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TOWN OF DUNDEE

2019 – RFP # 19-03

**REQUEST FOR PROPOSAL (RFP)
FOR
RESIDENTIAL CURBSIDE
SOLID WASTE SERVICE
AND
RECYCLING SERVICE
AND
COMMERCIAL SERVICE**



INVITATION TO BID
RFP 19-03: RESIDENTIAL & COMMERCIAL SOLID WASTE, RECYCLING,
YARD WASTE, AND BULK WASTE REMOVAL SERVICES

Sealed Bids marked "**SEALED PROPOSAL – FY 2018-19 RESIDENTIAL & COMMERCIAL SOLID WASTE, RECYCLING, YARD WASTE, AND BULK WASTE REMOVAL SERVICES**" will be received by the Town Clerk of the Town of Dundee, Florida, until 4:30 P.M., Wednesday, May 15, 2019 at the Office of the Town Clerk, P.O. Box 1000, 202 East Main Street, Dundee, Florida 33838, for the following:

To furnish all labor, materials, equipment and administration to provide weekly service to the Town residents for solid waste, recycling, yard waste, and bulk waste as follows:

Residential Tote Customers – 1,475
Commercial Tote Customers – 77
8 YRD Dumpsters – 23
6 YRD Dumpsters – 15
4 YRD Dumpsters – 37
2 YRD Dumpsters – 21

Please note that the number of residential and commercial tote customers does not reflect the number of totes retained by a resident. This is strictly the number of customer accounts held by the town.

On Monday, May 20, 2019, at 10:00am proposals will then and there be publicly opened and read aloud at a meeting of the Purchasing Review Committee.

The proposal specified shall be furnished in accordance with the Invitation To Bid, Specifications, and Terms and Conditions attached hereto and made a part hereof as if fully set forth herein and any other documents prepared for this bid.

Questions may be submitted to the Town Clerk until 4:30pm on Thursday, May 9, 2019. For more information regarding this Invitation to Bid/RFP 19-03, please contact **Brian Lueth, Town Clerk, (863) 438-8330 ext-238** or by e-mail at blueth@townofdundee.com

Public Records - It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public

records is a duty of each governmental agency. §119.01, Fla. Stat. (2018). As such, do not submit any document(s) that you do not want to be made public.

Please note the NON-COLLUSION AFFIDAVIT OF PRIME BIDDER form which must also be completed. A W-9 form must be attached to the bid when returned by the responding vendor. Payment will be rendered to the name and ID appearing on the W-9.

An original and five (5) copies, a total of six (6), of the proposal shall be submitted in separately sealed envelopes/packages addressed to Brian Lueth, Town Clerk, Town of Dundee, Florida, and marked RFP 19-03: RESIDENTIAL & COMMERCIAL SOLID WASTE, RECYCLING, YARD WASTE, AND BULK WASTE REMOVAL SERVICES.

The Town of Dundee reserves the right to reject any and all bids, to waive informalities, to re-advertise, and to enter into a contract determined to be in its best interest, in accordance with the Terms and Conditions referenced herein above.

THIS Solid Waste Collection and Disposal Contract for Residential Curbside Solid Waste Service and Recycling Service and Commercial Service (“Agreement” or “Contract”) is made and entered into this ___ day of _____, 2019, by and between the **TOWN OF DUNDEE, a Florida Municipal Corporation**, (hereinafter referred to as “Town”) and _____ (hereinafter called “Contractor”).

WITNESSETH:

WHEREAS, the Town issued RFP #19-03, in accordance with Section 2-159(2) of the Code of Ordinances of the Town of Dundee, requesting competitive sealed proposals for the provision of residential curbside solid waste service, recycling service, and commercial service (hereafter the “Services”) for the residents, citizens and businesses of the Town of Dundee; and

WHEREAS, Contractor acknowledges that, at the time RFP #19-03 is published, the Town has approximately 1,475 residential solid waste customers within its municipal boundaries; and

WHEREAS, Contractor acknowledges that, at the time this RFP #19-03 is published, the Town has approximately 77 commercial service customers, as well as approximately 106 dumpsters, within its municipal boundaries; and

WHEREAS, Contractor acknowledges that, during the term of this Agreement, the Town not only anticipates growth and development, but the Town also anticipates the number of both residential and commercial customers to increase in relative proportion thereto; and

WHEREAS, the Town acknowledges and represents that, in response to RFP #19-03, it received _____ sealed proposals in accordance with the Town’s competitive procurement requirements; and

WHEREAS, on _____, in reviewing the sealed proposals received by the Town in response to RFP #19-03, the Town Commission determined that, in accordance with the Town’s evaluation criteria, the Contractor was the responsive and responsible offeror; and

WHEREAS, on _____, the Town Commission of the Town of Dundee, Florida, voted on and approved the issuance of its Notice of Intent to Award a Contract to Contractor; and

WHEREAS, Contractor acknowledges and represents that the provisions set forth in this Agreement have been fairly negotiated; and

WHEREAS, Contractor acknowledges and represents that the provisions set forth in this Agreement have been negotiated by each party’s respective legal counsel; and

WHEREAS, Contractor and Town acknowledge and represent that the provisions set forth in this Agreement are reasonable; and

WHEREAS, Contractor acknowledges that, at the time this Agreement was negotiated and entered into by the Contractor and Town, damages for any breach of this Agreement are not readily ascertainable by any known rule or pecuniary standard; and

WHEREAS, Contractor acknowledges and represents that, at the time this Agreement was negotiated and entered into by the Contractor and Town, damages for any breach of this Agreement are, by their nature, uncertain; and

WHEREAS, Contractor represents that, at the time this Agreement was negotiated and entered into by the Contractor and Town, Contractor had substantial industry experience in providing the service(s), which are the subject of this Agreement, and forecasting the cost(s) and expense(s) associated with performing said service(s); and

WHEREAS, Contractor acknowledges and represents that, based on Contractor's experience and expertise, the stipulated damages for any partial or total breach of this Agreement by the Contractor represents just compensation; and

WHEREAS, Contractor and Town acknowledge and represent that the stipulated damages set forth in this Agreement are not intended as a penalty; and

WHEREAS, Contractor acknowledges, represents and warrants that, pursuant to the Contractor's experience and expertise, any provision set forth in this Agreement related to stipulated damages for the Contractor's breach of this Agreement is not intended to nor will such provision induce the Contractor's full performance of the terms, covenants and conditions of this Agreement; and

WHEREAS, Contractor and Town represent that, in the event of Contractor's breach of this Agreement, any sum(s) stipulated to be paid to the Town are not disproportionate to the harm and/or any damage(s) reasonably expected to follow from such breach of this Agreement; and

WHEREAS, Contractor acknowledges and represents that this Agreement is in its best interests and, in all instances, should be strictly interpreted and enforced in accordance with all of the terms, covenants and conditions set forth herein; and

WHEREAS, Contractor and Town desire to memorialize the terms and conditions under which the Contractor voluntarily agreed to provide residential curbside solid waste service(s), recycling service(s) and commercial solid waste service(s); and

WHEREAS, Contractor and Town acknowledge, represent and warrant that adequate and legal consideration exists for the entry into this Agreement.

NOW THEREFORE, in exchange for the mutual consideration(s) given by the parties, receipt of which is acknowledged by the Contractor and Town, the parties hereby agree as follows:

SECTION 1 - INCORPORATION OF RECITALS

The foregoing factual recitals are hereby expressly incorporated into and made a part of this Contract; and the foregoing factual recitals form the factual and material basis for the entry into this Contract.

