

**Solid Waste Collection
and Transfer
Contract Between the City of Seattle
and CleanScapes, Inc.**

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**SOLID WASTE COLLECTION AND TRANSFER CONTRACT
BETWEEN THE CITY OF SEATTLE
AND CLEANSCAPES, INC.**

THIS SOLID WASTE COLLECTION AND TRANSFER CONTRACT is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington by and through Seattle Public Utilities (SPU) (“City”), and CleanScapes, Inc. (“Contractor”) to provide for collection of Garbage, Compostables, and Recyclables from Residential Structures and Commercial Establishments, to provide for processing and transfer of Garbage and CDL, and to provide for collection of Street Side Litter and Public Place Recycling Containers located within the Collection Area (each capitalized term as hereinafter defined).

The parties, in consideration of the promises, representations and warranties contained herein, agree as follows:

A. GENERAL PROVISIONS

Section 10. Purpose and Intent.

The purpose of this Contract is to provide for the collection of Garbage, Compostables and Recyclables by the City through this Contract with the Contractor, and through a similar contract with another collection company. The City intends for the Contractor and the other collection company to be the only providers of Garbage Collection services in the City. However, Compostables, Recyclables, Street Side Litter Collection, and Public Place Recycling Collection is not exclusive and may be provided by other service providers. Contractor shall collect Garbage, Compostables and Recyclables from Residential Structures and Commercial Establishments and provide Street Side Litter Collection, and Public Place Recycling Collection in a Collection Area defined below in Section 100.

The City reserves the right to engage in product stewardship and/or waste reduction activities. These activities could result in one or more materials being removed from collection by the Contractor.

Section 15. Contract Term.

This Contract is entered into on this ____ day of _____, 2008. Actual collection services will begin March 30, 2009 and continue for a term of eight years, ending at midnight March 31, 2017. The City shall have the unilateral right to extend this Contract for two successive two-year periods to March 31, 2019 or March 31, 2021 by notifying the Contractor on or before June 30, 2016 and June 30, 2018, respectively. If the City extends this Contract, the same terms, conditions, and method of payment shall apply during the extension period.

Section 20. Definitions.

In addition to capitalized terms that are defined elsewhere, the following meanings apply:

"A&E Services" means ancillary and elective services associated with collection, as set forth in Seattle Municipal Code 21.40.

"Apartment Recycling" means collection of Recyclables from larger Residential Structures. Recyclables from these structures are collected from Carts and/or Detachable Containers at locations inside or outside the building that is satisfactory to the customer and the Contractor.

"Can" means a watertight, galvanized, sheet metal or plastic receptacle not exceeding 96 gallons in capacity, fitted with at least one sturdy handle and a tight cover equipped with a handle, except in the case of sunken cans, such can shall be rodent and insect proof and shall be kept in a sanitary condition at all times. Alternate containers such as bags, boxes and bundles may be used in place of Cans. Can weights, when full, shall not exceed 20 pounds for a micro can, 30 pounds for a mini can and 60 pounds for each 32 gallons of nominal capacity for other sized Cans. Bag weights shall not exceed 40 pounds.

"Can Collection" means the collection of Garbage, Recyclables, or Compostables by means of a Can.

"Cart" means a 32, 64 or 96 gallon plastic Container equipped with wheels, handles and a tight-fitting cover. Carts are capable of being mechanically unloaded into the Contractor's collection vehicles.

"City" means the City of Seattle.

"Collection Area" means that portion of the City in which the Contractor provides collection services as described in Section 100.

"Commercial Business" means the same as Commercial Establishment.

"Commercial Establishment" means any non-Residential location from which the Garbage is collected by the Contractor, and includes the non-residential portion of Mixed Use Buildings.

"Commercial Waste" means Garbage collected from Commercial Establishments.

"Compacted Material" means material which has been compressed by any mechanical device either before or after it is placed in the receptacle handled by the collector.

"Compactor Disconnect/Reconnect Cycle" means the service of disconnecting a compactor from a Drop Box or container prior to taking it to be dumped and then reconnecting the compactor when the Drop Box or container is returned to the customer's site.

"Compostables" means any organic waste materials that are source separated for processing or composting, such as Yard Waste and Food Waste generated by any Residential Structure or Commercial Establishment.

"Container" means a metal or plastic receptacle used for Garbage, Compostables, Recyclables, Street Side Litter and Public Place Recyclables collection.

"Container Collection" means collection of Garbage, Recyclables, or Compostables from Cans, Carts, and Detachable Containers.

"Construction, Demolition and Land Clearing Waste or CDL Waste" means waste comprised primarily of the following materials:

"Construction Waste" means waste from building construction such as scraps of wood, concrete, drywall, masonry, roofing, siding, structural metal, wire, fiberglass insulation, other building materials, plastics, styrofoam, twine, baling and strapping materials, cans and buckets, and other packaging materials and containers.

"Demolition Waste" means largely inert waste, resulting from the demolition or razing of buildings, roads and other man-made Residential Structures such as concrete, wood and masonry, composition roofing and roofing paper, steel, and minor amounts of metal. Demolition Waste does not include Special Waste.

"Landclearing Waste" means natural vegetation and minerals from clearing and grubbing land for development such as stumps, brush, blackberry vines, tree branches, tree bark, mud, dirt, sod and rocks.

"Contractor" means CleanScapes, Inc., a Washington corporation.

"CPI-W" means the Consumer Price Index computed by the United States Department of Labor, Bureau of Labor Statistics, for Urban Wage Earners and Clerical Workers for the Seattle-Tacoma-Bremerton Area, Series ID No. CWURA423SAO, or successor indices, covering the period January through December of each year.

"Cycle Time" is the elapsed time from scale weigh in to scale weigh out at a Disposal Facility.

"Detachable Container" means a watertight, all-metal or plastic Container between three quarter (3/4) and eight (8) cubic yards in capacity and equipped with a tight-fitting metal or plastic cover. The term shall also apply to Containers of other material of similar size when approved by the City. Detachable Containers two (2) cubic yards and under shall be equipped with at least four (4) wheels. Detachable Containers shall have no jagged edges or holes and shall meet the provisions of the Seattle Fire Code. Detachable Containers shall also be prominently marked in letters no less than four inches high, with the cubic yard capacity or with a capacity label as approved by the City.

"Detachable Container Collection" means the collection of Garbage, Recyclables, or Compostables by means of a Detachable Container.

"Director" means the Director of Seattle Public Utilities or her/his authorized representative.

"Disposal Facility" means both Public and Private Transfer Facilities designated by the City for the tipping of Garbage, Recyclables and Compostables.

"Drop Box" (also at times referred to as "rolloff" or "lugger" or "dino") means a metal container, with 3-40-cubic-yard-capacity capable of being mechanically loaded onto a collection vehicle for transport to a Disposal Facility.

"Drop Box Collection" means the collection of Garbage, Recyclables, or Compostables by means of a Drop Box.

"Duwamish Industrial Area (DIA)" means that area of the City bounded on the north by I-90/Elliott Bay, on the west by West Marginal Way (the western boundary extends west to Detroit Avenue between S.W. Michigan Street and S.W. Kenyon Street), on the south by the south City limits, and on the east by I-5.

"Electronics" means household batteries, compact fluorescent light bulbs (CFLs) (not including fluorescent tubes), televisions, computer equipment, radios, calculators, video and audio equipment, phones, cameras, and similar electronic devices which contain circuit boards. Electronics are further defined as "hand-held" Electronics, which are Electronics that are held in the hand such as phones, cameras, hand-held music players, etc; "screened" Electronics, which are Electronics with screens such as TV's, computer monitors, etc.; and "other" Electronics which are Electronics that are not held-held or screened, such as CPU's, keyboards, table radios, DVD players, etc. Electronics do not include speakers, small appliances or other household products. Electronics cannot exceed 2'x2'x2' or weigh over 60 pounds.

"Food Waste" means vegetable and other food scraps, including meat, dairy products, grease and bones; paper which has been contaminated with food, fat or grease; and compostable paper including paper towels, paper plates, tissue and waxed paper.

"Garbage" means the same as MSW.

"Lender" means the financial institutions that provide financing for the equipment and other assets Contractor uses in the performance of its obligations under this Contract and/or the financial institutions that issue the Letter of Credit as provided in Section 1000 of this Contract.

"Mixed Use Building" means a building with both residential and commercial solid waste.

"MSW" means Solid Waste excluding Special Wastes, Unacceptable Wastes, Recyclables, Compostables and CDL Waste.

"Permanent Service" means service provided for a period of more than ninety days.

"Private Transfer Stations" means transfer stations or facilities located within the City that a private entity may operate at present and in the future for handling the City's Solid Waste.

"Public Place Recycling Collection" means collection of cans and bottles from City supplied Containers located on the public right of way.

"Public Transfer Stations" means transfer stations or facilities located within the City that the City may operate in the future for handling the City's Solid Waste.

"Rate" means the charges assessed to customers for Garbage, Recyclables, and Compostables collection services provided by the Contractor under this Contract.

"Recyclables" means mixed waste paper; cardboard; newspaper; tin cans; aluminum cans, pots, pans, foil and food containers; glass bottles and jars; plastic bottles, jars, food containers (excluding styrofoam), planter pots and five (5) gallon buckets; plastic bags; polycoated paper; aseptic packaging; and ferrous scrap less than two (2) feet in any direction and less than 35 pounds. Plastic bags shall be contained within a plastic bag. The City may add Textiles, used motor oil, Electronics, and/or other items to this definition at any time during the term of this Contract by giving the Contractor six months prior notice.

"Recyclable Materials" means those Solid Wastes that are source separated for recycling or reuse, such as papers, metals and glass, that are identified as recyclable material pursuant to the City's Comprehensive Solid Waste Plan, and that are intended for recycling by the customer and delivered to a recycling facility.

"Recyclable Collection" means Compostables and/or Recyclables collected from Residential Structures and Commercial Establishments within the City.

"Recycle" or "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than incineration (including incineration for energy recovery) or other methods of disposal.

"Residence" or "Residential" means any house, dwelling, multiunit residence, apartment house, trailer court, assisted living residence or any building put to residential use.

"Residential Structure" means all structures put to residential use, including Mixed Use Buildings, and City buildings that the City bills for Garbage collection services.

"Residential Waste" means Garbage collected from Residential Structures within the City.

"Secondary Collection Area" means that area of the City as shown in Attachment 1 within which the City's other collection contractor is the designated primary collection service provider. The Contractor is prohibited from providing collection or consolidation services (with the exception of the collection of Compostables from Detachable and Drop Box Containers located at Commercial Establishments) in the Secondary Collection Area unless expressly authorized and directed by the City.

"SMC" means Seattle Municipal Code.

"Solid Waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, recyclables, rubbish, yard waste, ashes, industrial wastes, infectious wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof. The term includes all liquid, solid and semisolid materials, which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid Waste includes, but is not limited to sludge from wastewater treatment plants, seepage from septic tanks, wood waste, dangerous waste, and problem wastes.

"Special Pickup" means a pickup requested by the customer or the City at a time other than the regularly scheduled pickup time.

"Special Waste" means contaminated soils, asbestos and other waste requiring special handling or disposal procedures.

