

**Town of East Bridgewater, Massachusetts**

**Contract for  
Solid Waste & Recyclable Materials  
Collection & Transportation**

**Effective July 1, 2021**

**Public Works Department  
Town of East Bridgewater  
49 Dean Place  
East Bridgewater, MA 02333**

***Curbside Collection, Disposal, and Processing Contract***

## TABLE OF CONTENTS

<u>Article 1 - Overview-Description of Contract, Community Profiles &amp; Historical Information.....</u>	<u>5</u>
1-A Description of Solid Waste Collection Programs .....	5
1-B Term .....	5
1-C Contract Price .....	5
1-D Rate Adjustment.....	6
<u>Article 2 - Contract Definitions.....</u>	<u>6</u>
<u>Article 3 - Contract Terms .....</u>	<u>8</u>
3-A Solid Waste Collection.....	8
3-B Recyclables Collection.....	8
3-C Residential, Housing Authorities, Municipal Facilities & Schools.....	9
3-D Public Area Collection.....	9
3-E Specifications for all Recyclable Materials.....	9
<u>Article 4 - General Information .....</u>	<u>10</u>
4-A Start Date .....	10
4-B PAYT, Single Stream,, or DEP Approved Recycling Program.....	10
4-C Collection Route .....	10
4-D Municipal Housing Facilities and Schools Collection .....	10
4-E Holiday Collection Notice to Public.....	11
4-F Inclement Weather .....	12
4-G Collection Vehicles.....	12
4-H Care of Citizens' and Municipal Property.....	13
4-I Outreach Sponsorship.....	14
4-J Daily Contact Managing Agent.....	14
4-K Meetings Between Contractor and Town.....	14
4-L Inspection Reports.....	14
4-M End of Route Reporting .....	14
4-N Annual Audit .....	14
4-O Materials from Other Sources.....	14
4-P Contaminated Materials.....	15
4-Q Unacceptable Waste.....	15
4-R Ownership of Recyclable Materials.....	15
4-S Employees.....	15
4-T New Employees.....	16

<u>Article 5 - Collection</u> .....	16
5-A Collection Points .....	16
5-B Solid Waste Collection Frequency.....	16
5-C Recycling Collection Frequency.....	16
5-D Collection Times .....	16
5-E Missed Pickups.. .....	16
5-F Non-collection Notices - Rejection Stickers .....	17
5-G Improperly Prepared Materials .....	17
5-H Cleanup on Route .....	17
5-I Spillage of Waste or Recyclable Materials .....	18
5-J Hazardous Waste Spills .....	18
5-K Accidents and Breakdowns .....	18
5-L Blocked Streets .....	18
5-M White Goods .....	18
5-N Title to Waste .....	18
<u>Article 6 - Solid Waste Disposal</u> .....	18
6-A Solid Waste Disposal .....	18
6-B Weigh Slips .....	19
<u>Article 7 - Recyclable Materials Processing</u> .....	19
7-A Processor Facility Location .....	19
7-B Permits and Licenses .....	19
7-C Weigh Slips .....	19
7-D Processing and Disposal Conditions .....	19
<u>Article 8 - Payments to Contractor and the Contract Sum</u> .....	19
8-A Compensation to be Paid to Contractor.....	19
8-B Delayed Payment and Disputes .....	20
8-C Option to Review Contract .....	20
8-D Option to Extend Contract .....	20
<u>Article 9 - Insurance</u> .....	21
<u>Article 10- Other Conditions</u> .....	22
10-A Not to Assign or Subcontract.....	22
10-B Performance Bond .....	22
10-C Changes in the Contract .....	23
10-D Contract Compliance .....	23
10-E Force Majeure .....	23

10-F	Labor Disputes .....	24
10-G	Termination for Improper Performance/Events of and Remedies for Default.....	24
10-H	Municipal Liability .....	25
10-I	Protection Against Liability .....	25
10-J	Licenses and Permits .....	26
10-K	Laws and Regulations .....	26
10-L	Prevailing Wage Rates .....	26
<u>Article 11 Liquidated Damages .....</u>		26
<u>Article 12 - Miscellaneous .....</u>		29
12-A	Notice .....	29
12-B	Waiver.....	29
12-C	Governing Law .....	30
12-D	Severability .....	30
12-E	Entire Agreement .....	30
12-F	Paper Shredding Subsidy .....	30
12-G	Roll-Off for Rigid Plasites.....	30
12-H	Sharps Mail Back Program.....	30
12-I	Carts and Cart Buyout....	30

ATTACHMENTS:

Attachment 1: Schools & Municipal Buildings  
Attachment 2: Service/Street Listing  
Attachment 3: Prevailing Wages for East Bridgewater  
Attachment 4: RFP, Addenda, and Contractor's Bid Submittal  
Attachment 5: Pricing

This Contract for Solid Waste and Recyclable Materials Collection and Transportation (the "Contract") entered into effective as of July 1, 2021 by and between the Town of East Bridgewater, Massachusetts (the "Town" or "Municipality") and Allied Waste Services of Massachusetts, LLC (the "Contractor").

## **Article 1 Overview**

### **1-A Description of Solid Waste/Recyclables Collection Programs**

Included as Attachment 4 hereto are the Contractor's bid submittals to the Municipality. The Municipality has chosen Contractor's Alternative Proposal #2, which is also included separately as Attachment 5 hereto. Under this Contract, Contractor will provide weekly curbside PAYT solid waste collection, inclusive of one bulk item per week. Contractor will not collect any waste from residents not utilizing the Town's 64-gallon Trash and 96-gallon Recycling Cart, **nor will Contractor collect scrap metal, appliances, or yard waste.** Contractor will also provide curbside single stream recycling collection every other week for a total of 26 weeks of collection per year. Contractor will only collect recyclables from residents utilizing the provided 64 & 96 gallon cart and PAYT overflow bag.

All residents, as described in Attachment 2 Street Listing, have the ability to participate in the municipal curbside program. Municipal Buildings, Housing Authorities, and Schools included within the scope of the Contract are listed on Attachment 1. The Contractor shall collect solid waste and recyclable materials from these facilities. Contractor will provide such municipal buildings and school buildings with containers and will also provide each eligible resident a 96 gallon cart to be used for curbside single stream recycling. The Town will provide the contractor with a listing of all eligible residents along with street names and addresses, not to exceed 4000. Contractor will provide no more than 4000 such carts. Replacement of stolen carts will be the responsibility of the Municipality. Damage to carts not covered under the cart manufacturer's warranty program will be the responsibility of the Municipality. The Contractor is not responsible for providing any resident with a container or cart for solid waste collection. After collection, the solid waste shall be transported to a State approved processing facility.

### **1-B Term**

The term of the Contract will be for a two (2) year period commencing July 1, 2021, ending June 30, 2023. The Parties may extend the Contract for an additional two-year term upon mutual agreement ("Renewal Term").

### **1-C Contract Price**

The price for the Contract shall be as set forth on Attachment 5. The Annual Contract collection price shall be six hundred fourteen thousand dollars (\$614,000). The Disposal price shall be ninety-two dollars (\$92.00) per ton. Recycling Processing Fee shall be the market rate, which is currently \$53.55 per ton.

The Contract price is based on a house count of 2,850 units, current as of the effective date of this Second Amendment. Any additional units above 2,850 will be added to the Contract price at a rate of fifteen dollars (\$15.00) per month, not including disposal costs and processing fees which are invoiced separately.

#### **1-D Rate Adjustment**

- (a) Contract Price Adjustment. Contractor shall increase the rates for all Services effective on July 1, 2022, and annually thereafter, in accordance with the Consumer Price Index for All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by United States Department of Labor, Bureau of Statistics (the "CPI") with a cap of 4%.
- (b) The Processing Fee charged to the Town will be adjusted monthly, up or down, to reflect Contractor's actual costs for processing and transportation of the Recyclable Materials. The Town will receive 100% of any recycling sales revenue.

