

**CITY OF SATELLITE BEACH, FLORIDA**

---

565 CASSIA BOULEVARD 32937-3116  
(321) 773-4407  
(321) 779-1388 FAX



INCORPORATED 1957

**AGENDA**  
**CITY COUNCIL**  
**REGULAR MEETING**

SATELLITE BEACH COUNCIL CHAMBER  
565 CASSIA BOULEVARD, SATELLITE BEACH, FL 32937

**MAY 18, 2016**  
**7:00 P.M.**

1. CALL TO ORDER BY MAYOR CATINO
2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE LED BY COUNCILMAN OSMER
3. PRESENTATION OF PROCLAMATION RECOGNIZING MAY 15-21, 2016, AS "EMERGENCY MEDICAL SERVICES WEEK"
4. CITIZEN COMMENTS
5. CITY COUNCIL COMMENTS
6. CITY MANAGER REPORT
7. APPROVE THE BUDGET CALENDAR FOR FY 2016-2017
8. DISCUSS/TAKE ACTION ON AN AGREEMENT BETWEEN THE CITY OF SATELLITE BEACH AND WASTE MANAGEMENT FOR SOLID WASTE SERVICES (RFP NO. 15/16-03)
9. DISCUSS/TAKE ACTION ON THE RESULTS OF A REQUEST FOR PROPOSALS FOR SKATE PARK IMPROVEMENTS (RFP NO. 15/16-04)
10. DISCUSS/TAKE ACTION ON THE REPLACEMENT OF THE FIRE DEPARTMENT'S ALL TERRAIN VEHICLE (ATV) UNIT

- 11. DISCUSS/TAKE ACTION ON RESOLUTION NO. 969, A RESOLUTION OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, SUPPORTING THE INITIATIVE OF THE SPACE COAST AND TREASURE COAST REGIONAL LEAGUE OF CITIES 'INDIAN RIVER LAGOON REGIONAL COMPACT; ONE LAGOON-ONE COMMUNITY-ONE VOICE'; AND PROVIDING FOR AN EFFECTIVE DATE**
- 12. AGENDA ITEMS FOR NEXT REGULAR COUNCIL MEETING**
- 13. ADOPTION OF MINUTES: MAY 4, 2016, WORKSHOP MEETING  
MAY 4, 2016, REGULAR MEETING**

#3  
5-18-16

- WHEREAS,** Emergency medical services (EMS) are a vital public service; and
- WHEREAS,** Since 1984, the Satellite Beach Fire Department has provided Advanced Life Support medical care 24 hours a day, seven days a week; and
- WHEREAS,** Access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and
- WHEREAS,** The Satellite Beach Fire Department also provides Community Paramedic Services that provide preventative medical care and support to reduce 9-1-1 incidents and improve the health of our community; and
- WHEREAS,** Satellite Beach Fire Department EMTs and Paramedics undergo thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and
- WHEREAS,** The City Council and the community recognize the value and accomplishments of Satellite Beach Fire Department EMS providers.

**NOW, THEREFORE,** I, Frank P. Catino, Mayor of the City of Satellite Beach, Brevard County, Florida, do hereby proclaim May 15-21, 2016, as:

## **Emergency Medical Services Week**

**IN WITNESS WHEREOF,** I have signed this proclamation and caused the seal of the City of Satellite Beach to be affixed this 18<sup>th</sup> day of May, 2016.

---

Frank P. Catino, Mayor



# City Manager's Report

To: Mayor and City Council Members

From: City Manager Courtney Barker, AICP

Meeting Date: 5/18/2016

---

On **May 28<sup>th</sup>**, the **Police Athletic League** will hold their **Mini-Bunko Night**. This is an "Adults Only" game of dice. The **Teen Zone** doors open at 6 p.m. for dinner and the dice roll begins at **7 p.m.** The cost is \$15 per person for advanced tickets, available at the Satellite Beach Recreation office, or \$20 per person at the door.

On **June 5<sup>th</sup> thru June 11<sup>th</sup>**, the **Recreation Department and the Satellite Beach Library** will be holding a "**Storywalk**" from **10 a.m. to 5 p.m.** at the **Satellite Beach Sports and Recreation Park**. A page from a book will be posted on signs leading from the entrance of the parking area at the Satellite Beach Sports & Recreation Park, around the pond, and ending at the brand new playground. The book selection is Duck on a Bike by David Shannon.

The **Sea Turtle Preservation Society** will begin offering **guided Sea Turtle walks** in Satellite Beach in **June and July**. Reservations are mandatory and are accepted after May 1<sup>st</sup>. Call 676-1701 for reservations.

## Informational Items:

1. The organization for the Annual 21-Day Salute to the Flag has begun! Dick Pang and his team are posting flyers throughout the City and are looking for volunteers to help. The flags will be put up and taken down daily from June 14<sup>th</sup> thru July 4<sup>th</sup> from 7:30 a.m. to 5:30 p.m. Please call 777-2482 or 777-5010 for more information (see attached).
2. I have received two complimentary letters from residents regarding our Fire Department (see attached).
3. I have received an email complimenting the *Beachcaster* (see attached).
4. I have received an email thanking the City for the Cinnamon Park playground replacement (see attached).
5. The last day of school is Tuesday, May 24, 2016. Please be mindful that our children will be out and about playing during the day and drive safely!
6. The City Manager Evaluations have been completed by Council Members. I have received an average score of 144.6 out of a total possible 150 points.

## Action Items:

1. None at this time.

# WANTED



# PATRIOTS

Patriotic citizens who wish to  
volunteer for the annual

**21-Day Salute to the Flag**

at Satellite Beach City Hall

565 Cassia Boulevard

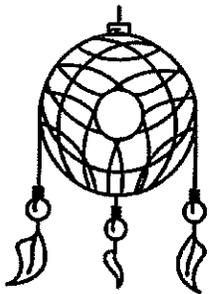
**From Flag Day, June 14 thru**

**Independence Day, July 4<sup>th</sup>,**

**7:30 a.m. and 5:30 p.m.**

Call **(321) 777-2482** or **(321) 777-5010**

for more information and sign up.



APRIL 28, 2016

SATELLITE BEACH FIRE DEPARTMENT  
1390 S. PATRICK DRIVE  
SATELLITE BEACH, FLORIDA 32937

DEAR SIRSI:

ATTACHED PLEASE FIND A CHECK IN THE  
AMOUNT OF \$125.00 THAT IS A DONATION  
FOR FOOD FOR THE SATELLITE BEACH FIRE  
DEPARTMENT. THIS DONATION IS MADE IN  
MEMORY OF MICHAEL KOVACH, WHO RECEIVED  
ASSISTANCE FROM THE MEN AND WOMEN  
OF THE SATELLITE BEACH FIRE DEPARTMENT  
IN RECENT YEARS. THE KOVACH FAMILY  
APPRECIATES THE ENTIRE DEPARTMENT'S  
SERVICE.

BEST REGARDS,  
VIRGINIA KOVACH

RECEIVED

MAY 02 2016

Dream only good  
dreams!

Captain J. Drago  
FF/PPM N Walsh  
FF/EMT I Corado  
and the police men who  
also responded

Thank You for  
your kindness,  
professional approach  
& excellent care of Joe.

Sincerely  
Sandi Evans

## Julie Finch

---

**From:** no-reply@sharepointonline.com  
**Sent:** Thursday, May 05, 2016 9:00 AM  
**To:** Courtney Barker  
**Subject:** A message from Michael Rozos

You have received the following message through the Contact Us form on your Web site:

**From:** Michael Rozos  
**Phone:** 7722999737  
**E-mail:** [mrozos50@gmail.com](mailto:mrozos50@gmail.com)

**Message:**

Latest Beachcaster is outstanding....informs residence of simple requirements that sometimes get lost in transition, KUDOS. Sidewalk parking is my personal pet peeve, good job on animals on the beach. Yard maintenance, garbage disposal and distracted driving would be appreciated as well. Keep up the good work, best place to live in America!

## Julie Finch

---

**From:** no-reply@sharepointonline.com  
**Sent:** Friday, May 13, 2016 10:33 AM  
**To:** Courtney Barker  
**Subject:** A message from Jim Knickerbocker, Wyrval, Lewis

You have received the following message through the Contact Us form on your Web site:

**From:** Jim Knickerbocker, Wyrval, Lewis

**Phone:** 321-419-4448

**E-mail:** [knickj@pbfl.org](mailto:knickj@pbfl.org)

**Message:**

On behalf of the 3 generations of our family living on Cinnamon Dr. we have enjoyed the kids park by the Police Department for close to 30 years. The NEW park was installed very quickly and my Grandson watched the workers every day to see the progress, we want to thank everyone involved for an awesome job, and I know the kids & parents in the neighborhood will enjoy it for many many years, especially my 5 year old Grandson Waylon.



## CITY COUNCIL AGENDA ITEM

# #7

---

### APPROVE THE BUDGET CALENDAR FOR FY 2016-2017

To: City Manager Courtney Barker  
From: Comptroller Jennifer Howland  
Meeting Date: 5/18/2016  
Department: Support Services

**Recommended Action:** Approve the Budget Calendar for FY 2016-2017.

**Summary:** The City Council each year adopts a budget calendar for planning purposes and to establish meeting dates for the upcoming FY 2016-2017 budget process.

**Budget Impacts:** None.

**Attachments:**

- Budget Calendar for FY 2016-2017

# **COUNCIL BUDGET CALENDAR**

## **FY: 2016-2017**

### ***July 20, 2016 – Regular Council Meeting***

- City Manager submits proposed FY 2016-2017 Budget to Council

### ***Thursday, July 28, 2016 – “Special Council Meeting”***

- City Manager presents FY 2016-2017 Budget and Council sets tentative millage rate/certify forms per TRIM
- Council sets Date/Time/Place of 1<sup>st</sup> Public Hearing on tentative budget and proposed Millage (Proposed on September 7<sup>th</sup> @ 7:00 p.m. in Council Chambers)

### ***August 3, 2016 – Regular Council Meeting***

- Public Hearing held to adopt rate Resolution on Stormwater Utility Assessment

### ***September 7, 2016 – Regular Council Meeting***

- Public Hearing and First Reading of Ordinance adopting FY 2016-2017 millage rate
- Public Hearing and First Reading of Ordinance adopting FY 2016-2017 budget

### ***September 21, 2016 – Regular Council Meeting***

- Public Hearing and Second Reading of Ordinance adopting FY 2016-2017 millage rate  
Public Hearing and Second Reading of Ordinance adopting FY 2016-2017 final budget



## CITY COUNCIL AGENDA ITEM

# #8

---

### DISCUSS/TAKE ACTION ON AN AGREEMENT BETWEEN THE CITY OF SATELLITE BEACH AND WASTE MANAGEMENT FOR SOLID WASTE SERVICES

To: City Manager Courtney Barker  
From: Assistant City Manager Suzanne Sherman  
Meeting Date: 5/18/2016  
Department: Support Services

**Recommended Action:** Authorize the City Manager to sign the Solid Waste Contract with Waste Management Inc. of Florida.

**Summary:** On January 6, 2016, City Council authorized staff to move forward with a Request for Proposals (RFP) process to select a qualified contractor to provide residential and commercial solid waste, yard waste, recycling collection, transportation, and disposal services for the City under a continuing contract, with rates for both seven and ten year contracts. RFP No. 15/16-03 for Solid Waste Services was issued on January 8, 2016.

The City's evaluation committee reviewed proposals from two firms, and was assisted in this review by RCG Consulting, Inc., a firm with extensive experience assisting municipalities with solid waste RFP and contract negotiations. The evaluation committee met in April to review and discuss proposals based on pricing, operations plans and equipment, responsiveness to RFP requirements, and financial capability/reference quality, and recommended award to Waste Management Inc. of Florida (Waste Management). At their April 6, 2016 meeting, City Council approved award to Waste Management and authorized the City Manager to negotiate a contract with this vendor.

The Solid Waste Contract provides for a ten-year term, with the option to renew for additional ten year terms. Current service levels and days of service will be maintained under this Contract. In an effort to keep monthly rates as low as possible for City residents and commercial entities, the City chose not to increase the franchise fee from 10% to 15% as originally proposed, and also removed the street sweeping component from the rate. Street sweeping has historically been provided by USA Services of Florida, Inc. through a Waste Management subcontract. Staff is negotiating directly with this vendor and will present an agreement to City Council for consideration at a future meeting.

