may pay and reimburse Contractor a percentage of all costs, losses and expenses incurred with respect to such non-conforming Recyclables including costs for handling, processing, transporting and/or disposing of such non-conforming Recyclable Materials which charges may include an amount for Contractor's operating or profit margin, when the City is in violation. Without limiting the foregoing, after notice and a cost report the City may pay a contamination charge for additional handling, processing, transporting and/or disposing of Non-Recyclables, Excluded Materials, and/or all or part of non-conforming loads and additional charges may be assessed for bulky items such as appliances, concrete, furniture, mattresses, tires, electronics, pallets, yard waste, propane tanks, etc.

Contractor reserves the right upon notice to discontinue acceptance of any category of materials set forth above as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials.

## EXHIBIT C – AT YOUR DOOR SPECIAL COLLECTION PROGRAM



### Introduction

Waste Management is pleased to submit this proposal for the At Your Door Special Collection<sup>SM</sup> service. Waste Management's At Your Door Special Collection<sup>SM</sup> is a service provided to residents for the collection of the difficult, sometimes hazardous and hard-to-recycle items that almost every household accumulates. Waste Management makes it easy for residents to dispose of these items, by collecting the materials at their door— safely, easily and responsibly. Experience is key- This program has served hundreds of thousands of homes since 1995<sup>1</sup> and currently manages programs for dozens of public agencies in many states.

Waste Management's At Your Door Special Collection<sup>SM</sup> service is focused on the collection and proper management of home generated special material, with an emphasis on recycling.

### Statement of Work

The program begins when the public is informed about how to participate. Following are the elements of the At Your Door Special Collection service.

#### 1. Resident Initiates Collection

To participate, residents request a collection by calling our toll free number 1-800-449-7857, via e-mail [ATYOURDOOR@WM.COM](mailto:ATYOURDOOR@WM.COM) or going to [www.WMATYOURDOOR.COM](http://www.WMATYOURDOOR.COM). An Operations Service Center Specialist from our U.S. based center answers the call or online request. The participant is asked for basic information: name, address, phone number, how they learned of the program, single or multi-family home and an inventory of the material. The specialist discusses the program guidelines with the participant, including the placement of the material on the pre-designated collection day. The Operations Service Center is available from 5 am- 5pm Pacific Time, Monday through Friday. Both English and Spanish speaking representatives are available. There is an automated call system available after hours and on holidays.

#### 2. Collection Is Scheduled

The participant is provided with a date when they must place their material at the entrance door or in front of their garage or other agreed upon location. That predetermined location is noted by the Operations Service Center Specialist for use by the Service Technician.

The frequency of collection routes will vary depending upon demand. When programs first start and during seasonal peaks, there is usually a higher demand resulting in longer periods between the request and the collection



### 3. Packaging

A collection kit will be sent via U.S. mail (or other method) to the Participant, who will package the materials and place it out on the designated collection date. The collection kit consists of a plastic bag, bag tie, survey card, labels (for use as needed by Participant) and an instruction sheet. The instruction sheet reiterates the collection date and process discussed with the Operations Service Center Specialist. Participants collect their items and place them inside the kit bag per the instruction sheet.

Participants will receive one bag unless the Operations Service Center Specialist determines through the conversation, that more than one bag is required to collect all of the materials. Our goal is to collect all of the materials available to us at one time, thus avoiding the inconvenience to the participant caused by multiple collections.

In a few instances, after a Participant receives their collection kit, they may contact our program if they have additional items which exceed the capacity of bag(s) that were sent. Two options will be provided to accommodate collection of all of the materials. The first option will be to keep the collection date as scheduled for the first kit bag(s). Then, a second collection date could be scheduled and a second collection kit mailed to the Participant. The second option is to cancel the first collection date and mail the Participant additional collection kit(s). Then schedule the collection at a later date when all of the materials can be collected at the same time.

The Participants will be discouraged from requesting a collection of very small quantities, i.e., a single can of paint or only used motor oil. The Participants with very small quantities will be directed to combine their items with neighbors, if possible.

All containers must be labeled and they cannot leak. If a container leaks, the participant is instructed to transfer it to a non-leaking container and label it. Participants are provided labels to place on the unlabeled container. Additional instructions may apply based on applicable regulations. Containers without labels or other identification will not be collected.

### 4. Collection

On the established collection date, a Service Technician will arrive at the home, inspect the material for eligible items, and package the material based upon hazard classification. All materials must be placed outside of the home. Waste Management employees will not enter the premises to gather or remove any material.

For multifamily dwellings, materials should be collected at a central, mutually agreed upon ground level location. Multi-family participants can designate a safe, mutually agreed upon place at their building where the bags can be collected (never at the curb or on public property).

For single family homes, materials are to be placed near the front door area or garage area, but never on public property, at the curb, street or alleyway.