SECTION 2 - DEFINITIONS

Words used in this Document (hereafter the “Agreement” or “Contract”) shall possess their everyday and ordinary meaning, provided however, that where one (1) of the following listed terms is used in this Agreement, such term(s) shall possess the corresponding meaning, as follows:

1. **Bulk Trash** shall mean any non-vegetative item which cannot be containerized, bagged or bundled; including but not limited to inoperative and discarded white goods, furniture and similar domestic goods.
2. **Business Days** shall mean each calendar day which is not a Saturday, Sunday or a holiday which is recognized by the Town of Dundee, Florida.
3. **Calendar Days** shall mean any and all days in a 365-day calendar year.
4. **Contractor** shall mean the individual, firm or corporation who or which agrees to perform the work or services as set forth in the contract proposal and contract agreement.
5. **Contract Administrator** shall mean the Town Manager of the Town of Dundee, Florida, or the Town Manager’s designee.
6. **Excluded Waste** shall mean any and all Yard Waste, Special Waste, debris and/or waste products deemed by the Contract Administrator to be hazardous waste, and all materials that may not be disposed at the Polk County Landfill.
7. **Franchise Fee** shall mean the amount of money for which the Contractor shall be obligated to the Town for the privilege of providing refuse collection service to customers within the Town, and to refund the Town for billing and contract monitoring services.
8. **Garbage** shall mean putrescible waste which generally includes but is not limited to kitchen and table food waste, or any organic waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials whether attributed to residential or commercial activities. All garbage shall be containerized and not

commingled with yard waste. Garbage shall not include any material that falls within the definition of special waste.

9. **Mixed Paper** shall be defined as a mixture of paper products including magazines, catalogues, phone books, cereal boxes, soda and beer can boxes, chipboard, file folders, envelopes, letter paper, junk mail, notebook paper and any other clean paper products.

10. **Multi-Family Dwelling Units** shall mean any building containing more than two permanent living units.

11. **Performance Bond** shall mean the form of security approved by the Town and furnished by the Contractor, as a guarantee that the Contractor will execute the work in accordance with the terms of the contract and will pay all lawful claims.

12. **Poly Cart** shall mean wheeled container with a maximum capacity of 95-gallons (green with green lid) with a tight fitted lid constructed of injection molded polyethylene designed for automated or semi-automated solid waste collection systems.

13. **Recycling Bin** shall mean a wheeled container with a maximum capacity of 65-gallons (green with yellow lid) which holds household paper and paperboard including cardboard, newspapers, magazines, phone books, paper shopping bags, glass containers, plastic containers #1 through #7, aluminum and steel cans.

14. **Recyclable Materials** shall mean those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste. The materials initially designated are newspapers (including inserts), magazines, catalogs, phone books, aluminum cans, foil and pans, plastic containers #1 through #7 (except Styrofoam), glass bottles and jars, gable-topped containers, aseptic containers, corrugated cardboard, kraft bags and steel and ferrous cans. The Town reserves the right to designate Mixed Paper as a recyclable material at any time during the term of this Contract upon written notice to the Contractor at no additional cost to the Town.

15. **Solid Waste Service** shall mean collection of carts, containers and bagged waste which may be collected by automated, mechanical and/or non-automated, non-mechanical methods.

16. **Special Wastes** shall mean solid wastes that can require special handling and management which includes, but shall not be limited to, white goods, commercial tires, used oil, lead acid batteries, construction and/or demolition debris, ash residue, and biological waste(s).

17. **Surety** shall mean the party who is bound with and for the Contractor to insure the payment of all lawful debts pertaining to and for the acceptable performance of the contract.

18. **Town** shall mean the Town of Dundee, Florida, a Florida municipal corporation, acting through the Town Commission or Town Manager/Contract Administrator.

19. **Yard Waste** shall mean certain yard trash, products generated by land clearing, grass clippings, branches, tree cutting, palm fronds, other vegetation trimmings and/or any other materials deemed by the Contract Administrator, in his or her sole discretion, as such.

SECTION 3 - SCOPE OF CONTRACTOR'S WORK

A. SOLID WASTE SERVICE

1. The Contractor shall provide Solid Waste Service for residential units utilizing a 95-Gallon Poly Cart wheeled container not less than one (1) time per week, with collections at least six (6) Calendar Days apart, and shall collect unlimited Yard Waste one (1) time per week with collections at least six (6) Calendar Days apart. Bulk items, such as household furniture and appliances, shall be removed from each residential unit one (1) designated day per week. **Collection shall occur on Monday for the north side of Town and Thursday for the south side of Town and Yard Waste will occur on Wednesday between the hours of 7:00 a.m. and 7:00 p.m. The Town shall use Dundee Road / SR 17 as the north/south demarcation line.** These collections days are subject to change as determined by the Town Commission.

2. The Contractor shall provide Curbside Residential Recycling Collection Service in the town limits of the Town of Dundee, Florida. Each resident shall receive one (1) 65-gallon recycling bin displaying the logo for the Town of Dundee, Florida, for use during the term of this Agreement. Additional 65-gallon recycling bins may be requested and shall be provided by the Contractor, at no cost to the customer or Town, if determined by the Town and/or Contract Administrator that a need for the additional 65-gallon recycling bin(s) exists.

3. Garbage must be bagged and placed in wheeled container. Garbage and Yard Waste shall be collected within five (5) feet of the street (curbside). On streets where no parkway or lawn areas are available for collection purposes, the occupants shall place Yard Waste adjacent to the driveways, within five (5) feet of the street. Occupants shall not place Yard Waste and/or any other materials in the street for pickup by the Contractor. The Contractor shall notify occupants with handicapped status that they shall be eligible for non-curbside pickup, at no additional cost to the residents.

4. The Contractor shall make collections with a minimum of noise and disturbance to the residents. Garbage receptacles shall be handled carefully by the Contractor and shall be thoroughly emptied and left in an inverted position where they are found. Refuse may be transferred from the residents' containers into tubs, cans, hampers, or other containers used by the Contractor in carrying refuse to collection trucks. This work shall be done in a sanitary manner. Any spilled Garbage and/or waste shall be picked up immediately by the Contractor.

5. In addition to the regular week service, the Contractor shall conduct two (2) "clean-ups" each calendar year, when all waste, without limit as to size, deposited curbside shall be collected, except for excluded materials and Special Wastes, as defined in Section One (1) herein. The collections shall be scheduled at a time to be mutually determined by the Contractor and the Contract Administrator. The Contractor shall be responsible for notifying all customers of the special clean ups at least thirty

(30) Business Days in advance. There shall be no additional charge(s) for the “clean-up” services provided for in this provision.

6. The Contractor shall collect and dispose of automobile tires (without rims) from residential customers (maximum of 4 per resident per pick up) at no additional charge in accordance with state and federal disposal requirements. The Contractor shall place a container at the Town’s Public Works facility for the collection of used tires from Town vehicles. The container will be emptied on an as-needed basis at no cost to the Town.

7. The Contractor’s attention is directed to the fact that, at various times during the year, the quantity of refuse to be disposed of is materially increased by fluctuations in the amount of Yard Waste, which may be caused by various reasons, including, but not limited to, storms and other acts of God. This additional work-load will not be considered as adequate justification for failure of the Contractor to maintain the required collection schedules and routes.

8. The service will be restricted to the collection of household garbage utilizing Poly Cart containers with Solid Waste Service collection provided once a week. During the term of this Agreement, the Contractor shall provide each residential unit one (1) 95-gallon Poly Cart that shall be **green in color** and display the logo for the Town of Dundee, Florida. Additional 95-gallon Poly Carts shall be provided by the Contractor, at no cost to the customer or Town, if determined by the Town and/or Contract Administrator a need for the additional 95-gallon Poly Cart exists.

9. The Contractor upon request of the owner or occupant and upon approval from the Town and/or Contract Administrator shall provide a 65-gallon container that shall be **green in color with a yellow lid**, which shall meet any and all other requirements set forth in this Agreement, to residents determined unable to use the Poly Cart.

10. The Contractor shall supply and replace, at the Contractor’s expense, any Poly Carts and/or Recycling Bins damaged through fault or negligence of Contractor or his employees; stolen carts, broken, misplaced or damaged throughout the term of the Agreement. The Contractor shall be responsible for all maintenance and replacement of any Poly Cart(s) and Recycling Bin(s); and the Contractor shall maintain, repair and/or replace Poly Carts and Recycling Bins within five (5) Business Days of receiving notification from the Town and/or Contract Administrator that maintenance, repair and/or replacement of a Poly Cart and/or Recycling Bin is required. At the expiration and/or termination of this Agreement, Poly Carts and Recycling Bins shall become the property of the Town of Dundee, Florida.

