

FRANCHISE AGREEMENT
FOR THE COLLECTION, HAULING AND DISPOSAL OF
MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS
IN THE TOWN AND VILLAGE OF NEW PALTZ, NEW YORK

JUNE 1, 2018

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STATE OF NEW YORK

COUNTY OF ULSTER

THIS FRANCHISE AGREEMENT (this “Agreement”) is made and entered into as of June 1, 2018, by and between [REDACTED] a New York corporation (the “Service Provider”), and the Town and Village of New Paltz, New York (collectively, the “Municipality”).

WHEREAS, the Municipality, subject to the terms and conditions set forth herein and the ordinances and regulations of the Municipality, desires to grant to the Service Provider the exclusive franchise, license and privilege to collect and haul all Municipal Solid Waste and Recyclable Materials from all Residential Units (as such terms are defined herein) within the Municipality’s corporate limits.

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements set forth herein, the Service Provider and the Municipality hereby agree as follows:

SECTION 1. DEFINED TERMS.

The following terms, as used herein, will be defined as follows:

Business Day – Any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by state or federal law to be closed in the Municipality.

Commercial Unit - Any non-manufacturing commercial facility that generates and accumulates Municipal Solid Waste during, or as a result of, its business, including, but not limited to, restaurants, stores and warehouses; provided further that for purposes of this Agreement, Commercial Units shall include any residential dwelling that is designed for, and inhabited by, three or more multiple family units and that generates and accumulates Municipal Solid Waste.

Construction and Demolition Waste - Solid Waste resulting from construction or demolition activities or that is directly or indirectly the by-product of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products and regardless of whether such Solid Waste is mixed with or constitutes recyclable materials. Construction and Demolition Waste does not include Hazardous Waste or Municipal Solid Waste.

Container – Roll-Outs, Recycling Carts, and other containers, provided to the Municipality by the Service Provider and utilized by a Commercial, Industrial or Residential Unit for collecting

Solid Waste. Containers are designed to hold between thirty-five (35) gallons and ninety-five (95) gallons of Solid Waste.

Customer – An owner or occupant of a Residential Unit, Commercial Unit, or Industrial Unit, who generates Municipal Solid Waste.

Disabled Residential Unit – Any Residential Unit that is inhabited by persons, all of whom are physically disabled to the extent that they are unable to place Municipal Solid Waste at the curbside, including the elderly. The identities of the members of a Disabled Residential Unit; provided, that the Service Provider receives prior written notice from the Customer of such special need.

Dead Animal(s) – An Animal or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause except those slaughtered or killed for human use.

Elderly Residential Unit – Any Residential Unit that is inhabited by persons, all of whom are over the age of sixty-five (65). The identities of the members of a Elderly Residential Unit; provided, that the Service Provider receives prior written notice from the Customer of such special need.

Excluded Waste – Any Hazardous Waste, Construction and Demolition Waste, or any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state or local laws or regulations.

Hazardous Waste - Solid Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, or so classified by any federal or State of New York statute, rule, order or regulation.

Holidays - The following days:

- (1) New Year's Day (January 1st)
- (2) Memorial Day
- (3) Independence Day (July 4th)
- (4) Labor Day
- (5) Thanksgiving Day
- (6) Christmas Day (December 25th)

Industrial Unit - Any manufacturing, mining or agricultural facility that generates and accumulates Municipal Solid Waste during, or as a result of, its operations.

Multi-Family Residential Unit - Any residential dwelling that is designed for, and inhabited by, two multiple family units and that generates and accumulates Municipal Solid Waste.

Municipal Solid Waste - Solid Waste resulting from or incidental to municipal, community, commercial, institutional or recreational activities, industrial or manufacturing, mining, or agricultural operations. Municipal Solid Waste does not include Construction and Demolition Waste, Excluded Waste, Hazardous Waste, and Recyclable Materials.

Recyclable Materials – Solid Waste that is newspapers, magazines, mail, paper, telephone books, cardboard, glass bottles and jars (no mirrors, windows, ceramics or other glass products), metal cans (beverage, food, beer and soft drink cans composed of tin, steel or aluminum), and plastics, H.D.P.E. (high density polyethylene) and P.E.T. (polyethylene terephthalate) bottles, including two and three liter soft drink bottles and milk and water containers.

Recycling Cart – A Container provided by the Service Provider for the collection of Recyclable Materials that has up to a maximum capacity of ninety-five (95) gallons, is constructed of plastic with rubber or plastic wheels, is designed for automated or semi-automated solid waste collection systems, and has a tight fitting lid capable of preventing entrance into the container by small animals.