**Key service-related elements in this Contract include:**

- All vegetative garden and yard trash generated by residential customers will be collected by the contractor, including accumulations generated by landscape professionals hired by the resident. (See Section 4, A(2)(b), p. 10)
- Waste Management’s drivers are responsible for documenting the need for special pickups of residential bulk waste, residential large volume vegetative garden and yard trash, and commercial bulk waste. Whether observed by Waste Management or requested by a customer or the City, collection is to occur within three business days, but no later than the next Friday after notification, whichever occurs first. (See Section 4, A(1)(b), p. 8; Section 4, A(2)(d), p. 11; and Section 4, C(1), p. 11)
- Disabled or elderly residential customers may change to 64-gallon carts and/or receive backdoor or side yard pickup at no additional cost. (See Section 4, A(1)(d), p. 9; and Section 4, D(5), p. 14)
- Residential customers may request to exchange their carts for aesthetic reasons or to change between 64-gallon or 96-gallon carts based on capacity needs. All first-time requests will be completed by Waste Management at no charge to the customer. Subsequent requests will incur a \$25.00 delivery and exchange fee per cart. (See Section 4, A(1)(a), p.7)
- Residential customers may purchase a third trash cart for a charge of \$70.00, but they will not be charged a monthly service fee for this additional cart. (See Section 4, A(1)(a), p. 7)
- Compressed Natural Gas (CNG) trucks will continue to be used to provide most of the City’s services, and three existing diesel trucks will be replaced with CNG trucks in 2017. (Included in proposal response, which is included by definition in the Contract.)
- The City will meet with Waste Management on a recurring schedule to review monthly reports of all complaints, requests, and compliments received from residential and commercial customers. The City now has the ability to claim administrative charges/liquidated damages for the Contractor’s failure to perform in accordance with the Contract. (See Section 9, D, p 25; and Section 16, pgs 34-38)

**Key rate and revenue components in this Contract include the following:**

- Residential and commercial rates are based on two components: collection and fuel. These rates will typically be subject to an annual rate adjustment. Negotiations have resulted in the collection portion of the rate being subject to the Garbage and Trash Collection Index (G&T), with a minimum increase of 1% and a cap of 3%, annually. The fuel component will be adjusted annually subject to the Henry Hub Natural Gas price index and will be calculated as stated in the Contract. (See Section 5, B, pgs. 17-18)
- Overall, rates for the first year of the Contract are decreasing as shown in the table below:

	Current Rate	New Rate	% Change
<b>Residential (monthly)</b>	\$15.59	\$14.38	<b>-7.76%</b>
<b>Commercial (per cubic yard)</b>	\$6.14	\$5.69	<b>-7.33%</b>

- The Contract also includes a Favored Nations Clause, which provides an option for the City to reduce current rates if a neighboring municipality or Brevard County negotiates more favorable rates for the same or substantially the same scope of service. (See Section 5, E, p. 19.)
- The City currently receives a monthly amount equal to twenty cents (.20) per residential unit for recyclable material collection. This amount will increase to forty cents (.40) per residential unit.
- Waste Management will not bill for service to city-owned properties. (See Section 4, D(11), p. 15)

**Budget Impacts:** The **General Fund** budget will remain essentially unchanged. Revenues received from the franchise fee will remain consistent with the FY 15/16 projection of \$110,000. The City will no longer pay for services provided directly to city-owned properties. This provides an estimated reduction in operating costs of \$20,156 annually. Directly absorbing street sweeping costs will increase operating expenses by approximately \$20,000. The **Community Services Fund** will experience a doubling of revenue from recyclable materials collection, with a projected increase from \$11,576 to \$23,152 annually.

**Attachments:**

- Solid Waste Contract

# Solid Waste Contract

## TABLE OF CONTENTS

	<u>Page</u>	
<b>Section 1</b>	<b>Definitions</b>	1
<b>Section 2</b>	<b>Duration of Contract; Commencement of Work; Extension of Contract</b>	4
<b>Section 3</b>	<b>General Scope of Work; Exclusive Rights</b>	4
	A. General Description; Responsibility for Costs	4
	B. General Requirements	5
	C. Exclusive Rights	6
<b>Section 4</b>	<b>Scope of Work – Collections</b>	7
	A. Residential Units	7
	B. Multi-family Units	11
	C. Commercial Units	11
	D. Recycling	13
	E. Property Owned, Leased, Rented and Controlled by the City	16
	F. Miscellaneous	16
<b>Section 5</b>	<b>Franchise Fee; Payment Adjustments</b>	16
	A. Schedule of Franchise Fee Payments	16
	B. Change in Cost of Doing Business	17
	C. Audit	18
	D. Unusual Changes or Costs	19
	E. Favored Nations Clause	19

<b>Section 6</b>	<b>Storage, Office and Operations Facilities</b>	19
<b>Section 7</b>	<b>Schedules and Routes</b>	19
	A. In General	19
	B. Disaster Preparedness Plan	19
	C. Miscellaneous	20
	D. Holidays	21
<b>Section 8</b>	<b>Contractor's Relation to the City</b>	21
	A. Supervision of Contract Performance	21
	B. City Manager or Designee's Authority	21
	C. Inspection of Work	22
	D. Disagreements – Refuse to be Collected – How	22
	E. City Not Liable for Delays	22
	F. Cancellation/Termination of Contract	22
	G. Operation During Dispute	23
<b>Section 9</b>	<b>Quality of Service</b>	23
	A. Character of Workmen and Equipment	23
	B. Temporary Workman and Illegal Alien Prohibited	24
	C. Cooperation of Contractor Required	24
	D. Handling Complaints	24
	E. Performance Bond	25
<b>Section 10</b>	<b>Equipment</b>	26
	A. Type	26
	B. Amount	27

	C. Condition	27
	D. Operation	27
	E. Safety Standards	28
<b>Section 11</b>	<b>Employment and Working Conditions</b>	28
<b>Section 12</b>	<b>Disposal of Solid Waste</b>	28
<b>Section 13</b>	<b>Compliance With Laws and Regulations</b>	28
<b>Section 14</b>	<b>Insurance</b>	29
	A. Workers' Compensation Insurance	30
	B. Public Liability and Property Damage Insurance	30
	C. Commercial General Liability Insurance	30
	D. Proof of Insurance	31
<b>Section 15</b>	<b>Indemnification</b>	32
<b>Section 16</b>	<b>Administrative Charges/Liquidated Damages</b>	34
<b>Section 17</b>	<b>City Ordinances</b>	38
<b>Section 18</b>	<b>Amendments</b>	38
<b>Section 19</b>	<b>Notices</b>	38
<b>Section 20</b>	<b>Assignment/Transfer and Change of Control</b>	39
<b>Section 21</b>	<b>Miscellaneous</b>	40
	A. Severability	40
	B. Governing Law; Venue	41
	C. Attorney's Fees and Costs	41
	D. Savings Clause	41
	E. Time of Essence	41
	F. Contractor as Independent Contractor	41

G. Force Majeure	41
H. Taxes	41
<b>Appendix A</b> Approved Exceptions	42
<b>Appendix B</b> Property Owned, Leased, Rented, and Controlled By the City	42

# CONTRACT

THIS CONTRACT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between, the City of Satellite Beach, Brevard County, Florida, hereinafter referred to as "the City" and Waste Management Inc. of Florida, hereinafter referred to as "the Contractor".

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

## SECTION 1 - DEFINITIONS

Except where the context clearly indicates a different meaning, the following terms in this Contract shall have the meanings shown below. When consistent with the context, present tense includes future tense, and plural words include the singular and vice versa.

**BIOLOGICAL WASTE** means waste that causes or has the capability of causing disease or infection, including biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to human beings or animals.

**BIOMEDICAL WASTE** means any solid or liquid waste that may present a threat of infection to human beings, including non-liquid human tissues and body parts; laboratory and veterinary waste which contain human-disease causing agents; discarded sharps; human blood, human blood products and body fluids; and any other materials which have been determined by federal, state or local regulatory agencies to present a significant risk of infection to persons outside the generating facility.

**BULK WASTE** means large discarded items of solid waste generated from residential and commercial customers and City-owned properties, such as pallets, furniture, and bedding which, due to size, shape and/or weight cannot readily be placed for collection in a cart or other waste container.

**CART** means a maximum-96-gallon container mounted on wheels, with an attached tight-fitting lid used for residential and commercial units and City-owned properties.

**CITY** means the City of Satellite Beach, Florida, a municipal corporation, and all lands located within its corporate limits as they now or hereafter may exist.

**CITY MANAGER** means the City Manager or her/his designee.

**COMMERCIAL CUSTOMER** means any customer, except the City and occupants of residential units.

**COMMERCIAL CONTAINER (DUMPSTER)** means a 2- to 8-cubic-yard, front- or rear-load collection container which is mechanically emptied.

**COMMERCIAL TRASH** means accumulations of all solid waste generated by commercial customers and collected by Contractor. This Contract does not include collection of commercial recyclables, which is to be accomplished on the open market pursuant to law.

**CONTRACT** means the City of Satellite Beach Request for Proposal, Solicitation Number RFP 15/16-03 (the "RFP"); the Contractor's Proposal dated April 5, 2016 and all subsequent information submitted by the Contractor during the RFP process (the "Proposal"); and this Agreement. The parties agree that any ambiguity, conflict or inconsistency in the foregoing documents that together constitute the Contract shall be resolved in the following order: (1) this Agreement; (2) the Proposal; and (3) the RFP.

**CONSTRUCTION AND DEMOLITION DEBRIS** means discarded non-soluble and non-hazardous materials (such as steel, glass, brick, concrete, asphalt roofing, pipe, wallboard, lumber, bricks, rocks, soils, vegetation and vegetative matter, cardboard, paper, plastic, wood, metal scraps, and unpainted/untreated wood scraps and pallets) from construction, demolition, or renovation projects. Mixing of construction and demolition debris with other types of solid waste will cause such debris to be classified as other than construction and demolition debris.

**CONTRACTOR** means the person identified as the Contractor in this Contract.

**CURBSIDE** means the area immediately adjacent to the edge of the traveled portion of a public or private street affording reasonable access to waste collection vehicles. This is typically the parkway or lawn area between the street and sidewalk. For properties without such parkway or lawn areas, curbside means on the customer's property within five (5) feet from the edge of the street.

**E-WASTE** means computers and peripherals, monitors, keyboards, mice, mobile devices, scanners, printers, copying and facsimile machines, stereos, radios, VCRs, televisions, and similar equipment.

**EXCLUDED ACCOUNTS** means the Brevard County School system.

**EXCLUDED WASTE** means (i) biological waste, (ii) biomedical waste, (iii) materials deemed hazardous waste by the City Manager; (iv) items not allowed at Brevard County or other approved landfills; (v) land clearing, building construction, demolition or renovation debris generated by the respective contractors from those activities, (vi) public works construction projects whether performed by City or contract, (vii) work by any governmental agency, and (viii) dead animals.

**GARBAGE** means any accumulations of animal or food matter, food containers, and other matter which may be subject to decay, putrefaction or the generation of noxious

and offensive gases or odors, or which may provide food or breeding places for flies, rats, mosquitoes and other germ-carrying pests. It does not include recyclable materials.

**HOUSEHOLD TRASH** means accumulations of all residential waste, except garbage. Household trash shall include bulk waste, yard toys and building material waste from residential do-it-yourself type projects, but not vegetative garden and yard trash.

**MULTI-FAMILY UNIT** means one dwelling in a building having three or more dwelling units.

**PERFORMANCE BOND** means the form of security furnished by Contractor to guarantee faithful Contract performance and payment of all lawful Contract-related claims.

**PRIMARY COLLECTION VEHICLE** means a vehicle typically used by Contractor for regularly scheduled route collections.

**RECOVERED MATERIALS** means recyclable materials removed from solid-waste disposal for use as raw materials.

**RECOVERY FACILITY** means a processing center for recovering recyclable materials.

**RECYCLABLE MATERIALS** means paper (newspapers, magazines, junk mail, phone books, office paper, brown paper bags), paperboard, cardboard, paper cardboard dairy and juice containers, paper towel and toilet tissue rolls, aluminum cans/foil/pie tins, empty cans (tin, steel, aerosol), glass bottles and jars, plastic bottles and containers coded 1-7, and other materials mutually agreed upon in writing by Contractor and the City Manager. The term does not include excluded wastes.