"Street Side Litter Collection" means collection of Garbage from City-supplied Containers located on public right-of-way.

"Temporary Service" means service that is required for a period of ninety days or less in conjunction with Containers or Drop Boxes. Temporary Service and its associated rates are not to be used for the first ninety days of service when the customer requests, and the Contractor provides, service for more than ninety days.

"Textiles" means both reusable and nonusable rag stock.

"Unacceptable Waste" means all waste not authorized for disposal at the Columbia Ridge Landfill and Recycling Center or successor site designated by the City, by those governmental entities having jurisdiction or any waste the disposal of which would constitute a violation of any governmental requirement pertaining to the environment, health or safety. Unacceptable Waste includes any waste that is now or hereafter defined by federal law or by the disposal jurisdiction as radioactive, dangerous, hazardous or extremely hazardous waste and vehicle tires in excess of those permitted to be disposed of by the laws of the disposal jurisdiction.

“Yard Waste” means plant material (leaves, grass clippings, branches, brush, flowers, roots, wood waste, etc.); debris commonly thrown away in the course of maintaining yards and gardens, including sod and a small number of incidental rocks not over two (2) inches in diameter; and biodegradable waste approved for the Yard Waste programs by the City. Yard Waste does not include loose soils; plastics and synthetic fibers; lumber; any wood or tree limbs over four (4) inches in diameter; human or animal excrement; noxious weeds and soil contaminated with hazardous substances.

Section 25. City Responsibilities.

The City shall be responsible for:

- 1) Establishing service levels and Rates to be charged customers;
- 2) Directing all collected Garbage, Compostables and Recyclables to Public or Private Transfer Stations in accordance with the terms of this Contract;
- 3) Paying all transfer fees for Garbage, Compostables and Recyclables delivered by Contractor to the specified Public or Private Transfer Station;
- 4) Assuming bad debts of customers related to billings for City collection services;
- 5) Paying compensation to the Contractor for its services pursuant to this Contract;
- 6) Paying and remitting applicable taxes which are imposed by a taxing authority directly on Commercial Garbage customers to the proper taxing authority;
- 7) Paying and remitting applicable taxes which are imposed for waste transfer for any Garbage collected and tipped under this Contract by the Contractor;
- 8) Inspecting Contractor performance, mediating and adjusting customer grievances. The City may require special and other services as contemplated in this Contract;
- 9) Evaluating performance and adjusting payment for performance incentives and fees, as per Sections 830, 840, 850 and 1050; and,
- 10) Specifying each Residential customer’s level and type of collection service.

Section 30. City Representations and Warranties.

The City represents and warrants to the Contractor as follows:

- 1) Organization and Qualification. The City is a municipal corporation and has all requisite corporate power and authority to enter into and to perform its

obligations under this Contract.

2) Authority.

a) The City has the authority to execute this Contract, to make the representations and warranties set forth in it and to perform the obligations of the City under this Contract in accordance with its terms.

b) This Contract has been validly executed and constitutes a valid and legally binding and enforceable obligation of the City.

Section 35. Contractor Responsibilities.

The Contractor shall be responsible for:

- 1) Furnishing all skill, labor, equipment, materials, supplies and utility services required for providing all services in accordance with this Contract;
- 2) All actions and activities of its subcontractors;
- 3) Supplying all records and information required by this Contract;
- 4) Performing all work in a timely, thorough and professional manner;
- 5) Securing at Contractor's expense all governmental permits and licenses and required regulatory approvals (including those required by City ordinance);
- 6) Delivering all collected Garbage, Compostables and Recyclables to a Public or Private Transfer Station as directed by the City in accordance with this Contract;
- 7) Assisting Commercial Business customers with service issues;
- 8) Billing Commercial Business customers for City collection services in accordance with Rates and procedures established by the City;
- 9) Acting as agent for the City for taxes imposed on Commercial Garbage customers, and on rental, collection, and A&E Services, by billing for Rates established by the City, which include taxes, and by forwarding those payments, including taxes, to the City for payment by the City of taxes to the appropriate taxing authority;
- 10) In addition to paying appropriate taxes on services not compensated by the City, remitting B&O taxes levied against the Contractor, on the basis of compensation paid to the Contractor by the City, to the appropriate taxing authority;

- 11) Transferring customer payments for City collection services (including container rental, collection, A&E Services and disposal payments, and taxes thereon) to the City in accordance with this Contract;
- 12) Complying with all applicable laws and regulations; and
- 13) All wage increases for Contractor's collectors or other employees, any benefits or added costs resulting from changes in technology, laws and regulations, labor practices, availability of equipment, and other business risks that may affect the performance of this Contract, except as otherwise provided in this Contract.

Section 40. Contractor Representations and Warranties.

The Contractor represents and warrants to the City as follows:

- 1) Organization and Qualification. The Contractor is duly incorporated, validly existing and in good standing under the laws of the state of Washington, and has all requisite corporate power and authority to enter into and to perform its obligations under this Contract.
- 2) Authority.
 - a) The Contractor has the authority to execute this Contract, to make the representations and warranties set forth in it and to perform the obligations of Contractor under this Contract in accordance with its terms.
 - b) This Contract has been validly executed by an authorized representative of the Contractor and constitutes a valid and legally binding and enforceable obligation of Contractor.
- 3) Government Authorizations and Consents. The Contractor has or will obtain prior to the commencement date such licenses, permits and other authorizations from federal, state and other governmental authorities, as are necessary for the performance of its obligations under this Contract.
- 4) Compliance With Laws. The Contractor is not in violation of any applicable law, ordinance or regulation the consequence of which will or may materially affect Contractor's ability to perform its obligations under this Contract. The Contractor is not subject to any order or judgment of any court, tribunal or governmental agency which materially and adversely affects its operations or assets in the state of Washington, or its ability to perform its obligations under this Contract.
- 5) Accuracy of Information. None of the representations or warranties in this Contract, and none of the documents, statements, certificates or schedules furnished or to be furnished by Contractor pursuant hereto or in connection

with the performance of the obligations contemplated under this Contract, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements of fact contained therein not misleading.

- 6) Independent Examination. In accepting these responsibilities, the Contractor represents and affirms that it has made its own examination of all conditions, facilities and properties affecting the performance of this Contract and of the quantity and expense of labor, equipment, material needed, and of applicable taxes, permits, and laws. The Contractor affirms that within the Collection Area it is aware of the present placement of collection Containers for Garbage, Compostables and Recyclables. The Contractor represents and warrants that it is capable of continuing to collect these Containers from their present locations.

Section 45. OSHA/WISHA, Health and Environmental Laws.

The Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder.

The Contractor is also responsible for meeting all pertinent local, state and federal health and environmental laws, regulations, and standards applying to collection of Garbage, Compostables, and Recyclables.

Section 50. Vehicles Used in Collection.

All vehicles used for collection shall be registered with the State of Washington Department of Motor Vehicles, and shall be kept in a clean and sanitary condition and a state of good appearance and repair, and shall be painted in a uniform manner.

Collection vehicles shall be painted in Contractor's color or colors subject to approval by the City, and shall have painted in a contrasting color, at least four inches high, on each side of each vehicle and on the rear of the vehicle, a four digit vehicle number. Collection trucks shall be numbered consecutively. No advertising shall be permitted other than the name of the Contractor. The Contractor shall place a Contractor supplied sign, which will include a City customer service telephone number, on all collection trucks used predominately for residential collections. All collection trucks used predominately for commercial collection shall display a Contractor customer service telephone number. All vehicles shall be kept in a clean and sanitary condition, and shall be thoroughly washed at least once each week.

The number of collection vehicles (including spares) shall be sufficient to service all Residential Structures and Commercial Establishments at the frequency of collection specified.

All vehicles used by management personnel, including route supervisors, shall be equipped with cell phones with voice mail so that they can be contacted by the City.

All such vehicles shall be operated in conformity with Washington State traffic laws and where applicable the Seattle Traffic Code, SMC Title 11.

The Contractor's collection vehicles shall be used only on this Contract. The Contractor may use collection vehicles from other sources, or use Contract vehicles for other operations only with the prior approval of the City. Such City approval shall not be unreasonably withheld.

The Contractor (and subcontractors) shall not park or store any collection vehicles on City property for more than a two-hour period, regardless of the signage, without the permission of the City.

Section 55. Vehicle Specifications.

At the start of this Contract, all primary vehicles used in collection shall have emissions that are no greater than 2007 federal diesel engine requirements, or that operate on Compressed Natural Gas (CNG). By March 31, 2011, 65% of all primary collection vehicles shall have emissions that are no greater than 2010 federal CNG emission requirements. All other vehicles shall have emissions no greater than 2007 federal diesel engine requirements. All collection equipment used under this Contract shall meet all applicable state and federal safety standards and Contractor shall obtain all required operating permits.

All collection trucks used on this Contract shall meet existing street weight limits in the City. The Contractor shall not exceed any collection truck weight limit at any time. The Contractor shall equip all collection trucks with on-board scales to ensure that no truck exceeds weight limits. The Contractor's monthly report, Section 710, shall include the date, time, truck number, total weight and weight exceeding weight limits for any overweight truck.

All collection trucks shall use at least 20% biodiesel (B20) or operate on CNG unless otherwise authorized by the City. If the per-gallon price of B20 is more than 15% above the cost for straight diesel fuel, the Contractor shall notify the City and may reduce the percentage of biodiesel used in the fuel blend to maintain costs at the 15% cost threshold. Alternatively, the City may elect to reimburse the Contractor for the portion of fuel cost above the 15% cost threshold to maintain the use of B20.

All collection vehicles shall be equipped with ambient noise back-up alarms, GPS locating units, automatic shutdown after 5 minutes idle, at-idle compaction, non-petroleum based hydraulic fluids, telma brake retarders and silent compression and transmission mounted hydraulic pumps. All collection vehicles shall be equipped with digital cameras so that upon a specific request from the City, collection personnel can record collection at a particular location. Collection trucks for Commercial Garbage collection shall be equipped with frontload arm brakes

The City shall have the option to require the Contractor to equip up to two collection trucks with digital based scales to allow for data collection and research on weight based rates.

The City will specify the type of scale or weighing system which the Contractor will acquire and install. The Contractor shall supply the necessary staff, including administrative support, to collect, analyze and transmit collected data to the City.

Section 60. Ownership of Equipment.

All vehicles, facilities, equipment, and property used in the performance of this Contract shall be wholly owned by the Contractor; provided, that leases, conditional sale contracts, mortgages, or other agreements for the use or financing the purchase of vehicles, facilities, equipment and property may be allowed with the prior written approval of the City. The City's approval shall not be unreasonably withheld.

All such leases, conditional sale contracts, mortgages, or other agreements shall provide that in the event of the Contractor's failure to perform its obligations under this Contract, the City, at its option, shall have the right to take possession of and operate vehicles, facilities, equipment, and property covered by such lease or agreement for the unexpired term of this Contract. No further encumbrance shall be placed upon any such vehicles, facilities, or equipment without the prior written approval of the City.

Section 65. Vehicle Maintenance and Inventory.