### **Article 2 Contract Definitions**

CONTRACTOR - The selected Contractor that is signatory to this Contract.

DISPOSAL FACILITY - Will be designated or agreed upon by the Town.

HAZARDOUS WASTE - Waste defined as, or of a character or in sufficient quantity to be defined as, a 'Hazardous Waste' by the Resource Conservation and Recovery Act, as amended, or any state or local laws or regulations with respect thereto, or a 'toxic substance' as defined in the Toxic Substances Control Act, as amended, or any regulations with respect thereto, or any reportable quantity of a 'hazardous substance' as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any regulations with respect thereto. The term 'Hazardous Waste' also includes any waste whose storage, treatment, transportation, incineration, or disposal requires a special license or permit from any federal, state, or local government entity, body, or agency and any substance that, after the Effective Date, is determined to be hazardous or toxic by any judicial entity, body, or agency having jurisdiction to make that determination.

HOLIDAY - The term "holiday" when used in connection with days of collection, shall include Sundays in addition to the following: New Year's Day, Independence Day, Thanksgiving Day, Christmas Day, Memorial Day, and Labor Day.

HOUSEHOLD - A single residential unit within a single or within a multi-family complex.

MUNICIPALITY - Refers to the Town of East Bridgewater, MA.

MUNICIPAL COLLECTION PROGRAM - Program that collects solid waste and recyclable materials from residents, municipal buildings, and schools.

MULTI-FAMILY COMPLEXES - Structures or complexes with more than three units

MUNICIPAL FACILITIES - Facilities listed in Attachment 1.

PROCESSING FACILITY - The facility where the recyclable material described in this Contract shall be taken by the Contractor for processing and marketing.

PROCESSING FEE - The fee charged to the Municipality by the Contractor that processes and markets recyclable materials from the Municipality. This fee covers all net costs associated with the processing and marketing of recyclable materials such as, but not limited to, sorting, baling, marketing, and shipping.

RECYCLABLE MATERIAL - Material that has the potential to be recycled and which is not commingled with non-recyclable solid waste or contaminated by Unacceptable Waste.

SOLID WASTE - Household trash placed in a Town designated Cart, and bulky items such as furniture, not including recyclable materials or construction materials or Unacceptable Waste, or construction and demolition material from remodeling. This does not include basement, attic or garage cleanouts. In the cases previously defined, the resident or property owner must contract to rent a dumpster for the time necessary to complete the cleanout and be responsible for payment of the rental and hauling charges. Arrangements can be made with any trash service provider. Disposal of such materials must be made in compliance with State and Local Regulations.

RESIDENTIAL SUBSCRIBERS - All residents that subscribe/participate in municipal curbside collection. A street listing of the current collection routes is included as Attachment 2.

SCHOOLS - The Municipality has provided a list of their schools in Attachment 1.

SINGLE FAMILY RESIDENCES - Single family homes.

SUBSCRIBERS/PARTICIPANTS - Residential units and multi-family residences (per the municipality's individual instructions), municipal facilities, and schools participating in the municipal collection program.

UNACCEPTABLE WASTE - Highly flammable substances, Hazardous Waste, liquid wastes, special wastes, certain pathological and biological wastes, medical wastes, explosives, toxic materials, radioactive materials, gasoline and waste oil, liquid oil-based paints, turpentine, paint thinners, shellac, pesticides, auto batteries, ammunition, propane tanks and gas cylinders, PCBs, oven and drain cleaners and other heavy duty cleaners, fluorescent bulbs or any other mercury-containing item, gypsum, material that an appropriate disposal facility is not authorized to receive, and other materials deemed by state, federal, or local law, or in the reasonable discretion of the Contractor, to be dangerous or threatening to health or the environment, or which cannot legally be accepted at the applicable disposal facility.

## **Article 3 Contract Terms**

### **3-A Solid Waste Collection**

The Contractor shall provide for the collection of municipal solid waste from all service recipients, inclusive of eligible multi-families, participating in the Town's PAYT program, and municipal facilities, housing authority facilities, and schools within the Municipality as listed in Attachment 1 of this Contract, in compliance with all applicable State and Local laws, regulations and waste bans. The Contractor will be provided with a list of addresses within the Town's program and the Route Supervisor will be responsible for ensuring that proper enforcement, (i.e., not collecting from households that are not in the program) is adhered to and shall, at the Town's request, place a Town issued sticker at any newly added residence to the program. The sticker will be placed on the recycling container.

The Contractor shall not be required to collect the following:

- Construction and building materials including asphalt, brick, concrete, cement and gravel, or metal.
- Leaf and yard waste, sod, landscaping and tree debris and tree stumps.
- Automobile parts, or batteries, engines, doors, auto body parts, etc.
- Cathode Ray Tubes (CRT's) - TV's, computer monitors
- Waste Ban Materials including visible recyclables, cardboard, paper, plastic containers
- Appliances or White Goods
- Hazardous Waste Products
- Unacceptable Waste

The Contractor may be required to comply with any future regulations promulgated by the Commonwealth with regard to solid waste bans or any other solid waste issue, as defined by 31 O CMR 19.017.

### **3-B Recyclables Collection**

The Contractor shall provide for the collection of recyclable materials from all service recipients, inclusive of eligible Multi-Family Complexes, (as described herein) participating in the Town's single stream, 96 gallon collection program, municipal facilities, schools, apartments, condominiums, housing authority facilities, within the Municipality, in compliance with all applicable State and local laws, regulations and waste bans. The Contractor shall not be responsible for collecting items not placed and contained within the applicable recycling cart.

**Recyclable Materials to be collected shall include, as a minimum:**

#### **Commingled containers**

Glass: clear, brown and green bottles and jars

Aluminum: tin, steel cans, foil and trays

Metal: steel, tin, and aerosol cans, and lids

Plastic Containers: #1 through #7

Wax coated containers: coated-paper milk and juice cartons and drink boxes



### **Mixed Paper**

Newspapers, advertisement inserts, magazines, telephone books, paperback books, books (hard cover removed), catalogues, junk mail, white/colored office paper, brown paper bags, boxboard & corrugated cardboard.

## **3-C Residential, Housing Authority Municipal Facilities and Schools:**

The Contractor shall provide collection of solid waste and recyclable materials from all participating residential households and housing authority units and schools and public buildings, in accordance with the specifications of the Municipality.

### **Municipal Facilities and Schools:**

The Contractor shall provide collection of solid waste and recyclable materials from Municipal Facilities and Schools listed on Attachment 1.

The Contractor shall be responsible for supplying and maintaining appropriately sized dumpsters and recycling containers for Municipal Facilities and Schools. These materials shall be included in the Municipality's tonnage for recycling reports.

## **3-D Public Area Collection**

The Town will advise as to specific areas as they arise, in addition to what is stated in Attachment 1. However, the Contractor's obligation to perform any such additional work is subject to mutual agreement between the Contractor and the Municipality/Town as to the price to be paid to the Contractor for such work.

## **3-E Specifications for all Recyclable Materials**

If the Services include any Recyclable Materials, the Recyclable Materials shall comply with any and all specifications provided by Contractor. To the extent any load or any type of Recyclable Material is rejected by the recycling facility or is not of the intended quality or grade, Contractor will notify the Town and the Town shall pay any damages, costs, and penalties incurred by Contractor due to such rejection or lesser quality or grade. The Town shall also be responsible for paying any other additional fees, taxes, costs, or penalties Contractor is charged by a recycling transporter or processor associated in any way with underweight materials, light/insufficient loads, moisture, equipment rental costs, demurrage, processing issues, or any other charges incurred by Contractor associated with the management of the Recyclable Materials. If market conditions develop that limit or inhibit Contractor from selling some or all of the Recyclable Materials, Contractor may suspend or discontinue any or all Services relating to the Recyclable Materials or, at the Town's option, dispose of the Recyclable Materials in a landfill and update the Town's rates accordingly.