Residential Unit - Any residential dwelling that is either a Single-Family Residential Units or comprised of Multi-Family Residential Units.

Roll-Off - A container with twenty (20) cubic yards to forty (40) cubic yards of capacity.

Roll-Out - A Container that has up to a maximum capacity of ninety-five (95) gallons.

Single-Family Residential Unit - Any residential dwelling that is designed for, and inhabited by, a single person or family unit and that generates and accumulates Municipal Solid Waste.

Solid Waste - As defined by the EPA under 40 C.F.R. 5 261.2(a)(1), or by the State of New York.

SECTION 2. EXCLUSIVE FRANCHISE GRANT.

The Municipality hereby grants to the Service Provider, in accordance with the Municipality's ordinances and regulations governing the collection and hauling of all Municipal Solid Waste and Recyclable Materials, the exclusive franchise, license and privilege to collect and haul Municipal Solid Waste and Recyclable Materials from all Residential Units over, upon, along and across the Municipality's present and future streets, alleys, bridges and public properties. In order to maintain the exclusivity of the Service Provider's disposal service, Municipality shall uphold Section 2 of this Agreement by taking any and all appropriate action, as allowed by law, with any company, Customer or third party infringing upon the rights of the Service Provider. In any situation wherein the Municipality fails to pursue such action, as allowed by law, to remedy an infringement of Service Provider's exclusive right to waste services within the Municipality, the Service Provider shall retain a subrogation right from the Municipality against any and all violations of the grant described herein Section 2. Other solid waste companies are not allowed to conduct business in the Town or Village of New Paltz, New York. For the avoidance of

doubt, the franchise granted hereunder shall not apply to residential dwellings that are designed for, and inhabited by, three or more multiple family units, which are included hereunder as Commercial Units.

SECTION 3. OPERATIONS.

A. Scope of Operations. It is expressly understood and agreed that the Service Provider shall collect, haul and dispose of all Municipal Solid Waste and Recyclable Materials (as provided herein) (i) generated and accumulated by Residential Units, and (ii) placed within a Roll-Out or other Container by those Residential Units (provided such Municipal Solid Waste and Recyclable Materials are containerized in a Roll-Out Container or other Container) receiving the services of the Service Provider (or otherwise generated and accumulated in the manner herein provided by those Residential Units), all within the Municipality's corporate limits, including any territories annexed by the Municipality during the term of this Agreement (the "Services").

1. Residential Services

At a minimum, the Service Provider shall provide curbside collection service for the collection of: (a) Municipal Solid Waste to each Residential Unit once per week, and (b) Recyclable Materials to each Residential Unit once per week.

2. Recycling Program.

The Service Provider shall be responsible for transporting the Recyclable Materials to a recycling facility. The Service Provider is entitled to all revenues and profits derived from Recyclable Materials.

B. Nature of Operations. The Municipality hereby grants to the Service Provider, in accordance with the Municipality's ordinances and regulations governing the collection and hauling of all Municipal Solid Waste and Recyclable Materials, the title to all Municipal Solid Waste and Recyclable Materials collected and hauled by the Service Provider over, upon, along and across the Municipality's present and future streets, alleys, bridges and public properties. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.

SECTION 4. RESIDENTIAL UNIT COLLECTIONS.

A. Single-Family Residential Units. The Service Provider shall provide each Single-Family Residential Unit: (i) one (1) 95 gallon Roll-Out for the collection of Municipal Solid Waste and (ii) one (1) 95 gallon Recycling Cart for the collection of Recyclable Materials. The Service Provider shall collect Municipal Solid Waste and Recyclable Materials from Single-Family Residential Units at least once per week; provided, that (i) such Municipal Solid Waste and Recyclable Materials are placed in a Roll-Out and a Recycling Cart, as the case may be, and (ii) such Roll-Out and Recycling Cart is placed within two (2) feet of the curbside or right of way, adjacent to the Single-Family Residential Unit, no later than 7:00 a.m. on the scheduled collection day and (iii) the total weight of a single Roll-Out and Recycling Cart does not exceed

fifty (50) pounds. The Municipality agrees that the Service Provider may, in its reasonable discretion, require additional Roll-Outs and/or Recycling Carts at Residential Units which regularly generate Municipal Solid Waste/Recyclable Materials in excess of what can be contained in their existing Roll-Outs and/or Recycling Carts, and the Municipality shall take all reasonable actions to support such requirement. The Service Provider shall be compensated for these additional Services as provided for in Section 9.