The Contractor shall provide to the City, by March 1, 2009, a complete inventory showing each vehicle (type, capacity) used for performing the Contract. The Contractor may change equipment from time-to-time but shall notify the City of new or temporary replacements prior to their use on this Contract. The Contractor shall maintain a vehicular fleet during the performance of this Contract at least equal to that described in the inventory.

Section 70. Traffic Laws; Noise Control.

All vehicles shall be operated in conformity with the Seattle Traffic Code, SMC Chapter 11. The maximum noise level of motor vehicles during travel shall not exceed the levels set forth in SMC 25.08.430. The maximum noise level while collecting or compacting Garbage, Compostables, and/or Recyclables shall not exceed the levels set forth in SMC 25.08.410.

Section 75. Control of Waste.

Pursuant to its authority under Washington State law, the City by this Contract authorizes the Contractor to act as its agent for the collection and delivery of Garbage, Compostables, and Recyclables from Residential Structures and Commercial Establishments in the City to Disposal Facilities as directed by the City. The City's rights of ownership and control over the Garbage, Compostables and Recyclables collected under this Contract vest upon the collection of the Garbage, Compostables and Recyclables; provided, however, that the original owner has the right of recovery to any valuable items inadvertently discarded that can be reasonably retrieved prior to final disposal.

Section 80. Excluded Services.

This Contract does not include collection or disposal of Special Waste, Unacceptable Waste or CDL Waste (with the exception of small amounts of CDL Waste collected in Carts or Detachable Containers as directed by the City).

This Contract does not necessarily include service to federal facilities, the Seattle Housing Authority, the Seattle School District or the University of Washington. These entities, however, may elect, at any time during the term of this Contract, to receive collection services from the City under this Contract and the Contractor agrees that upon request by the City, those collection services shall be governed by this Contract as long as such request remains in effect. However, if the University of Washington elects to receive collection services from the City, the Contractor and the City shall negotiate the Contractor payment terms for such service.

The Contractor shall be free to solicit and contract for collection services to such excluded facilities independent of this Contract as long as they are not being served under this Contract.

Section 85. Contractor's Office.

The Contractor shall maintain within King County an office with local telephone service and such staff as needed to take care of complaints, requests for missed collections, and other coordination with City staff. Phone service shall include multiple lines and voice mail. All management and office staff, collection supervisors and foreman shall have email addresses and accessibility to City staff. Management personnel and supervisors shall have cell phones and be available during work hours. Any voice mail message to the designated office number shall be returned by the Contractor's office staff, management and/or supervisors within sixty (60) minutes. Office hours shall be 8:00 a.m. to 5:00 p.m., Monday through Friday.

B. COLLECTION SERVICES

Section 100. Collection Area.

The Contractor shall provide all collection services called for in this Contract within the following area:

The northern boundary shall be the north city limits of the City of Seattle. The southern boundary shall be, from west to east, South Yesler Street to Interstate 5, South on Interstate 5 to Interstate 90, Interstate 90 to Lake Washington. The western boundary shall be, from south to north, Puget Sound from South Yesler Street to Salmon Bay, east from Salmon Bay along the Lake Washington Ship Canal and Lake Union to Interstate 5, north on Interstate 5 to the north city limits of the City of Seattle. The eastern boundary shall be Lake Washington.

The Contractor is prohibited from providing MSW collection and consolidation services outside of the Collection Area within the City of Seattle without the expressed permission of the City, however the Contractor is allowed to collect Compostables from Detachable or Drop Box Containers located at Commercial Establishments in both the Collection Area and the Secondary Collection Area.

Section 105. Scheduling of Collection.

For collection of Residential Garbage, Compostables and Recycling from Cans, the Contractor shall divide the Collection Area into five collection sectors, with one sector to be collected Monday through Friday (saturation routing). The five collection sectors shall be bounded by natural boundaries, such as bodies of water, major highways or arterials. Collections shall be made on a regular schedule on the same day and approximately the same time on each collection day.

Within the Collection Area, all materials in Cans shall be collected from the same Residential Structure on the same day of the week. Garbage and Compostables shall be collected weekly and Recyclables will be collected every other week.

For collection of Garbage, Compostables and Recyclables from Detachable Containers or Drop Boxes, the Contractor shall divide the Contract Area into sectors or routes in a manner that spreads collection over the work week. Collections shall be made from Containers on a regular schedule on the same days of the week each week or month and approximately the same time on each collection day according to the frequency determined by the Contractor and the customer as necessary for each location.

On a case by case basis the Contractor shall be required to provide a Detachable Container customer with a two hour collection day "window" to enable the customer to ensure that the Container is available for collection. Collection attempts outside of the "window" would be considered a collection miss per Section 175.

The Contractor shall supply the City with a map of the Collection Area showing the day of the week Residential Garbage, Compostables and Recyclables will be collected in Cans from each sector. This map shall be generated electronically and shall also include route boundaries, route numbers and the truck number for the truck which will normally collect the route.

The Contractor shall provide the City a listing, in electronic data format, of Residential Structures and Commercial Establishments receiving Garbage, Compostables, and Recyclable collection from Detachable Containers and/or Drop Boxes.

At least one month prior to the first collection under this Contract, the Contractor will notify all customers by direct mail to the service address of any collection day changes from the present contract.

Beginning October 1, 2009, the Contractor may change the day(s) of collection by giving notice to the City at least forty-five (45) calendar days, and affected customers at least fourteen (14) calendar days, prior to the effective date of such change. The Contractor shall provide the City with an electronic listing, and a revised map of the changes at least twenty-one (21) calendar days prior to the effective date of the change. The form of notice to the customer shall be subject to the approval of the City.

Section 110. Garbage Collection.

Collection of Garbage from Residential Structures using Garbage Cans shall be weekly; provided the City may require the Contractor to schedule multiple collections each week at certain multi-family Residential Structures receiving Can service. This multiple service will be limited to no more than twenty-five (25) Residential Structures. In addition, the City may allow Residential Structures to receive biweekly service. The Contractor shall note any such biweekly service accounts and only collect Garbage from these Residential accounts every other week. The Contractor shall assign the collection week for any biweekly accounts.

The City retains an option for every other week collection of Garbage from Residential Structures using Garbage Cans beginning April 1, 2011, or April 1, 2013 by giving the Contractor notice of such change by July 1, 2010 or July 1, 2012 respectively.

Every other week collection of Garbage from Residential Structures may include a customer option for premium weekly collection at an additional customer charge. In such an event, the Contractor shall provide weekly collection of Garbage to these Residential Structures. The City will pay the Contractor the unit fees in Attachment 4 for these weekly collection services.

Collection of Garbage from Garbage Cans, bags, Detachable Containers and Drop Boxes shall be at a frequency as directed by the City and/or the customer (up to three times per day for bag and Drop Box service).

Garbage collection may include collection of CDL from Carts and Detachable Containers as directed by the City.

The Contractor agrees that the City has supplied electronic information regarding Residential Structures and Commercial Establishments receiving Can and Detachable Container service, the number and size of the Containers and the collection frequency.

The Contractor is not responsible for collecting micro cans weighing in excess of 20 pounds, mini cans in excess of 30 pounds, 32 gallon cans in excess of 60 pounds, 64 gallon carts in excess of 120 pounds, 96 gallon carts in excess of 180 pounds, or extra bundles weighing in excess of 60 pounds. The Contractor shall collect Garbage Containers that are placed in accordance with Sections 135, 140 and 145 of this Contract. It shall be the Contractor's responsibility to give notice to City staff, within two hours of collection, if it believes Garbage at Residential Structures is not prepared and/or located per this Section. However, the City shall be the sole and final judge as to such conditions and locations.

The Contractor shall not collect Garbage from Garbage Containers that contain Recyclables or Yard Waste. If material is left uncollected, the Contractor will document the miss with a digital image, leave a tag or notice informing the customer why the Garbage was not collected. Within two hours of the collection attempt, the Contractor shall transmit to the City, per the Exception List, Section 175, the address and account number of each such location. The Operations Plan contains a description of the type and amount of

Recyclables and Yard Waste which must be present in the Garbage to warrant non-collection. The City reserves the right to ban Food Waste from Garbage collection by giving the Contractor six (6) months notice of this change.

The City retains an option to direct the Contractor to collect Garbage from the Ballard, Fremont, University District, Pioneer Square/International District, West Seattle Junction and Columbia City business districts if the City prohibits Containers in the public right of way. The Operations plan shall include the boundaries of the above business districts.

Section 115. Compostables Collection.

Compostables shall be collected weekly from Residential Structures and Commercial Establishments with Residential Compostables Can service. Compensation for Compostables Can collection is per Section 800 (2).

The City retains an option for every other week collection of Compostables in Cans beginning April 1, 2011, or April 1, 2013 by giving the Contractor notice of such change by July 1, 2010 or July 1, 2012 respectively.

Every other week collection of Compostables may include a customer option for premium weekly collection at an additional customer charge. In such an event, the Contractor shall provide weekly collection to these customers.

Compostable Detachable Container and Drop Box service shall be collected as frequently as necessary from Commercial Establishments and Residential Structures with commercial Compostable service. Such collections shall be performed in both the Collection Area and the Secondary Collection Area. Compensation for Compostable Detachable Container and Drop Box service is per Section 800 (5).

The Contractor shall collect the following material as Compostables: plant material (leaves, grass clippings, branches, brush, flowers, roots, wood waste, etc.); debris commonly thrown away in the course of maintaining yards and gardens, including sod; Food Waste and biodegradable waste as approved by the parties. Food Waste must be contained in Containers. The Contractor shall not collect as Yard Waste loose soils, Garbage; plastics or synthetic fibers; lumber; any wood or tree limbs over four (4) inches in diameter or four (4) feet in length; human or animal excrement; or soil contaminated with hazardous substances. Christmas trees will be eligible for collection as Compostables provided they have been cut so that the branching spread is no more than four feet across and pieces of trunk are no more than six feet in length. The Contractor and the City may by mutual agreement establish other reasonable specifications regulating the size, quality, configuration and placement of Compostables eligible for collection.

The Contractor agrees that the City has supplied electronic information regarding Residential Structures and Commercial Establishments receiving Compostables collection service, the number and size of the Containers and the collection frequency.

The Contractor shall collect from subscribers Compostables which have been placed in Cans or which have been boxed, bundled or placed in a kraft paper bag not exceeding 32

gallons in capacity. Bundles shall not exceed four (4) feet in length and two (2) feet in diameter. The Contractor is not required to collect Cans or bundles of Compostables that exceed sixty (60) pounds. Subscribers retain the option to pay for more than one subscription per account.

The Contractor shall not collect Compostables that that have been placed in plastic bags (with the exception of reusable polypropylene plastic bags as noted below). The City has the option to direct the Contractor to collect Compostables that are in City or customer provided biodegradable plastic bags. The City also has the option to direct the Contractor to collect Compostables from Commercial customers that are in plastic bags. During collection the Contractor shall replace, as needed, any City provided compostable bag liners contained in multifamily cans.

The Contractor shall exercise good faith to ensure that non Compostable material is not placed in the collection truck. However, both parties recognize that non Compostables material may be inadvertently collected due to customer confusion or customer misuse.