## **Article 4    General Information**

### **4-A    Start Date**

The Contractor shall commence work under the terms of the Contract as of July 1, 2021.

If delays at any time during the Term of the Contract are caused by acts of God, acts of government or state, acts of terrorism, or other contingencies clearly beyond the control or responsibility of the Contractor, the Contractor shall be entitled to additional time wherein to perform and complete the work in the Contract on his part as the Municipality shall certify in writing to be just.

### **4-B    PAYT, Single Stream, and D.E.P. Approved Waste Reduction/Recycling Programs**

The Municipality has a Pay-As-You-Throw System currently which will remain in place, where residents utilize Town authorized Totes for any trash.

### **4-C    Collection Route**

The Municipality has provided a list of all locations for collections, plus an alphabetical street route, included as Attachment 2 of this Contract. Contractor shall not be responsible for collecting trash or recyclables at any condominium complex or apartment building with more than four (4) units. It is the responsibility of the Municipality to communicate additions or deletions to the list on an annual basis. There shall be no changes in the collection route or schedule at the start of the Contract. All changes in or deviation from routes and schedules made by the Contractor must receive prior written approval of the Municipality. It is anticipated that all routes will remain the same, unless requested by the Municipality.

Throughout the life of the Contract the Contractor is expected to service residents in same order each week. It is the Contractor's responsibility to return for any missed pickups if materials were missed due to change in time of collection that was not approved by the Municipality impacted.

Should the Contractor, at any time, request an alteration in routes or schedules, it shall be the sole responsibility of the Contractor to notify all affected addresses of the changes. The method of notifying residents must be approved by the Municipality.

### **4-D    Municipal & Housing Facilities & Schools Collection**

The Contractor will collect, remove, and properly dispose of all garbage, refuse, rubbish, solid waste and recyclable material that may be produced or exist upon the premises and containers and facilities listed in Attachment 1. The Contractor agrees to make collections from Housing Authorities, Municipal Facilities and Schools at the frequency specified in Attachment 1. This schedule shall not be changed without the prior written consent of the Municipality. Failure of the Contractor to maintain said collection schedule will be considered a default of this Contract and grounds for immediate termination of the Contract, if not corrected within three (3) business days

of written notice from the Town. At any time during the term of the Contract, the Municipality may, at its sole discretion, add or delete pickups from containers listed within said Attachment 1, and may delete entirely pickups from any or all locations listed. However, in the event that (i) the Municipality increases the number of sites listed in Attachment 1 or the number of weekly pickups specified therein, or (ii) the Contractor is required by necessity or by the Municipality to provide additional or different containers to any such sites, the Municipality and the Contractor shall first negotiate in good faith adjustments to the contract price. If a small dumpster is emptied into the residential packer during a residential route collection, there will be no additional charge for emptying the dumpster as there will be no haul involved.

Collection from schools shall be made at least one-half hour before the start of the school day. In the event that collection must be conducted at another time, collection may not occur within one-half hour of arrival or dismissal time. No collection from Schools or Municipal Facilities shall occur before 7:00 am or after 5:00 pm without prior approval of the Municipality.

No later than seven (7) days prior to the commencement of work under the new Contract, the Contractor shall provide suitably-sized, water-tight containers for school and municipal collection of both solid waste and recyclable materials - either dumpsters or containers of galvanized steel or heavy duty plastic equipped with a tight-fitting lid and capable of being locked. The Contractor shall be responsible for the maintenance and repair of all such containers provided.

All containers shall be kept in a neat, clean, and relatively odor-free condition. Tops of the containers should be cleaned by the Contractor as needed. Any broken, damaged or missing receptacles must be repaired or replaced immediately. It is the Contractor's responsibility to wash or otherwise clean the containers, if such condition arises, at no additional cost to the Town. All containers are to be deodorized upon request. Any solid waste or recyclable materials within a four-foot radius shall be considered refuse to be collected.

The Contractor may place the company logo on Contractor-supplied containers but should also have some type of signage promoting recycling or identify proper usage of the container.

The Contractor will take adequate precautions to protect all property (buildings, shrubs, lawn, pavement, vehicles, or other items or areas that are within school boundaries) from any damage and will be responsible for any such damage negligently or intentionally caused as a result of this service; provided however, that Contractor will not be responsible for damage to pavement that occurs as a result of the weight of Contractor's vehicles.

#### **4-E Holiday Collection Notice to Public**

When a scheduled collection day falls on a holiday (as defined in Article 2 as New Year's Day, Independence Day, Thanksgiving Day, Christmas Day, Memorial Day, and Labor Day), there shall be no collection on that day. Collection for those days and all remaining days of the week shall occur one day late. Advertising by the Contractor shall be done with the Brockton Enterprise.

#### **4-F Inclement Weather**

Ordinary snow and rain shall not be cause for omissions of the collection of solid waste and/or recyclable materials in accordance with the provisions of the Contract. Collections may be omitted only under the most extreme, adverse weather conditions such as blanketing snowstorms, hurricanes and the like (see Article 11-f, Force Majeure), and then only with prior approval of the Municipality. Schedule delay shall be advertised by the Contractor immediately following the decision to implement a delay in the services, if time allows.

#### **4-G Collection Vehicles**

The collection trucks shall be of size and type that is approved by the Municipality. The Contractor shall have standby equipment available within a twenty-five (25) mile radius. Collection trucks shall, at all times, be equipped with radios. The Supervisor shall have a working phone that can be in direct contact with the designated representative of the Municipality.

All vehicles used in the collection and transportation of solid waste or recyclable materials shall be of sufficient size and capacity to operate efficiently. The Contractor will be responsible for determining the appropriate size of vehicles to ensure that small streets, hills, dead ends, etc. that cannot be accessed by traditional vehicles may receive weekly service.

The Municipality shall have the power, at any time, to order the Contractor to increase the number of vehicles, if in its judgment an increase is necessary for the fulfillment of the Contract. If upon receipt of such order, the Contractor fails to comply with such order within ninety (90) days, such failure shall constitute a Default, and the Contractor shall forfeit in the form of liquidated damages the sum of one hundred (\$100.00) dollars for each day that the Contractor fails to comply with such order, said penalty to be imposed for the additional truck ordered by the municipality, but not placed in service by the Contractor.

Bodies for the trucks to be used in the collection and transportation of solid waste shall be the enclosed packer-type, with a capacity of not less than then (10) cubic yards by actual measurement.

The bodies shall be watertight, readily cleanable and sanitary, and capable of being unloaded by dumping or automatic push-out means. The equipment shall be essentially a standard product of a reputable manufacturer, so that continuing service and delivery of spare parts may be ensured.

The component parts of the unit need not be a product of the same manufacturer. The body shall be so mounted that when fully loaded, the axle loading shall fall within the maximum load limit per axle as prescribed by state and local law. The Contractor will be permitted to use auxiliary loading equipment and self-loading bodies.

All equipment used for the collection or hauling of solid waste or recyclable materials shall be thoroughly cleaned and scrubbed both inside and outside, and sprayed with such deodorizing material as may be deemed proper by the Municipality. All vehicles, conveyances, containers, and all other equipment of whatever nature which is used by the Contractor shall be kept and maintained in a sanitary condition and well repaired.

All equipment and facilities used by the Contractor shall be subject to inspection for sanitation, safety, appearance, and subject to approval or rejection by the Municipality at any time. The Contractor is responsible for ensuring that audible back-up alarms, as required by State law, are functioning properly at all times.