In the event the materials are ineligible, e.g., unlabeled, leaking, commercial material, or listed on the unacceptable list, the participant will be contacted and/or a door hanger will be left with instructions. Participants are not required to be present during the collection.

# Program Details

## Safety

At Waste Management, safety is a core value, a cornerstone of operational excellence. It is a philosophy that is embedded in the way we work, the decisions we make, and the actions we take. With thousands of trucks on the road every day, we recognize the responsibility to hold ourselves to the highest standards to protect our customers, our employees and our communities. Waste Management's goal is to maintain our world-class safety record. The program has been designed with safety in mind. Each aspect of this program has been reviewed for potential health and safety implications. This includes the materials we do not accept and the reason why we cannot pick up unknown items and leaking containers. The containment kit bag and instruction sheet is provided to help ensure participants safely package their materials.

## Eligible Items

In general, most ordinary household chemicals and many electronics are eligible for collection. Only items originating from households are eligible, no business materials are allowed. This list is not all-inclusive and may vary depending on state and local regulations. We reserve the right to modify the list.

The quantity of material that can be collected at any one time is limited to the items that can be placed inside the kit bag along with designated items that may be placed outside the bag. Multiple bags can be provided upon request and approval. Materials that can be placed outside the kit bag include:

- Up to 1 television, 4 vehicle batteries, 5 fluorescent tubes and/or compact florescent lamps (CFL)
- One computer system consisting of one each: CPU/tower, laptop, monitor, keyboard, mouse, and desktop printer
- Up to 25 pounds of consumer electronics with circuit boards such, as a CD ROM, VCR, DVD/CD/tape player, cell phone, tablets, MP3/music player, desktop scanner, fax machine, microwave, keyboard, desktop printer, and related cords.

### Garden Chemicals

- Insect sprays/Insecticides
- Weed killers
- Other poisons
- Rat poison
- Fertilizer
- Herbicides
- Pesticides

### Swimming Pool Chemicals (limitations in certain areas only)

- Pool acid
- Chlorine: tablets, liquid
- Stabilizer

### Flammable & Combustible Materials

- Kerosene
- Solvent

### Automotive Material

- Motor oil
- Antifreeze
- Waxes/Polishes
- Cleaners
- Brake fluid
- Used oil filters
- Transmission fluid
- Windshield washer fluid
- Hydraulic fluid
- Vehicle batteries
- Gasoline and Diesel fuel (must be placed in containers designed and sold for the containment and transportation of fuel, 10 gal. max.)

#### Misc. Household

- Household batteries
- Florescent tubes/ Compact fluorescent bulbs
- High intensity lamps
- Hobby glue
- Driveway sealer (max. 5 gal.)

#### Paint Products

- Oil based paint
- Latex paint
- Stripper and thinner
- Caulking
- Wood preservative and stain
- Sealer
- Spray paint
- Artist paint

#### Household Cleaners

- Ammonia
- Floor stripper
- Drain cleaner
- Floor cleaner
- Tile/shower cleaner
- Carpet/upholstery cleaner
- Rust remover
- Toilet bowl cleaner

#### Mercury Containing Devices

- Thermostats
- Thermometers
- Switches

#### Sharps (limitations in certain areas only)

(must be placed into a rigid, sealed, puncture resistant container)

- Needles
- Lancets

#### Electronics with Circuit Boards

- Televisions
- Computer monitors
- CPU/computer tower
- Laptop computer
- Tablet computer
- Keyboard
- Mouse
- Fax machine
- Desktop printer/scanner
- CD ROM
- DVD/CD/tape player
- VCR
- Cell phone
- MP3 player, iPod, music player
- Microwave oven
- Related cords
- Gaming console

## Ineligible Materials

Commercial material, material from businesses, and unusually large quantities of the same material are not eligible for this program. List is not all-inclusive and will vary depending on state and local regulations. We reserve the right to modify the list.

- Biological Waste
- Ammunition and explosives
- Appliances
- Asbestos
- Commercial chemicals
- Construction related materials
- Containers over 5 gallons
- Fire extinguishers
- Food waste and cooking oil
- Gas cylinders/pressurized cylinders
- Items that are not hazardous
- Liquid mercury/elemental mercury and broken items that contain mercury
- Materials improperly packaged for transportation
- Materials in leaking containers
- Medicines/pharmaceuticals
- Radioactive materials, including smoke detectors
- Tires
- Trash, including bulky items (example: washers, dryers, and refrigerators)
- Unknown or unlabeled materials
- Sharps/Needles

The At Your Door program reserves the right to refuse collection of additional items not listed here. The At Your Door service reserves the right to refuse acceptance of any items it deems excluded, a hazard or out of the scope of the program, which is designed for the collection of home generated special materials.

## Recycling of Collected Materials

Thanks to our company's vast infrastructure and affiliated entities, we are able to recycle most of the materials collected. Thus, reclaiming valuable resources for the benefit of your community and the environment. The following are some methods used to recycle or treat some of these materials.