The Contractor shall empty reusable polypropylene plastic bags of 32 gallons or less. These bags shall be equipped with a snap closure for the opening, handles on the top and bottom to assist in dumping, it shall be weighted on the lower side to prevent them from blowing away, and shall weigh no more than sixty (60) pounds when placed for collection. The bags will be filled only with leaves, weeds or grass. The Contractor shall return the bags to their original location after emptying.

The Contractor shall not collect as Compostables unsegregated Garbage, or Compostables that is contaminated by fecal matter, hazardous substances or other ineligible material.

The Contractor shall collect Compostables Containers that are placed in accordance with Sections 135, 140 and 145 of this Contract. It shall be the Contractor's responsibility to give notice to City staff, within two hours of collection, if it believes Compostables at Residential Structures is not prepared and/or located per this Section. However, the City shall be the sole and final judge as to such conditions and locations.

If material is left uncollected, the Contractor will document any contaminated material with a digital image and leave an explanation along with a brochure, to help the customer correct the problem and avoid it in the future.

The City retains an option to direct the Contractor to stop collecting Compostables from Detachable or Drop Box Containers by giving the Contractor three (3) months advance notice.

Section 120. Recycling Collection.

The Contractor shall collect Recyclables from Residential Structures and Commercial Establishments within the Collection Area.

The Contractor shall collect Recyclables every other week from Commercial Establishments and most Residential Structures receiving Cart Recyclables collection services. However, Residential Structures receiving Apartment Recycling collection services shall be collected at a frequency as determined by the customer or the City, but not less frequently than monthly. The City could increase the collection frequency of Apartment Recycling collection customers if such an increase would result in increased diversion. The Contractor agrees that the City has supplied electronic information regarding Residential Structures and Commercial Establishments receiving Recycling collection services, the number and size of the Containers and the collection frequency.

The Contractor shall collect Recyclable Containers that are placed in accordance with Sections 135, 140 and 145 of this Contract. It shall be the Contractor's responsibility to give notice to City staff, within two hours of collection, if it believes Recyclables at Residential Structures or Business Establishments is not prepared and/or located per this Section. However, the City shall be the sole and final judge as to such conditions and locations.

If material is left uncollected, the Contractor will leave an explanation along with a brochure, to help the customer correct the problem and avoid it in the future.

The City retains an option to direct the Contractor to collect Recyclables from the Ballard, Fremont, University District, Pioneer Square/International District, West Seattle Junction and Columbia City business districts if the City prohibits Containers in the public right of way. The Operations plan shall include the boundaries of the above business districts.

Section 123. Prepaid Bag Collection.

The Contractor shall provide prepaid bag service to customers who request such service in business districts located in the Collection Area. Bags shall be color coded and shall be provided to customers for Garbage, Compostables and Residential Recyclables.

The Contractor shall be responsible for printing, and distributing any pre-paid bags, as well as charging and collecting revenue from customers for use of the bags.

The Contractor shall provide multiple daily collections for bag service (up to three times per day per individual address). The Contractor shall provide customers a collection time schedule and shall collect bags within a three-hour window of that schedule. Any collections not made within the three hour window shall be considered a miss under Section 175.

The City retains an option to ban Garbage, Compostable and Recyclable Containers from the public right of way in business districts within the Collection Area. The Contractor shall clean any affected alleys once per year at no cost to the City. Any additional cleanings will be paid at the hourly alley cleaning rate listed in Attachment 4.

The Contractor will report to the City illegal dumping observed in areas that are provided with prepaid bag service.

Section 125. Street Side Litter and Public Place Recycling Collection.

The Contractor shall collect any City-owned and maintained Street Side Litter and Public Place Recycling Containers located in the Contractor's Collection Area. The collection frequency of these Containers varies from daily to every other week. The Contractor agrees that the City has supplied electronic information regarding the location, number of Containers at each location and the collection frequency of Street Side Litter and Public Place Recycling Collection Containers located in the Contractor's Collection Area. The City may add or delete collections or locations for these Containers. The City will give the Contractor five (5) business days notification for the Contractor to deliver, replace, or pick-up such Containers, or to increase or decrease the regular collection frequency.

The Contractor shall deliver and service additional temporary Street Side Litter and/or Public Place Recycling Containers for public festivals and events as requested by the City. The Contractor will be paid the unit fees listed in Attachment 4 for delivering and servicing these Containers.

During collections the Contractor shall open the container, empty and replace the liner, replace the lid, and clean up any litter that is located around or under the Container, or that is caught between the can and the liner.

The City shall have the option to exclude any Recyclable Material (such as glass) from collection from Public Place Recycling Containers. Collected Recyclable Material shall be delivered to the processing facility located at 3rd Avenue South and South Lander Street between the hours of 7:00 am and 7:00 pm.

The Contractor shall inform the City, on a daily basis, of damaged or missing Containers, or Containers that are being used for Garbage disposal rather than litter disposal. Information shall include missing lids and/or liners, and broken or missing cables.

The City will be responsible for major repair and maintenance (including repainting) of all Street Side Litter Collection and Public Place Recycling Containers, with the exception of Containers damaged through the negligence of the Contractor. The City may elect to (1) have the Contractor perform the repair and maintenance at the City's expense (per the Contractor's shop rate in Attachment 4, except in cases of Contractor negligence), (2) perform the work with City forces, (3) contract with another firm for the repair and maintenance, or (4) perform any combination of (1), (2) or (3).

The Contractor shall be responsible for picking up any Containers in need of repair (for whatever reason) and delivering replacement Containers within five (5) business days of notification by the City. If the City elects to repair Containers, or contracts with another firm for Container repair, Containers requiring repair or maintenance will be picked up from the Contractor's service yard. Repaired or reconditioned Containers will be delivered to the Contractor's service yard. The City may also order the Contractor to make repairs in the field, or the Contractor may elect to repair containers in the field, rather than picking up and delivering them to their service yard.

The Contractor shall replace or repair all Containers damaged due to the Contractor's negligence. The Contractor and the City shall attempt to jointly determine the cause of any Container damage. However, the decision of the City concerning Contractor's negligence shall be final and binding. Any charges for Container repair or replacement due to Contractor negligence shall be deducted from the Contractor's monthly payment.

Street Side Litter and Public Place Recycling Containers shall be thoroughly cleaned inside and out at least once each year or as directed by the City. This annual cleaning shall include replacing the liner, lids, cables and labels.

The Contractor is responsible for removing graffiti, stickers, posters, or other unauthorized material from Street Side Litter and Public Place Recycling Containers on an on-going basis. Collection drivers shall regularly note Containers containing graffiti, stickers, posters and other material. Contractor personnel shall then remove such material. The Contractor shall remove any graffiti, stickers, posters, or other unauthorized material reported by the City within five (5) business days of notification.

Any Public Place Recycling Containers that are contaminated with unacceptable material shall be collected and billed as Street Side Litter Collection.

The Contractor shall be prohibited from disposing of any Recyclables collected under this Contract or marketing materials to a processor that the Contractor knows will be disposed of. Violation of this Contract provision may be cause for termination.

The Contractor shall provide the City on a monthly basis, per Section 710, the location and number of the collections of Street Side Litter and Public Place Recycling Containers as well as the number, location and date of any Public Place Recycling Containers collected as Street Side Litter Collection Containers.

Section 130. Bulky Item, Loose Item and White Good Collection.

The Contractor shall provide separate collection of bulky items, *loose items* and white goods on a call-in basis. The Contractor will be paid the prices in Attachment 4 for each bulky item, yard of loose items and each white good collected. The Contractor shall provide the separate collection on the customers' garbage collection day within six (6) working days of City notification. Bulky items, loose items and white goods shall be collected from private property. They shall not be placed for collection on the curb/alley or on any street right of way or public place. The Contractor shall not be responsible for the collection of any material improperly placed for collection.

Bulky items and loose items may be disposed at a City recycling and disposal station at no charge. White goods shall be delivered to a City recycling and disposal station, or delivered directly to the City's white goods contractor, as directed by the City.

"White Goods" shall include all major appliances, such as washers, dryers, refrigerators, freezers, stoves, dishwashers and trash compactors and other items as agreed by the parties. "Bulky Items" shall include such items as chairs, tables, console television sets, couches, mattresses, cabinets and dressers, and other items as agreed by the parties.

"Loose Items" shall include lumber, wallboard, tile, and other non-putrescible material not contained in a bag, Can or Cart.

Section 135. Place of Collection -- Can Service.

Unless the customer has elected backyard Garbage collection, or qualifies under the City's disabled allowance for backyard Garbage, Compostables or Recyclables collection, collections from Residential Structures shall be made at the curbside or alley, as determined by the City, with the exception of Cans used for Apartment Recycling. Subject to special arrangements made by mutual agreement between the Contractor and the City on a case-by-case basis to accommodate extraordinary situations, Residential Structures on the same side of the street on the same block shall place all Containers on the curbside or all on the alley. However, if a particular property does not abut the alley or have alley access, Container placement shall be at the curb. The Contractor shall collect collection Containers placed as follows:

- 1) From properties with level planting strips, in the planting strip or driveway within eight (8) feet of the curb;
- 2) From properties with alleys of sufficient width, in the alley or within four (4) feet of the alley gate if the gate is within four (4) feet of the alley;
- 3) From properties with sidewalks but not planting strips, on the owner's property, within eight (8) feet of the sidewalk, if level;
- 4) When the foregoing location slopes at a grade making placement of a Container difficult, the nearest reasonable level area; and
- 5) If the Residential Structure has no sidewalk or planting strip, dense shrubbery or extraordinary circumstances preclude such a location, from a placement suitable to the customer and convenient to the Contractor's equipment.

Can collections from Commercial Establishments shall be made from locations that are convenient for the customer and the Contractor.

Any disagreements over correct placement of Containers for collection will be determined by the City. The City's decision shall be final and binding.

After collection, the Contractor shall return the Container(s) in a neat and orderly manner to their original curbside, alley, or backyard location.

Section 140. Backyard Can Service Option.

The Contractor shall provide backyard collection service to Residential Structure customers who pay an additional amount for backyard Garbage service and for those Residential Structure customers who the City qualifies to receive backyard Garbage, Recyclable and Compostables service due to disability. The City will identify Residential Structures that are to receive backyard service, and shall further identify Residential

Structures that receive backyard service due to customer's disability or handicap, and shall so notify the Contractor.

The Contractor shall collect materials from a backyard customer when the materials are in a location convenient for the customer and accessible by the Contractor. The Contractor shall supply Containers for Garbage, Recyclables and Compostables to those customers qualifying for backyard Garbage, Recyclable and Compostables collection, and supply Containers to those backyard Garbage customers who request them.

After emptying the Container the Contractor shall replace the lid and return the Container to its former location without damage.

The Contractor shall supply to route collection personnel addresses and photos of backyard collection locations. This information shall be included in route books.

Section 145. Place of Collection -- Detachable Containers and Drop Boxes.