B. COMMERCIAL UNITS

Commercial customers shall be identified as, but shall not limited to, all office buildings, stores, filling stations, lodges, motels, laundries, hotels, public buildings,

food services, lodging establishment, service establishment(s), light industry, schools, churches, clubs, hospitals, nursing homes, apartment buildings and mobile home parks.

1. The Contractor shall provide commercial service options that include Solid Waste Service at curbside or container service. Solid Waste Service at curbside shall be provided in the same manner as prescribed for residential customers. Container Solid Waste Service shall provide two (2), four (4), six (6) or eight (8) cubic yard containers that shall be emptied by mechanical means, at a weekly frequency of collection (for container service) shall be negotiated between the customer and the Town; however, refuse shall be collected not less than once a week. The Contractor is responsible for notifying the Town of the collection schedule for billing. The Town reserves the right to revise the service option and/or frequency of collection for individual customers, if required, to protect the public health or to eliminate public nuisances. The commercial solid waste containers provided by the Contractor shall not, pursuant to the terms of this Agreement, become the property of the Town of Dundee, Florida.

2. Commercial collection service customers shall separate Yard Waste and Bulk Trash from Garbage. The cost, manner and frequency of collection shall be negotiated between the customer and the Contractor; however, all Yard Waste and Bulk Trash shall be picked up, at a minimum, one (1) time per week by Contractor.

3. Except for Excluded Waste, all Garbage generated at commercial and industrial establishments shall be collected by the Contractor pursuant to the terms and conditions proscribed herein.

4. The Contractor shall make collections with as little disturbance as possible to business and commercial establishments. Commercial collection located close to residential areas shall occur between the hours of 6:00 a.m. and 7:00 p.m. Said commercial collection(s) shall be done in a sanitary manner and any Garbage, refuse and/or any other materials spilled by the Contractor and/or Contractor's employees or agents shall be picked up immediately. The Contractor shall spray commercial containers with a disinfectant to eliminate any odor(s). The Contractor shall be responsible for closing any container doors and/or screened enclosure doors and/or gates. The Town reserves the right to adjust the time of Solid Waste Service for individual customers, if determined necessary by the Town and/or Contract Administrator, to protect the public health or eliminate public nuisances.

5. Containers for commercial Solid Waste Service shall be owned and maintained by the Contractor. The containers shall be of waterproof materials with closing hinged covers. The containers shall be maintained or replaced so that they are always waterproof, with flush-fitting covers. The Contractor and Town shall mutually agree on the replacement schedule for containers. In the event the Contractor and Town are not able to mutually agree on the replacement schedule for containers, the Contract Administrator shall determine the replacement schedule for containers. The Contractor's name, telephone number, and the size of the container in cubic yards shall be unambiguously displayed on any and all containers used for commercial service.

C. PARKS, PICNIC AREAS, PROPERTY OWNED, LEASED, RENTED AND CONTROLLED BY THE TOWN OF DUNDEE

The Contractor shall provide containers and collection service to all Town facilities. These containers shall be collected as needed, at no cost to the Town. The following is a list of Town facilities with container sizes and collection frequency. Additional locations may be designated by the Town and/or Contract Administrator, at the sole discretion of the Town and/or Contract Administrator, at no cost to the Town.

<u>Facility/Location</u>	<u>Size</u>	<u>Times/Week</u>
Community Center/603 Main St.	4 yard dumpster	1-pick up
Public Works/201 Center Street	4 yard dumpster	1-pick up
Lake Menzie Park	2-95 gal wheeled	1-pick up
Lake Marie Park West Side	2-95 gal wheeled	1-pick up
Lake Marie Park East Side	2 yard dumpster	1-pick up
Lake Ruth Park	2-95 gal wheeled	1-pick up
Myrtle St. Park	2-95 gal wheeled	1-pick up
4 th Street Park	2-95 gal wheeled	1-pick up
Merrill Ave. park	2-95 gal wheeled	1-pick up
Sheriff Department	2-95 gal wheeled	1-pick up
Fire Department	2-95 gal wheeled	1-pick up
Town Hall	1-6 cubic yard for solid waste 1-2 cubic yard for recyclables	1-pick up
Johnson Park	2-95 gal wheeled	1-pick up
Historic Depot	2-95 gal wheeled	1-pick up

D. EXCLUSIVE RIGHT

The Town grants to the Contractor the exclusive right and obligation to provide solid waste collection within the Town of Dundee, Florida, except for roll-off containers and builders who may remove waste from their own construction sites and/or activities in accordance with all applicable laws, ordinances, rules and regulations. The Contractor shall perform solid waste collection service(s) in strict accordance with the terms set forth in this Agreement which includes, but is not limited to, the prices set forth in Exhibit “A” attached hereto and by reference made a part hereof.

Provided however, in the event the Town and/or Contract Administrator determines the Contractor is not capable of satisfying the Town’s demand(s) for the disposal of solid waste, the Town reserves the right to take any further and necessary action(s) which includes, but shall not be limited to, entering into agreement(s) for the private collection of solid waste generated by commercial businesses or manufacturers. In all such instances, in accordance with Section 21 of this Agreement, the Town and/or Contract Administrator shall provide Contractor with written notification of its determination.

E. SERVICE LEVEL REVISIONS

The Town reserves the right to revise the levels of service as described in Section 3 of this Agreement. In the event the Town determines, in its sole and absolute discretion, to revise the levels of service set forth in this Agreement, the Town and/or Contract Administrator shall provide the Contractor with sixty (60) Calendar Days written notice prior to the effective date of said revision(s) to the levels of service.

SECTION 4 - SCHEDULE AND ROUTES

A. IN GENERAL

The Contractor shall abide by the routes and schedules provided by this Agreement and/or the Town or Contract Administrator. The Town reserves the right to deny access to the Contractor on and/or to certain streets, alleys and public ways, inside the Town or outside the Town in route to the disposal facilities, where it is in the best interest of the Town, its citizens and residents and/or general public to do so due to conditions of the streets, alleys and public ways. 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 schedules provided in a newspaper of general circulation in the Town of Dundee. Additional forms of notification may include door hangers, radio announcements, or another method approved by the Contract Administrator. Any and all route and/or schedule changes shall be approved by the Contract Administrator. Written notice of changes in any route(s) and/or schedule(s) shall be furnished to customers by Contractor at least ten (10) Calendar Days prior to the actual change in said route(s) and/or schedule(s).

B. HOLIDAYS

On those days when the disposal site generally used by the Contractor is closed in commemoration of a holiday, the Contractor shall reschedule the collection of that day's routes within the same week as the commemorative holiday. The Contractor shall notify customers of this rescheduling fourteen (14) Calendar Days in advance of the rescheduled routes. Notification shall be provided by, but not limited to, notification in a newspaper of general circulation in the Town of Dundee, Florida.

SECTION 5 - DURATION OF CONTRACT – COMMENCEMENT OF WORK

1. Unless this Agreement is terminated, the term of this Agreement shall be five (5) years. The term of this Agreement shall commence on _____ (the "Effective Date"); and the term of this Agreement shall expire and/or terminate on _____. The Agreement shall include a five (5) year renewal option.
2. At the expiration of the term of this Agreement, unless such term is extended in accordance with terms of this Section, this Agreement shall terminate.

3. The Contractor shall commence work on the Effective Date (see Section 5(1) above). Failure to commence work on the Effective Date shall result in forfeiture of the bid bond and/or the Performance Bond.

4. The term of this Agreement may be extended at the discretion of the Town and Contractor for one (1) additional term of five (5) years. This provision shall be self-executing.