The driver of the collection truck shall travel all roads and streets in accordance with all traffic regulations, unless such roads are declared by the Town to be impassable and must be able to read and understand all traffic signs, signalization and roadway markings.

If the Contractor services private customers in a Municipality, the vehicles that services private customers must be readily distinguishable at a glance from the vehicles servicing municipal customers. Distinguishable methods must be approved by the Municipality, such as clearly visible signage stating Private Collection or similar wording.

#### **4-H Care of Citizens' and Municipal Property**

The Contractor shall use its best efforts to see that its personnel handle waste barrels and other containers with care so that the barrels/containers are not damaged. Empty barrels/receptacles shall be left right-side-up, in a standing position and in the approximate place where found.

The Contractor shall use care in returning empty collection containers to the curbside or off the edge of the traveled road. Containers shall not be placed back in driveways, in front of mailboxes or on paved portions of roadways. Under no circumstances are waste barrels/receptacles or their covers to be thrown or allowed to roll out into the street.

If, in the municipality's judgment, waste barrels/receptacles are damaged or destroyed by the Contractor's personnel, the Contractor shall, at its expense promptly replace the damaged or destroyed barrel/receptacle with a similar barrel/receptacle within 48 hours.

If, in the Municipality's judgment, recycling containers are damaged or destroyed by the Contractor's personnel, the Contractor shall at its own expense promptly replace the damaged or destroyed recycling container with another approved recycling container.

The Contractor will take adequate precautions to protect all residential and municipal property from any damage and will be responsible for any such damage caused as a result of this service. Any damage done to property by the Contractor's personnel during collection and haul shall be promptly repaired or paid for by the Contractor, or may be repaired by the Town and the cost thereof deducted from any payment due the Contractor under the terms of this Contract.

#### **4-I Outreach Sponsorship**

The Contractor will cooperate with the Municipality in providing public outreach at community-wide events at elementary schools, to the extent such is requested by the Municipality.

#### **4-J Daily Contact and Managing Agent**

The Contractor shall maintain an attendant to answer telephone calls throughout the day between the hours of 8:30 and 4:30 p.m., Monday through Friday. The attendant shall receive calls in a courteous manner and shall resolve all complaints in an expeditious manner.

#### **4-K Meetings between Contractor and Town**

The Contractor or Managing Agent shall be available to meet as needed to review Contract performance and customer complaints and resolutions, including a list of all notices left. An annual performance review may be conducted prior to the end of the contract year.

#### **4-L Inspection and Reports**

The collection Contractor shall be required to obtain accurate weights of collected materials. The Contractor shall submit, on a monthly basis, accurate weigh slips, with a summary report for solid waste and recycling, showing the quantity (in tons) of materials collected.

The Municipality shall have the right, at any time, upon reasonable notice, to inspect the equipment and premises of the Contractor, including the right to enter upon any property owned or occupied by the Contractor, whether situated within or beyond the limits of the municipality. Whenever requested, the Contractor shall within a reasonable time period furnish full and complete written reports of operations under this Contract in such detail and with such information as the municipality may reasonably request.

#### **4-M End of Route Reporting**

All service requests for pickup reported to the Contractor before 2:00 PM shall be responded to on the same day, unless otherwise mutually agreed by the Municipality and the Managing Agent.

#### **4-N Annual Audit**

The Contractor may be requested to conduct an annual audit at a time selected by the Municipality (usually in June) of the entire collection route to ensure that the drivers are only collecting permitted materials from households within the municipal program. The Contractor shall provide an additional employee to ride with the trash driver and identify addresses that are setting out materials that are not included on the list of subscribers. Addresses identified during the audit shall be notified by the Municipality. The Contractor shall discontinue service at identified addresses.

#### **4-O Materials from Other Sources**

The Contractor shall not mix refuse or recyclable material from any other source with refuse or recyclable material collected on behalf of the Municipality under this Contract. Violation of this regulation shall be considered a Default of contract and subject to termination of contract or fines.

#### **4-P Contaminated Materials**

The Contractor shall be entitled to dispose, at the Contractor's sole expense, any individual load of recyclable material not acceptable to the secondary market due to contamination, provided that the Contractor shall notify the impacted Municipality of the dates, disposal sites and tonnage of unacceptable recyclable material. Failure to comply with the requirements of this paragraph shall render the Contractor liable for the damages.

#### **4-Q Unacceptable Waste**

The Contractor shall not be required to collect, handle, transport, or dispose of Unacceptable Waste. The Municipality shall not provide Unacceptable Waste to the Contractor for collection, transport, or disposal. The Contractor may, in its sole discretion, reject any Unacceptable Waste provided by the Municipality or by any other customer or party. Upon request by the Contractor, any individual or entity who provides Unacceptable Waste to the Contractor shall be required to remove the same from the Contractor's vehicle or premises immediately. Any individual or entity who provides Unacceptable Waste to the Contractor shall be liable to the Contractor for the Contractor's damages and other costs incurred as a result of the same. Notwithstanding anything to the contrary stated in the Contract or otherwise, the Contractor may immediately remove any Unacceptable Waste provided by such individual or entity at the expense of such individual or entity, if such Unacceptable Waste creates an emergency condition or negatively impacts the Contractor's business or operations. The Contractor shall at no time take title to such Unacceptable Waste even in removing it as provided in the foregoing sentence. The Municipality shall make reasonable efforts to (i) inform the public that Unacceptable Waste is not to be provided to the Contractor, and (ii) cooperate with the Contractor in order to identify any individuals or entities who provide Unacceptable Waste to the Contractor and to collect (from such individual or entity) and remit to the Contractor an amount to compensate the Contractor for its costs incurred in connection with such Unacceptable Waste. The provisions of this Article 4-Q shall apply notwithstanding anything to the contrary in this Contract or otherwise, including (but not limited to) Article 10-H hereof.

#### **4-R Ownership of Recyclable Materials**

All recyclable materials shall be the property of the Contractor unless otherwise designated.

#### **4-S Employees**

The Contractor shall employ competent and courteous employees and shall immediately discharge or transfer to duties outside the Municipality, any incompetent or discourteous employee when ordered to do so by the Municipality. The Contractor shall not again employ for work within the Municipality, any employee dismissed or transferred under the foregoing provisions without the consent of the Municipality.

The Contractor recognizes that its employees will come into contact with children at schools, libraries, and other facilities, as well as the Municipality's elderly populations. To ensure that its employees are suited to come into contact with children and the elderly, the Contractor shall conduct criminal background checks through the Commonwealth of Massachusetts Criminal

History Systems Board on the employee, and the Contractor shall represent and make every effort to guarantee to the Municipality that the Contractor will not assign employees who are convicted pedophiles or are registered sex offenders, or who has been convicted of similar criminal offenses that render them unsuited for having contact with children and the elderly within the Municipal Collection Routes covered by the Contract.

The Contractor shall indemnify and hold the City and Town that is a party to the Contract, harmless from any claims, charges, complaints, damages, and judgments of any kind, including reasonable attorney's fees, arising from or directly related to the Contractor's failure to comply with this requirement.

The Contractor shall prepare route maps and train collection employees before initiating collection in the Municipality and before the Contractor permits an employee to begin work in the Municipality.

#### **4-T New Employees**

The Contractor agrees to make its best effort to train new employees for a period of at least two weeks prior to their assuming full responsibility for their routes.

### **Article 5 Collection**

#### **5-A Collection Points**

Collections from Subscribers shall be made at curbside, within four feet of the edge of pavement.

Municipal facility, schools, and public area receptacle collection shall be made at designated pickup points.

The Contractor shall accept solid waste and recyclable materials brought to the collection point by residents as the truck passes the dwelling unit. Habitually late residents shall be referred to the appropriate Municipality for notification.