The Contractor shall collect Garbage and/or Recyclables from Residential Structures and Garbage and/or Compostables from Commercial Establishments receiving Detachable Container, Drop Box and Apartment Recycling service as follows:

- 1) Existing Detachable Containers, Drop Boxes and Carts used in Apartment Recycling shall continue to be collected from their existing locations, unless the customer would like them relocated to an alternate location. In such cases the Contractor and customer will attempt to reach agreement on a new location. If agreement cannot be reached, the City will meet with both the Contractor and customer and the City will decide the new location;
- 2) Any new Detachable Container, Drop Box or Apartment Recycling Cart placements shall be located at the Residential Structure or Commercial Establishment in a manner satisfactory to the customer and for collection by the Contractor and shall meet the provisions of the Seattle Fire Code. Any disagreements over Container placement and collection shall be mediated by the City. The City's decision shall be final and binding;
- 3) The Contractor is required to provide collection service from locked buildings when so requested by the customer. For entry into such a locked building the customer shall provide the Contractor with a key, keypad, or key box. The Contractor shall securely store entry keys and safeguard any keypad information;
- 4) During the term of this Contract the City may elect to not allow Detachable Containers or Drop Boxes to be located in the public right of way in some or all business districts; and
- 5) The Contractor agrees that the City has supplied electronic information regarding the Residential Structures and Commercial Establishments receiving Detachable Container, Drop Box and Apartment Recycling

collection services, the number, size and location of the Containers and the collection frequency.

Section 147. Alley Cleaning Services.

The City retains an option for the Contractor to provide the following enhanced alley services within business districts in the Collection Area:

- 1) Alleys washed and deodorized as needed;
- 2) Removal of graffiti from alley walls up to 8 feet high proactively and within 48 hours of any report or service order;
- 3) Collection of used cooking oil;
- 4) On-call response to cleaning issues and bio-hazards in alleys (waste, vomit, blood, etc.) within 2 hours of report or service order, 24 hours per day, 7 days per week; and,
- 5) Clean-up and removal of illegal dumping within 24 hours of report or service order.

The Operations Plan contains details for the implementation and operation of this specification.

These services may be added at no charge to the customer or the City in the University and Broadway business districts (district boundaries determined in 2007). The Contractor will be compensated per the amount listed for Alley Cleaning Services in Section 800 for all cleaning services in Capital Hill, the Central Business District, University District, South Lake Union, and the Lower Queen Anne business districts.

Section 150. Collection of Excess Garbage and Excess Compostables.

The Contractor shall collect Garbage and Compostables in excess of the base service level. For collection of such excess Garbage and Compostables, the Contractor shall record the address of the location and the number of excess units collected.

For excess Garbage and Compostables collected from Commercial Establishments, the Contractor shall record the excess material collected and bill the customer for such excess collected.

Excess Garbage and Compostables may be in either an additional Can, bag or a bundle which does not exceed 32 gallons in capacity and sixty (60) pounds. Each individual bag or bundle of excess Garbage or Compostables or additional Can shall be considered an excess unit. Garbage or Compostables piled above the rim of the Can, Detachable Container, or Drop Box is excess Garbage or Compostables.

The Contractor will only upload Residential Structure addresses that are matched to an account number. Addresses that do not match to an account number will be transmitted to

the City in a separate file for research. When the City has determined the correct account number for the particular service address, the City will transmit the account number to the Contractor to be used for subsequent extra Garbage collection transactions.

If an individual customer continuously disputes excess unit charges, the City has the option of transmitting that customer address to the Contractor and telling the Contractor to not collect excess units from that particular address. The customer will be informed that in the future no excess Garbage and/or Compostables will be collected. However, this option will not be extended to absentee bill-payers for their tenants. All excess units placed out by tenants shall be collected and recorded as excess units and uploaded to the City. The City shall have the option to require the Contractor to photo document excess collections at accounts that have repeated concerns.

While collecting excess Garbage or Compostables from Residential Structures, if an address is not visible, and there is no address sticker on the Can, the Contractor will leave the excess Garbage or Compostables, leave a City designed and printed tag explaining why the excess was not collected, and transmit this information via the "exception list" to the City within 2 hours of the collection attempt. Prior to or during the next collection, the Contractor shall place a correct address on the Can.

While performing regular collections from Detachable Containers, the Contractor shall collect any excess Garbage that is piled above the rim of the Container, on top of the Container lid, or on the ground beside the Container. Excess Garbage must be prepared in accordance with SMC 21.36.010. The Contractor shall record the address of the Container location and an estimate of the amount of excess Garbage collected in quarter yard increments.

If a Detachable Container customer requests that excess Garbage not be collected from their location, the City has the option of transmitting that customer address to the Contractor and informing the Contractor to not collect any excess Garbage on top of the Container lid or on the ground beside the Container. Excess Garbage piled above the rim of the Container, or blocking the collection of the Container, will be collected and recorded as excess Garbage by the Contractor. The customer will be informed that in the future they will need to order a "paid special" per Section 360 to have any excess Garbage collected.

The City has the option of sending the customer "excess Garbage tags or bags", as described in the Operations Plan. The Contractor shall collect any such excess Garbage that has a tag or is bagged, and will not record such material as excess.

The Operations Plan contains the specifications for the amount of Garbage or Compostables which can be above the rim of the Can, Detachable Container, or Drop Box for the Contractor to record excess Garbage or Compostables. The Operations Plan also contains a description of ongoing training between Contractor and City staff to enable Contractor staff to better identify and record extra Garbage and Compostables, City monitoring protocols, as well as the appeal procedures for this activity.

The City will randomly monitor routes, or portions of routes, on a regular basis. Any addresses that are observed with excess Garbage or Compostables will be photographed and the address noted. Each month, all addresses observed by the City with excess Garbage or Compostables will be compared with the addresses reported by the Contractor as having excess Garbage and Compostables, as well as any “exceptions” noted by the Contractor for City observed addresses.

Section 155. Time of Collection.

The Contractor is authorized to collect Cans, Detachable Containers and Drop Boxes in residential districts between 7:00 a.m. and 5:00 p.m., Monday through Saturday. The Contractor is authorized to collect Cans, Detachable Containers and Drop Boxes from both sides of parallel streets or alleys bordering commercial and industrial districts between 7:00 a.m. and 10:00 p.m., Monday through Saturday. The Contractor is authorized to collect Cans, bags, Detachable Containers, and Drop Boxes located in commercial and industrial districts, as defined in SMC 25.08.100 (C) and (D), 24 hours per day. The Contractor may request a temporary extension of hours. Such authorization shall not be unreasonably withheld.

Section 160. Holiday Collections.

The Contractor shall provide collection services on all legal holidays except Thanksgiving Day, Christmas Day and New Year’s Day, with the exception of those accounts receiving bag collection service. Material regularly scheduled to be collected Thanksgiving Day shall be collected on Friday, the day after Thanksgiving. Friday’s material shall be collected on Saturday. If Christmas Day or New Year’s Day falls on a regularly scheduled workday, collections will be delayed one day and Friday’s material shall be collected on Saturday. Bag service accounts must be collected as scheduled with no delayed collections due to Thanksgiving Day, Christmas Day or New Year’s Day, unless the customer agrees to a delayed collection.

Section 165. Service Disruptions Due to Weather.

When snow or ice or other weather conditions prevents collection on the scheduled day, the Contractor shall make collection on the next day. If such conditions continue for a second consecutive day or more, the Contractor shall, on the first day that regular service to a customer resumes, collect all the materials that the customer places out for collection. On the day that collections resume, the Contractor shall take bags, boxes and other secure material, and shall empty temporary receptacles that customers have used when the collection Cans and Containers have been filled. The Contractor is authorized to perform collection services after 5:00 pm during, or immediately after, disruptions due to weather in order to finish the collection routes.

The Contractor shall notify the City as soon as possible of any non-collection days due to snow or ice. The notification shall be made the previous day or by 6:00 a.m. of the collection day. The City will notify the media of such non-collection days.

The Contractor shall not be paid for non-collections due to snow or ice. The City shall deduct \$250 from the Contractor’s regular monthly payment for each individual collection route which is not 90% collected by the end of the day following the scheduled collection

day. The City has the option to require the Contractor to collect Recyclables the week following non-collection instead of deducting funds for non-collections.

Section 170. Service Disruptions -- Non Weather.

When closure of roadways providing access, blocked alleys or streets or other disruption beyond Contractor's control prevents timely collection on the scheduled day, the Contractor shall make collection either later on that collection day, or the next business day. The Contractor must provide all the collections required during the collection week. If all collections are not performed during the collection week, the City will adjust the Contractor's payment for such non-collection. The Contractor must notify the City, within 2 hours of the collection attempt, of any Residential Structure collections the Contractor has been unable to make under this Section.

The Contractor may directly contact City of Seattle Parking Enforcement to request assistance to clear streets or blocked alleys, notify them of illegally parked cars, or request other assistance.

When labor disruptions prevent collection on the scheduled day, the Contractor shall make collections on the next day. If such labor disruption continues for a second consecutive day or more, the Contractor shall resume collections on the customers' collection day the following week. On the day that collections resume, the Contractor shall take bags, boxes and other secure material, and shall empty temporary receptacles that customers have used when the collection Cans and Containers have been filled. The Contractor is authorized to perform collection services after 5:00 pm during, or immediately after, labor disruptions in order to finish the collection routes.

The Contractor shall not be paid for non-collections due to labor disruptions. The City shall deduct \$250 from the Contractor's regular monthly payment for each individual collection route which is not 90% collected by the end of the day following the scheduled collection day. The City has the option to require the Contractor to collect Compostables and Recyclables the week following non-collection instead of deducting funds for non-collections.

Section 175. Missed and Make-up Collections.

Should the Contractor fail to make collections on a scheduled day for causes within the Contractor's control, the Contractor shall make a special make-up collection by the end of the business day, if notification of the miss is received by 10:00 am that business day, or by the end of the business day following notification by the City, if the notification is received after 10:00 am. The City will transmit to the Contractor missed collections and other collection complaints no later than the second business day following collection for customers receiving curb/alley service. The City will transmit missed collections for backyard customers no later than the third business day following collection. A make-up collection shall pick up excess material accumulated during the interval between the scheduled collection day and the special make-up collection.

Solely for the purposes of Section 175, the "business day" for the Contractor includes Saturday. "Business days" for the City are Monday through Friday, excluding any City

holidays. Therefore, all miss complaints transmitted to the Contractor after 10:00 am on Friday must be collected by the end of the day Saturday.

Notwithstanding the foregoing, the City may require the Contractor to do the following:

- 1) Authorize the Contractor to defer the collection and authorize the customer to place a proportionally larger amount out for collection on the customer's next scheduled collection day without any additional charge, and to accommodate such a disposal, allow the customer to use a bag or temporary Container as well as additional bundles; or
- 2) Authorize the Contractor to forego collection for the interval altogether and make a compensatory reduction in the billing to the customer, and an equal reduction in the amount payable to the Contractor.

It shall be a defense to a Residential Structure missed collection that the customer had not made timely placement of his or her material out for collection; that the placement did not comply with provisions of this Contract; and for Can collection of Garbage, Compostables, and Recyclables, that placement did not comply with Section 135 or that as to Detachable Container, or Drop Box collection of Garbage, Compostables, and Recyclables with Section 145; provided that the Contractor shall have left a City printed tag on all material left because it was not prepared properly, it was overweight or for other reasons.