**RESIDENTIAL UNIT** means one single-family, townhouse, or duplex dwelling, or a multi-family unit which is not billed as a commercial unit.

**RECYCLING CART** means a cart to contain recyclable materials.

**ROLL-OFF COMPACTOR** means a 17- to 40-cubic-yard metal container with closed sides, ends, and top and a compaction unit within.

**ROLL-OFF CONTAINER** means a 10- to 40-cubic-yard metal container with open top and closed sides.

**SOLID WASTE** means all types of trash and waste, garbage, household/vegetative/commercial trash, and construction and demolition debris. It does not include recovered materials or excluded waste.

**SOURCE-SEPARATED** refers to recovered materials which are separated from solid waste where the materials are generated.

**SURETY** means the party guaranteeing faithful Contract performance and payment of all lawful Contract-related claims.

**TRASH** is all solid waste except E-waste and recyclable materials.

**VEGETATIVE GARDEN AND YARD TRASH** means any and all accumulations of vegetation generated by residents' maintenance of their lawns, gardens, vines, shrubs, and trees, including accumulations generated by a landscape professional hired by the resident. It does not include excluded waste.

**WHITE GOODS** means inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances.

**WORK** means all tasks, services, duties and obligations imposed by this Contract upon, and to be performed by, the Contractor pursuant to the terms of this Contract.

## **SECTION 2 - DURATION OF CONTRACT; COMMENCEMENT OF WORK; EXTENSION OF CONTRACT**

- A. The term of this Contract is ten (10) years, commencing on June 1, 2016 ("the Effective Date") and terminating on May 31, 2026, unless terminated prior to that date. The Contractor must commence work on the Effective Date. Failure to commence work on the Effective Date will result in forfeiture of Contractor's Proposal bond to the City.
- B. The initial term of this Contract may be renewed for additional ten (10) year terms, subject to all existing Contract terms and conditions or subject to such modifications as the parties may agree to in writing. No renewal shall be effective unless an amendment setting forth all terms and conditions has been executed by both parties and has been approved by resolution of the City Council.

## **SECTION 3 - GENERAL SCOPE OF WORK; EXCLUSIVE RIGHTS**

### **A. GENERAL DESCRIPTION; RESPONSIBILITY FOR COSTS.**

Commencing on the Effective Date, and continuing throughout the Initial Term and any Renewal Term(s), Contractor shall provide solid waste collection, transportation, and disposal services, as well as recyclable materials collection and transportation services, within the City, as further described below. Contractor will provide such

services to all of the City solid waste residential customers, and all commercial customers other than excluded commercial accounts identified in the definition of Excluded Accounts. In addition, Contractor shall perform such work as is necessary to provide a complete recyclable materials program. Contractor is responsible for all costs associated with the work required by this Contract, including provision of labor, vehicles and other equipment, machinery, supplies, insurance, bonds, permits, licenses, taxes, and interest, except where specifically provided otherwise herein.

## **B. GENERAL REQUIREMENTS.**

In providing the work herein, Contractor shall comply with the following general requirements in addition to those described in the enumerated Sections below:

1. Contractor will perform the work described herein in an efficient, sanitary, and thorough manner.
2. Contractor will not litter or cause any spillage (including waste streams, hydraulic fluid, oil, fuel, or otherwise) in providing the work. Upon being notified of littering or spillage, Contractor will provide immediate cleanup required by this Contract and any applicable state, federal and local laws and regulations.
3. Contractor will comply with all applicable federal, state, and local laws, and obtain and comply with all permits and licenses required by law.
4. Consistent with Sections 9 and 10 below, Contractor will provide a sufficient number and quality of vehicles and other equipment, and employ a sufficiently trained work force consisting of a sufficient number of quality workers, to enable Contractor to perform the work in compliance with all requirements of this Contract and any applicable federal, state and local laws and regulations.
5. Contractor will operate Contractor's vehicles in a manner that maximizes safety and minimizes interference with vehicular and pedestrian traffic. Contractor will not suffer or permit vehicles in service to be unattended while on the streets. The City reserves the right to deny Contractor's vehicles access to certain roadways or alleys where, because of road conditions or other circumstances, denial of such access is in the public interest.
6. In providing collection work, the Contractor will not be responsible for scattered solid waste, except where solid waste has been scattered by Contractor's acts, in which case, Contractor shall immediately pick up all such scattered solid waste.
7. Contractor's employees will not be required to expose themselves to the danger of being bitten by vicious dogs or other animals in order to accomplish solid waste collection in any case where the owner(s), tenant(s) or occupant(s) have such animals at large. In such event the Contractor shall immediately notify the

customer and City Manager, in writing, of such conditions and of the inability to make collection because of such conditions.

8. Contractor shall submit to the City Manager a quarterly report, delivered no later than the 15<sup>th</sup> day of January, April, July, and October, regarding the following:
  - a) Residential garbage, household trash, recycling, bulk trash and vegetative garden and yard trash tonnage by route.
  - b) Used tire tonnage for all routes.
  - c) Commercial cart collection report listing, by customer name in alphabetical order, including service address, number of carts and size, days of collection, excess amounts collected in cubic yards and truck or route number.
  - d) Commercial front load dumpster report listing, by customer name in alphabetical order, service address, dumpster size, days of collection and truck or route number.
  - e) Commercial roll-off collection accounts (for both open-top and compacter), by customer name in alphabetical order, by service address, size of container, dates pulled, number of pulls per month, amounts collected by frequency and tonnages and type of waste collected. Contractor shall also provide copies of signed pull tickets and amount of gross billings minus disposal cost.
  - f) Summary of service and complaint log, and if requested by the City Manager, a complete copy of the service and complaint log.
9. In order that the City may be informed of the quality of work, the Contractor shall maintain an on-line, web-based electronic tracking system (hereinafter "Electronic Tracking System") for and with the City to record and retain records of all complaints and inquiries, and resolution of said complaints or inquiries, of service for inspection by the City. The Contractor will provide the City and all residential and commercial customers with access to the Electronic Tracking System. The City may provide a link to the Electronic Tracking System from the City's web site. The Contractor may also separately maintain their own system for complaint and inquiry tracking (hereinafter ("Contractor Tracking System").

### **C. EXCLUSIVE RIGHTS**

The Contractor shall have sole and exclusive rights to collect solid waste, as defined in the Contract, within the corporate limits of the City 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 will contract with one of the City's licensed haulers to remove construction and demolition debris. No other waste removal will be permitted by another solid waste contractor, other than excluded waste, exempted yard waste, commercial recycled materials, hurricane debris collected by the City or another contractor chosen by the City. The City reserves the rights to pick up solid waste relating to street maintenance and other activities relating to City 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 terms are defined under state law and FAC 62-701.

## **SECTION 4 - SCOPE OF WORK - COLLECTIONS**

It is the intent of this Contract to provide for the total collection of all solid waste in the City, with the exception of exclusions which are specifically listed herein.

### **A. RESIDENTIAL UNITS**

#### **1. GARBAGE, HOUSEHOLD TRASH AND RECYCLING**

- a) **CARTS:** The Contractor shall distribute up to two (2) ninety-six gallon capacity carts to each residential unit at no cost to the resident, if needed. A customer may purchase a third cart for a charge of \$70.00. Contractor understands that residents were previously permitted to purchase additional carts that were not provided by the Contractor. Any existing non-vendor carts shall be serviced by the Contractor, provided such cart is compatible with the automated side load collection system. For carts that are not compatible, Contractor will make arrangements to provide replacement carts at no charge, within three (3) working days upon request by the City or customer. Sixty-four (64) gallon capacity carts may be substituted and provided at no charge to any person(s) who is/are not physically able to maneuver ninety (96) gallon carts, upon the written request of such person(s). Contractor shall maintain, at all times, a sufficient number of carts to ensure that all extra or replacement carts can be provided to any customer within three (3) working days upon request by the City or customer. New carts shall be distributed to new residential unit(s), at no cost, within three (3) working days of a request either by the City or the occupant(s) of any new residential unit(s) added during the term of this Contract. Carts that have been lost or damaged due to a customer's abuse or negligence shall be repaired or replaced at the expense of the customer at the then current cost of the cart. The Contractor shall provide one cart exchange at no charge to residential units in the following scenarios: non-medically necessary residents wishing to exchange their existing 96-gallon garbage carts for an alternate size of 64-gallon garbage carts; residents wishing to exchange their

existing 64-gallon recycle cart for an alternate size 96-gallon recycle cart; or customers requesting a new cart for aesthetic reasons. Subsequent requests will incur a twenty-five dollar (\$25.00) delivery and exchange fee per cart. The billing and collection of the fee is the responsibility of the Contractor.

- b) **WHEN:** The Contractor shall collect residential garbage and trash Monday through Friday only between the hours of 7:00 A.M. and 7:00 P.M. two (2) times per week. Scheduled dates of service will be at least three (3) days apart. Residential bulk waste shall be removed by the Contractor. It shall be the responsibility of the garbage and trash route driver to note bulk waste that is set out for collection that cannot be readily picked up, and communicate the location and items to be picked up to the Contractor's dispatcher, who shall immediately input that information in the Contractor Tracking System. Pickup of the bulk waste shall be scheduled and picked up within seventy-two (72) hours (three business days) after entry into the Contractor Tracking System, but no later than the next Friday after notification, whichever first occurs. If called in to the Contractor by the residential customer, the Contractor shall log the call into the Contractor Tracking System and collection shall be made within seventy-two (72) hours (three business days) of the request or the next Friday after notification whichever comes first.

Any change in the collection day schedule must be approved by the City Council before the Contractor implements a collection schedule change. If the request for change of schedule is granted by the City Council, it will be the responsibility of the Contractor to properly notify the residents of such change in a manner satisfactory to the City Manager.

Alternative route submissions will be considered by the City. Normal routes are not to be scheduled on Saturday, Sunday or any Holidays identified in this Contract.

If the City makes the determination to change service levels, the Contractor agrees, upon proper notification by the City to the Contractor, which will be no less than ninety (90) days, to diligently pursue both a notification and educational program to the residents of the pending change. Such program shall be approved by the City, which approval will not be unreasonably withheld. Cost to the City, its residential and commercial units, shall be those costs submitted within the RFP submission by the Contractor for the service levels requested, subject only to the cost increase such as application of the G&T Index and fuel adjustment component within this contract.

- c) **QUANTITY:** The Contractor shall be required to pick up **all** garbage and trash generated by a residential unit and left for collection. All recycling generated by a residential unit and all vegetative garden and yard trash

shall be picked up, except for units with approved exemptions as provided by ordinance.

- d) **WHERE:** Collection of garbage and trash shall be curbside, except for disabled residential or elderly customers as provided below. Disabled residential or elderly customers may request backdoor or side yard pickup upon written notice to the Contractor on a form provided by the City, at no additional cost to the resident or the City. Thereafter, the Contractor shall provide collection at the alternate location designated as long as the resident requesting the alternate pickup resides at that address. Bulk items shall still be required to be placed curbside.
- e) **HOW:** The Contractor shall make collections with a minimum of noise and disturbance to the residents. Garbage and trash 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. Under no circumstances will the Contractor leave any carts in the street. Garbage and trash may be transferred from the residents' carts into tubs, cans, hampers, or other containers used by the Contractor in carrying garbage and trash to collection trucks. This 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 either on the cart or a door hanger notice stating the reason(s) such item(s) was/were not collected. At the option of the City Manager, the Contractor will be required to deliver to the City Manager on the same day a copy of such notice(s) which will also include the address. The Contractor will submit a copy of the notices to the City by any method authorized by the City Manager.
- f) The Contractor shall collect and dispose of automobile tires generated by residential customers, at no additional charge, in accordance with local, state and federal disposal requirements; provided, however, that the Contractor may impose an additional charge, with prior approval of the City Manager or his/her designee and prior notice to the customer, if the following annual maximums are exceeded by any residential customer: four (4) automobile tires.
- g) It shall be the responsibility of the garbage and trash route driver to note when white goods and e-waste are set out for collection that cannot be readily picked up, and to communicate the location and items to be picked up to the Contractor's dispatcher, who shall immediately input that information in the Contractor Tracking System. Pickup of the white goods or e-waste shall be scheduled and picked up within seventy-two (72) hours (three business days) after entry into the Contractor Tracking System, but no later than the next Friday after notification, whichever first occurs. If called in to the Contractor by the residential customer, the

Contractor shall log the call into the Contractor Tracking System and collection shall be made within seventy-two (72) hours (three business days) of the request or the next Friday after notification whichever comes first.