#### **5-B Solid Waste Collection Frequency**

The Contractor shall collect solid waste from all approved addresses once a week. The Contractor shall collect from the Schools, Municipal Facilities, and Housing Authorities as per Attachment 1.

#### **5-C Recycling Collection Frequency**

The Contractor shall collect single stream recyclables from the Residential Subscribers every other week, for a total of 26 collections per year. Such collections shall coincide with the regular curbside collection of solid waste such that every other week, Subscribers will have both collections on the same day of the week. The Contractor shall collect single stream recyclables from the Schools,



Municipal Facilities and Housing Authority Facilities listed in Attachment 1 as set forth on that attachment.

#### **5-D Collection Times**

No collection for the municipal programs shall be made before 7:00 a.m. or after 5:00 p.m. without prior approval from the Municipality.

#### **5-E Missed Pickups**

The Contractor shall be required to return for all missed pickups the same day if notification is received prior to 2PM. The collection vehicle shall return to the address the following day if notification is received after 2PM. In the case of a Saturday pickup due to a holiday schedule, all missed stops will be picked up that same day.

- a. The Contractor shall be required to collect all pickups missed due to driver error at no extra cost.

#### **5-F Non-collection Notices-Rejection Stickers**

The Contractor shall supply non-collection/rejection notices designed to the Municipality's specifications. Notices must be approved before printing. All drivers are to be provided with an adequate supply of the notices and required to leave non-collection notices whenever materials are intentionally not collected.

#### **5-G Improperly Prepared Materials**

When the Contractor's crews encounter improperly placed or prepared recyclable material or refuse, they shall follow the procedure below:

- a. For the first occurrence at an address within any twelve-month period the collector shall complete a rejection notice explaining the problems and leave it behind with the uncollected materials.
- b. Upon the second and ensuing occurrences by the same household within a twelve-month period, the collector shall follow the steps above but in addition shall notify the Municipality of a persistent problem at the address.

#### **5-H Cleanup on Route**

The Contractor shall use commercially reasonable efforts to pick up all blown, littered, and broken material collected pursuant to this Contract. The truck shall carry at all times a broom, shovel, and hazardous materials spill kit.

### **5-I Spillage of Waste or Recyclable Materials**

If at any time waste materials or recyclable materials are spilled into a street, sidewalk, lawn, tree, or private property by the Contractor, or the contents of a truck carrying the same are spilled/dumped into a street, sidewalk or property, the Contractor shall clean up the spilled/dumped matter immediately before proceeding to the next place of collection, or make arrangements for the spillage to be cleaned up immediately.

### **5-J Hazardous Waste Spills**

The Contractor must as soon as possible report any spill of automotive fluids or other hazardous waste to the Municipality.

### **5-K Accidents and Breakdowns**

The Contractor shall notify the municipality within 60 minutes of any accident or breakdown that will delay normal collection. The Contractor shall notify the Municipality within 30 minutes of any accident involving injury or damage to private or public property.

### **5-L Blocked Streets**

If any street, avenue, road, lane, etc. is blocked or inaccessible for any cause, the Contractor shall have the refuse and recyclable materials removed/carried to the collection vehicle, unless otherwise directed by the Municipality.

### **5-M White Goods**

The Contractor shall not collect appliances, white goods or scrap metal.

### **5-N Title to Waste**

Contractor shall acquire title to the solid waste and recyclables when they are loaded into Contractor's truck. Contractor shall never take title to the materials excluded under the Contract (see Section 3-A) or to Unacceptable Waste (see Section 4-Q).

## **Article 6 Solid Waste Disposal**

### **6-A Solid Waste Disposal**

The Contractor shall provide disposal of solid waste of the Municipality collected by the Contractor pursuant to the Contract, at a rate of ninety two dollars (\$92.00) per ton to be paid by the Municipality (such rate shall be in addition to the pricing specified in Section 4 of this Amendment). Such rate shall increase as set forth in section 1-D. The Contractor shall not be required to dispose of any materials that are excluded from the Contractor's collection obligations pursuant to the Contract.

## **6-B Weigh Slips**

Proper weigh slips accompanying Individual Monthly Summarized Municipal Tonnage Reports from the facility for the Municipality, certified at a State-approved scale, must be submitted to the Municipality on a monthly basis within seven (7) days of the beginning of the month.

## **Article 7    Recyclable Materials Processing**

### **7-A    Processor Facility Location**

The Contractor will "own" the recyclables and determine the facility to be used. Notwithstanding the foregoing, the Contractor shall not 'own' or take title to Unacceptable Waste.

### **7-B    Permits and Licenses**

The recyclable materials processing facility which accepts recyclable materials collected from the Municipality must be fully licensed and permitted by EPA and Mass. DEP, and any other applicable Federal, State, or Local officials, and is responsible for the processing and marketing of recyclable materials.

### **7-C    Weigh Slips**

Proper weigh slips from the facility, certified at a state-approved scale, must be submitted to the Municipality on a monthly basis.

### **7-D    Processing and Disposal Conditions cation**

The Contractor guarantees that at no time during the term of this Contract shall any of the recyclable materials accepted under this Contract be incinerated or landfilled except as provided in this section. If the Materials Recycling Facility is unable to recycle all or a portion of the recyclable material collected by it due to a failure in the secondary market for recyclable material, and has demonstrated to the Municipality reasonable satisfaction that its failure to recycle is due to the failure of the aforementioned, secondary market, the Municipality shall permit the material to be incinerated or taken to a landfill. Notwithstanding the foregoing, the Contractor will also be entitled to landfill or incinerate materials that are contaminated.

## **Article 8    Payments to Contractor and the Contract Sum**

### **8-A    Compensation to be paid to Contractor**

The Contractor will direct bill the Town monthly (one twelfth of annual cost) for solid waste and for recycling. The Municipality will pay, and the Contractor will accept, in full consideration for the performance of the Contractor's obligations, the amounts set forth in the Contract. Payment shall be made monthly and shall be invoiced by the Contractor to the Municipality in arrears, but no later than ten (10) business days after the last day of the calendar month. The municipality will

make all payments due to the Contractor under the terms of the Contract within forty-five (45) days of receiving a complete and accurate invoice from the Contractor. The Contractor shall be obligated to collect materials only from the Subscribers/Households/Facilities and Schools as set forth in this Contract. .

### **8-B Delayed Payment and Disputes**

In the event of a good faith dispute as to any portion of any monthly or other bill, the Municipality shall give written notice of the disputed portion to the Contractor. Such notice shall identify the disputed portion of the bill, state the amount in dispute and set forth the grounds on which such dispute is based. No Municipal Event of Default (as defined herein) shall result from a failure to pay or late payment during any dispute. The Contractor shall give consideration to such dispute and shall advise the Municipality with regard to its position relative thereto within twenty (20) days following receipt of such written notice. Upon final determination (whether by agreement, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be added to or subtracted from the statement next submitted to the Municipality after such determination.

### **8-C Option to Review Contract**

The parties agree to review the contract after 12 months to evaluate any changes in the method of collection, processing or disposal of solid waste or recyclables that may have occurred. Should any substantial changes occur under the Contract, the parties agree to enter good faith negotiations to address such changes. For purposes of this Contract, "substantial change" warranting negotiations under this provision shall be defined as any change in circumstances, market conditions, or any other change from the initial agreement of the parties that would (1) impact the Contractor's ability to perform the services under the actual Contract upon its present terms or (2) increase the cost to the Municipality for services under the Contract by more than 5%, which would place the Municipality in the position of having to budget more than anticipated in a given year for those services. Should a waste reduction program in effect as of the Effective Date of the Agreement result in 10% or more reduction of the Municipality's trash tonnage, both parties shall evaluate the original Contract pricing and its formula, to make appropriate adjustments to the results of the tonnage reduction, i.e., one less truck being utilized, less manpower and transportation time, etc., that could result in savings for the Municipality. Any such evaluation and adjustment should take place during the Annual Audit on June 30th of the year. The Municipality reserves the right to review the contract after twelve months. Notwithstanding the foregoing, the following shall not be considered a 'substantial change' warranting negotiations: annual price adjustments contemplated by this Contract.