The Contractor must notify the City, within 2 hours of the collection attempt, of any Residential Structure collections the Contractor has refused or been unable to make via download into the City's billing and information system (Banner). This input shall include the service address, account number and the reason of the non-collection. This input shall be referred to as the Exception List "(EL)".

If the City transmits a miss complaint to the Contractor which is on the EL, or the City transmits a miss outside of the times established above, the Contractor may charge the City for a special collection in accordance with Section 360. If the City transmits a miss complaint which is on the EL, and it is a miss which the Contractor should not collect due to the fact that the Can is overweight or contains material that should not be collected, the Contractor's office personnel shall note on the miss that the address is on the EL and note the reason that it was not collected and return the miss complaint to the City within four (4) business hours of its receipt, and the miss shall not be collected.

If the Contractor's collection personnel return to collect a miss and the Contractor has reason to refuse the miss consistent with this Section, the Contractor shall leave a City printed tag, explaining why the material was not collected. The Contractor shall also inform the City by the end of the business day of the addresses that were not collected and the reason for the non-collection.

This section applies to omitted collections of a single Residential Structure, a row of Residential Structures, and/or an entire route.

Section 180. Disposal at Transfer Station.

All Garbage, Compostables and Recyclables collected under this Contract shall be delivered to a transfer facility as follows:

All Garbage collected north of the Ship Canal shall be delivered to either the City's North Recycle and Disposal Station, located at 34th Avenue North and North Carr Street, or to a Public or Private Transfer Station located in the Duwamish Industrial Area (DIA) as directed by the City. The City will direct that approximately 50% of collected tonnage be tipped at the City's North Station and approximately 50% be tipped at a facility in the DIA. All collected Residential Garbage must be tipped by 6 pm of the collection day, however, the City's North Station is only available for tipping between 7 am and 3 pm.

All Garbage collected south of the Ship Canal shall be delivered to a Public or Private Transfer Station located in the DIA as directed by the City. All collected Residential Garbage must be tipped by 6 pm of the collection day.

All Residential Compostables collected north of the Ship Canal shall be delivered to either the City's North Recycle and Disposal Station, or to a Public or Private Transfer Station located in the DIA as directed by the City. The City will direct that approximately 50% of collected tonnage be tipped at the City's North Station and approximately 50% be tipped at a facility in the DIA. All collected Residential Compostables must be tipped by 6 pm of the collection day, however, the City's North Station is only available for tipping between 7 am and 3 pm.

All Commercial Compostables collected north or south of the Ship Canal and Residential Compostables collected south of the Ship Canal shall be delivered to a Public or Private Transfer Station located in the DIA as directed by the City. All collected Residential Compostables must be tipped by 6 pm of the collection day.

All Residential and Commercial Recyclables collected throughout the City shall be delivered to a Private Transfer Station located in the DIA as directed by the City. All collected Recyclables must be tipped by 6 pm of the collection day.

No collected Garbage or Compostables shall be stored overnight in the collection vehicle.

No disposal fees shall be charged to the Contractor for Garbage, Compostables or Recyclables delivered under this Contract.

The Contractor's collection vehicles for Garbage and Compostables must be capable of being dumped at the City's Public Transfer Stations. The collection trucks must have a minimum clearance of twelve (12) inches from the pavement to the bottom of the truck in order to clear the curb at the Public Transfer Station dumping pit.

The Contractor is guaranteed a Cycle Time of no longer than 15 minutes at any Public or Private Transfer Station. The City shall pay the Contractor \$1.25 per minute for every individual truck trip at the transfer facility that exceeds a Cycle Time of 15 minutes. The City and the Contractor and any Private Transfer Station used shall meet on as as-needed

basis to discuss cycle time communication and coordination issues to minimize pre-scale delays.

The City will compensate the Contractor for any additional travel time for collections north of the Ship Canal in the event that for one (1) week or more, 1) the Alaskan Way viaduct is closed to truck traffic, or 2) the Alaskan Way viaduct is closed to all traffic. **Attachment 7**, Haul Time Payment Allowance, specifies how the time differentials will be calculated.

The City may designate an alternate transfer station for the tipping of Garbage, Compostables, or Recyclables. The designation may be temporary or permanent. If the City directs the Contractor to an alternate transfer station that is outside of the DIA, or that departs from the defined transfer split of Garbage and Compostables collected north of the Ship Canal, the City will adjust the Contractor's payment according to the specifications in Attachment 7, Haul Time Payment Allowance.

Section 183. Scavenging.

No "scavenging" shall be allowed by Contractor or Contractor's employees. Scavenging means sorting through Garbage, Compostables or Recyclables while collecting looking for items of possible value (usually by individuals without mechanized equipment) or picking out individual pieces for reuse while loading or unloading. Scavenging excludes searches by owners for valuables accidentally misplaced or that may be lost and, under the Compostables and Recyclables collection programs, sorting out from the Compostables or Recyclables collected, materials that were not eligible for the program and disposing of the ineligible materials as Garbage.

Section 185. Program Information During Contract Start-up.

Prior to March 15, 2009, the Contractor shall deliver to all Residential Structures and Commercial Establishments receiving service under this Contract, at least the following information:

- 1) Collection schedule information (day of week, time of day and collection frequency);
- 2) Bill format and payment procedures for Commercial Business customers;
- 3) Material to be collected and how such material is to be prepared;
- 4) Container placement information;
- 5) Any collection options available to the customer, such as different sized or additional Containers; and
- 6) Telephone number that customers should call for additional information, or for questions.

The above information shall be mailed to all customers at their billing and service address (if service address is different from the billing address), and affixed to a collection Container.

The Contractor shall submit their start-up plan and draft public information to the City for approval by October 1, 2008. The City shall approve all customer information materials, promotion and educational activities and materials developed by the Contractor in advance of their production or implementation. All public information material will conform to City promotional guidelines and include the City's program identity.

Section 190. Recycling and Compostables Publicity.

The Contractor shall:

- 1) Produce and mail "user friendly" recycling "how to" information and promotional material to each Residential Structure and Commercial Establishment prior to the first collection;
- 2) Produce and mail "user friendly" information on the Compostables collection program to each Residential Structure and Commercial Establishment prior to the first collection;
- 3) On a yearly basis, the Contractor shall produce and mail collection calendars to each Residential Structure and Commercial Establishment informing customers of their collection days for the upcoming collection year, discussing any problem areas, changes in the program, and participation rates;
- 4) Conduct quarterly waste reduction campaigns;
- 5) For repeat contamination problems at Commercial Establishments receiving Compostables collection, the Contractor shall call the customer and offer specific remedies to the contamination problem. If issues cannot be resolved by a phone call, the Contractor shall conduct a site visit with specific recommendations for addressing issues;
- 6) Provide Apartment Recycling information as follows:
 - Produce and deliver promotional posters for all Residential Structures receiving Apartment Recycling services. The posters will be translated into the languages most relevant to the tenants in a particular complex. The Contractor shall request permission to place promotional posters in apartment building lobbies or common areas;

- Deliver recycling decals to building owner/manager to be used in building units. The decals are intended to be placed on the inside of a cupboard door and shall contain information regarding what and how to recycle, and;
 - Recruit a “Friends of Recycling” for each participating Residential Structure;
- 7) In areas with higher incidence of contamination, the Contractor shall work with a local translation service to "localize" the recycling message and conduct neighborhood specific outreach through community councils, schools, chambers of commerce, faith based institutions and other neighborhood and business groups;
 - 8) The Contractor shall make annual presentations to Community Councils and business groups in the Collection Area. The presentations will focus on the amount of Garbage, Recyclables and Compostables generated in the community and recommendations for reductions;
 - 9) The Contractor shall partner with the Seattle Great City Initiative/Cascade Land Conservancy to develop a program to reward citizens of Seattle for total waste reduction and diversion. Interested neighborhoods will compete against each other to produce the lowest total waste stream per capita. Winners will be announced and celebrated at the Contractors annual Beyond Waste Luncheon. The City and the Contractor will contribute grant funding and in-kind services to reward successful neighborhoods;
 - 10) The Contractor shall work with the Seattle School District to design and introduce waste reduction education programs at elementary, middle and high school levels;
 - 11) The Contractor will conduct audits of high-rise commercial accounts and create an awards program for recycling and waste prevention success with the Building Owners and Managers Association;
 - 12) At a minimum the Contractor is responsible for the development, production and/or mailing of all public information (including producing and mailing sign-up brochures), receiving and processing sign-up cards from Commercial Business customers, and answering all Commercial Business customer calls and inquiries regarding the program. Public information developed and supplied by the Contractor shall include customer instructions for preparation and set-out of material, collection calendars, and any other relevant public information; and
 - 13) On a monthly basis, the Contractor shall supply the City with information on Commercial Business customers participating in the Cart Recycling and/or Compostable collection programs. Information shall include name and

address of the business served, a contact name and phone number, collection schedule information, number and type of Containers provided, and other information as mutually agreed.

The City shall approve all customer information materials, promotion and educational activities and materials developed by the Contractor in advance of their production or implementation. All public information material will conform to City promotional guidelines and include the City's program identity.

The Contractor shall place a Contractor supplied sign, including a City customer service telephone number, on all Residential collection trucks. The truck sign shall be approved by the City prior to sign production.

Section 193. Operations Plan.

A schedule of activities and detailed procedures related to the effective implementation and operation of the Contract will be developed by the Contractor and the City after the Contract is signed and prior to beginning collections under the Contract. This shall be known as the "Operations Plan." This plan shall include the procedures and activities listed below and shall include completion dates for each activity:

- 1) Procedures for notifying customers of new collection days;
- 2) Procedures for notifying Commercial Business customers of any billing format changes or procedures;
- 3) Procedures for transmitting collection and billing information to and from the City to the Contractor;
- 4) Procedures for transmitting collected revenue from the Contractor to the City;
- 5) Procedures for City monitoring of Contractor collection activities;
- 6) Procedures for measuring and applying rewards/penalties for Contractor activities;
- 7) Process for customer and Contractor appeals to billings, services and/or payments;
- 8) Protocol and communications for service interruptions due to weather, construction and other factors;
- 9) Standards for the transfer of electronic information and for data quality control and accuracy;
- 10) Designation of implementation leads by both City and Contractor;

- 11) Procedures for orientation of collection staff including route coordination/cooperation with City staff, and;
- 12) Other items identified by the parties.

The Operations Plan shall not contain procedures, activities or schedules that conflict with any terms of this Contract.

Section 195. Meetings and Communication.

In order to minimize problems during implementation of the Contract, to provide a forum for discussing and resolving any operational questions or issues that may arise, and for updating the Operations Plan the parties agree to meet on a regular basis as follows:

- 1) The period from the date the Contract is executed until six months after the actual collection services begin (or such earlier date as may be mutually agreed to by the parties) shall be referred to as the "Implementation Phase". During the Implementation Phase, meetings shall be held between representatives of the parties on a weekly basis, or on such more or less frequent basis as may be mutually agreed. The primary purposes of such meetings shall be to develop and/or refine the Operations Plan, to evaluate the Contractor's performance in implementing the Contract, to air and seek resolution of complaints, to discuss any actual or perceived problems with service, and to discuss promotion, public information and public relations;
- 2) After the Implementation Phase, meetings shall be held at least on a monthly basis, unless otherwise mutually agreed to, between representatives of the parties. Such meetings shall be held for the purpose of reviewing and discussing day-to-day operations, promotion, public information and public relations; and
- 3) Meetings during the Implementation Phase shall be held at the offices of the City unless otherwise agreed. Meetings held after the Implementation Phase shall be held at a location agreed upon by both parties. Each party shall be available for at least 90 minutes per meeting, unless otherwise agreed in advance. Meetings shall be held during normal business hours.