B. Multi-Family Residential Units. The Service Provider shall provide each Multi-Family Residential Unit at least: (i) one (1) Roll-Out for the collection of Municipal Solid Waste and (ii) one (1) Recycling Cart for the collection of Recyclable Materials; provided, the Service Provider shall be obligated to increase, as necessary, the frequency of collection and the size or number of Containers and/or Roll-Outs so that Multi-Family Units' Municipal Solid Waste and Recyclable Materials will be regularly contained. The Service Provider shall collect Municipal Solid Waste and Recyclable Materials from Multi-Family Residential Units at least once per week; provided, that (i) such Municipal Solid Waste and Recyclable Materials are placed in a Roll-Out and a Recycling Cart, as the case may be, and (ii) such Roll-Out and Recycling Cart is placed within two (2) feet of the curbside or right of way, adjacent to the Multi-Family Residential Unit, no later than 7:00 a.m. on the scheduled collection day and (iii) the total weight of a single Roll-Out and Recycling Cart does not exceed fifty (50) pounds. The Municipality agrees that the Service Provider may, in its reasonable discretion, require additional Roll-Outs and/or Recycling Carts at Residential Units which regularly generate Municipal Solid Waste/Recyclable Materials in excess of what can be contained in their existing Roll-Outs and/or Recycling Carts, and the Municipality shall take all reasonable actions to support such requirement. The Service Provider shall be compensated for these additional Services as provided for in Section 7.

C. Disabled Residential Units / Elderly Residential Units. Notwithstanding anything to the contrary contained herein, the Service Provider agrees to provide each Disabled Residential Unit and Elderly Residential Unit: (i) one (1) 35 gallon Roll-Out for the collection of Municipal Solid Waste and (ii) one (1) 35 gallon Recycling Cart for the collection of Recyclable Materials; provided, that the Service Provider receives prior written notice from the Municipality of such special need.

D. Excess or Misplaced Municipal Solid Waste/Recyclable Materials. The Service Provider shall only be responsible for collecting, hauling and disposing of Municipal Solid Waste and Recyclable Materials placed inside Roll-Outs and Recycling Carts, as the case may be.

E. Collection Routes. Collection routes for Residential Units shall be established by the Service Provider. The Service Provider shall submit a map designating such collection routes to the Municipality for its prior approval, which approval shall not be unreasonably withheld. At any time during the term of this Agreement, the Service Provider may submit proposals changing such collection routes and/or changing the collection days for any and all Residential Units to the Municipality for its prior approval, which approval shall not be unreasonably withheld. Upon the Municipality's approval of any such proposal, the Service Provider shall provide at least thirty (30) days' prior written or published notice of the changes underlying such proposal to the affected Residential Units; provided, however, that this Section 4.E. shall not apply to route changes necessitated by events of force majeure, for which the Service Provider may change

collection routes as reasonably necessary to accommodate the event of force majeure, but in any case, the Service Provider shall provide notice to the Municipality as promptly as reasonably possible of such changes.

F. Non-Routine Collection Routes. The Service Provider and the Municipality shall agree upon collection methods and rates for certain areas of the Municipality where the conventional and routine collection methods may not be appropriate due to street size or variation. Special collections shall be made using appropriate equipment.

SECTION 5. COMMERCIAL AND INDUSTRIAL UNIT COLLECTIONS.

The Service Provider may, but shall not be obligated to, independently contract to collect Municipal Solid Waste and/or Recyclable Materials on a non-exclusive basis from Commercial and Industrial Units. The frequency of collection and the size or number of Containers or Roll-Offs shall be such that the Commercial and Industrial Units' Municipal Solid Waste and/or Recyclable Materials will be regularly contained.

Notwithstanding anything to the contrary contained in this Agreement, the parties acknowledge and agree that certain businesses may be treated by the Municipality as a Residential Unit for purposes of the exclusive franchise granted herein. Such businesses shall receive the minimum service levels required hereunder, and in the event they require a greater size or number of Containers and/or greater number of collections, they shall directly contract with the Service Provider and coordinate such service change request with the Service Provider.

SECTION 6. TITLE TO EQUIPMENT/REPAIR AND REPLACEMENT.

Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that all equipment, including, but not limited to, Containers and Roll-Offs, provided by the Service Provider in connection with the Services, shall at all times remain the property of the Service Provider. In the event that any Containers or Roll-Offs are lost, damaged or destroyed by the Service Provider, the Service Provider shall promptly repair or replace such Container or Roll-Off as provided herein. Notwithstanding the foregoing, in the event that any Containers or Roll-Offs become lost, unsightly, unsanitary, broken, or unserviceable because of the acts or omissions of a Customer (excluding normal wear and tear), the Customer will be charged for the resulting repairs or replacement and such amounts will be paid to the Service Provider upon demand in accordance with the agreement between the Service Provider and the Customer.

SECTION 7. RATES AND FEES.

Subject to adjustment, as provided in Section 8 hereto, the rates and fees to be charged and received by the Service Provider are provided in Exhibit "A" hereto.

SECTION 8. RATE ADJUSTMENT.

A. Disposal Cost Adjustment. In the event that the costs of disposal of Municipal Solid Waste directly charged to Service Provider are increased due to reasons out of the Service

Provider's control, the Service Provider shall have the right to immediately increase the rates and fees hereunder to account for the disposal fees charged to the Service Provider and the amount, if any, that the transportation costs incurred by the Service Provider in connection with transporting the Municipal Solid Waste have been materially affected upon at least thirty (30) days' prior written notice.

B. Governmental Fees. The parties acknowledge that the rates and fees herein include all applicable fees, taxes, or similar assessments incurred under federal, state, and local laws, rule, regulations, and ordinances (excluding taxes imposed on income) (the "Fees"). The parties acknowledge and understand that the Fees may vary from time to time, and in the event any of such Fees are increased or additional Fees are imposed subsequent to the effective date of this Agreement, the parties agree that the rates herein shall be immediately increased by the amount of any such increase in Fees or additional Fees upon at least thirty (30) days' prior written notice.

C. Unusual Changes or Costs. The Service Provider may petition the Municipality for rate adjustments at reasonable times on the basis of unusual changes in its cost of doing business, such as revised laws, ordinances, or regulations, or changes in fuel costs, and said request shall not be unreasonably refused. In the event the Municipality rejects such adjustment petition, the Service Provider may terminate this Agreement, without penalty, upon at least one hundred twenty (120) days' prior written notice.

SECTION 9. EXCLUSIONS.

Notwithstanding anything to the contrary contained herein, this Agreement shall not cover the collection, hauling or disposal of any Excluded Waste, Hazardous Waste, paint or chemicals, Dead Animals, auto parts, used tires, concrete, dirt, gravel, rock or sand from any Container or Roll-Off or located at any Commercial, Industrial or Residential Unit; provided, however, that the Service Provider and the owner or occupant of a Commercial, Industrial or Residential Unit may negotiate an agreement on an individual basis regarding the collection, hauling or disposal of Construction and Demolition Waste, auto parts, used tires, concrete, dirt, gravel, rock or sand by utilizing the Service Provider's Roll-Off services.

Service Provider shall have no obligation to collect any Solid Waste which is, or which the Service Provider reasonably believes to be, Excluded Waste. Title to and liability for any Excluded Waste shall remain with the resident/business/generator of such Excluded Waste, even if Service Provider inadvertently collects and disposes of such Excluded Waste. If Service Provider finds what reasonably appears to be discarded Excluded Waste, Service Provider shall notify such resident/business/generator and the Municipality that Service Provider may not lawfully collect such Excluded Waste.

SECTION 10. TERM OF AGREEMENT.

The term of this Agreement shall be for a period of five (5) years, commencing on June 1, 2018 and concluding on May 31, 2023 (the "Term").

SECTION 11. ASSIGNMENT.

Other than by operation of law, no assignment of the Agreement or any right accruing under the Agreement shall be made in whole or in part by the Service Provider without the express written consent of the Municipality, which consent shall not be unreasonably withheld, conditioned, or delayed.

SECTION 12. ENFORCEMENT.

During the Term of this Agreement and any extension thereof, the Municipality shall use its best efforts to adopt appropriate rules and regulations that will enable the Service Provider to provide the Services set forth herein (hereinafter individually and collectively "Services"). If the Service Provider experiences recurring problems of damage or destruction to or theft of the Containers or Roll-Offs provided by the Service Provider pursuant to this Agreement, the Service Provider may, prior to replacing or repairing such items, require security deposits from the Customer utilizing such Containers or Roll-Offs. The Municipality also hereby grants to the Service Provider the right of ingress and egress over, upon, along and across the Municipality's present and future streets, alleys, bridges and public properties for the purposes of rendering the Services contemplated hereby in accordance with the terms of this Agreement.