- h) Residents may request that the Contractor provide a disposal bag for fluorescent bulbs. Contractor will deliver the disposal bag to the resident within seventy-two (72) hours (three business days) after the request is made. Residents must contact the Contractor directly to request pickup of the disposal bag once it is full. Pickup of the disposal bag shall be scheduled within seventy-two (72) hours (three business days) after the request is made.

## 2. VEGETATIVE GARDEN AND YARD TRASH

- a) **WHEN:** The Contractor shall collect residential vegetative garden and yard trash between the hours of 7:00 A.M. and 7:00 P.M. 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 any residential unit left for collection, including removal of accumulations by a landscape professional hired by the resident. The Contractor shall inform the owners/occupants of residential units that items such as tree limbs, tree trunks, palm fronds, etc., shall be cut in lengths of no greater than five (5) feet, with the item's diameter not to exceed six (6) inches. No single item shall exceed fifty (50) pounds.

This Contract does not include: vegetative garden and yard trash from land clearing operations; or preparation for construction.

- c) **WHERE:** Garden and yard trash shall be collected from curbside.
- d) **HOW:** The Contractor shall make collections with a minimum amount of noise and disturbance to the household. Residential options for collection of vegetative garden and yard trash shall include carts, cans, and piles prepared as explained below. 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 carts they will be thoroughly emptied and left in an upright position where they were found. Garden and yard trash shall be collected and any spillage shall be picked up immediately by the Contractor. All leaves and pine needles, clippings, palm fronds and tree trimmings with branches less than 6 inches in diameter and less than 5 feet in length and not weighing over fifty pounds shall be placed in a cart. Only tree branches and palm fronds that cannot fit into the cart shall be

cut in five foot lengths and bundled and stacked at the curb for collection. Large volume vegetative waste requiring a "Claw" truck, as determined by the City or the Contractor, will be provided on an "on call" basis and collected not less than one (1) time per week. One (1) "Claw" truck will be dedicated and available to service the City at all times. Pickup of the large volume vegetative waste shall be scheduled and picked up within seventy-two (72) hours (three business days) after entry into the Electronic Tracking System or Contractor Tracking System. These pick-ups may be requested by a resident or the City, or based on observation by the Contractor.

- e) **EXCLUDED WASTE:** Customers with excluded waste will be quoted a price for special pickup and the Contractor will bill the customer or provide a reference to an alternate vendor.

#### **B. MULTI-FAMILY UNITS - CONTAINERS EMPTIED BY MECHANICAL - MEANS**

Multiple-family dwelling units not using cart containers shall be required to use containers emptied by mechanical means. Multi-family units shall be considered Commercial Units, except for collection of recyclable materials for which such units will be considered residential.

#### **C. COMMERCIAL UNITS**

Commercial customers shall be identified as including, 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 (except excluded accounts), churches, clubs, hospitals, nursing homes, condominiums and apartment buildings using mechanically emptied collection or commercial cart collection, except condominiums and apartment buildings shall be considered residential for purposes of collection of recyclable materials.

1. **WHEN:** The Contractor shall collect commercial trash Monday through Saturday between the hours of 7:00 AM and 7:00 PM not less than twice per week and at a greater frequency if required to protect the public health. Collection service for commercial customers shall be made a minimum of 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 City Manager. Bulk waste shall be collected one (1) time per week on the same schedule as the City's residential bulk waste collection. It shall be the responsibility of the garbage and trash route driver to note bulk waste that is set out for collection that cannot be readily picked up, and to communicate the location and items to be picked up to the Contractor's dispatcher, who shall immediately input that information in the Contractor's Tracking System.. Pickup of the bulk waste shall be scheduled and picked up within seventy-two (72) hours (three business days) after entry into the Contractor's Tracking System, but no later than the next Friday after notification, whichever first occurs. If called in by

the commercial customer, the Contractor shall log the call into the Contractor Tracking System and collection shall be made within seventy-two (72) hours (three business days) of the request or the next Friday after notification whichever comes first.

2. **QUANTITY:** Contractor shall be responsible to pick up all commercial trash generated by commercial customers, whether by cart or mechanical pick up, except for excluded wastes and recyclable material collection. Commercial customers may contract for recyclable material collection independent of this Contract in accordance with State Statutes, the City of Satellite Beach Ordinances or the Brevard County Commercial Recycling Ordinance, as adopted or as may be amended from time to time. Collection of commercial vegetative yard waste is optional for commercial customers, as such waste is historically generated by landscaping professionals who are obligated to transport and dispose of generated commercial yard waste, thereby considered excluded waste.
3. **WHERE:** It is the duty of commercial customers to accumulate solid waste in locations mutually agreed upon by the commercial customers and the Contractor that are convenient for collection by the Contractor. Where a mutual agreement regarding location cannot be reached, the City Manager shall determine the location consistent with the ordinances and requirements of the City.
4. **HOW:** The Contractor shall make collections 7:00 A.M. through 7:00 P.M., Monday through Saturday, with as little disturbance as possible to businesses and commercial customers. This work shall be done in a sanitary manner and any solid waste spilled by the Contractor's employee(s) 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 City 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 Contractor's responsibility to immediately radio the condition to the Contractor's dispatcher who shall in turn enter location into the Electronic Tracking System or Contractor Tracking System, and immediately notify the City Manager. Waste placed outside the container for pickup shall be collected and also be called into dispatch for entry into the Electronic Tracking System or Contractor Tracking System for the purpose of either increasing the service or container size. It shall be the responsibility of the collection vehicle driver to immediately radio in any damage caused by his/her operation to the enclosure or gates thereto to the Contractor's dispatcher, who shall immediately input that information in the Electronic Tracking System or Contractor Tracking System and will arrange for repairs at the Contractor's expense and immediately notify the City Manager.

The Contractor shall not undertake any commercial collection of containers emptied by mechanical means that are located within two hundred (200) feet of any residential or multi-family units prior to 7:00 A.M. Exceptions to this time may be permitted following approval by the City Manager. Currently approved exceptions are included as **Appendix A**. 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 City Manager.

5. **CONTAINERS:** Commercial customers may use any containers as defined in this Contract.

#### D. **RECYCLING**

1. **RECYCLABLE MATERIALS COLLECTION AND DISPOSAL:** The recycling services to be performed by the Contractor under this Contract consist of curbside residential and multi-family residential collection of all recyclable materials, collection of all recyclable materials from City owned locations in the City, and transportation and recovery of said recyclable materials to a designated recovery facility, or, if no market is available, to the nearest County landfill. If transported to, and disposed of at, a landfill, the Contractor shall provide a quarterly recycling report, which shall include 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 provide a complete recyclable materials program. Recycling collection services will be provided to the City at City owned or occupied locations at no cost to the City. Any recycling for commercial customers shall be by independent contract between the Contractor and those commercial customers.
2. **PROPOSED SCHEDULE OF COLLECTION OF RECYCLABLES AND DESCRIPTION OF THE WORK:** The Contractor shall collect all recyclable materials set out for the purpose of recycling from all residential units. The collection of curbside residential recyclables shall be conducted using the 96 or 64-gallon recycling cart furnished by the Contractor, for a commingled system for single family and 96 gallon cart furnished by the Contractor for multi-family using mechanically emptied containers. The Contractor shall provide cart exchanges at no charge to the resident in the following scenarios: non-medically necessary residents wishing to exchange their existing 96-gallon garbage carts for an alternate size of 64-gallon garbage carts; residents wishing to exchange their existing 64-gallon recycle cart for an alternate size 96-gallon recycle cart; or customers requesting a new cart for aesthetic reasons. Subsequent requests will incur a twenty-five dollar (\$25.00) delivery and exchange fee per cart. The billing and collection of the fee is the responsibility of the Contractor. All cardboard set at the curb or edge of the roadway for collection will be collected by the contractor. Cardboard boxes shall be collapsed.
3. **FREQUENCY OF COLLECTION:** The Contractor shall collect recyclable material within the City a minimum of one (1) time per week.

4. **HOURS OF COLLECTION:** The Contractor shall collect all recyclable materials between the hours of 7:00 A.M. and 7:00 P.M. on weekdays only. If weekend collection is needed following a holiday or other circumstances, collection shall occur between the hours of 7:00 A.M. and 7:00 P.M. Exceptions to this time may be permitted following approval by the City Manager. Currently approved exceptions are included as **Appendix A**. 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 City Manager.
5. **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 solid waste, 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, the City Manager shall designate the location. The Contractor shall pick up all recyclable materials which have been properly prepared for collection, placed in recycling containers and set at the appropriate location. As with regular residential solid waste collection, residents who are elderly and/or physically not able to maneuver the 96 gallon carts shall be accommodated with a 64 gallon cart and/or pick up at back or side door at no additional fee.
6. **RECEPTACLES:** Each residence within the City will be provided with a recycling cart and, on occasion, additional carts will be supplied by the Contractor as directed by the City Manager.

Multi-family residential complexes of 3 units or greater utilizing mechanically emptied containers will utilize large carts (not less than 96 gallon) for collection of recyclable material. The carts are to be supplied by the Contractor at its sole expense.

7. **METHOD OF COLLECTION OF RECYCLABLE MATERIALS:** For residential units, unless otherwise agreed in writing, the Contractor shall pick up recycling 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 City shall mutually develop a procedure for handling placement of incorrect material in recycling bins by residents. At a minimum, the Contractor shall leave the incorrect materials in the recycling cart along with a Contractor provided notice describing the proper materials and reason(s) items have not been collected. The Contractor shall place such notice either within the container or place a door hanger notice at the residence. Upon request by the City Manager, the Contractor will be required to deliver to the City Manager 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. The Contractor will submit a copy of the notice to the City by any method authorized by the City Manager.

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

8. **SCHEDULES AND ROUTES:** Recyclable materials collection shall be made to all residential units on Monday. Therefore, schedules and routes shall match the current schedules and routes, except that the City Manager is authorized to modify, extend or suspend schedules in the event of natural disaster, health hazard or any other state of emergency requiring such action.

Should the County close the landfill or the recovered materials facility in honor of holidays, the Contractor shall not be required to collect on that day. The Contractor then would collect on the following day, excluding Sundays and Holidays. Customers under this Contract shall receive reasonable notification, as approved by the City Manager, of the schedules provided by the Contractor prior to commencement of service.

9. **RESERVED**

10. **MARKETING OF RECYCLABLE MATERIALS:** The Contractor and the City shall cooperate to develop markets for recyclable materials. To the extent possible, based on availability, capacity and market prices, the Contractor may market the recyclable materials through local business operations in Brevard County. At a minimum, the Contractor will provide for taking, marketing or storing of recyclables at the nearest Brevard County landfill.

11. **REVENUES GENERATED FROM RECYCLING:** The Contractor shall account for all revenues generated through recycling and report all such revenues to the City on a monthly basis. The revenue amounts are to be verified by accompanying receipts from the purchaser of the recyclable material and the Contractor shall retain all revenues generated from the sale of the recyclables. The Contractor shall remit to the City by the 10<sup>th</sup> day of each month, an amount equal to forty cents (.40) per residential unit for all recyclables collected under this Contract for the previous month. Any person providing nonresidential recycling collections shall be required to obtain a license from the City as provided by ordinance. The parties reserve the right to enter into an addendum to this Contract to address any pilot programs for recycling.

12. **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 City for the number of tons of material so disposed.

13. **RECYCLING CARTS CONTAINERS:** Residential recycling carts will be provided by the Contractor, at the Contractor's expense, and distributed as needed by the Contractor. All requests for recycling carts by either the City or a resident will be delivered by the Contractor within seventy-two (72) hours (three business days) of request. Type and size of multi-family residential recycling carts shall be approved by the City Manager and provided by the Contractor at its expense.