### **8-D Option to Extend Contract**

The Municipality may, with the Contractor's consent, extend the contract for one (1) additional two (2) year period, subject to the following procedure: The Municipality must notify the Contractor of its intent to renew the contract pursuant to this Article 8-D by January 1, 2023. After such notice by the Municipality, the Contractor shall have sixty (60) days to notify the Municipality as to whether the Contractor accepts or rejects the Municipality's offer to renew. If notice of the

Municipality's intent to renew the contract pursuant to this Article 8-D is made after January 1, 2023, then the Contractor shall have until the later of (i) June 15, 2023, or (ii) ten (10) business days after such notice by the Municipality to notify the Municipality of its decision whether to accept or reject the Municipality's offer to renew.

## **Article 9 Insurance**

The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified below and in such form as shall protect the work covered by this Contract, and the Municipality and its employees, agents and officials, from all claims and liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operation under this Contract. The Contractor covenants and agrees to hold the Municipality and its employees, agents and officials harmless from and against any and all loss or damage due to claims for personal injury and/or property damage to the extent arising from, or the negligence or willful misconduct of the Contractor or its employees in its operations under this Contract.

Except as otherwise stated, the amounts of such insurance shall be:

- (A) For liability for bodily injury, including accidental death:
    - \$1,000,000 for any one person and
    - \$1,000,000 on account of one occurrence and
    - \$3,000,000 aggregate limit
  - (B) For liability for property damage:
    - \$1,000,000 on account of anyone occurrence and
    - \$3,000,000 aggregate limit
1. WORKERS' COMPENSATION INSURANCE:
    - As required by the General Laws of the Commonwealth of Massachusetts.
  2. BODILY INJURY PREMISE-OPERATION, COMPLETED OPERATIONS PUBLIC LIABILITY INSURANCE:
    - In the amounts required in (A) above.
  3. PROPERTY DAMAGE PREMISES-OPERATIONS, COMPLETED OPERATIONS PUBLIC LIABILITY INSURANCE:
    - In the amounts required in (B) above.
  4. BODILY INJURY LIABILITY INSURANCE COVERING THE OPERATION OF ALL MOTOR VEHICLES OWNED BY THE CONTRACTOR AND VEHICLES NOT OWNED BY THE CONTRACTOR, WHILE SUCH VEHICLES ARE BEING OPERATED IN CONNECTION WITH THE PROSECUTION OF THE WORK UNDER THIS CONTRACT:
    - In the amounts required in (A) above.

5. PROPERTY DAMAGE LIABILITY INSURANCE COVERING THE OPERATION OF ALL MOTOR VEHICLES OWNED BY THE CONTRACTOR AND VEHICLES NOT OWNED BY THE CONTRACTOR WHILE SUCH VEHICLES ARE BEING OPERATED IN CONNECTION WITH PROSECUTION OF THE WORK UNDER THIS CONTRACT:
  - In the amounts required in (B) above.
6. GENERAL LIABILITY INSURANCE – INCLUDING CONTRACTUAL LIABILITY:
  - In the amounts required under {A} and {B} above.

All policies with the exception of Workers' Compensation shall be so written that the Municipality will be notified of cancellation at least thirty (30) days prior to the effective date of such cancellation. A certificate from the Contractor's insurance carrier or its authorized representative showing at least the coverage and limits of liability specified above and expiration date shall be filed with the Municipality before operations are begun. Such certificates shall not merely name the types of policy provided, but shall refer to this Contract.

The certificate of insurance shall be delivered to the Municipality at least ten {10} days prior to July 1 of the year that this Contract is in force and effect. Failure to provide insurance requirements shall be cause to terminate this Contract.

All insurance required by this contract shall be obtained from insurance companies that are duly licensed or authorized in the Commonwealth of Massachusetts to issue insurance policies for the limits and coverages so required.

## **Article 10 Other Conditions**

### **10-A Not to Assign or Subcontract**

The Contractor shall give his personal attention constantly to the faithful performance of the work, shall keep the same under his personal control and shall not assign, by power of attorney or otherwise, nor subcontract the work or any part thereof, without the previous written consent of the Municipality, which consent shall not be unreasonably withheld, and shall not, either legally or equitably, assign any of the moneys payable under this Contract, or his claim thereto, unless, by and with the like consent of the Municipality, which consent shall not be unreasonably withheld.

### **10-B Performance Bond**

The Contractor shall furnish for the term of this Contract a bond in a form and with a surety company, for and approved by, the Municipality, and authorized to do business in the Commonwealth of Massachusetts, conditioned upon the Contractor fully performing all his obligations under this Contract, and making full payment for all labor performed or furnished in the work, equivalent to 100% of the first-year contract for the faithful performance of the Contract. The bond shall be delivered to the Municipality at least thirty (30) days prior to July 1 of the year that this Contract is in force. Failure to provide performance bond requirements shall be cause to terminate this Contract.

## **10-C Changes in the Contract**

The Contractor shall do the work in the manner set forth in this Contract, except that the Municipality, by order in writing given to the Contractor, may make any reasonable order respecting a change (increase or removal) of any part of the work or the furnishing of extra trucks or labor relating thereto, and the Contractor shall conform to such orders within a reasonable time.

Note: If requested by the Municipality, the Contractor will amend the Contract to include up to five (5) additional working days so that the Contract expires on the last day of the normal work week.

## **10-D Contract Compliance**

It is understood and agreed that because the public health and convenience of the Municipality are involved in the performance of the Contract, performance reasonably satisfactory to the municipality includes meticulous attention to every detail in the Contract and that a high standard of work is justified.

## **10-E Force Majeure**

"Force Majeure" means any event or condition having a material adverse effect upon the Contractor's or the Municipality's ability to perform pursuant to the Contract if such event or condition is beyond the reasonable control and not the result of willful or negligent action or lack of reasonable diligence of the parties relying thereon as justification for not performing any obligation or complying with any condition required of such party under this Contract. "Force Majeure" events or conditions may include but are not restricted to events of the following kinds: an act of God, an act of war, insurrection, riot or civil disturbance, fire, explosion, flood, epidemics, unusually severe and extraordinary weather conditions, acts of government or regulatory authorities, changes in law and acts of terrorism which affect, impact or impede the Contractor's or the Municipality's operations.

Except in the case of the Municipality's payment obligations under this Contract, in the event of a Force Majeure, the nonperforming party shall not be deemed to have violated its obligations under the Contract and the time for performance of any obligation shall be extended by a period of time reasonably necessary to overcome the adverse effects of the Force Majeure event or condition.

This provision shall not relieve the non-performing party from using all reasonable efforts to overcome or remove such Force Majeure event as soon as legally possible, or from providing prompt notice to the other party of the Force Majeure event or condition. Such notice shall disclose the nature of the Force Majeure event or condition and the estimated length of delay.

## **10-F Labor Disputes**

In the event of nonperformance of the Contractor due to labor disputes for a period of more than five (5) working days, days, the municipality shall have the right to perform the services, or temporarily procure services of other contractors. The Contractor shall reimburse the Municipality for all reasonable costs associated with procuring such temporary collection services until such time as the labor dispute is resolved and the Contractor resumes the regular schedule.

## **10-G Termination for Improper Performance/Events of and Remedies for Default**

### **1. Contractor Events of Default**

The Municipality reserves the right to terminate this contract at any time, upon ten days written notice to the Contractor, for the Contractor's failure to cure a breach of the obligations and duties under this Contract within the timeframes stated below or for the contractor's failure to perform his duties and obligations under this contract in a manner satisfactory to the Municipality.