SECTION 13. PROCESSING, BILLING AND FEES.

A. Invoicing and Billing. All billing for the Services set forth herein shall be performed by the Service Provider on a monthly basis in arrears in accordance with the rates established in this Agreement. All invoices shall be due upon receipt. The types of services for which the Customer is being charged will be clearly stated on the face of the bill provided by the Service Provider. The bill will include a breakdown of charges for each type of Service and applicable taxes. If a bill remains unpaid after thirty (30) calendar days from the bill date, a late notice shall be mailed to the Customer and shall include a 1.5% penalty (minimum \$1.00). If the past due balances remains unpaid after forty-five (45) calendar days Contractor shall send a service cancellation notice with a ten (10) calendar day grace period to the Customer. If full payment has not been received by the end of business on the 10th day, service will be terminated. City shall enforce mandatory service in accordance with the Municipal Code.

B. Unpaid Rates/Fees. In the event any Customer fails to remit payment for an invoice within thirty (30) days of the date of such invoice, the Service Provider shall notify such Customer (via phone or mail) of the delinquency and request immediate payment. If such invoice remains unpaid forty-five (45) days or more of the date of such invoice, the Service Provider may discontinue its Services to such delinquent Customer. The Municipality agrees that the Service Provider may discontinue or suspend its Services on this basis, and the Municipality shall take all reasonable actions to support such action. The Service Provider may assess interest at the rate of 1.5% per month for all invoice amounts remaining unpaid for more than thirty (30) days of the date of such invoice. All past due amounts must be paid prior to the Service Provider having to provide the Services to any Customer who has an account suspended pursuant to this Section 13(B).

C. Prepayment. Customers may, but shall not be required to, prepay accounts.

Notwithstanding the foregoing, in the event of such prepayment, Customers shall not have any right to receive a discount or other benefit from the Service Provider.

SECTION 14. SPILLAGE.

The Service Provider shall not be responsible for scattered refuse unless the same has been caused by its acts or those of any of its employees, in which case all scattered refuse shall be picked up immediately by the Service Provider. Service Provider will not be required to clean up or collect loose refuse or spillage not caused by the acts of its employees, but shall report the location of such conditions to the Municipality or its designee so that proper notice can be given to the Customer at the premises to properly contain refuse. Municipal Solid Waste or Recyclable Materials spillage or excess shall be picked up by the Service Provider after the Customer reloads the Container or Roll-Off. Should such spillage continue to occur, the Municipality agrees that the Service Provider may, in its reasonable discretion, require additional Roll-Outs and/or Recycling Carts at Residential Units which regularly generate Municipal Solid Waste/Recyclable Materials in excess of what can be contained in their existing Roll-Outs and/or Recycling Carts, the Municipality shall take all reasonable actions to support such requirement, and the Service Provider shall be compensated for such additional services.

Each vehicle shall be equipped with a cover to prevent leakage, blowing or scattering of Solid Waste onto public or private property. Vehicles shall not be overloaded so as to scatter Solid Waste; however, if Solid Waste is scattered from Service Provider's vehicle for any reason, it shall be picked up immediately. Each vehicle shall be equipped with a fork, broom and shovel for this purpose.

Service Provider shall clean up, collect or dispose of any loose or spilled Solid Waste caused by the Service Provider's rendering of the Services outlined herein.

SECTION 15. NON-COLLECTION NOTICE.

It is specifically understood and agreed that where the owner or occupant of a Residential Unit fails to timely place a Container as directed in Section 4 hereof, or is otherwise in violation of the Municipality's ordinances and regulations, the Service Provider's reasonable rules adopted hereunder or the provisions of this Agreement relating to the nature, volume or weight of Municipal Solid Waste and Recyclable Materials to be removed, the Service Provider may refrain from collecting all or a portion of such Municipal Solid Waste and Recyclable Materials and will notify the Customer of the reason for such non-collection, unless such non-collection is the result of the Customer's failure to timely place the Containers out for collection. Such written notice shall be attached to the Container or the uncollected Solid Waste, shall indicate the nature of the violation and shall indicate the correction required in order that such Solid Waste may be collected.

SECTION 16. HOURS OF SERVICE.