**E. PROPERTY OWNED, LEASED, RENTED AND CONTROLLED BY THE CITY**

The Contractor shall empty all solid waste containers used by the City (including all containers collecting recyclables), as identified in **Appendix B**. The schedule may be amended during the term of the Contract upon the direction of the City Manager. The City shall have the right to use regular commercial type trash containers, carts, or cans with covers. Servicing of these facilities shall be performed by the Contractor at no cost to the City.

**F. MISCELLANEOUS**

1. **VACANT LOTS:** The Contractor shall collect trash from normal maintenance of vacant lots in the same manner as the collection from residences, except the Contractor will only be responsible for the weekly collection as further described in Section 4.A.2.
2. **TIRES.** The Contractor shall be responsible for the collection and proper disposal of all used non-industrial tires collected by the City and held at the Public Works Complex. This may include but not be limited to tires from automobiles, trucks, trailers, and mowers.

## **SECTION 5 - FRANCHISE FEE; PAYMENT ADJUSTMENTS**

**A. SCHEDULE OF FRANCHISE FEE PAYMENTS**

For and in consideration of the work to be performed by Contractor as provided herein, the City agrees to authorize payments to the Contractor through the City's billing agent, subject to any setoffs, as follows:

1. **RESIDENTIAL.** The Contractor will be paid no later than the last day of each month during the term of this Contract an amount equal to the revenues generated by residential units for the preceding month's customer and volume counts, less the required ten percent (10%) franchise fee and any charges to be paid by the Contractor as provided in this Contract payable to the City.
2. **ALL OTHER COLLECTIONS.** The Contractor shall remit to the City no later than the fifteenth day of each month payment of ten (10%) percent of all gross billings by the Contractor for commercial services, additional collection services,

container rentals billed by the Contractor during the previous month and all other revenues generated by Contractor resulting from any work or services provided by Contractor under this Contract. All monthly commercial yardage, monthly commercial front load or rear load container rental or any other gross revenue billed by the Contractor, as identified in the proposal form **Exhibit I**, will be reported by the Contractor to the City no later than the fifteenth (15<sup>th</sup>) day of the month following such gross billings. Each billing report shall be accompanied by payment to the City of an amount equal to the ten percent (10%) franchise fee for the gross billings reflected in the report.

The City will adjust the franchise fee during the first renewal term, if renewed or extended, to fifteen percent (15%), or as negotiated. The City also reserves the right to adjust the franchise fee from time to time after written notification and negotiations with Contractor. Additionally the Contractor will directly pay for the cost of the online tracking system selected by the City to be used during the term of this Contract.

The contractor will bill separately for all roll off accounts and additional charges allowed under the Contract. The Contractor will remit to the City, on a monthly basis, no later than the fifteenth of each month following the month in which the work is performed, a report of all gross revenues which will include pull charges, lease or rental fees, delivery charges as well as any other billing within the City, along with a payment equal to ten percent (10%) of the gross revenues less disposal cost as a franchise fee or as adjusted from time to time.

## **B. 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 as of June 1<sup>st</sup> of each year of the Contract upon written request to the City by the Contractor at least 90 days before the anniversary date. The rates will be comprised of a collection component and a fuel component, which will be 90% and 10%, respectively, of the total rate.

The initial Contract year rates are as follows:

The monthly **residential** rate will be: \$14.38.

(90% collection component of \$12.94 + 10% fuel component of \$1.44)

The monthly **per cubic yard commercial** rate will be: \$5.69.

(90% collection component of \$5.12 + 10% fuel component of \$0.57)

For both the residential and commercial rates described above, rate adjustments may be requested and calculated in the following manner.

90% of the collection component rate adjustment shall be subject to a percentage equal to 100% of the percent change in the average Consumer Price Index for U.S City Average, All Urban Consumers: Garbage and Trash collection ("CPI"), as published by the Bureau of Labor Statistics (Series ID - CUSR0000SEHG02), from January through December in the prior year (CPI1) and the average Consumer Price Index from January through December of the most recent year (CPI2). A single CPI adjustment to the rates shall not exceed three percent (3%) and be no less than one percent (1%).

10% of the fuel component rate adjustment shall be subject to the percentage change in the average monthly fuel price from January through December in the prior year (F11) and the average monthly fuel price from January through December of the most recent year (F12). Fuel prices shall be based on the Henry Hub Gulf Coast Natural Gas Spot Price (dollars/million BTUs) published by the United States Energy Information Administration. The City shall adjust payments to the Contractor on an annual basis for either increases or decreases for the fuel adjustment component to the Contractor for providing the work to the City in accordance with this Contract.

If a CPI rate adjustment is not requested on the collection component, the rate adjustment for that particular 12 month period shall be deemed waived and shall not be taken into consideration in the future rate adjustments. All rate adjustments requested under the provisions of this Contract shall be approved by the City Manager. If the designated indices are no longer published, an equivalent index shall be determined by the City.

If the Contractor determines it can utilize a more efficient fuel source to perform its duties and obligations than either listed in this paragraph, the parties will work together to develop a mutually acceptable fuel adjustment component, if necessary.

### **C. AUDIT**

The City may, at its option and upon 60 days' notice to Contractor, examine the records, accounting files and such other books and records of Contractor that relate to the calculation of fee payments or any other payments due the City under the terms of this Contract. The examination of such books, accounts, records or other materials necessary for a determination of compliance with the terms, provisions and requirements of this Contract shall be during regular business hours of the Contractor at an office of the Contractor located within Brevard County, Florida, or at such other location satisfactory to the City. The City may perform the audit itself or retain a certified public accountant to perform said audit. In the event of a shortfall in payments from the Contractor to the City, the Contractor shall pay the City the shortfall within 30 days of receiving an invoice for same from the City. If the City determines there exists a discrepancy in the amount paid to the City by Contractor and the amount actually owed to the City by Contractor is in excess of five (5%) percent, the Contractor shall pay all reasonable costs, fees and expenses (whether performed in house by the City or not) incurred by the City in performing the audit within 30 days from the date it receives an invoice for such items from the City.

**D. UNUSUAL CHANGES OR COSTS**

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

**E. FAVORED NATIONS CLAUSE**

In the event a neighboring municipality negotiates more favorable rates with the Contractor than the City has for the provision of the same or substantially the same work provided in this Contract, the Contractor shall be required to, upon execution of the Contract with the neighboring municipality, reduce the rates charged to the City to be equal to or lower than the rates charged to the neighboring municipality. This provision is only applicable to contracts entered into after the effective date of this Contract, and applies only to a neighboring municipality's contract. Neighboring municipality shall mean any municipality within Brevard County, Florida, or the County of Brevard.

**SECTION 6 – STORAGE, OFFICE AND OPERATIONS FACILITIES**

Within two (2) weeks after the Effective Date of this Contract, the Contractor shall establish and maintain an office and maintenance facility within forty (40) miles of the City within Brevard County, where collection services such as stop service, requests for additional services or change of service, and complaints can be made. It shall be equipped with sufficient local and toll free telephones; shall have a local responsible person in charge with the ability to communicate with the public and shall be sufficiently staffed during collection hours and shall be open during the normal hours of this Contract, 7:30 AM to 5:30 PM. After normal operational hours of operation, the Contractor will provide a telephone answering service or a dedicated local supervisor who shall have the capability to address any collection issue and provide services to eliminate such issues.

**SECTION 7 - SCHEDULES AND ROUTES**

**A. IN GENERAL**

The Contractor shall abide by the routes and schedules provided with the proposal documents, which routes and schedules are by this reference incorporated herein. The City reserves the right to deny the Contractor's vehicles access to certain streets, alleys, and public ways inside the City, 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 City in its sole discretion. If the Contractor is denied access to certain streets or public ways outside the City, the Contractor shall be responsible for performance of work in accordance with this contract. The Contractor shall not interrupt the regular schedule and quality of service because of such street closures. 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 City Manager.

No route change shall occur until such change is deemed to be in the best interest of the City and general public, which determination shall be made by the City Manager, with proper notification given to the Contractor by the City Manager, which will not be 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 decision may be appealed to the City Manager and decision of the City Manager shall be final.

At various times during the year, the quantity of solid waste to be disposed of may materially increase because of fluctuations in the amount of vegetative 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 or form any basis to seek modification of this Contract.

## **B. DISASTER PREPAREDNESS PLAN**

The Contractor shall have a disaster response plan for removal and disposal of excessive amounts of debris or solid waste accumulated by reason of a storm of disastrous proportions, natural disaster, severe disturbance, riot, terrorist activity or other calamity ("event"). The Contractor shall provide the City with a detailed plan specifically for the first seventy-two (72) hours after any event and the Contractor is required to update and review the plan with the City annually before the start of the hurricane season. Any plan reviewed annually shall include pricing and terms for work to be performed. The City agrees to pay the stated FEMA rates in effect at the time of the event for the first seventy-two (72) hours after such event. The City has the sole option of invoking a post-disaster collection action following any event. For any additional collection required after the first seventy-two (72) hours of an event, following clearance to enter given by the Brevard County Emergency Operations Center, the Contractor will revert to the pricing and terms contained in this Contract. The plan submitted by the Contractor must describe in detail the responsibilities of the Contractor. The Contractor agrees the City will have total and absolute authority to direct and monitor the Contractor during and after any event regarding 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 City for any action taken. The City reserves the right to contract with other vendors to perform all or a portion of disaster clean-up.

The Contractor shall have, at all times, written contracts with subcontractor(s) for collection, hauling and disposal relating to any event should the Contractor not have sufficient resources of its own to effect a timely clean up. Such contract(s) shall contain operational details and unit pricing for collection and hauling with actual disposal cost to be an add-on charge. The initial subcontractor contracts are to be an addendum to this Contract with annual renewals to be reviewed and agreed to by the City. The Contractor's emergency response plan should also have operational details and unit pricing. The Contractor shall include in its plan a complete outline of a pre-event preparation program for removal and disposal of excess vegetative garden and yard trash, which would be initiated three (3) days prior to an event that has the potential to require disaster response. Contractor and subcontractor contracts must be reviewed and agreed to by the City prior to June 1st each year.

Should any event occur, the City Manager or his/her designee and the Contractor will meet as soon as possible, but no later than twenty four (24) hours, after the event to formulate and agree upon a cleanup plan.

The City reserves the option to utilize the Contractor, Contractor's subcontractors, solid waste providers other than provided by this Contract, City employees and other contractors, mutual aid contracts or any combination thereof to perform post-disaster cleanup.

#### **C. MISCELLANEOUS**

The Contractor shall not be responsible for scattered solid waste unless the same has been caused by its acts or those of any of its employees, in which case, all such scattered solid waste 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 solid waste collection in any case where the owner(s), tenant(s) or occupant(s) have such animals at large; in such event the Contractor shall immediately notify the customer and City Manager, in writing, of such conditions and of its inability to make collection because of such conditions.

#### **D. HOLIDAYS**

When a regularly scheduled collection day falls on a holiday, the Contractor shall collect the waste scheduled for collection that day on the next regularly scheduled collection day. The Contractor shall list the holidays which will be exempt from the residential and commercial collection schedule as offered in the Contractor schedule. The Contractor will notify all residential and commercial customers of

observed holidays. Notification can be made by way of direct mail, door hangers or newspaper advertisement one (1) week prior to the holiday date of non-collection. The notification must include a statement of the makeup day on which the waste, recycling or yard waste will be collected. Currently the observed holidays are as follows:

July 4th  
Memorial Day  
Veterans Day  
Thanksgiving Day  
Christmas Day

## **SECTION 8 – CONTRACTOR’S RELATION TO THE CITY**

### **A. SUPERVISION OF CONTRACT PERFORMANCE**

The Contractor’s performance of this Contract shall be supervised by the City Manager and the Contractor shall be so notified in writing by the City Manager of the Contractor’s performance. If at any time during the term of the Contract, or any renewals thereof, the City Manager provides notice to the Contractor that its performance is not satisfactory, the Contractor shall increase the force, tools and equipment necessary to properly perform this Contract. The failure of the City Manager to give such notification shall not relieve the Contractor of its obligation to perform the work at the time and the manner specified by this Contract.