C. CONTAINERS

Section 200. Delivering Cans for Collection.

The Contractor shall deliver Cans for Garbage, Compostables, and Recyclable collection to new customers, for changes in service level or to replace Cans that were damaged, destroyed, lost by the customer or stolen. The Contractor shall deliver new or replacement Containers within five (5) business days of notification. If necessary to hold a customer's recycled material, the Contractor shall deliver, within five (5) business days of notification either additional 64 gallon Containers, or at the customers' request, a 96 gallon Container.

The Contractor shall notify the City within 24 hours of all Residential Can deliveries, or any reason for a non-delivery via download into the City's billing and information system (Banner). This input shall include the service address, account number and the delivery date or attempted delivery date.

Cans for Garbage collection will be commensurate with the customers' service level (micro can, mini can, 32, 64 and 96 gallon Containers). All 32, 64 and 96 gallon Carts shall be equipped with wheels to aid in movement.

Containers for Compostables shall be a 20 gallon Can, or 32, 64 or 96 gallon Carts as requested by the customer. Containers for Recyclable collection shall be 96 gallon Carts, however the Contractor shall also provide 32 and/or 64 gallon Carts for special circumstances where the customer needs a smaller Container.

Cans for Garbage, Compostables and/or Recyclables collection shall be provided with instructions for proper use, including any customer actions that would void manufacturer warranties, such as placement of hot ashes in a Garbage Container causing the Can to melt, and procedures to follow to minimize potential fire problems. The Contractor is responsible for designing and producing this information to be placed on the Can.

A pamphlet explaining the "do's and don'ts," an instruction sheet on materials that can be recycled and/or composted and how material is to be prepared, directions for placement of the Can, and notification of the day of the week when the customer will receive collection will be provided with each Can. The Contractor is responsible for designing and producing this pamphlet.

The Contractor shall place one City-supplied hazardous waste sticker on each Garbage Can provided.

The Contractor shall affix the customer's address to each new Can or Can replacement prior to delivery. By May 1, 2009 the Contractor will ensure that all customer Cans currently used for collection of Garbage, Compostables and Recyclables have the customer's readable address affixed to the Can. If during the term of the Contract, the address fades, or becomes unreadable, the Contractor shall reaffix the customer's address. The Contractor is responsible for designing and providing address labels.

Beginning October 1, 2009, the City will pay the Contractor the Can delivery amount listed in Attachment 4. This payment is for all Can deliveries, switches and pick-ups.

The Contractor shall supply on a bi-weekly basis an inventory listing of available Cans. The Contractor shall maintain a Can inventory of 4 to 6 weeks of anticipated deliveries.

The Contractor, without charge to the City or the customer, and within twenty-four (24) hours after notice, shall replace any privately owned Cans and Can lids taken or damaged by Contractor, or reimburse the customer the cost of making a replacement.

The Contractor shall include in their monthly report to the City (Section 710) the status of all private Can replacement requests. If the Contractor fails to replace or reimburse the customer for the cost of a private Can, the City has the option of reimbursing the customer and deducting the cost of the reimbursement from the Contractor's monthly payment.

Containers supplied by the City to the Contractor at the beginning and during the term of the Contract remain City property at the end of the Contract.

Section 210. Delivering Detachable Containers and Drop Boxes for Collection.

During the term of this Contract the Contractor shall deliver Detachable Containers and/or Drop Boxes for storage and collection of Garbage or Recyclables to Residential Structures and shall deliver Detachable Containers and/or Drop Boxes for storage and collection of Garbage or Compostables to Commercial Establishments within three (3) business days after notice from the City, or request from a customer.

The Contractor shall notify the City within 24 hours of all Residential Detachable Containers and Drop Box deliveries, or any reason for a non-delivery via download into the City's billing and information system (Banner). This input shall include the service address, account number and the delivery date or attempted delivery date.

Customers may elect to own or secure Detachable Containers and/or Drop Boxes from sources other than the Contractor, and shall not be subject to discrimination by the Contractor in collection services on that account. Detachable Containers and/or Drop Boxes owned or secured by Residential Structure customers will be regulated by the City to ensure that they are standard Containers capable of being serviced by front, rear load, or tilt frame collection vehicles.

Beginning October 1, 2009, the City will pay the Contractor the Detachable Container and Drop Box delivery amount listed in Attachment 4. This payment is for all Detachable Container or Drop Box deliveries, switches or pick-ups.

The Contractor shall supply on a bi-weekly basis an inventory listing of available Detachable Containers and Drop Boxes. The Contractor shall maintain a Container inventory of 4 to 6 weeks of anticipated deliveries.

Detachable Containers and/or Drop Boxes shall be located on the premises in a manner satisfactory to the customer and convenient for collection by the Contractor and shall meet the provisions of the Seattle Fire Code. Any disagreements over Container placement and collection shall be mediated by the City, whose decision shall be final and binding.

The Contractor is not required to collect from Detachable Containers and/or Drop Boxes if access across the customer's private property is blocked. The Contractor need not collect Detachable Containers and/or Drop Boxes supplied by customers unless compatible with the equipment approved for the performance of this Contract. The Contractor must notify the City, within 2 hours of the collection attempt, of any Residential Structure collections the Contractor has been unable to make under this Section.

The Contractor is not responsible for any damage to paved areas, including driveways, caused by the weight of a collection vehicle, or other damage to private property not caused by the negligence or misconduct of the Contractor. The Contractor shall be responsible for informing customers of the possibility of property damage if the Contractor reasonably believes that the weight of their collection trucks will damage paved areas.

The Contractor shall provide all collection services necessary to empty Detachable Containers and/or Drop Boxes attached to compactor units. These services include without limitation: disengaging the Detachable Container Box from the compactor unit; maneuvering the Detachable Container to the collection truck; returning the Detachable Container to the compaction unit and reattaching it; and cleaning up any spilled Garbage or Compostables.

Detachable Containers provided for Recyclables collection will be used for commingled material.

All Containers for Compostable and Recyclable collection shall bear decals containing information on the proper preparation of material. The City is responsible for supplying these decals and the Contractor is responsible for placing them on the Containers.

The Contractor shall provide customers with a sufficient number and type of Containers to hold all the Recyclables accumulated between collections. If there is consistently excess material, as determined by the City, the City will instruct the Contractor to, within ten (10) business days of notification, increase service by delivering a larger Container, deliver additional Containers or provide more frequent collections. The City's decision shall be final and binding.

Containers supplied by the City to the Contractor at the beginning and during the term of the Contract remain City property at the end of the Contract.

Section 220. Supply and Maintenance of Containers.

The City will purchase and supply the Contractor with all collection Containers necessary for the Contractor to provide collection services under this Contract. The Contractor shall be responsible for ordering, assembling and storing all necessary Containers for Contract services, as well as ensuring that there is an adequate Container supply to meet all Contract requirements.

The City will be responsible for the repair and maintenance (not including cleaning, repainting or wheel replacement) of all collection Containers, with the exception of Containers damaged through the negligence of the Contractor. The City may elect to (1) have the Contractor perform the repair and maintenance at the City's expense, except in cases of Contractor negligence, (2) perform the work with City forces, (3) contract with another firm for the repair and maintenance, or (4) perform any combination of (1), (2) or (3). The Contractor's shop rate for the repair and maintenance of Containers is contained in Attachment 4.

The City will develop repair/replace criteria for collection Containers. These criteria will be included in the Operations Plan. Contractor may request that the City repair or replace a Container that is damaged and that the Contractor reasonably believes poses a safety hazard or a risk to the Contractor's employees or collection equipment. The City shall not unreasonably withhold its consent to such requests.

The Contractor shall be responsible for picking up any Containers in need of repair or replacement (for whatever reason) from customers and delivering replacement Containers within five (5) business days of notification by the City. If the City elects to repair Containers, or contracts with another firm for Container repair, Containers requiring repair or maintenance will be picked up from the Contractor's service yard. Repaired or reconditioned Containers will be delivered to the Contractor's service yard.

The City will be responsible for disposing of or recycling all Containers that can not be repaired or that are no longer suitable for use. Storage and/or delivery protocol for these Containers is contained in the Operations Plan.

The Contractor shall replace or repair all Containers damaged due to the Contractor's negligence and any Containers needing wheel replacement. The Contractor and the City shall attempt to jointly determine the cause of any Container damage. However, the decision of the City concerning Contractor's negligence shall be final and binding. Any charges for Container repair or replacement due to Contractor negligence shall be deducted from the Contractor's monthly payment.

Section 230. Detachable, Drop Box Container Standards.

Detachable Containers shall be water tight and equipped with tight-fitting metal or plastic lids, have four wheels for Containers two cubic yards and under, be in good condition for storage and handling, and have no leaks, jagged edges, or holes. Drop boxes shall be all-metal and, if requested by the customer, equipped with a tight-fitting screened or solid cover operated by a winch in good repair. They shall be painted a uniform color, bear the name and telephone number of the Contractor, and bear a serial number coded for Container size. By May 1, 2009 the Contractor will ensure that all Detachable Containers and Drop Boxes used for collection have the customer's readable address affixed to the Container. If during the term of the Contract, the address fades, or becomes unreadable, the Contractor shall reaffix the customer's address.

Detachable Containers and Drop Boxes shall be painted at least once during the term of the Contract. Detachable Containers and Drop Boxes supplied for Compostable collection shall be pressure washed at least once each year or as directed by the City. Detachable Containers and Drop Boxes supplied for Garbage and/or Recyclables collection shall be pressure washed at least once during the term of the Contract and on as as-needed basis or as directed by the City and/or customer.

On an individual basis, the City may require the Contractor to place on a Detachable Container, collection day information, a collection meter, and/or wheel locks.

The Contractor is responsible for removing graffiti from its Detachable Containers and Drop Boxes. Collection drivers shall regularly note Containers containing graffiti. Contractor personnel shall then remove reported graffiti. The Contractor shall remove any graffiti reported by the City within five (5) business days of notification. The Contractor shall supply Container paint to any customer who requests it for graffiti removal.

Section 240. Detachable Container, Drop Box Installation and Maintenance.

Each Detachable Container and Drop Box is subject to inspection by the City and approval as to appearance and condition before placement at any customer's premises.

A Detachable Container and/or Drop Box shall be reconditioned, pressure washed and repainted if necessary before being supplied to a customer who had not used it earlier. If the City so requires, a Detachable Container and/or Drop Box shall be cleaned or repainted within thirty (30) days.

If appropriate to serve a customer's needs and/or location, the City may require the Contractor to install and service a Drop Box or a front-end load or rear load Detachable Container. The City may also require the Contractor to equip a Detachable Container with plastic lids.