5. If the Town or Contractor elects not to exercise its right to a five (5) year extension, the Town or Contractor shall provide not less than 180 Calendar Days notice, in accordance with Section 21 of this Agreement, prior to the expiration and/or termination of the term of this Agreement.

SECTION 6 - CONTRACTOR'S RELATION TO THE TOWN

A. CONTRACTOR AS INDEPENDENT CONTRACTOR

Notwithstanding in certain respects the Contractor is bound to follow the direction of designated Town officials, it is expressly agreed, acknowledged and understood that the Contractor is in all respects an Independent Contractor as to the work and/or services provided for herein. It is further agreed, acknowledged and understood that the Contractor is in no respect an agent, servant or employee of the Town.

The Contractor represents and warrants that, in performing the work set forth by this Agreement, it has more than five (5) years of experience servicing residential and commercial franchise(s) accounts.

B. SUBLETTING CONTRACT AND CHANGES IN OWNERSHIP

The Contract, or any portion thereof, shall not be sublet, assigned and/or transferred, except with the prior written consent of the Town Commission of the Town of Dundee, Florida, which may be withheld for any reason.

Changes in the composition of more than twenty-five percent (25%) of the ownership of the Contractor shall be treated as an assignment and/or sublet of this Agreement. No such consent will be construed as making the Town a party of or to such subcontract, or subjecting the Town to liability of any kind to any subcontractor.

No assignment, subcontract and/or transfer shall relieve the Contractor of any obligation and/or liability under this Agreement. This provision shall survive the termination of this Agreement.

In the event of subletting, the Town shall deal through the Contractor. Subcontractors shall be dealt with as workmen and representative 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. The Contractor shall be held responsible for the actions of any subcontractor employed or retained by the Contractor.

C. SUPERVISION OF CONTRACT PERFORMANCE

The Contractor's performance of this Contract shall be supervised by the Contract Administrator or some other official of the Town designated by the Contract Administrator, and the Contractor shall be so notified in writing by the Contract Administrator. If at any time during the Initial Term and/or any renewal of same, the Contractor's performance is not satisfactory to the Contract Administrator, the Contractor, upon notification by the Contract Administrator, shall within three (3) Business Days increase the work force, productivity, tools and/or equipment as needed or necessary to properly perform pursuant to the terms of this Contract. The failure of the Contract Administrator 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.

D. TOWN MANAGER TO BE REFEREE

To prevent misunderstanding and avoid any litigation, the Contract Administrator shall decide any and all questions which may arise concerning the quality and acceptability of the work and services performed by the Contractor, the sufficiency of performance, the interpretation of the Contract and/or any provisions contained therein, and the acceptable performance and/or fulfillment of the Contract on the part of the Contractor. The Contract Administrator shall determine whether or not the amount, quantity, character and quality of the work performed are satisfactory, which determination shall be final, conclusive and binding upon both the Town and the Contractor. The Contract Administrator shall make such explanation as may be necessary to complete, explain or make definite the provisions of this Contract; and his or her findings and conclusions shall be final and binding upon both the Town and Contractor.

E. INSPECTION OF WORK

The Contractor shall furnish the Contract Administrator or its authorized representative with every reasonable opportunity for ascertaining whether or not the work performed is in accordance with the requirements of the Contract. The Contractor shall designate, in writing, the person to serve as agent and liaison between itself and the Town. The Contract Administrator may appoint qualified persons to inspect the Contractor's operation and equipment at any reasonable time, and the Contractor shall admit the Contract Administrator and/or authorized representatives of the Town to make such inspections at any reasonable time and place.

F. DISAGREEMENTS – PROVISION OF SERVICE

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

In the event a disagreement arises and Garbage, waste, materials and/or refuse needs to be collected and disposed of, the Contract Administrator or his/her authorized representative may notify the Contractor of the location of the Garbage, waste, materials and/or refuse which has not been collected due to the disagreement between the Town and the Contractor, and it **shall be the duty of the Contractor to remove all such Garbage, waste, materials and/or refuse within four (4) hours of such notice.** For purposes of this provision, the Town and/or Contract Administrator may provide notice to the Contractor's designated agent or liaison by electronic mail correspondence and/or facsimile transmission; and the notice shall be deemed received upon sending same, regardless of whether or not said notice is actually received.

Should the Contractor fail to remove the Garbage, waste, materials and/or refuse, the Town shall remove same and deduct any and all costs incurred from the next scheduled payment to the Contractor.

The Contractor's obligation to perform the work described herein shall continue in the event of any strikes, labor disputes, work stoppages or disagreement or problems involving the Contractor's employees.

G. 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 other items necessary to and in the performance of this Contract.

H. TOWN NOT LIABLE FOR DELAYS

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

In the event the Town is held liable or responsible for the action(s), non-action, delay, stoppage and/or omission(s) of the Contractor, the Contractor agrees to indemnify, defend and hold harmless the Town from and against all claims, demands, suits or causes of action of any kind or nature, and the resulting losses, costs, expenses, including reasonable attorneys' fees and costs, liabilities, damages, taxes, orders, judgments, or decrees, brought against and/or sustained by the Town based on governmental assessment, personal injury, bodily injury, death or property damage, and/or destruction received or reasonably claimed to be received or sustained by any person or persons arising out of or in connection with any action(s), non-action, delay, stoppage, negligent act and/or omission of the Contractor, its agents, employees or

assigns while performing the duties and obligations required by this Agreement. This indemnification shall survive the termination of this Agreement.

I. SCHEDULE OF PAYMENTS

For and in consideration of the services to be performed by the Contractor pursuant to this Agreement, the Town agrees to make payments to the Contractor as follows:

Payments shall be made by the Town thirty (30) Business Days after each billing cycle, as the Town currently bills its customers on a monthly cycle. Payments shall be calculated by adding (a) the actual waste collection bills for that cycle, as evidenced by the Town's billing registers, for service provided by the Contractor reflecting unit changes and/or status changes in residential and commercial customers; and (b) any special handling charges collected during the cycle, adjusting for call-in work performed during the monthly order of the Contract Administrator. Any change by the Town to its billing cycle, increasing or decreasing the cycles, will affect the number of payments per month, timing of payment to the Contractor and calculations accordingly.

J. BILLING FOR RESIDENTIAL AND COMMERCIAL ACCOUNTS

The Town shall bill each occupied residential and commercial unit for service rendered at the end of each month with payment due within thirty (30) Calendar Days following billing cycle. Said billing and payment shall be based upon the occupied residential and commercial units being serviced as of the first fifteen (15) Calendar Days of the billing cycle. The customers are charged one-half (½) the monthly rate if services were initiated after the first sixteen (16) Calendar Days of the billing cycle. The method of billing shall be determined by the Town.

Special handling charges for bulk pickups shall be billed by the Town during the billing cycle immediately following notification by the Contractor.

K. SERVICE INITIATION, TERMINATION OR CHANGE

Customers shall initiate and disconnect services with the Town. Notice of negotiated changes in commercial service billing and spot charges shall be given by the Contractor to the Town within two (2) Business Days of date of the change.

L. RATE INCREASE OR RATE DECREASE

The rate increases or decreases during the term of this Agreement and/or any renewal of same shall occur for the following reason:

1. Bid prices shall remain firm for the term (i.e., first five (5) years) of this Agreement. **Any price adjustment for commercial solid waste services only must be approved by the Town Commission prior to the new price becoming effective. All other**

price adjustments shall be at proposed contract renewal and must be approved by the Town Commission prior to the new price becoming effective.

2. The request for price adjustment (for commercial solid waste services only) must be submitted in writing no later than 90 Calendar Days prior to July 1st of each calendar year. Only one (1) request for price adjustment per Contract year will be considered. Any approved request for price adjustment will not take effect until the annual anniversary of the Effective Date of this Contract and such price adjustment will be in effect for the 12-month period following said anniversary date. Written requests for price adjustments shall not exceed two percent (2%).

3. At such time as the Contractor requests a rate increase, the Town Franchise Fee shall be increased simultaneously using the same formula and/or percentage.