### **B. CITY MANAGER OR DESIGNEE’S AUTHORITY**

To prevent misunderstanding and any litigation, the City Manager shall decide any and all questions which may arise concerning the quality and acceptability of the work 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 City Manager will determine whether or not the amount, quantity, character and quality of the work performed is satisfactory, which determination shall be final, conclusive and binding upon both the City and the Contractor. The City Manager shall make such explanation as may be necessary to complete, explain or make definite the provisions of this Contract; and his/her findings and conclusions shall be final and binding on the parties.

### **C. INSPECTION OF WORK**

The Contractor shall furnish the City Manager 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 the Contractor's agent and liaison in dealing with the City on all matters arising under this Contract. The City Manager may appoint qualified persons to inspect the Contractor's operation and equipment at any reasonable time. The Contractor shall admit authorized representatives of the City to make such inspections at any reasonable time and place with proper notice by the City to the Contractor, not less than twenty four (24) hours in advance of the inspection.

**D. DISAGREEMENTS – SOLID WASTE TO BE COLLECTED - HOW**

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

During the period of any disagreement between the parties, the City Manager may direct the Contractor to collect and dispose of any solid waste that is the source of the disagreement between the City and the Contractor, and the Contractor shall remove all such solid waste within twenty four (24) hours of the notice. Should the Contractor fail to remove the solid waste, the City will remove, or cause to be removed, the solid waste and the City shall deduct all costs associated with such removal from the next scheduled payment to the Contractor.

**E. CITY NOT LIABLE FOR DELAYS**

It is expressly agreed that in no event shall the City 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 City has no control.

**F. CANCELLATION/TERMINATION OF CONTRACT**

The Contractor and the City recognize that it is of paramount importance that this Contract be performed and the individual customers receive service. If the Contractor fails to begin work on the Effective Date, or fails to perform the work with sufficient number of workmen and sufficient and adequate equipment to ensure the proper and substantial performance of the 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 acts of God, 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 it unsatisfied, and if the City, through its City Manager, gives notice of any such default, and the Contractor or its surety fails to cure such default within seven (7) days after giving of such notice by the City, then the City may thereupon, by action of the Satellite Beach City Council, declare the Contract cancelled. The City may thereafter enter into contracts with others for the performance of the work 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 City in performing or causing to be performed the work provided for in this Contract shall exceed the proposal price of the Contractor, as provided in this Contract, then the Contractor (and the surety to the extent of its obligation) shall be liable to the City 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.

#### **G. OPERATION DURING DISPUTE**

In the event the City has not cancelled the Contract in accordance with the terms provided above, and there remains a dispute between the Contractor and the City, 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 injunction or other relief, to continue to operate the system until the final adjudication of the court.

## **SECTION 9 - QUALITY OF SERVICE**

#### **A. CHARACTER OF WORKMEN AND EQUIPMENT**

The direction and supervision of solid waste 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 direction of its operation to assure performance satisfactory to the City. Contractor background checks of employees are required. 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 his employment, such as, but not limited to, burglary, any larcenous activity, aggravated battery or other violence toward persons, 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. All subcontractors, superintendents, foremen and workmen employed by the Contractor shall be careful and competent. It is mandatory that the Contractor also provide uniforms with either a reflective safety vest or reflective safety shirt and name tag or badge.

All employees utilized by the Contractor during the term of this Contract, shall be of a standing or affiliation that will permit the Contractor's performance herein to be carried on harmoniously and without delay, and in no case, or in any circumstances, will such employees cause any disturbance, interference or delay to any work rendered to the City or by the City and in no case or in any circumstances will the employees conduct themselves negligently, disorderly or dishonestly in the performance of the employees' duties. The Contractor shall ensure that its employees serve the public in a courteous, helpful and impartial manner.

Contractor's employees collecting solid waste will be required to follow the regular pace of walk for pedestrians while on private property. No 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 WORKMAN and ILLEGAL ALIEN PROHIBITED**

Due to safety risks involved with the employment of temporary laborers as drivers and helpers, temporary laborers will be allowed under this Contract as determined by the City Manager. Notice will be provided by the Contractor to the City Manager or designee via email, and the City will respond by email, unless an alternative method is determined by the City Manager. Only employees covered by the Contractor's workers' compensation policy will be authorized to work within the City. Temporary laborers will only serve as helpers, not drivers, under the Contract. At any time temporary employees are authorized by the City Manager, the Contractor shall provide the City Manager with a list, by name, of any authorized temporary employees.

The Contractor acknowledges and shall abide by the U.S. Code Title 8 Chapter 12, 1324a, which makes it unlawful for a person or other entity to hire, or recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien, as defined in subsection (h)(3) of Chapter 12 of the US Code, with respect to such employment.

#### **C. COOPERATION OF CONTRACTOR REQUIRED**

The Contractor shall cooperate with authorized representatives of the City in every reasonable way in order to facilitate the progress of the work contemplated under this Contract. The Contractor shall have at all times a supervisor in the City 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 a published mobile phone number for direct contact with the City Manager as well as to be used for contact with Residential and Commercial accounts for any situation that may arise. A daily roster of employees and equipment will be supplied to the City Manager on an "as requested" basis.

#### **D. HANDLING COMPLAINTS**

The Contractor shall perform its work at a high quality and keep the number of legitimate complaints to a minimum. The Contractor shall maintain a telephone listing in the name in which the Contractor is doing business, and provide adequate employees for those customers needing to contact the Contractor during collection hours Monday through Saturday. Contractor shall also provide an after-hours answering service. An electronic telephone answering machine will not be acceptable.

In order that the City may be informed of the quality of work, the Contractor must provide a monthly report to the City with details of all complaints, requests, and compliments received from residential and commercial customers, to include resolution of each item, along with the name and address of the person, and the nature of the complaint or request. This report shall include complaints, requests, and compliments from the City's Electronic Tracking System and the Contractor Tracking System. All complaints, whether received in person, by mail, electronically, or by telephone, shall be recorded into one or both of the tracking systems as received. Resolution of any complaint or request, and the manner thereof, shall be recorded into one or both of the tracking systems within twenty-four (24) hours.

The monthly report shall be provided to the City by the 15<sup>th</sup> day of the following month, and the City and Contractor shall schedule recurring monthly meetings ("recurring meetings") to discuss this report, as determined by the City Manager or designee. The Contractor also agrees to provide a single point of contact in order for the City Manager or designee to have immediate access to Contractor's personnel to deal with various situations which may arise from time to time. Complaints received before noon shall be serviced the same business day and complaints received after twelve noon shall be serviced by twelve noon of the following business day. At each recurring meeting to review monthly reports, the City Manager or designee shall inform the Contractor of the City's intention to claim administrative charges/liquidated damages in accordance with this Contract. Each complaint shall be considered legitimate, unless satisfactory evidence to the contrary is furnished by the Contractor to the City Manager or designee within seven (7) business days following the recurring meeting. Contractor may contest the imposition of administrative charges/liquidated damages by notifying the City of its intent to do so within ten (10) business days following the recurring meeting. Contractor may then meet with the City Manager to further discuss the Contractor's protest; however, the decision of the City Manager shall be final.

Complaints not serviced and resolved satisfactorily within these time frames shall be considered as unserviced legitimate complaints. For each month in which the number of unserviced legitimate complaints reaches ten (10) or more, whether for garbage, trash, recycling or any other cause, the City shall be entitled to claim administrative charges/liquidated damages of one hundred (\$100) dollars per complaint including the first ten (See Section 16). Each complaint shall be considered legitimate unless satisfactory disposition of the claim is furnished. The decision of the City Manager shall be final.

#### **E. PERFORMANCE BOND**

The Contractor shall deposit with the City at the time it executes this Contract a cash or performance bond in the amount of fifty percent (50%) of the total estimated annual revenue for the first year of this Contract as a guarantee to the City of Contractor's faithful performance of this Contract. In the second and subsequent years of the Contract, the cash or surety bond may be reduced to twenty five percent (25%) of the total estimated annual revenue for the faithful performance of the terms

and conditions of this Contract if (i) the Contractor has complied with the terms and conditions of the Contract and (ii) the reduction has been approved by the City Manager. In no event shall the bond be less than \$300,000.00. Any non-cash performance bond shall be written by a surety company with an A, Class 10, or higher financial rating as shown in Best's Key Rating Guide.

## **SECTION 10 - EQUIPMENT**

### **A. TYPE**

Contractor will provide and maintain all vehicles and other equipment necessary to provide all work and other obligations under this Contract at its sole cost and expense. All vehicles and equipment shall 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 transceiver or mobile devices capable of communicating with the Contractor's dispatcher from anywhere within the City.

Prior to purchasing any vehicles and equipment, it shall be the responsibility of the Contractor to ensure there is sufficient available space, turning radius, ceiling heights, etc. for likely buyers or processors of recyclable materials. Replacement and additional vehicles and equipment shall be comparable to those utilized by Contractor and in service on the Effective Date unless otherwise agreed by the City. Collection vehicles must be compatible with the area being serviced so as not to encroach on non-City property or roadways.

Currently the residents use two (2) 96 gallon carts for solid waste and one (1) for recycling, except for those persons who disabled and/or the elderly as provided elsewhere in this Contract. Contractor is required to provide the three (3) carts described above to all residential units. The recycling carts must be designated by a different color combination than those designated for solid waste collection. The carts for solid waste will be one solid color. It shall be the responsibility of the Contractor, at its sole expense, to maintain an adequate inventory of approved carts for new accounts, for customers requesting additional carts, and for replacement for lost, stolen or broken carts. It shall be the responsibility of the Contractor, at its sole expense, to maintain and provide maintenance of the carts.

### **B. AMOUNT**

The Contractor shall provide a sufficient amount of vehicles and equipment, in proper operating condition, to ensure Contractor's compliance with the requirements of this Contract, including compliance with approved schedules and routes of collection. Required vehicles and equipment also include at least one vehicle for the supervisor overseeing the City operations and one (1) "clamshell" truck available to the City at all times on collection days.

### **C. CONDITION**

All vehicles and all other equipment shall be maintained in a reasonable and safe working condition, will be painted uniformly, and will include the company name. The Contractor's telephone number and the number of the vehicle shall be printed in letters not less than five (5) inches high, on each side of the vehicle. All Contractor vehicles shall be numbered and a record kept of the vehicle to which each number is assigned. No other advertising other than Contractor's standard company logo shall be permitted on vehicles, carts, dumpsters, or roll off containers servicing Satellite Beach, unless approved by the City Manager. 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 clean and paint vehicles and equipment pursuant to the schedule included in its accepted proposal. The Contractor shall, commencing in January 2017, 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.

### **D. OPERATION**

Each non-packer open top 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 solid waste; however, if solid waste is scattered from the Contractor's vehicle for any reason, it shall be picked up immediately. Each collection 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 extinguisher and triangle reflectors. The City Manager or his/her designee 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 City 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 Chapter 442, Florida Statutes as well as any industry standards, if applicable. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).

## **SECTION 11 - EMPLOYMENT AND WORKING CONDITIONS**

The Contractor shall comply with all applicable state and federal laws including the Federal Motor Carrier Safety Administration Regulations, Commercial Driver's License (CDL), and laws relating to wages and hours, and all other applicable laws relating to the employment or the protection of employees now or hereafter in affect. The Contractor is required and hereby agrees by accepting this Contract, to pay all employees not less than the federal minimum wage 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 12 - DISPOSAL OF SOLID WASTE**

Solid Waste 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, the Transfer Station located at 3379 Sarno Road, Melbourne, Florida 32935 and the Transfer Station located at 4366 South Street, Titusville, Florida 32780. **The Sarno Road Transfer Station facility is the closest County Disposal location to the City.** The City 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, 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. Should Brevard County eliminate or change the current disposal assessment, Contractor may petition City under the Unusual Changes or Costs provision.