For all the Services provided hereunder, the Service Provider's hours of service shall be between 7:00 a.m. to 7:00 p.m., Monday through Friday. The Service Provider will not be required to

provide service on weekends or Holidays except during natural disasters or emergencies, and may, at its sole discretion, observe Holidays during the Term of this Agreement. The Service Provider shall be responsible for providing make-up collection for collection that occurs on specified Holidays. Make-up days shall normally be the next collection day following the Holiday or as mutually agreed by Municipality and Service Provider. In the event the Service Provider shall fail to meet its minimum service obligations as defined in this Section 16, the Municipality shall promptly notify the Service Provider in writing of matters relating thereto. Thereafter, if the event or condition is not corrected or otherwise made to comply with the terms of this Agreement within ten (10) calendar days after the date of written notice of such non-compliance, the same shall constitute an act of non-compliance. For each such act, the Municipality may deduct from the consideration to be paid the Service Provider, as liquidated damages, the sum of One Hundred and 00/100 Dollars (\$100.00) per day for each day that each such act of non-compliance shall continue. If the Municipality exercises this remedy, this shall be the Municipality's sole remedy, and the Municipality shall not have the right to terminate the Agreement as otherwise provided herein.

SECTION 17. CUSTOMER SERVICE.

All Customer complaints shall be made directly to the Service Provider and shall be given prompt and courteous attention. At a minimum, Customer complaint procedure shall provide that the Customer complaint shall be addressed within seventy-two (72) hours of receipt of such complaint and shall be promptly resolved. The Service Provider shall be responsible for maintaining a log of complaints, and shall provide the Municipality on a monthly basis, with copies of all complaints indicating the date and hour of the complaint, nature of the complaint, and the manner and timing of its resolution. In the event the Service Provider shall fail to comply with the service obligations as defined in this Section 17, such acts shall constitute a failure to observe the terms and conditions of this Agreement, and the Municipality may pursue all processes and remedies arising therefrom as provided in Section 25 hereof.

SECTION 18. COMPLIANCE WITH APPLICABLE LAWS.

The Service Provider shall comply with all applicable federal, state, and local laws regarding the collection, hauling and disposal of Municipal Solid Waste or Recyclable Materials, including existing and future laws that may be enacted, as well as any regulations reasonably passed by the Municipality that are not in derogation of this Agreement. The Service Provider shall obtain all license and permits (other than the license and permit granted by the Agreement) and promptly pay all taxes required by the Municipality and the State of New York.

SECTION 19. VEHICLES AND EQUIPMENT.

Vehicles used by the Service Provider for the collection, hauling and disposal of Solid Waste shall be either the sealed packer-type trucks or Roll-Offs and shall be protected at all times while in transit to prevent the leaking, blowing or scattering of Solid Waste onto the Municipality's public streets, or properties adjacent thereto, and such vehicles shall be clearly marked with the Service Provider's name and telephone number in letters and numbers legible from fifty (50) feet. All such vehicles must be registered, inspected and insured.

Service Provider shall not operate, cause or allow to be operated, any vehicle that weighs, contains, or transports a load above standard maximum manufacturer recommended, manufacturer specified, and/or industry load weights for the make and model of vehicle being operated by Service Provider (hereinafter "Weight Standards"). Should Service Provider cause damage to Municipality's streets, alleys, bridges or public properties as a result of Service Provider's negligent act or omission, or as a result of Service Provider operating or causing to be operated vehicles which exceed Weight Standards, Service Provider shall be liable to Municipality for all resulting damage and shall pay Municipality all costs of repair and/or replacement of such streets, alleys, bridges or public properties, including without limitation, all costs of construction, design, and engineering. Notwithstanding the foregoing, the Municipality warrants that the Municipality's pavement, curbing or other driving surface or any right of way reasonably necessary for Service Provider to provide the services described herein are sufficient to bear the weight of all of Service Provider's equipment and vehicles up to the Weight Standards. Service Provider shall not be liable to Municipality for damage to Municipality streets, alleys, bridges or public properties, for normal operation of vehicles not in excess of Weight Standards.

SECTION 20. DUE CARE.

The Service Provider shall exercise due care and caution in providing the Services so that the Municipality's public and private property, including without limitation streets and parking areas, will be protected and preserved.

SECTION 21. PERSONNEL AND PERFORMANCE STANDARDS.