M. OPERATION DURING DISPUTE

In the event the Town has not cancelled the Contract in accordance with the terms provided for herein and there remains a dispute between the Contractor and the Town, the Contractor shall continue to operate and perform under the terms, covenants and conditions prescribed by this Contract while said dispute is pending; and the Contractor agrees that, in the event a suit is filed for injunction or other legal and/or equitable relief, it shall continue to operate the system until the final adjudication of such suit by the court and/or administrative tribunal.

N. FRANCHISE FEE(S)

For any Franchise Fee(s) which includes, but is not limited to, any refund(s) to the Town for billing and contract monitoring services, for which the Contractor shall be obligated to the Town for the privilege of providing refuse collection service to customers within the Town, the Contractor shall pay the Franchise Fee(s) no later than the third Business Day of each month (i.e., month-to-month).

The Franchise Fee(s) shall, at a minimum, total fifteen percent (15%) of both the commercial and residential revenues of the Contractor's gross revenue. Each payment of the Franchise Fee(s) by the Contractor shall include an explanation and supporting documentation for said fee(s). In the event the Contractor fails to provide an explanation and/or supporting documentation which is satisfactory to the Contract Administrator for the calculation of the Franchise Fee(s), it shall be a material breach of this Agreement by the Contractor.

SECTION 7 - QUALITY OF SERVICE

A. CHARACTER OF WORKMEN AND EQUIPMENT

The direction and supervision of refuse collection and disposal and salvage operations shall be by competent and qualified personnel employed by the Contractor; and the

Contractor shall devote sufficient personnel, time and attention to the direction of the operation to assure performance satisfactory to the Town. All subcontractors, superintendents, foremen and workmen employed by the Contractor shall be competent and qualified. The Contractor shall also provide uniforms for all of its employees. All employees used by the Contractor during the terms of this Contract shall meet qualifications 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 the employees conduct themselves negligently, disorderly or dishonestly in the due and proper performance of the employees' duties. The Contractor shall see to it that its employees serve the public in a courteous, helpful and impartial manner. The Contractor shall furnish the Town with a current roster of employees every thirty (30) Calendar Days. Contractors' employees collecting Garbage will be required to follow the regular walk for pedestrians while on private property. No employee shall disturb property that does not concern the proper performance of his or her job and/or duties. Care shall be taken to prevent damage to property, including shrubs, flowers and other plants and/or items. After emptying containers, employees shall return them to the same location from which they were taken, in an inverted position and anything spilled shall be picked up immediately by such employee. 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, larceny, aggravated battery, or other violence, those relating to the operation of motor vehicles, and any crime for which civil rights have been removed within two (2) years, shall be employed by the Contractor to work in the Town.

B. COOPERATION OF CONTRACTOR REQUIRED

The Contractor shall cooperate with authorized representatives of the Town 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 competent and English speaking representative in attendance during the performance of the work authorized and/or contemplated by this Contract in order to act as a representative for the Contractor. The Contractor shall assign a supervisor to work in the Town during all hours of Contractor's operation in the Town limits. The Contractor's supervisor shall be approved by the Town and/or Contract Administrator and available to the Contract Administrator at all times during working hours.

C. HANDLING COMPLAINTS

The Contractor shall perform a service of high quality and keep the number of legitimate complaints to a minimum.

All customer complaints shall be received and documented by the Town and Contract Administrator. All complaints shall be logged to indicate the name and address of the party submitting the complaint, the nature of the complaint, and the disposition of such complaint. Any complaints, regardless of the method of delivery, shall be documented

by the Town and delivered to the Contractor via electronic mail correspondence and/or facsimile transmission to _____.

For purposes of this Agreement, upon delivery of the complaint by the Town in the manner set forth herein, the complaint shall be deemed received by the Contractor, regardless of whether the Contractor actually received the complaint. All complaints received by the Contractor before 3:00 p.m. shall be serviced before 6:00 p.m. (same day); and complaints received after 3:00 p.m. shall be serviced by 12:00 noon (next day). For each complaint received by the Contractor, the Contractor shall provide the Contract Administrator with an explanation via electronic mail correspondence of the necessary action(s), if any, to resolve said complaint(s); and, by the end of each Business Day, the Contractor shall provide the Contract Administrator with a detailed explanation via electronic mail correspondence of any action(s) taken by the Contractor to resolve complaints received.

For each month in which the number of un-serviced and/or unresolved legitimate complaints reaches ten (10) or more, whether for Garbage, Yard Waste, recycling and/or any other cause, the Town shall be entitled to claim liquidated damages as more specifically set forth in Section 14 of this Agreement.

The Contractor shall respond to each complaint received and provide, within the time limit(s) specified in this Section, a detailed explanation to the Town and/or Contract Administrator. The Contractor's explanation(s) shall identify a complaint as a false complaint, which does not require any corrective action(s), or a complaint requiring corrective action(s). The Contractor shall deliver, by electronic mail correspondence, its explanation and/or response for each complaint received. For purposes of this Agreement, each complaint which is not timely identified as a false complaint shall be considered a "Legitimate Complaint." In the event of a dispute and/or uncertainty as to whether a complaint is a Legitimate Complaint, the Contract Administrator shall determine whether the complaint is a Legitimate Complaint, and the decision of the Contract Administrator shall be final.

All vehicle accidents and/or any property damage caused by the Contractor's vehicle within the municipal boundaries of the Town of Dundee, Florida, shall be considered Legitimate Complaints and reported to the Contract Administrator. In this instance, the Contractor shall provide the Contract Administrator with a report within four (4) hours of receiving notice of the accident and/or property damage; and the Contractor shall provide the Contract Administrator with a follow-up report of action taken on or before the first Business Day thereafter.

D. CUSTOMER AND OPERATIONAL INFORMATION

The Contractor at the Contractor's expense shall provide each residential customer with a condensed version, approved by the Town, of rules and regulations for refuse collection. Said condensed version shall outline annually, rates and obligations of the customer and Contractor, according to terms of this Contract.

The Contractor shall provide monthly reports to the Contract Administrator regarding the tonnage of residential garbage collected within the Town by route per day, the tonnage of commercial garbage collected by route per day, tonnage of recycling collected by commodity by route per day, revenues received from the sale of recyclable materials, recycling participation rates and any other information required by the Town, County or State of Florida to meet the requirements of the Solid Waste Management Act or to obtain grant funds from the Solid Waste Management Fund. All monthly reports shall be submitted to the Contract Administrator no later than the tenth (10) day of each month.

The Contractor shall be required to appear before the Town Commission on a semi-annual basis to discuss solid waste issues. Such appearance shall be scheduled through the office of the Town Manager.

E. GUARANTEES OF PERFORMANCE

Surety Bond: The Contractor hereby deposits with the Town a performance bond in the amount of one hundred percent (100%) of the total annual bid as a guarantee to the Town of faithful performance under the terms of this Agreement.

This performance bond shall be written by a company with a Class 9, A, or higher financial rating as shown in Best's Key Rating Guide and/or a rating that is satisfactory to the Town; and the performance bond shall, at all times during the term of this Agreement and for a period of time not to be less than six (6) months following the expiration and/or termination of this Agreement, remain in full-force and effect.

SECTION 8 - EQUIPMENT

A. AMOUNT

The Contractor shall provide sufficient equipment, in proper operating condition, so regular schedules and routes of collection can be maintained. At the execution of this Contract, all equipment and vehicles to be used in the Town shall be no more than four (4) years old. Provided that the Contractor may use vehicles that are more than four (4) years old only for back-up and support when needed to provide emergency services so long as said vehicles are approved prior to use by an inspection by the Contract Administrator. The vehicles shall be equipped with two-way radios. All vehicles shall be replaced every eight (8) years or less depending on the condition of the vehicles after inspection by the Contract Administrator. All equipment and vehicles added to the fleet during the duration of this Contract shall be new. The Contractor shall be responsible for all monthly cellular service charges and all calls made by the Contract Administrator, related to the administration of the Contract. The Contractor's supervisor shall have a beeper and a cellular telephone to communicate with the Contract Administrator. The Contractor shall arrange the purchase of all Town collection vehicles and containers.