## **SECTION 13 - COMPLIANCE WITH LAWS & REGULATIONS**

The Contractor shall abide by all applicable federal, state, county and City laws and regulations. The Contractor and its surety indemnify and save harmless the City, its elected and appointed officials, officers, employees, agents, representatives, volunteers, and independent contractors, both in their official and individual/personal capacities, and their respective sureties, insurers, successors, assigns and legal representatives, against any claim or liability arising from or based on the violation of any such laws, ordinances, regulations, orders or other decrees, whether by itself, its employees, contractor(s) or subcontractor(s). This clause shall survive the termination of this Contract and any renewals thereof, and shall also apply not only during the term of this Contract, but also as to any claim, liability, or damages which are based on the Contractor's conduct during the term of this Contract and in the event the City is charged with the responsibility, jointly or severally, for the aforementioned conduct as a successor to the Contractor.

## **SECTION 14 - INSURANCE**

Commencing on the Effective Date of this Contract, and continuing for the duration of any renewals, the Contractor shall obtain and maintain insurance in accordance with this Section at its sole cost and expense. The Contractor shall not commence work under this Contract until Contractor has obtained all insurance required by this Contract, as set forth below, and such insurance coverage has been approved by the City Manager. The Contractor shall not allow any subcontractor or sub-subcontractor to commence work on any subcontract(s) or sub-subcontract(s) until similar insurance of the subcontractor or sub-subcontractor has been obtained and approved in writing by the City Manager. All such policies shall be issued by companies of recognized responsibility licensed by the State of Florida Insurance commissioner, or to do insurance business for the type of policy issued pursuant to this Contract 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 City 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 shall be continuously maintained by the Contractor and all subcontractors and sub-subcontractors, if any, with active and effective copies of all declaration pages being maintained in the offices of the City of Satellite Beach. The pollution liability and umbrella liability policies are not applicable to subcontractors who provide temporary labor helpers to the Contractor.

### **A. WORKERS' COMPENSATION INSURANCE**

Workers' Compensation Insurance shall be obtained and maintained by Contractor for all of its employees, who are employed in connection with the work, and in case any work is subcontracted or sub-subcontracted, the Contractor shall require each subcontractor or sub-subcontractor similarly to provide Workers' Compensation Insurance for all the latter's employees, unless such employees are covered by the Contractor's Workers' Compensation Insurance (proof of such coverage by the Contractor shall be provided to the City Manager prior to any subcontractor or sub-subcontractor performing any work under this Contract). If any class of employees engaged in hazardous work under this Contract is 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 otherwise protected by said Statute.

### **B. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE**

Public Liability and Property Damage Insurance shall be obtained and maintained to protect the Contractor and its employees from claims for damages in connection with Contractor's work in performing this Contract. Such insurance shall also provide

coverage for any subcontractor, sub-subcontractor, or any other person employed by the Contractor, or any subcontractor or sub-subcontractor.

### C. **COMMERCIAL GENERAL LIABILITY INSURANCE**

Contractor shall obtain and maintain Commercial General Liability Insurance, which shall include, at a minimum, coverage for all operations, independent contractors, products-completed operations, contractual, broad form property damage, and personal injury insuring the Contractor and any other interests, including but not limited to any associated or subsidiary companies involved in the work.

1. Contractor shall obtain and maintain a separate **Automobile Liability Insurance policy**, if coverage is not otherwise affirmatively provided by any other insurance required by this Section, to protect Contractor and any subcontractors and sub-subcontractors for 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 any subcontractor or sub-subcontractor, in any way connected with the work which is the subject of this Contract. The insurance shall include coverage for owned, leased, hired, and non-owned vehicles.
2. Contractor shall obtain and maintain an **Umbrella Liability Policy** in the amount of \$5,000,000 per occurrence/aggregate location specific that is no more restrictive in coverage than all underlying coverages described above.
3. Contractor shall obtain and maintain a **Pollution Liability Insurance** in the amount of \$5,000,000 per occurrence. Such coverage will include bodily injury, sickness, disease, mental anguish, or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, Products/Completed Operations for Pollution, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs, charges, and expenses incurred in the investigation, adjustment, or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arise from the operations of the contractor including transportation and non-owned disposal coverage.

Unless specifically waived hereafter in writing by the City Manager, Contractor agrees that the insurer shall waive its rights of subrogation, if any, against the City on each of the foregoing types of required insurance coverage.

**ALL POLICIES, EXCEPT WORKER'S COMPENSATION POLICIES, SHALL NAME THE CITY AS AN ADDITIONAL INSURED, PROVIDE CONTRACTUAL LIABILITY COVERING THE LIABILITIES ASSUMED IN THIS CONTRACT, AND SHALL NOT EXCLUDE ANY ACTIVITY THAT WOULD NORMALLY BE ASSOCIATED WITH A PERSON IN CONTRACTOR'S POSITION IN PERFORMING ITS DUTIES AND OBLIGATIONS UNDER THIS CONTRACT. FURTHER, THE LIMIT OF LIABILITY FOR EACH POLICY 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.**

Coverage will be provided on an Occurrence or Claims Made Form/basis for all liability policies with a retroactive date equal to at least the effective date of this Contract and with a three year reporting option beyond the annual expiration date of the policy.

#### **A. PROOF OF INSURANCE**

The Contractor shall furnish the City Manager, prior to the Effective Date of this Contract, satisfactory proof of coverage of each type of insurance coverage required by this Section by providing a completed and effective declaration page with an insurance company satisfactory and acceptable to the City. The Contractor will provide insurance policies to the City upon request. Insurance required by this Contract shall be continuously maintained by the Contractor, and any and all subcontractors and sub-subcontractors, if any, with active and effective copies of all declaration pages being maintained in the offices of the City. All policies shall provide that any policy shall not be subject to cancellation, nonrenewal or material change, except upon at least sixty (60) days prior written notice being received by the City. To be acceptable to the City, each insurance certificate or policy shall contain a clause substantially as follows:

“This policy cannot be canceled, not renewed or materially changed by the insurer without providing the City of Satellite Beach, Florida at least sixty (60) days prior written notice of such intended cancellation, nonrenewal or material modification by certified U.S. mail, postage prepaid, return receipt requested, at 565 Cassia Boulevard, Satellite Beach, Florida, or such other address the City may provide.”

In the event that the Contractor fails for any reason to procure or maintain insurance coverage at the minimum amounts required herein or otherwise consistent with this Contract, the City, at the City's sole discretion, may secure insurance coverage at the Contractor's expense, or may declare the Contractor in default. The Contractor shall reimburse the City for the cost of such insurance coverage secured by the City within thirty (30) days of Contractor's receipt of an invoice from the City 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 City. Any bill for insurance by the City shall be regarded as additional "Contractor Cost", which if not paid within said thirty (30) day time period shall bear interest at the highest rate allowed by law on the amount so paid by the City; provided, that in no event shall the interest rate ever exceed the then lawful rate of interest. The City also reserves the right to withhold from the monthly franchise fee payment to the Contractor any amounts due the City for securing such insurance.

## **SECTION 15 - INDEMNIFICATION**

The Contractor shall indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, volunteers, and independent contractors, both in their official and individual/personal capacities, and their respective sureties, insurers, successors, assigns and legal representatives, from and against any and all claims, actions, liabilities, causes of action, demands, penalties, fines, fees, judgments, damages, losses, and expenses, including any regulatory actions (whether or not a lawsuit or administrative proceeding is filed), including but not limited to, costs, expenses, attorney and paralegal fees, expert witness fees, and any other court, regulatory and witness fees (whether in litigation, regulatory proceeding or appeal or as a part of settlement negotiations), arising out of, in connection with or resulting from any actions of Contractor regarding its performance or lack of performance of the work and its duties and obligations under this Contract; provided that the claim, action, liability, cause of action, demand, penalty, fine, fee, judgment, damage, loss and expense is caused in whole or in part by any negligent or intentional wrongful act or omission of, the Contractor, any subcontractor, any sub-subcontractor or anyone directly or indirectly employed, controlled, directed 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. However, the Contractor shall not have to indemnify and hold harmless the City if such claim, damage, loss or expense is the result of the sole negligence or as an act of intentional misconduct of the City or of anyone employed by the City.

The Contractor shall defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, volunteers, and independent contractors, both in their official and individual/personal capacities, and their respective sureties, insurers, successors, assigns and legal representatives, from and against any and all claims, actions, liabilities, causes of action, demands, penalties, fines, fees, judgments, damages, losses, and expenses, including any regulatory actions (whether or not a lawsuit or administrative proceeding is filed), including but not limited to, costs, expenses, attorney and paralegal fees, expert witness fees, and any other court, regulatory and witness fees (whether in litigation, regulatory proceeding or appeal or as a part of settlement negotiations), arising out of, in connection with or resulting from any actions of Contractor regarding the Contractor's alleged 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 City 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 or which shall be timely and promptly paid for by the Contractor. Any bill for such costs and fees shall be regarded as additional "Contractor Cost", which if not paid within thirty (30) days shall bear interest at the highest rate allowed by law on any amount paid by the City; provided, that in no event shall the interest rate ever exceed the then lawful rate of

interest. The City also reserves the right to withhold from the monthly franchise fee payment to the Contractor any amounts due the City for securing such insurance.

Nothing contained herein is intended to nor shall it be construed to waive City's rights and immunities under the common law, the U.S. or Florida Constitutions, or Section 768.28, Florida Statutes, as amended from time to time. The Contractor agrees that this contract agreement or any subcontract or sub-subcontract hereof, or agreement relating to the collection of Refuse/Solid Waste 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. This section relating to indemnification shall survive the termination of this Contract and any renewal(s) thereof.

## **SECTION 16 - 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 City, the City 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 9.E, or directly bill 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 7:00 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 5:00 P. M.

**See Section 3.B.1  
\$100 per incident, a maximum of  
\$300 per truck per day**

- B. Legitimate complaints over ten (10) in a single month.

**See Section 9.D  
\$100 per incident including the first ten (10). This is in  
addition to any other claims of administrative  
charges/liquidated damages.**

- C. Collection of commercial, residential solid waste and/or recyclables before 7:00 A.M. or after 7:00 P. M, unless given prior approval by the City Manager.

**See Section 4**  
**\$100 per incident**

- D. Failure to clean spillage caused from residential or commercial route vehicles leaking from collected garbage.

**See Section 3**  
**\$150 per incident**

- E. Failure to replace damaged residential containers within seventy-two (72) hours (three business days) or damaged commercial containers within five (5) business days.

**See Section 3**  
**\$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 3**  
**\$250 per incident**

- G. Failure to repair damage or failure of Contractor to initiate a claim with Contractor's insurance company to repair customer's property within seven (7) days.

**See Section 3**  
**\$200 per incident**

- H. Failure to provide clean, safe and sanitary equipment at beginning of each work schedule.

**See Section 3**  
**\$500 per incident**

- I. Failure to maintain office hours as required.

**See Section 6**  
**\$200 per incident**

- J. Equipment operator not properly licensed.

**See Sections 9, 11**  
**\$500 per incident**

- K. Failure to provide documents and reports in a timely and accurate manner as per Contract.

**See Section 3**  
**\$100 per incident**

L. Failure to cover materials, if appropriate, on all collection vehicles.

**See Section 10**  
**\$100 per incident**

M. Name and phone number not displayed on all equipment and commercial containers.

**See Section 10**  
**\$100 per incident**

N. Failure to comply with requested employee roster, proper uniforms and employee identification and safety equipment as per Contract.

**See Sections 9, 11**  
**\$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 City and the Contractor.

**See Section 9**  
**\$200 per incident**

P. Failure to complete a route on the regular pick-up day. An incomplete route is defined as failure to collect three or more residential or commercial units on a single street.

**See Section 7**  
**\$250 per day for each route not completed**

Q. Failure to provide proper notification prior to residential route changes.

**See Section 7**  
**\$250 for route day**

R. Causing skid marks, spillage marks on roadways, private driveways or any thoroughfare within the service area.

**See Section 3**  
**\$150 per incident**

S. Failure to follow established reporting operation or administrative procedures.

**See Section 4**  
**\$150 per incident**

T. Failure to comply with the current schedules and routing maps.

**See Section 7**  
**\$250 per incident**

U. Failure to provide monthly commodity tonnage and recycling data reports, provided quarterly.

**See Section 3**  
**\$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 Section 4**  
**\$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 3**  
**\$500 per incident**

X. Failure to report accidents, damage, spillage to the City immediately and provide a copy of a written report in the same day to the City.