- Lamps/CFL's are accepted and managed by WM LampTracker®
- Recyclables (bottles, empty containers) to WM MRF when available
- Used oil and Antifreeze – recycling into new products or used as fuel
- Household/vehicle batteries – recycled into raw materials for use in new products.
- Mercury to WM Mercury Solutions, Inc.'s a mercury retort facility, where the retorted mercury is then shipped to manufactures.
- Flammables to fuel blending (paints, solvents), where it is converted into industrial fuel.
- Electronics are managed by WM Recycle America and affiliates, where commodities are used in the manufacturing process.

## Public Education

The Waste Management Representative can provide a recommended public education strategy for your community. The purpose of providing this program is to insure an effective communication effort to achieve our mutual goals, which are to insure that every resident understands that they can use the program when it is convenient to them. While not every household will utilize the program, all residents should understand that they have the ability to contact us at anytime. Our public education program recommendations are designed to maintain a respectable level of participation and a high degree of participant satisfaction within the pricing provided for this program.

The At Your Door Special Collection service is committed to the successful implementation of the program proposed in this document. This is a service offered by Waste Management and should be referred to as Waste Management's At Your Door Special Collection<sup>SM</sup> service, the At Your Door Special Collection service or the At Your Door service. Please do not refer to it simply as "At Your Door" or "AYD".

## Natural Disaster

In the event of a natural disaster affecting the community e.g. a hurricane, flood, or tornado the At Your Door Special Collection program will be suspended for a period of six months or other period upon mutual agreement. The At Your Door program is designed for the collection of ordinary home generated special materials; a natural disaster changes the nature of that need. A natural disaster is defined as a community wide event including but not limited to a tornado, hurricane, earthquake, fires and floods. Contact the Waste Management representative for more information.

## Participant Surveys

A postage-paid card addressed to the sponsoring agency program manager will be included in the kit sent to participants. The card lists several questions and is considered a "report card" mailed directly to the public agency's designee. In an effort to continually improve our service, we request copies of survey cards or consolidated reports be sent to the At Your Door team at [atyourdoor@wm.com](mailto:atyourdoor@wm.com).

## Reports

Items collected are entered into our proprietary database management system (AYDNet) by the Service Technicians. This data assists with monitoring the program and reporting for regulatory agencies. You may request a report that provides a summary of the materials collected, then provide that to the public agency. Your customer can track the contents of the waste streams that are collected. Additional data can be provided electronically, upon request.

At Your Door Special Collection is a service of Waste Management. Collection services will be provided by a properly licensed/permitted subsidiary of Waste Management. ©WM Curbside, LLC. All rights reserved. At Your Door and At Your Door Special Collection are service marks of WM Intellectual Property Holdings, LLC. 2017-046

## Exhibit D – City Facilities

| Location                                  | Waste wheeler | Recycle WW | 8 yd. dumpster | 8yd recycle | 6yd dumpster | 6yd recycle | 4yd dumpster | 3 yd. dumpster | Roll off 20 | roll off 30 | Roll off 40 |
|---|---------------|------------|----------------|-------------|--------------|-------------|--------------|----------------|-------------|-------------|-------------|
| Safety Center - 124 old San Antonio       | 2             | 1          | 2              |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| CVB - 108 Oak Park                        | 1             | 1          |                |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| PHL - 451 N. Main                         |               | 2          | 1              | 2           |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| City Hall/Public Works- 400/402 E. Blanco |               | 4          | 1              |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| Northrup Park - 37550 IH 10 West          |               |            | 3              |             |              | 1           |              |                |             | 1           |             |
| Adler Parks Office 1017 Adler.            |               |            |                |             |              |             |              |                |             |             |             |
| Parks 350 Esser ( wwtp)                   |               |            | 3              |             |              |             |              |                |             |             |             |
| City Park - 106 City Park(parking lot)    |               |            | 1              |             |              |             |              |                |             |             |             |
| pool - 106 City Park Rd.                  | 10            |            |                |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| Street Dept 310 Esser.                    |               |            |                |             | 1            |             |              |                |             |             |             |
| pole yard - Behind street dept.           |               |            |                |             |              |             |              |                | 4           |             | 1           |
|   |               |            |                |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| Electric department 340 Esser             |               |            | 1              |             |              |             |              |                |             |             |             |
| Pole Yard                                 |               |            |                |             |              |             |              |                | 1           |             |             |
| Water, sewer and Gas 340 Esser            |               |            |                |             |              |             |              |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| waste water treatment - 350 Esser         |               |            |                |             |              |             |              | 3              | 2           |             |             |
| waste water recycle 41 old San Antonio    |               |            |                |             |              |             |              |                | 4           |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| Animal Control - 330 Esser                | 2             |            |                |             |              |             | 1            |                |             |             |             |
|   |               |            |                |             |              |             |              |                |             |             |             |
| Fire House - 726 N. Main                  |               | 1          |                |             | 2            |             |              |                |             |             |             |