- a. Failure of the Contractor to perform any of its obligations, covenants or agreements under this Contract and the continuance of such failure for fifteen (15) days after written notice thereof from a Municipality to the Contractor; provided, however, that if such default is not susceptible to cure within such fifteen (15) days and if the Contractor commences diligently to cure such default promptly after receipt of notice thereof from the municipality, such period of fifteen (15) days shall be extended to a period of time necessary to cure such default with all due diligence, but in no event shall such period exceed a total of one hundred eighty (180) days.
- b. The Contractor becomes insolvent; however such insolvency may be evidenced; or makes an assignment for the benefit of creditors; or is adjudicated a bankrupt; or admits in writing its inability generally to pay its debts as they become due.
- c. A trustee, custodian or receiver of the Contractor's business, or any substantial portion of the Contractor's assets, is appointed by or at the behest of the Contractor, or, if appointed in a proceeding brought against the Contractor, the Contractor approves of, consents to, or acquiesces in such appointments or such trustee or receiver is not discharged within ninety (90) days.
- d. Any proceedings involving the Contractor are commenced by or against the Contractor under any bankruptcy or reorganization, arrangement, probate, insolvency, readjustment of debt, dissolution or liquidation law of the United States, or any state, or, if such proceedings are instituted against the Contractor, the Contractor approves of, consents to, or acquiesces in such proceedings or such proceedings are not dismissed within ninety (90) days.
- e. Any representation or warranty made by the Contractor is not true in any material respect as of the date of the issuance or making thereof as contained in this Contract, the bid for this Contract, or any other document or instrument executed in connection herewith.
- f. The death, dissolution or termination of existence of the Contractor.



## **2. Municipal Events of Default**

a. Failure of a Municipality to pay any sums due the Contractor hereunder within forty five (45) days after receiving an invoice for payments due from the Contractor, and the continuance of such failure for fifteen (15) days after written notice thereof from the Contractor to the municipality; provided, however, that if that Municipality notifies the Contractor of a dispute as to any sums pursuant to Article 9-b of this Contract within such fifteen (15) days after written notice by the Contractor to the Municipality of such nonpayment, no Event of Default shall occur until a final determination of the correct amount pursuant to the provision of said Article 9-b and the failure of the Municipality to pay such correct amount within thirty (30) days after receiving the statement next submitted to the Municipality after such determination.

## **3. Remedies for Contractor Events of Default**

Upon any Contractor Event of Default, the Municipality may, in addition to and not in derogation of any other right or remedy available to it under this Contract, at law or in equity (which rights and remedies shall be cumulative and shall not be deemed inconsistent with the other and which may be exercised at the same time to the greatest extent permitted by law), immediately terminate this Contract upon written notice thereof to the Contractor. At any time following a Contractor Event of Default, the Municipality may (but shall not be obligated to) cure any default by the Contractor hereunder, and all reasonable costs and expenses incurred by the Municipality, including reasonable attorneys' fees and expenses, incurring a default shall be paid by the Contractor to the Municipality.

## **4. Remedies for Municipality's Events of Default**

Upon any Municipal Event of Default, the Contractor may, in addition to and not in derogation of the right to sue the Municipality for such sums actually due hereunder (which rights and remedies shall be cumulative and shall not be deemed inconsistent with the other and which may be exercised at the same time to the greatest extent permitted by law), immediately terminate this Contract upon written notice thereof to the Municipality.

## **10-H Municipal Liability**

No officer, board, employee, agent, official or resident of the Town or any owner or occupant of any single family residence, multifamily complex, multifamily unit, condominium association, board member, management company or their employees, landlords and tenants shall ever be personally liable under this Contract and the Contractor shall look solely to the Municipality in pursuit of its remedies upon any Municipal Event of Default hereunder.

## **10-I Protection against Liability**

The Contractor acknowledges and agrees that it is responsible as an independent contractor for all operations under this Contract and for all acts of employees and agents hereunder, and agrees that it will indemnify, exonerate and hold harmless the Municipality and its officers, boards, employees, agents and officials, from and against any and all loss, damage, cost, charge, expense and claim, which may be made against it or them or to which it or they may be subject by reason

of any negligent act or omission, willful misconduct or default on the part of the Contractor or any of its agents or employees

#### **10-J Licenses and Permits**

The Contractor shall obtain and pay for all licenses and permits necessary for collecting, transporting and marketing recycling materials and/or collecting, transporting and disposing of solid waste material.

#### **10-K Laws and Regulations**

This Contract shall be considered to incorporate by reference all applicable Federal, State and Local laws and rules and regulations of all authorities having jurisdiction over collection, transportation and disposal of solid waste and recyclable material, as though such provisions were set forth in full therein. The Contractor shall keep fully informed of all Federal, State and Local laws, and municipal ordinances, bylaws and regulations in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work and of all such orders and decrees or bodies or tribunals having any jurisdiction or authority over the same.

If any discrepancy or inconsistency is discovered in the Contract for this work in relation to any such law, ordinance, regulation, order or decree, the Contractor shall forthwith report the same to the Municipality in writing. The Contractor shall at all times observe and comply with, and shall cause all agents and employees to observe and comply with, all such existing and future laws, ordinances, regulations, orders and decrees and shall protect and indemnify the Municipality, its officers, agents, boards and employees, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, by the Contractor, his agents or employees. Excluding claims arising from Unacceptable Waste, any additional cost caused by noncompliance to any applicable law or regulation shall be borne solely by the Contractor.

#### **10-L Prevailing Wage Rates**

In accordance with MGL, Chapter 149, Section twenty-seven (27), the wage rates for workers under this Contract are to be paid at the rates established by the Commissioner of the Massachusetts Department of Labor and Industries. This shall include regular drivers and laborers, as well as temporary and day laborers. The information shall be provided to the Municipality at the end of the month.

#### **Article 11 Liquidated Damages**

In addition to all of its other rights and remedies under the Contract, at law or in equity, the Municipality shall be entitled to assess liquidated damages against the Contractor for its failure to perform the specified obligations described, in this section of the Contract, for collection and transportation of the Municipality's waste prior to the occurrence of a Contractor Event of Default hereunder. Penalties will not be assessed for violations where the Contractor remedies the breach

promptly following notice from the Town. The Contractor acknowledges and agrees that the liquidated damages provided herein are not penalties but represent a fair measure of damages which will be sustained by the Municipality in the event the Contractor defaults on any of the following specified obligations. The Municipality shall have the right to withhold the amount of liquidated damages assessed from any payment owed to the Contractor as a credit or set-off from the monthly invoice. Any consent or permission by the Municipality to any act or omission which otherwise would be a breach of any covenant or condition herein, or any waiver by the Municipality of the breach of any covenant or condition herein, shall not in any way be held or construed (unless expressly so declared) to operate so as to impair the continuing obligation of any covenant or condition herein, or otherwise operate to permit the same or similar acts or omissions except as to the specific instance. The failure of the Municipality to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Contract shall not be deemed a waiver of such violation nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The failure of a Municipality to assess liquidated damages shall not be deemed to have been a waiver by the Municipality of any such violation or of any of the Municipality's remedies on account thereof, including its right of termination of this Contract for such default.