**See Sections 3**  
**\$250 per incident**

Y. Loaded vehicles left standing on street unnecessarily.

**See Section 10**  
**\$150 per incident**

Z. Failure to drive in the proper direction.

**See Section 10**  
**\$100 per incident**

AA. Commingling solid waste with vegetative waste, recyclable materials, c & d materials, or other waste material.

**See Section 3**  
**\$250 per incident**

BB. Failure to report recycling activity quarterly in the format determined by the Contractor, for the purpose of tracking and verifying City-wide recycling activity.

**See Section 3  
\$100 per incident**

CC. Failure to have the required number of functioning "clamshell" trucks available within the City at all times as required.

**Section 10  
\$250 per day**

DD. Failure to have all required equipment, such as rakes, brooms, shovels, spill kits and safety flares or triangles on board collection vehicles as all times during collection hours.

**See Section 10  
\$250.00 per incident**

EE. Contractor using illegal aliens which is prohibited under the terms of this contract.

**See Section 9  
\$500.00 per incident**

Each complaint shall be considered legitimate, unless satisfactory evidence to the contrary is furnished to the City Manager by the Contractor within seven (7) days of notice to the Contractor. The decision of the City Manager shall be final.

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

The Contractor has the right to cure 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 City may levy liquidated damages and shall have the right to other remedies and to termination as elsewhere provided. The City Manager will have the final decision for determining if an incident has been solved or corrected in a timely manner.

## **SECTION 17 - CITY ORDINANCES**

Except as otherwise provided, nothing contained in any ordinance of the City hereafter adopted, pertaining to the collection of solid waste 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 solid waste collection and recycling [and which are clearly inconsistent with this Contract].



prior written consent of City Council, which consent may be withheld for any reason or no reason. No such consent will be construed as making the City a party of or to such transfer, assignment or subcontract, or subjecting the City to liability of any kind to any assignee, transferee or subcontractor. The provisions of this Section will not apply to the Contractor's subcontracting for temporary labor or for high-capacity clam truck service. For purposes of this Contract, the term "assignment" includes (i) the subcontracting of any work required by this Contract to be performed by Contractor not otherwise specifically authorized by this Contract; (ii) any changes of ownership or controlling interest of Contractor, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of twenty five percent (25%) or more within a one hundred and eighty (180) or (iii) a cumulative change of fifty percent (50%) or more in the ownership or controlling interest of Contractor to any person over the term of the Contract. The term "assignment" shall also include, but not be 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, and shall also include all of the foregoing where they are affected by a merger. However, the term 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.

The City may impose reasonable conditions on approval of any assignment, such as requiring an increase in the amount of any bonds, requiring increased levels and types of insurance coverage, and any other requirements designed to ensure the assignee, transferee or subcontractor has the technical and financial capacity to provide the work required by this Contract. The consent by the City to any assignment, transfer or subcontract shall not constitute a waiver of the necessity of such consent to any subsequent assignment, transfer or subcontract. This prohibition against any assignment, transfer or subcontract shall be construed to include a prohibition against any assignment, transfer or subcontract by operation of law.

Any request for an assignment, transfer or subcontract by the Contractor must be accompanied by a nonrefundable fee for the first assignment/transfer/subcontract in the amount of twenty five thousand dollars (\$25,000.00). Each subsequent request for an assignment/transfer/subcontract during the term of this Contract must be accompanied by a nonrefundable assignment/transfer/subcontract fee from the Contractor to the City in the amount of fifty thousand dollars (\$50,000.00).

2. No assignment, transfer or subcontract shall, under any circumstances, relieve the Contractor of its liabilities and obligations under this Contract, and despite any such assignment, transfer or subcontract, the City 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.

3. **CERTAIN TEMPORARY ASSIGNMENTS PERMITTED.** The foregoing notwithstanding, in the event of any strike, lockout, labor trouble, or dispute involving the Contractor, the City agrees to fully cooperate with the Contractor in any temporary assignment or subcontract as may be necessary to continue to provide the services required by this contract. Under this provision, there will be no transfer fee as required by subparagraph (1) above, but in no event will the transfer under this provision exceed 90 days.

## **SECTION 21 - MISCELLANEOUS**

- A. **SEVERABILITY.** If any article, section, provision, sentence, phrase, or word of this Contract or of any amendments 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 amendments thereto, or the application of such article or section to persons and 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.
- B. **GOVERNING LAW; VENUE.** The laws of the State of Florida shall govern this Contract, and venue for any litigation arising out of the Contract shall be in Brevard County, Florida, or in the U.S. District Court for the Middle District of Florida, Orlando Division.
- C. **ATTORNEY'S FEES AND COSTS.** In the event of any litigation arising out of or interpreting the terms and conditions of this Contract, the prevailing party shall be entitled to recover its attorneys' and paralegal fees and costs, including any such fees and costs incurred in any appeal.
- D. **SAVINGS CLAUSE.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- E. **TIME OF ESSENCE.** Time is of the essence regarding the performance of all of Contractor's duties and obligations under this Contract.

**F. CONTRACTOR AS INDEPENDENT CONTRACTOR.** It is expressly agreed and understood that the Contractor is, in all respects, an Independent Contractor regarding the work to be performed by it pursuant to this Contract, and that the Contractor is in no respect an agent, servant, or employee of the City. Contractor acknowledges this status notwithstanding it must, in certain limited circumstances provided by this Contract, follow the direction of designated City officials. The Contract specifies the work that is to be performed by the Contractor, but the method to be employed in accomplishing this work shall be the responsibility of the Contractor, unless otherwise provided in the Contract.

**G. FORCE MAJEURE.** The performance of any act by the City or Contractor hereunder may be delayed or suspended at any time while, but only so long as, 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, provided, however, the City shall have the right to provide substitute service from third party contractors or City forces and in such event the City shall withhold payment due Contractor for such period of time. If the condition of force majeure exceeds a period of 14 days, the City may, at its option and discretion, cancel or renegotiate this Contract. In no event shall the Contractor be relieved of its duties under the terms of this Contract for providing debris collection after an event or storm.

**H. TAXES.** The Contractor shall pay all federal, state and local taxes, to include sales tax, social security, workmen's compensation, unemployment insurance, and other required taxes which may be chargeable against labor, material, equipment, real estate and any other items necessary to and in the performance of this Contract.

**IN WITNESS WHEREOF,** the parties have caused this Contract to be executed in duplicate original this \_\_\_\_\_ day of \_\_\_\_\_, 2016, effective the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**WITNESSES:**

**THE CITY OF SATELLITE BEACH**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its City Manager

Attest: \_\_\_\_\_  
LEONOR OLEXA, City Clerk

**WITNESSES:**

**CONTRACTOR**

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

\_\_\_\_\_

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

### Approved Exceptions

<b>Customer Name</b>	<b>Address</b>	<b>Service</b>	<b>Reason</b>
BPS Surfside Elementary School	475 Cassia Blvd.	1-4F3 4YD FEL 3x Wk	To ensure no child is in danger.
BPS Bus Barn Satellite	52 Holland Ct.	1-4F1 4YD FEL 3x Wk	To ensure no child is in danger.
BPS Spessard Holland Elementary	50 Holland Ct.	1-6F4 6YD FEL 4x Wk	To ensure no child is in danger.
United Methodist Church	435 Jackson Ave.	1-4F3 4YD FEL 3x Wk	To ensure no child is in danger.
BPS Delaura Junior High School	300 Jackson Ave.	1-8F3 8YD FEL 3x Wk	To ensure no child is in danger.
Bright Now Dental	1324 Hwy A1A	1-4FL 4YD FEL 1x Wk	Safety Hazard due to vehicles in parking lot limited space operate.
Dakine Diegos	1360 Hwy A1A	1-4F4 4YD FEL 4x Wk	Must block road to service.
Pelican Beach Park	1475 Hwy A1A	2-8F2 8YD FEL 2x Wk	Safety Hazard due to vehicles in parking lot limited space operate.
Parkside Center	1790 Hwy A1A	18F2 8YD FEL 2x Wk	One way traffic congested area.
Pour House	1301 S. Patrick Dr.	1-2F2 2YD FEL 2x Wk	Safety Hazard due to long backdown.
Drevo Laska LLC	1301 S. Patrick Dr.	1-2FL 2YD FEL 1x Wk	Safety Hazard due to long backdown.
Interamerican Group	599 Sherwood Ave.	1-F2 2YD FEL 2x Wk	Safety Hazard due to vehicles in parking lot limited space operate. Backing hazard.
Ireland Family Practice	1380 S. Patrick Dr.	1-2F1 2YD FEL 1x Wk	Safety hazard, doctors office traffic, long back out.
Satellite Investment LLC	1107 S. Patrick Dr.	1-6F1 6YD FEL 1x Wk	Congested area safety hazard.
Dr. Malie Kane	1186 Hwy A1A	1-2F1 2YD FEL 1x Wk	Long back out onto A1A. Safety Hazard.
Blue Lemon Café	1301 S. Patrick Dr.	1-2F1 2YD FEL 1x Wk	Safety Hazard due to vehicles in parking lot limited space operate. Backing hazard.
Mojos Corp	1246 Hwy A1A	1-6F2 6YD FEL 2x Wk	Must block road to service.
Cibellis	1356 Hwy A1A	1-4F1 4YD FEL 1x Wk	Parking lot full limited space to operate if lot is full.
Florentine Jewelry	1270 Hwy A1A	1-2F1 2YD FEL 1x Wk	Customer roll-out. Small parking lot with limited space to operate once lot is full.
Walgreens 6149	1098 Hwy A1A	1-2C2 2YD FEL Compactor 2x Wk	Have to block roadway to service.

## APPENDIX B

### Property Owned, Leased, Rented, and Controlled By the City

Property	Address	Day(s)	Type	Use
Sports & Recreation Park	750 Jamaica Blvd	Tuesday/Friday	6-cubic-yard Front-Load Dumpster (2)	Trash
DeSoto Park	499 DeSoto Pkwy	On Demand	30-cubic-yard Roll-off Container (1)	Vegetative Trash
DeSoto Tennis Hut	499 DeSoto Pkwy	Monday	96-gallon Cart (1)	Recyclable Materials
Pelican Beach Park	1525 SR A1A	Tuesday/Friday	6-cubic-yard Front-Load Dumpster (2)	Trash
City Hall	565 Cassia Blvd	Tuesday/Friday	6-cubic-yard Front-Load Dumpster (1)	Trash
City Hall	565 Cassia Blvd	On Demand	30-cubic-yard Roll-off Container (1)	Bulk Waste
Public Works	530 Cinnamon Dr	Tuesday/Friday	6-cubic-yard Front-Load Dumpster (2)	Trash
Public Works	530 Cinnamon Dr	Monday	96-gallon Cart (1)	Recyclable Materials
DRS Community Center	1089 So. Patrick Dr	Tuesday/Friday	6-cubic-yard Front-Load Dumpster (2)	Trash
DRS Community Center	1089 So. Patrick Dr	Mon/Wed/Fri	6-cubic-yard Front-Load Dumpster (2)	Recyclable Materials
DRS Community Center	1089 So. Patrick Dr	On Demand	30-cubic-yard Roll-off Container (1)	Recyclable Paper/Card board
Fire Department	1390 So. Patrick Dr	Monday	96-gallon Cart (3)	Recyclable Materials
Fire Department	1390 So. Patrick Dr	Monday	96-gallon Cart (5)	Trash
Fire Department Dock	1390 So. Patrick Dr	Tuesday/Friday	96-gallon Cart (1)	Recyclable Materials
Fire Department Dock	1390 So. Patrick Dr	Monday	96-gallon Cart (1)	Trash
<b>The following SR A1A beach accesses may also need trash and recycling services.</b>				
Beach Access	Scorpion Ct	TBD	TBD	TBD
Beach Access	Grant Ave	TBD	TBD	TBD
Beach Access	DeSoto Pkwy	TBD	TBD	TBD
Beach Access	Magellan Ave	TBD	TBD	TBD
Beach Access	Sunrise Ave	TBD	TBD	TBD
Beach Access	Shell St	TBD	TBD	TBD
Beach Access	Volunteer Way	TBD	TBD	TBD
Gemini Beach Park	Ellwood & Park Ave	TBD	TBD	TBD
Hightower Beach Park	815 SR A1A	TBD	TBD	TBD