The Service Provider shall be an equal opportunity employer and shall not deny employment to any person on the basis of race, creed or religion, and will insure that all federal and state laws pertaining to salaries, wages and operating requirements are met or exceeded. The Service Provider, in the execution, performance, or attempted performance of this Agreement, shall not discriminate against any person or persons because of sex, race, religion, color or national origin, or any other illegal basis. The Service Provider, its agents, servants and employees shall perform the Services in a courteous, competent and professional manner. During the term of this Agreement and any extension thereof, the Service Provider shall be responsible for the actions of its agents, servants and employees while such agents, servants and employees are acting within the scope of their employment or agency. The Service Provider represents and warrants that it has and enforces a criminal background check and drug and alcohol abuse screening program for all assigned employees in accordance with applicable guidelines, laws and regulations consistent with industry standards.

SECTION 22. INSURANCE COVERAGE.

With the exception of Workers' Compensation, all policies shall be endorsed to include the Municipality, its officers and employees as additional insured's, and all policies, including Workers' Compensation, shall be endorsed to include a waiver of subrogation for the Municipality, its officers and employees. Service Provider shall provide thirty (30) days written

notice prior to termination of any of the policies required under this Agreement.

The Service Provider shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to properties, which may arise from or in conjunction with the performance of the work hereunder by the Service provider, its agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the Service Provider and a Certificate of Insurance evidencing that such insurance has been procured and is in force will be forwarded to the Municipality before commencement of work hereunder. Certificates of insurance shall be prepared and executed by the insurance company or its authorized agent, and shall: (1) set forth all endorsements and insurance coverages according to the requirements and constructions contained herein and the insurance policies. Service Provider represents that all such policies meet the requirements of this Agreement.

Required limits may be satisfied by any combination of primary and umbrella liability insurances. All insurance companies providing the required insurance shall be authorized to transact business in New York and rated at least "A-" by AM Best or other equivalent rating service.

Pursuant to this Agreement, the Service Provider shall carry the following types of insurance in an amount equal to or exceeding the limits specified below:

<u>Coverage</u>	<u>Minimum Limits of Liability</u>
(1) Workmen's Compensation	Statutory for all employees and drivers – as required by law.
(2) Employer's Liability	\$1,000,000 per occurrence \$1,000,000 in aggregate
(3) Comprehensive & General Liability (except automobile)	\$1,000,000 per occurrence; \$2,000,000 in the aggregate
(4) Property Damage Liability (except automobile)	\$1,000,000 per occurrence; \$2,000,000 in the aggregate
(5) Comprehensive Automobile Liability, Bodily Injury	\$1,000,000 per occurrence; \$2,000,000 in the aggregate
(6) Comprehensive Automobile Property Damage Liability	\$1,000,000 per occurrence; \$2,000,000 in the aggregate

To the extent permitted by law or this Agreement, any or all of the insurance coverage required by this Section 22 may be provided under a plan(s) of self-insurance, including coverage provided by the Service Provider's parent corporation. On an annual basis, or upon the Municipality's request, the Service Provider shall furnish the Municipality with a certificate of

insurance verifying the insurance coverage required by this Section 22.

SECTION 23. INDEMNITY.

The Municipality will not be responsible for the negligence or willful misconduct of the Service Provider, or any of its officers, employees, subcontractors, agents, representatives. The Service Provider agrees to release, defend, indemnify and hold harmless the Municipality and its officers, employees, subcontractors, agents, representatives, from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, liabilities, losses or expenses (including, but not limited to, reasonable attorneys' fees) incident to Service Provider's performance of the Services that result from a willful or negligent act or omission of the Service Provider, its officers, employees, subcontractors, agents or representatives. Notwithstanding anything to the contrary contained herein, the Service Provider shall have no obligation to indemnify the Municipality or the Municipality's officers, agents, employees, or elected officials, to the extent any such claims, actions, lawsuits, losses, expenses, injuries, damages, judgments or liabilities arise out of: (i) the negligence or willful misconduct of the Municipality or the Municipality's officers, agents, employees, or separate contractors, (ii) the Municipality's breach of any of the terms, conditions, representations, or warranties contained in this Agreement, or (iii) the violation of any law, rule, regulation, ordinance, order, permit, or license by the Municipality or the Municipality's officers, agents, separate contractors or employees.

SECTION 24. SEVERABILITY.

In the event that any term or provision, or portion thereof, of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall, to the extent reasonably possible, remain in force as to the balance of its terms and provisions as if such invalid term or provision were not a part hereof.

SECTION 25. TERMINATION.