B. CONDITION

Equipment is to be maintained in a reasonable, safe, working condition, to be painted uniformly, the company name, telephone number and the number of the vehicle printed in letters not less than three inches (3”) high, each side of the vehicles shall be numbered and a record kept of the vehicles to which each number is assigned. The Contractor shall provide to the Contract Administrator a list of the truck numbers identifying the routes to which they are assigned and shall keep the list current. The Contractor shall also provide the Contract Administrator a quarterly maintenance report by truck number identifying service and repairs made each day for each vehicle. The Town reserves the right to request monthly reports if it deems it necessary for the administration of this Contract. No advertising shall be permitted on vehicles.

The Contractor is required to keep collection vehicles and containers emptied by mechanical means, cleaned and painted to present a pleasing appearance. The Contractor shall make sure that all trucks are washed and cleaned and sterilized inside and outside at least once per week. The Contractor shall make sure that all refuse containers are kept in a sanitary condition. All containers shall be watertight except where the Town has approved otherwise.

The Contractor shall submit to the Contract Administrator, for the Town’s approval, a schedule showing how the change-out of containers is to be accomplished during the Initial Term of the Contract and/or any renewal of same.

C. OPERATION

Each non-packer trash vehicle shall be equipped with a cover which may be net with mesh not greater than one-and-one-half inches (1 ½”), or tarpaulin or fully enclosed metal top. Such cover shall be kept in good order and used to cover the load going to and from the disposal facility during loading operations or when parked, if the contents are likely to be scattered if not covered. Vehicles shall not be overloaded so as to scatter refuse; however, if refuse is scattered from the Contractor’s vehicle for any reasons, it shall be picked up immediately. Each vehicle shall have a fork and broom for this purpose. 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 traffic flow.

D. AESTHETIC APPEARANCE OF DUMPSTERS

The Contractor shall paint the exterior of the dumpster(s) for purposes of maintaining a uniform aesthetic appearance.

SECTION 9 - EMPLOYMENT AND WORKING CONDITIONS

The Contractor shall comply with all applicable state and federal laws relating to wages and hours and all other applicable laws relating to the employment or the protection of employees now or hereafter in effect. The Contractor is required and hereby agrees by accepting this Contract to pay all employees not less than the federal 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. Contractor also agrees that upon written request, the Contractor will provide the Town all information and policies, whether written or oral, relating to the wages or terms and conditions of employment for employees in the service of the Contractor under this Contract.

SECTION 10 - DISPOSAL OF REFUSE

The Town shall not be responsible for disposal fees charged by the county or other disposal operator for the Contractor to use the facility. The Contractor shall be responsible for disposing of any and all collected Garbage, waste, street sweepings and/or any other collected materials in accordance with state and federal statutes and/or regulations and agrees to accept all liability for any remedial activities or fines which may arise from the unlawful disposal of waste.

The Contractor shall seek the highest market price for all recyclable materials.

SECTION 11 - COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor hereby agrees to abide by all applicable federal, state, county and Town laws and regulations including federal, state, county and Town laws and regulations relating to hazardous substances. The contractor and his surety indemnify and hold harmless the Town, all its elected official and officers, representatives, agents and employees against any claim or liability arising from or based on the violation of any such laws, ordinances, regulations, order or other decree, whether by its employees or its subcontractors, or which may arise out of or resulting from operations under this Contract. This clause shall 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 Town is charged with the responsibility, jointly or severally, for the aforementioned conduct as a successor to the Contractor.

SECTION 12 - INSURANCE

The Contractor shall not commence work under this Contract until it has obtained all insurance required under this contract and such insurance coverage has been approved by the Contract Administrator, nor shall the Contractor allow any subcontractor to commence work on subcontracts until similar insurance of the subcontractor has been obtained and approved.

A. INSURANCE IN GENERAL

Contractor shall, at its own expense, procure and maintain throughout the Initial Term and/or any renewal term of this Agreement, with an insurer or insurers acceptable to the Town, the types and amounts of insurance conforming to the minimum requirements set forth herein. As evidence of compliance with the insurance required herein, Contractor shall furnish the Town with:

(a) A fully completed satisfactory Certificate of Insurance evidencing all coverage required. Also, a copy of the actual notice of cancellation endorsement(s) as issued on the policy(ies) and a copy of the actual additional insured endorsement as issued on the Commercial General Liability policy, signed by an authorized representative of the insurer(s) verifying inclusion of the Town and the Town's members, officials, officers and employees as additional insureds in the Commercial General Liability coverage;

(b) The original of the policy(ies); and

(c) Other evidence satisfactory to the Town.

Until such coverage is no longer required by this Agreement, Contractor shall provide the Town with renewal or replacement evidence of insurance at least thirty (30) Calendar Days prior to the expiration or termination of such insurance.

B. TYPES OF INSURANCE AND LIMITS OF LIABILITY

1. WORKERS' COMPENSATION/EMPLOYERS' LIABILITY

Such insurance shall be no more restrictive than that provided by the Standard Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal or State law. The policy must be endorsed to provide the Town with thirty (30) Calendar Days written notice of cancellation. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One: "Statutory"

Part Two: \$500,000 Each Accident

\$500,000 Disease – Policy Limit

\$500,000 Disease – Each Employee

2. COMMERCIAL GENERAL LIABILITY INSURANCE

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 10) as filed for use in the State of Florida without any restrictive endorsements other than those required by ISO or the State of Florida or those described below. The policy must be endorsed to provide the Town with thirty (30) Calendar Days written notice of

cancellation. The coverage may include restrictive endorsements which exclude coverage for liability arising out of:

- Mold, fungus, or bacteria
- Terrorism
- Sexual molestation

The Town and the Town’s members, officials, officers and employees shall be included as “Additional Insureds” on a form no more restrictive than the latest edition of ISO Form CG 20 10 (Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization Endorsement).

The limits are to be applicable only to work performed under the Contract and shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 01) to a Commercial General Liability policy subject to the following minimum limits (inclusive of amounts provided by an umbrella or excess policy):

\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence

3. AUTOMOBILE LIABILITY INSURANCE

Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office, without any restrictive endorsements, including coverage for liability contractually assumed. The policy shall cover all owned, non-owned, and hired autos used in connection with the performance of the work and must be endorsed to provide the Town with thirty (30) Calendar Days written notice of cancellation. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be:

\$1,000,000 Each Occurrence – Bodily Injury and Property Damage Combined

C. INSURANCE ADMINISTRATION

Insurance certificates, evidencing all insurance coverage referred to in this Subsection (hereafter the “Insurance Certificates”), shall be filed (or be on file) with the Town at least ten (10) Calendar Days after the final execution of this Agreement. The Insurance Certificates shall be fully acceptable to the Town in both form and content, and shall provide and specify that the related insurance coverage shall not be cancelled (hereafter the “Coverage Change”) without at least thirty (30) Calendar Days prior written notice having been given to the Town. The Contractor further agrees that no material modification or reduction shall be made to any insurance policy coverage referred to in

this Agreement, unless the Contractor gives written notice to the Town [within seven (7) Calendar Days of the Contractor's having been given notice by the insurer] of such material modification or reduction. "Material modification" shall mean but not be limited to, reduction in the limit of liability by endorsement to the policy during the policy period, change of types of claims payable, or any other change that significantly reduces the coverage originally provided in the policy's terms. The Contractor shall have thirty (30) Calendar Days following such Coverage Change to file an Insurance Certificate with the Town, demonstrating that the particular coverage has either been reinstated, or has been provided through another insurer(s) that is (are) acceptable to the Town. Failure of the Contractor to obtain the Town's approval, or to satisfy the Town in this matter of Insurance Certificates, shall be grounds for termination of the Agreement. It is also understood and agreed that it is the Contractor's sole burden and responsibility to coordinate activities between itself, the Town, and the Contractor's insurer(s) so that the Insurance Certificates are acceptable to and accepted by the Town within the time limits described in this Subsection.