#### **Liquidated Damages**

1. Failure to immediately pick up materials spilled during collection, except where not properly placed, where Unacceptable Waste is included or where Non-Recyclables are included in a recycling container. \$50 per occurrence
2. Failure to promptly pick up waste spilled during transport if the Municipality receives a complaint of such spill. \$50 per occurrence
3. Willful mishandling of waste barrels/receptacles or recycling containers. \$25 per occurrence
4. Failure to place waste barrels/receptacles in an upright position at approximately the same location upon emptying or failure to place recycling containers upside-down at approximately the same location upon emptying. \$25 per occurrence
5. Placement of barrels, recycling bins, or lids such that they obstruct roads, driveways, or mailboxes. \$25 per occurrence
6. Following notice of complaint, once investigated and verified, failure to collect waste from a specific location on the same day as the regular collection route or by noon of the following day if so authorized by the Municipality. \$100 per occurrence
7. Failure to collect appropriate materials properly set out from two (2) or more subscribers on the same day of the regular Collection Route, or by 9:00 a.m. of the following day if so authorized by the Municipality. \$100 per address

8. Failure to pick up from any single address more than one time in a given month or three times in a six month period when the driver or Contractor is at fault.	\$100 per miss plus reimbursement of Subscription fee if more than three misses in a Six month period.
9. Continued violation of traffic laws, ordinance or regulation during collection and haul, after written notice to correct from the Municipality.	\$250 per occurrence
10. Beginning any single collection route prior to 7:00 a.m. or finishing after 4:00 p.m. without the prior consent of the Town.	\$25 per day
11. Use of unmarked or uninspected collection vehicles.	\$200 per occurrence
12. Failure to clean vehicle or conveyances as provided for in this Contract.	\$100 per occurrence
13. Failure or neglect to repair or furnish replacement dumpster within five days	\$200 per container not furnished
14. Collecting solid waste or recyclable materials from addressees that do not subscribe to the program.	\$200 per occurrence
15. Disposing of as trash, those uncontaminated recyclable materials appropriately set out for recycling.	\$500 per occurrence
16. Failure to report truck breakdown or accident within 30 minutes.	\$25 per occurrence
17. Failure or neglect to furnish a schedule or revised schedule of collection and disposal.	\$500 per occurrence
18. Commingling materials collected under this Contract with materials not collected under this contract, even if the town will not be billed.	\$500 per occurrence
19. Delivering any waste other than as described in this Contract to disposal sites that will be billed to the Municipality.	\$2,500 per ton
20. Failure to submit weigh slips with monthly invoice.	\$25 per missing slip
21. Submitting weigh slips for materials not collected through this Contract.	\$500 per occurrence
22. Failure to correct billing error within one week after notification.	\$100 per occurrence
23. Failure to provide prevailing wage rate information as required under this Contract.	\$500 per occurrence

24. Failure to maintain customer service 24-hour hotline for Subscribers. \$200 per 4 hours out of service
25. Use of collection vehicle marked with the name of the Municipality within this Contract for the collection and/or haul of waste other than provided for under the provision of this Contract. \$2,000 per occurrence

## **Article 12 Miscellaneous**

### **12-A Notice**

Any and all notices required hereunder shall be in writing, addressed and sent U.S. Certified or Registered Mail, Return Receipt Requested, postage prepaid, by any reputable nationally recognized express courier service, or by personal delivery (including by express mail or facsimile) to the parties at their addresses (and facsimile number) shown below:

**CONTRACTOR:**

Allied Waste Services of Massachusetts  
1080 Airport Road  
Fall River, MA 02720  
Attn: \_\_\_\_\_  
Facsimile No.: \_\_\_\_\_

**CUSTOMER**

Town of East Bridgewater, Massachusetts  
Office of the Board of Selectmen  
175 Central Street  
East Bridgewater, MA 02333  
Attn: \_\_\_\_\_  
Facsimile No.: \_\_\_\_\_

All notices shall be deemed delivered on the date of their deposit in the U.S. Mail or any reputable nationally recognized express courier service, or where personally delivered, on the date of delivery.

### **12-B Waiver**

Failure or delay on the part of either party to exercise any right, power, privilege or remedy under this Contract, shall not constitute a waiver thereof. No modification or waiver by either party of any provision shall be deemed to have been made unless made in writing.

### **12-C Governing Law**

This Contract shall be governed by and construed in accordance with the laws of the State of Massachusetts without regard to conflict of laws. If any litigation is commenced under this Contract, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding. Both parties agree to waive any right to have a jury participate in the resolution of the dispute or claim, whether sounding in contract, tort or otherwise, between any of the parties or any of their respective affiliates arising out of, connected with, related to or incidental to this Contract to the fullest extent permitted by law.

## **12-D Severability**

If any provision of this Contract is or becomes or is deemed invalid, illegal or unenforceable under applicable law, such provision will be deemed amended to the extent necessary to conform to applicable laws, or, if it cannot be so amended without materially altering the intention of the parties, it will be stricken, and the remainder of this Contract will remain in full force and effect.

## **12-E Entire Agreement.**

This Contract constitutes the entire understanding between the parties and supersedes all previous agreements or negotiations on the subject matter in this Contract, whether written or oral, and shall not be modified or amended except by written agreement duly executed by the undersigned parties. Any existing agreements between the parties are hereby terminated as of the effective date of this Contract, except for any outstanding payment or indemnity obligations, claims and/or liability issues arising from such agreements prior to such termination date.

## **12-F Paper Shredding Subsidy**

The Contractor shall provide \$500.00 annually to the Municipality to be used by the Municipality in connection with a Municipality-sponsored and Municipality-coordinated paper shredding event.

## **12-G Roll-Off for Rigid Plastics**

The Contractor will provide one free roll-off haul per year for rigid plastics, at such date and time and upon such terms as shall be acceptable to the Contractor in its sole discretion.

## **12-H Sharps Mail Back Program**

The Contractor will make available to all Residential Subscribers (as that term is defined in the Contract) its Sharps Mail Back Disposal Service (the "Sharps Program"). More information on the Sharps Program is available at [www.republicsharps.com](http://www.republicsharps.com). Residential Subscribers shall pay all costs associated with the Sharps Program and shall comply with all terms and conditions thereof. This paragraph shall impose no obligation on the Contractor to continue its Sharps Program, but merely requires it to make such program available to the Municipality's Residential Subscribers to the extent that such program has not been cancelled by the Contractor.

## **12-I Carts and Cart Buyout**

Contractor shall continue to provide 2,800 64-gallon carts, which the Town will take title to after June 30, 2023.

Should this Contract terminate for any reason prior to June 30, 2023, the Town shall have the option to pay a pro-rated portion of the value of the original manufacturer invoice amount of one hundred thirty-nine thousand, two hundred thirty-four dollars and twenty-five cents (\$139,234.25)

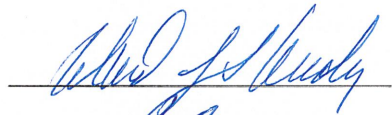
relative to the remaining time duration to June 30, 2023 and gain title and possession of the 2,800 64-gallon carts.

*[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]*

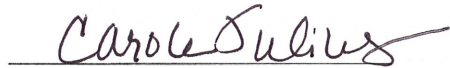
IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their duly authorized representatives effective as of the day and year first written above.

**MUNICIPALITY:**

**Town of East Bridgewater, Massachusetts**



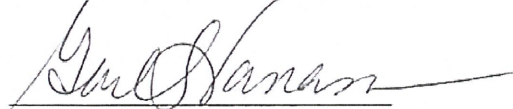




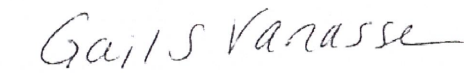
\_\_\_\_\_  
**Board of Selectmen**

**CONTRACTOR:**

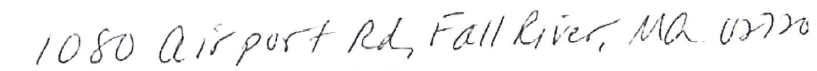
**Allied Waste Services of Massachusetts, LLC**



\_\_\_\_\_  
Authorized Representative



\_\_\_\_\_  
Name

  
\_\_\_\_\_  
Business Address