Any failure by the Service Provider or its successors and assigns to observe the terms and conditions of this Agreement shall, if continuing or persisting without remedy for more than thirty (30) days after the receipt of due written notice from an authorized representative of the Municipality, constitute grounds for forfeiture and immediate termination of all the Service Provider's rights under this Agreement, and all such rights shall become null and void.

If during the Term of this Agreement the Municipality shall be in breach of any provision of this Agreement, the Service Provider may suspend its performance hereunder until such breach has been cured or terminate this Agreement; provided, however, that no termination of this Agreement shall be effective until the complaining party has given written notice of such breach to the breaching party and the breaching party has failed to cure such breach within thirty (30) days after its receipt of such notice. Upon any such failure to cure, the complaining party may terminate this Agreement by giving the breaching party written notice of such termination, which shall become effective upon receipt of such notice.

SECTION 26. FORCE MAJEURE.

Notwithstanding anything herein to the contrary, Service Provider shall not be liable for the failure to perform its duties if such failure is caused by a catastrophe, riot, war, governmental order or regulation, fire, Act of God or other similar or different contingency beyond the reasonable control of Service Provider. The performance of this Agreement will be suspended and the obligations hereunder excused only until the condition preventing performance is remedied.

SECTION 27. GOVERNING LAW.

This Agreement shall be governed in all respects, including as to validity, interpretation and effect, by the internal laws of the State of New York, without giving effect to the conflict of laws rules thereof. The parties hereby irrevocably submit to the jurisdiction of the courts of the State of New York and the Federal courts of the United States located in Ulster County in the State of New York, solely in respect of the interpretation and enforcement of the provisions of this Agreement, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may be enforced in or by said courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a New York State or Federal court.

SECTION 28. MISCELLANEOUS.

Any notices required or permitted to be delivered hereunder shall be in writing and shall be deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the respective party at the address set forth below:

If to the Town of New Paltz:

Attn: _____

If to the Village of New Paltz:

Attn: _____

If to the Service Provider:

Attn: _____

With a Copy to:

Waste Connections, Inc.
3 Waterway Square Place, Suite 110
The Woodlands, TX 77380
Attn: Legal Department

or such other addresses as the parties may hereafter specify by written notice and delivered in accordance herewith. Such notices will be deemed delivered on the date that the United States Postal Service certifies that the notice was delivered to the addressee, as evidenced by return receipt.

SECTION 29. ATTORNEYS' FEES.

The prevailing party in any dispute between the parties arising out of the interpretation, application or enforcement of any provision hereof shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not, including without limitation costs and attorneys' fees related to or arising out of any trial or appellate proceedings.

SECTION 30. MONTHLY REPORTS.

The Service Provider shall provide the Municipality with a monthly report within seven (7) calendar days following the end of the month summarizing such month's tonnage volumes of Municipal Solid Waste and Recyclable Materials and any verified Customer complaints and resolutions.

SECTION 31. PERFORMANCE BOND.

During the term of this Agreement and any extension thereof, the Service Provider agrees to procure and maintain a performance bond in the amount of Six Hundred Thousand and 00/100 (\$600,000.00) payable to the Municipality for guaranteeing the performance of the Services set forth herein. The surety on the bond must be a duly authorized corporate surety company authorized to business in the State of New York. In the event the Service Provider fails to cure any default of this Agreement as provided herein, the Municipality may proceed against said performance bond for any additional costs incurred due to the default under this Agreement by the Service Provider. The parties acknowledge and agree that the amount of performance bond required above is based off of a customer count of _____. Notwithstanding anything contained herein to the contrary, every January 1st during the Term, the Service Provider may audit current customer counts, and will adjust the amount of the performance bond (either up or down) on a pro rata basis on the actual customer count as of such January 1st. If the Service Provider adjusts the amount of the performance bond, the Service Provider shall provide the Municipality notice of such adjustment and will provide a copy of the adjusted performance bond for such year.

SECTION 32. ACCEPTANCE.

PASSED AND APPROVED BY THE _____ MEETING AT A TIME AND PLACE IN COMPLETE CONFORMITY WITH THE OPEN MEETING LAWS OF THE STATE OF NEW YORK AND ALL OTHER APPLICABLE LAWS THIS DAY OF _____, 2018.



TOWN OF NEW PALTZ, NEW YORK

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

VILLAGE OF NEW PALTZ, NEW YORK

By: _____
Name: _____
Title: _____

DRAFT

EXHIBIT "A"

RATES AND FEES

*[provided by Service Provider
on RFP]*

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