D. TOWN'S RIGHT TO INSPECT POLICIES

The Contractor shall, upon ten (10) Calendar Days written request from the Town, deliver copies to the Town of any or all insurance policies that are required in this Agreement. Provided however, the Contractor shall be entitled to redact all confidential information on copies of all such policies of insurance that are delivered to the Town.

It being the intent of the parties and material condition of this Agreement that the Town have up-to-date copies of all applicable insurance policies in order to determine appropriate and relevant coverage, limits, deductibles, insurance exclusions and other information related thereto.

E. MISCELLANEOUS

(a) The insurance provided by Contractor pursuant to this Agreement shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the Town or the Town's members, officials, officers or employees.

(b) Except where prior written approval has been obtained hereunder, the insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention. Contractor shall pay on behalf of the Town or the Town's members, officials, officers and employees any deductible or self-insured retention applicable to a claim against the Town or the Town's members, officials, officers, agents and employees.

(c) The insurance provided by the Contractor shall be endorsed to provide that the Insurer waives its rights against the Town and the Town's members, officials, officers and employees.

(d) Compliance with these insurance requirements shall not limit the liability of Contractor. Any remedy provided to the Town by the insurance provided by Contractor shall be in addition to and not in lieu of any other remedy (including but not limited to, as an indemnitee of Contractor) available to the Town under this Agreement or otherwise.

(e) Neither approval nor failure to disapprove insurance furnished by Contractor shall relieve Contractor from responsibility to provide insurance as required by this Agreement.

(f) Contractor shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that they shall have no recourse against the Town for payment or assessments in any form on any policy of insurance. All required insurance policies shall preclude any insurer's rights of recovery or subrogation against the Town with the express intention of the parties being that the required insurance coverage protect both parties as the primary coverage for any and all losses covered by the above-described insurance. Violation of the terms of this paragraph and its subparts shall constitute a breach of the Agreement, and the Town, at its sole discretion, may cancel the Agreement and all rights, title and interest of the Contractor shall thereupon cease and terminate. The Town reserves the right to require or adjust any of the insurance coverage it deems necessary depending upon the company, the services to be provided under this Agreement, or the potential exposures. The Contractor shall not commence performance of duties under this Agreement until the Contractor has obtained all insurance coverage required under this paragraph and this Agreement and all Insurance Certificates have been approved by the Town, nor shall the Contractor allow any sub-consultant to commence performance of duties under this Agreement until all similar such insurance coverage and Insurance Certificates required of the sub-consultant have been obtained and approved by the Town or the Contract Administrator.

F. NO WAIVER OF SOVEREIGN IMMUNITY/LIMITS OF LIABILITY

Nothing herein is intended to act as a waiver of the Town's sovereign immunity and/or limits of liability as set forth in section 768.28, Florida Statutes regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise.

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

The Contractor and his surety hereby expressly bind themselves to indemnify and hold the Town, its elected officials and officers, representatives, agents and employees harmless from all suits or actions of every name and description brought against the Town for or on account of any injuries or damages received or sustained by any party or parties from the acts, omissions or negligence of said Contractor or its servants, employees or agents, including subcontractors engaged in doing the work herein

contracted for, or by, or in consequence of any negligence in guarding against same, or in any improper materials or equipment used in its performance, or by or on account of any act or omission of the said Contractor, or on account of any claims or amounts arising or recovered under the Workmen's Compensation Laws. In case there is any money due to the Contractor, so much of the money due the said Contractor as the Contract Administrator shall deem necessary to protect the Town, may be retained by the Town until such suit or suits, action or actions, claim or claims, injuries, damages as aforesaid, shall have been settled and suitable evidence to that effect has been furnished to the Contract Administrator.

SECTION 14 – LIQUIDATED DAMAGES

The Contractor and Town acknowledge, represent and warrant that, in the event of the Contractor's partial or total breach of this Agreement, the Town will incur monetary damages; and, pursuant to the Contractor's substantial industry experience and expertise, the Contractor and Town further acknowledge, represent and warrant that, at the time the Contractor and Town entered into this Agreement, any monetary damages arising out of the Contractor's partial or total breach of this Agreement and incurred by the Town are, by their nature, uncertain and/or not readily ascertainable.

The Contractor and Town agree and stipulate that, upon receipt of written notice from the Town in accordance with Section 21 of this Agreement, the Town shall, in addition to any other damages provided for in this Agreement, be entitled to claim against the Performance Bond of the Contractor or deduct from the next regularly scheduled payment(s) to the Contractor amounts and/or sums, which are not intended as a penalty or to secure performance, as liquidated damages for the Contractor's breach of this Agreement, as follows:

A. **Legitimate Complaints.** In the event the Town receives and documents more than ten (10) Legitimate Complaints (as defined in Section 7C) in one (1) month, the Town shall be entitled to twenty-five dollars and zero cents (\$25.00) for each Legitimate Complaint in excess of ten (10).

B. **Legitimate Complaints.** In the event the Town and/or Contract Administrator documents and notifies the Contractor of a Legitimate Complaint (as defined in Section 7C) and Contractor fails to timely service same, the Town shall be entitled to twenty-five dollars and zero cents (\$25.00) for each Calendar Day thereafter for which the Contractor fails to service and/or remedy said Legitimate Complaint.

C. **Spillage.** In the event the Contractor fails to promptly clean-up the spillage of Garbage or any noxious material(s) resulting from its vehicles, services, and/or after having emptied Poly-Cart(s) or any other container(s) on any private or public street(s), alley(s), and/or Town rights-of-way, the Town shall be entitled to one-hundred dollars and zero cents (\$100.00) for each reported and documented case.

D. **Parked Vehicles.** In the event the Contractor parks and/or leaves unattended a vehicle containing Garbage on or in a public or private street and, in the sole discretion of the Contract Administrator, no reason(s) existed which necessitated the vehicle to be parked or left unattended, the Town shall be entitled to twenty-five dollars and zero cents (\$25.00) for each reported incident.

E. **Failure to Disinfect.** In the event the Contractor fails to disinfect containers, the Town shall be entitled to twenty-five dollars and zero cents (\$25.00) for each reported, confirmed and documented complaint.

F. **Reports and Documentation.** Pursuant to the terms, covenants and conditions of this Agreement, in the event the Contractor fails to deliver and/or provide any report or document when due, the Town shall be entitled to one-hundred dollars and zero cents (\$100.00) for each written notice delivered to the Contractor for said breach.

G. **Reports and Documentation.** In the event the Contractor fails to deliver and/or provide any report and/or document when due, on the first Calendar Day following the Contractor's receipt of written notice and for each Calendar Day thereafter, the Town shall be entitled to twenty-five dollars and zero cents (\$25.00) for each day and for each report which remains due.

H. **Failure to Perform.** In the event of the Contractor's failure to perform during a dispute and/or the Contractor's failure to perform in strict accordance with the terms, covenants and conditions of this Agreement, on the first Calendar Day following delivery of written notice by the Contract Administrator instructing the Contractor to perform and for each Calendar Day thereafter which the Contractor fails to perform, the Town shall be entitled to two-hundred fifty dollars and zero cents (\$250.00) per day.

The Contractor acknowledges and represents that the monetary damages and/or sums listed in this Section as liquidated damages are reasonable estimates of damages which, by their nature, are uncertain and not readily ascertainable.

SECTION 15 – TOWN ORDINANCES

Nothing contained in any ordinance of the Town now in effect, hereafter adopted, pertaining to the collection of garbage and trash shall in any way be construed to affect, change or modify or otherwise alter the duties, responsibilities and operation of the Contractor in the performance of the terms of this Contract.

SECTION 16 – AMENDMENTS

The Town shall have the right to amend this Contract from time to time as necessary to comply with federal, state and local laws and regulations, as amended from time to time. Such amendments shall take effect within thirty (30) Calendar Days of the Contractor's receipt of the written amended Contract. Amendments which are consistent with the purpose of this Contract may be made with the mutual consent, in

writing, of the parties in accordance with the Town Charter and other applicable laws and ordinances.

SECTION 17 – SEVERABILITY

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

SECTION 18 – CALCULATION OF TIME PERIODS

The calculation of the number of days that have passed during any time period prescribed by this Agreement shall be based on Calendar Days (unless specified otherwise in this Agreement). Unless otherwise specified in this Agreement, the calculation of the number of days that have passed during any time period prescribed in or by this Agreement shall commence on the day immediately following the event triggering such time period. If the tolling of such a time period is not contingent upon an action or event, the calculation of the number of days that have passed during such time period prescribed in or by this Agreement shall commence on the day immediately following the Effective Date.

SECTION 19 – INTEGRATION

This Contract constitutes the complete understanding of the parties hereto and supersedes any and all prior agreements, contracts, promises, representations, or inducements, whether oral or written, concerning its subject matter.

SECTION 20 – GOVERNING LAW AND VENUE, FLORIDA AND STATE COURTS

This Contract shall be construed in accordance with the laws of the State of Florida. Venue for any actions arising under this Contract shall be exclusively in the State Courts in and for Polk County, Florida.

SECTION 21 – NOTICES

Any notice or demand required to be given herein shall be made in writing and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as follows or to such other addresses as any party may designate by notice complying with the terms of this Section:

Town: Town of Dundee
Post Office Box 1000
Dundee, Florida 33838-1000
Attn: Town Manager
Telephone: 863-438-8330

With a copy to: *(which does not constitute notice)*
Frederick J. Murphy, Jr., Esquire
Town Attorney
Boswell & Dunlap LLP
245 South Central Avenue (33830)
Post Office Drawer 30
Bartow, Florida 33831
Telephone: 863-533-7117

Contractor: [_____]

The Town or Contractor may from time to time designate any other address for notices or deliveries by written notice to the other party.

Each such notice shall be deemed delivered: on the date of delivery if by personal delivery; and, if the notice is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; (b) the date upon which delivery is refused; (c) the date upon which notice is designated by the postal authorities as not delivered; or (d) the third business day after mailing. Notwithstanding the foregoing, service by personal delivery delivered, shall be deemed to have been made on the next day that is not a Saturday, Sunday or legal holiday.

If a notice is delivered by multiple means, the notice shall be deemed delivered upon the earliest date determined in accordance with the provisions set forth in this Section..

SECTION 22-MISCELLANEOUS PROVISIONS

A. Both the Town and Contractor represent to the one another that all the necessary actions to execute this Agreement have occurred and that both parties possess the legal authority to enter into this Agreement and undertake all the obligations imposed herein.

B. Nothing contained in this Agreement shall create a contractual relationship with, or any rights in favor of, any third party, including any Subcontractor.

C. All exhibits annexed hereto are incorporated by reference and made a part of the Agreement.

D. Any section or paragraph headings appearing in this Contract have been inserted for the sole purpose of convenience and ready reference of the parties. They do not

purport to, and shall not be deemed to, define, limit or extend the scope or intent of the sections and paragraphs to which they may pertain.

E. For purposes of this Agreement, any and all gender specific references, classifications and/or language shall be interpreted to be gender neutral.

F. The Town and Contractor acknowledge that this Agreement has been fairly negotiated by each party's respective legal counsel and at arm's length; and, as such, the Agreement shall be deemed drafted by both parties and, for purposes of interpretation, the Agreement shall be interpreted in accordance with the terms contained herein.

G. In any legal and/or equitable action arising out of this Agreement, the Town and Contractor agree that either party shall be entitled to an *ex-parte* order, without notice to the non-moving party, taking judicial notice of any material fact(s) which formed the basis for the entry into this Agreement; and the Contractor and Town therefore waive any and all legal defense(s) relating to and/or arising out of said facts.

H. The Contractor shall at all times be acting as an independent contractor. The Contractor shall perform all its duties, responsibilities, obligations and services in accordance with this Agreement as an Independent Contractor and shall not be considered an agent of the Town, nor shall any of the Contractor's subcontractors, and/or employees be considered agents of the Town.

I. In and/or for any legal action arising out of this Agreement and/or the performance of any term, covenant, condition and/or provision of this Agreement, the Town and Contractor agree that any such action be tried and/or adjudicated before the court. The right to a jury trial of such issues is hereby waived.

J. In the event either the Town or Contractor brings an action against the other to interpret and/or enforce this Agreement and/or any condition, covenant and/or provision herein, the prevailing party shall be entitled to recover its reasonable attorney's fees and court costs, including, without limitation, any such fees or costs related to appellate or bankruptcy proceedings.

SECTION 23-PUBLIC RECORDS

Town and Contractor agree that Contractor shall comply with Florida's public records laws to specifically include the following:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS BRIAN LUETH, TOWN CLERK, AT 863-

438-8330 ext. 238, blueth@townofdundee.com, P.O. Box 1000, 202 East Main Street, Dundee, Florida 33838.

If the Contractor does not comply with a public records request, Town shall enforce the Agreement and/or any provisions which may include immediate termination of Agreement.

Public Records. The Contractor agrees to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the public agency.
4. Upon completion of the Agreement, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

PROPOSAL PRICE PAGE

Company Name: _____

Representative: _____ **(Signature)**

Representative: _____ **(Print/Title)**

SERVICE(S)

PRICE FOR SERVICE(S)

Residential Solid Waste Collection with Recycling:

(a) **Automated/Mechanical** \$ _____
(each resident/monthly)

(b) **Non-Automated/Non-Mechanical** \$ _____
(each resident/monthly)

Commercial Solid Waste Service:

(a) **Curbside (as prescribed for residential)** \$ _____
(per cubic yard)

(b) **Front Load Dumpster (2, 4, 6, 8)** \$ _____
(per cubic yard)

(c) **Commercial/Industrial Roll-off Service** \$ _____
(each haul plus disposal)

NONCOLLUSION AFFIDAVIT OF BIDDER

State of Florida

County of Polk

I _____ (“Affiant”), being first duly sworn, deposes and says that:

- (1) Affiant is _____ (insert job title) of _____ (insert name of company) the bidder that submitted the attached bid;
- (2) Affiant is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;
- (3) Such bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Affiant nor any of his/her/its officers, partners, owners, agents, representatives, employees or parties in interest, including Affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached bid has been submitted or has refrained from bidding in connection with such Contract; nor in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder; nor has fixed any overhead, profit or cost element of the bid price, or the bid price of any other bidder; nor has secured through any collusion, conspiracy, connivance or unlawful agreement, any advantage against the Town of Dundee or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Affiant or any of its agents, representatives, owners, employees, or parties in interest.

THIS SECTION TO BE COMPLETED BY A NOTARY PUBLIC:

STATE OF _____ COUNTY OF _____

SWORN TO AND SUBSCRIBED BEFORE ME THIS ____ DAY OF _____, 20 __

NOTARY PUBLIC: CHECK ONE PERSONALLY KNOWN TO ME_ Produced I.D._

TYPE OF ID PRODUCED _____

SIGN: _____

PRINT: _____

AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

THE TOWN OF DUNDEE, FLORIDA, WILL NOT INTENTIONALLY AWARD TOWN CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) AND/OR SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

THE TOWN OF DUNDEE, FLORIDA, MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY THE TOWN OF DUNDEE.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: _____

Representative: _____ **(Signature)**

Representative: _____ **(Print)**

Representative: _____ **(Print Title)**

Date: _____

THIS SECTION TO BE COMPLETED BY A NOTARY PUBLIC:

STATE OF _____ COUNTY OF _____

SWORN TO AND SUBSCRIBED BEFORE ME THIS ____ DAY OF _____, 20 __

NOTARY PUBLIC: CHECK ONE PERSONALLY KNOWN TO ME _Produced I.D._

TYPE OF ID PRODUCED _____

SIGN: _____

PRINT: _____