Section 250. Customer Owned Detachable Container, Drop Box Repair or Replacement.

Damage to customer owned Detachable Containers or Drop Boxes on customers' premises is at the Contractor's risk, rather than the City's, as between those parties and without affecting the risk or liability of others. The Contractor shall be responsible for the repair of all customer owned Detachable Containers or Drop Boxes damaged due to the Contractor's negligence.

Section 260. Lidlockable Containers.

The Contractor within five (5) working days after receipt of notice from the City shall supply to each customer designated in such notice a Detachable Container fitted with a lidlock mechanism (a "lidlockable Container"), along with one padlock and one key, or a combination lock. The Contractor's lock system for new lidlockable requests shall provide at least fifty different key or lock combinations for customers with one master key or combination used by the collectors. In addition, The Contractor shall also provide fifty (50) new key combination locks for existing lidlockable Containers at no cost to the City.

The only authorized lidlock mechanisms on Contractor-owned Detachable Containers are those installed by the Contractor. The Contractor shall have no obligation to render customer supplied Containers compatible with the Contractor's padlocks, or to supply padlocks for use with such Containers. The Contractor may decline to make collections from Containers fitted by others with locking mechanisms, whether or not such Containers are locked on the date of scheduled service, if the locking mechanisms are of a configuration that prevents or makes unreasonably inconvenient collection with the Contractor's equipment. The Contractor must notify the City, within 2 hours of the collection attempt, of any Residential Structure collections the Contractor has been unable to make under this Section.

D. MANNER OF COLLECTION/*TRANSFER*

Section 300. Service Expectations.

The following expectations are established for collection services under this Contract:

- 1) Missed collections (as described/defined in Section 175) to occur less than 1 per 1,000 service stops;
- 2) Repeat missed collections (as described/defined in Section 175) to occur less than 1 per 10,000 service stops;
- 3) Collection of excess Garbage and/or Compostables reported at an 85% - 90% accuracy rate;
- 4) Eighty percent of Commercial customer service calls answered within one minute;
- 5) Commercial abandoned calls to be under 10% per month;
- 6) Commercial customer satisfaction rated above 5 (on a scale of 1 – 7) on bi-annual City survey of services; and
- 7) Other items as mutually agreed.

Per Section 830, the City will add or deduct funds from the Contractors regular payments for exceeding or not meeting these service expectations.

The Contractor is also expected to provide consistent service, submit all required data and reports within the time periods specified and consistently provide correct information. Under Section 840 payments will be added or deducted on a quarterly basis for meeting or not meeting these requirements.

Section 305. Contractor's Responsibilities.

The Contractor shall be responsible for furnishing all labor, materials, equipment, and supervision necessary to perform the collection and transfer services described in this Contract.

Section 310. Employee Conduct.

The Contractor is responsible for providing the supervision necessary to ensure that collection employees are courteous, exercise due care, do their work without delay, minimize noise, avoid damage to private property, close and relock all gates and doors that they open, replace lids on collection Containers and firmly close them, and, if on private property, follow the regular pedestrian walkways and paths; and not cross flower beds or through hedges. While collecting, employees shall wear or carry identification supplied by the Contractor. The identification shall be subject to approval of the City.

When the Contractor identifies unsatisfactory conduct by an employee or when the City notifies the Contractor of such conduct, the Contractor shall take remedial action. The remedial action shall be appropriate to the level of unsatisfactory conduct, provided that if the City requests of the Contractor by letter that an employee be suspended from further work on the Contract for Level Three unsatisfactory conduct or an uncorrected pattern of Level Two unsatisfactory conduct, the Contractor will permanently remove the employee from further work on the Contract.

Level One: Examples of Level One unsatisfactory conduct are single isolated incidents such as spillage of materials, leaving gates open, not relocking doors, walking through flower beds, not returning Containers to their proper location, not replacing lids, etc.

Level Two: Examples of Level Two unsatisfactory conduct are continued incidents of Level One unsatisfactory conduct, as well as rude or abusive language to customers, inappropriate behavior in customer's presence, purposeful damage of customer property, or acceptance of a cash payment or gratuity for ignoring a Contract provision.

Level Three: Examples of Level Three unsatisfactory conduct are continued incidents of Level Two unsatisfactory conduct, as well as appearing on the job under the influence of alcohol or drugs, fighting or menacing, throwing rocks, endangering customers or driving dangerously.

Under Level One, the City will send a written notice, via U.S. mail or fax, informing the Contractor of the unsatisfactory conduct. Under Level Two and Three, the City will notify the Contractor by telephone within five (5) working days of becoming aware of the incident and send a written notice, via U.S. mail or fax, within ten (10) working days. Written notices will identify the level of the notice, and the specifics of the incident.

The Contractor will notify the City of remedial action taken in its monthly reports.

Section 320. Spillage.

The Contractor shall pick up any material scattered or spilled during collection and clean up the area affected within three (3) business hours of notification of the incident. Each truck shall carry equipment (such as a broom and a shovel) for this purpose.

The Contractor shall immediately, or within one (1) hour of notification, commence clean up of any hydraulic, transmission, or other oil spill, or commence clean up of any spillage which creates a hazardous condition (such as a spillage involving glass).

Section 330. Customer Grievances.

The Contractor will designate a representative to adjudicate customer grievances. At the City's request, the representative will join the City in meeting with an aggrieved customer within 24 hours of notification to resolve a complaint about spillage, a refusal to serve or a missed pick-up, and/or other deficiency in service or a need for special service. The decision of the City shall be final and binding.

Section 340. Resolution of Availability of Service Disputes.

Any disagreement between a customer and Contractor regarding the services which can reasonably be accommodated at the customer's site shall be resolved by Seattle Public Utilities, including availability of collection and A&E Services, container placement, level of service or any other issue related to collection services. The City will attempt to mediate and, if necessary, decide the issues, taking into consideration safety of the customer and the Contractor as well as the convenience of the customer and the efficient operation of the Contractor.

Section 350. Pilot Tests.

The City may require the Contractor to conduct pilot tests that temporarily change one or more provisions of this Contract. A pilot test is an experiment with a new collection method, and/or a different type of service or schedule, that covers no more than ten percent (10%) of the Collection Area, and continues no more than eighteen (18) months, unless both parties agree to an extension. A pilot test may require additional record keeping. The City and the Contractor shall sign a letter of agreement covering the expected cost and the pilot program duration prior to commencing any such test.

If a pilot test affects regular collections, the parties shall negotiate an adjustment of the Contract payment to reflect the benefits and/or burdens of the pilot test. The adjustment shall be set so as to capture any increase or decrease in the Contractor's direct operating costs as a result of the pilot test. "Direct operating cost" includes planning costs; labor expense, including supervision (wages, employment taxes, and fringe benefits); materials, supplies and fuel; and amortized costs of new equipment purchased for the pilot test, or equipment modified for the test.

"Direct operating cost" excludes depreciation of equipment usable elsewhere. The parties shall agree before the start of the pilot test on what equipment is usable elsewhere by the Contractor. Any equipment that is agreed to be not usable elsewhere by the Contractor shall become the property of the City, at cost, at the conclusion of the pilot test.

Increases in "direct operating costs" must be established as out-of-pocket payments by the Contractor and be capable of verification by an independent auditor.

Section 360. Special Collections.

From time to time, the City or the customer may require the Contractor to collect Garbage, Compostables, Recyclables, Street Side Litter or Public Place Recycling Containers on a particular occasion on Monday through Saturday as an additional service for a designated neighborhood, block, Residential Structure, or Commercial Establishment. The Contractor shall make special collections on Monday through Saturday within twenty-four hours after receipt of a notice from the City or the customer.

The Contractor will be paid the rates listed in Attachment 4 for special Garbage, Compostables, Recyclable, Street Side Litter and Public Place Recycling collections from April 1, 2009 through March 31, 2010.

The Contractor may also be required to perform collection services on a Sunday due to special circumstances such as special events or natural disasters such as a snowstorm, windstorm or an earthquake. For such Sunday collections the City will pay the Contractor the rates listed in Attachment 4.

Special collections are supplemental to the Contractor's regular collection services, missed and make-up collections, excess Garbage and Compostables collection, and bulky items and white good collections that are required by other provisions of this Contract.

Section 380. Monitoring Garbage and Compostables.

The Contractor is responsible for monitoring the collection frequency and correct service level subscribed to by each customer and for collecting Compostables only from those Residential Structures and Commercial Establishments that are participating in the Compostables collection program.

Customer use of Garbage Cans above subscription level shall be treated as extra Garbage and recorded and uploaded to the City's computer system by the Contractor as extra Garbage, per Section 150.

For customers not subscribing to the Compostables collection service who place Compostables out for collection, the Contractor shall leave the Compostables with a notice that customers must subscribe to the service for collection, and the Contractor shall report to the City the customer's address and the amount of Compostables left.

The collectors shall carry route books, or the trucks shall have computerized information, indicating service levels for each Residential Structure and/or Commercial Establishment and whether the Residential Structure and/or Commercial Establishment is participating in the Compostables collection program. This information shall be current to the previous business week. The City has the right to stop a collection truck on the collection route to examine the route book or other means used to track this information.

E. TRANSFER/PROCESSING SERVICES

Section 400. Garbage/CDL Transfer/Processing.

The Contractor shall be responsible for accepting, tipping, processing and transporting Garbage/CDL delivered under City contracts. The tipping facility shall be located in an area zoned for this type of activity.

The Contractor and the City will mutually agree to direct Garbage/CDL, collected under City collection contracts to the transfer/processing facility, located at 7201 E. Marginal Way South or successor facility within the City of Seattle. The Contractor reserves the right to pre-sort and market any materials. This Contract does not preclude the Contractor from accepting Garbage/CDL from other sources at the transfer/processing facility.

The transfer/processing facility shall conform to all applicable zoning, Health Department and Puget Sound Air Pollution Control Agency regulations and any other applicable rules, regulations, or ordinances.

The Contractor shall conform to the requirements of SMC 21.36.112, and 21.36.113 in delivering residual Garbage and residual CDL materials to Union Pacific's Argo rail yard, located at 4th Avenue South and South Dawson Street, or such other receiving facility located within the DIA as the City may designate.

The Contractor shall deliver residual Garbage and residual CDL materials to Union Pacific's Argo rail yard, which is open 24 hours per day, seven days per week, with the exception of January 1st (New Years Day), Thanksgiving Day (fourth Thursday in November) and December 25th (Christmas Day).

Section 425. Cycle Time.

The Contractor shall weigh collection trucks in and out of the transfer facility in a timely manner. The Cycle Time from the inbound to the outbound scale shall not exceed 15 minutes.

Section 430. Safety and Training Plan; Safety Meetings.

Prior to beginning operations under this Contract, the Contractor shall develop a safety and training plan for the transfer/processing facility. This plan shall include standard operating procedures (SOP's) for employees working at the facility, as well as SOP's for the trucks and drivers/swampers using the facility. The Contractor shall develop the SOP's relating to the trucks and drivers/swampers using the facility by working in cooperation with those firms.

The Contractor shall hold regular quarterly safety meetings with their own personnel, as well as with representatives of those collection firms that are tipping material at the transfer/processing facility. City representatives shall be informed of these meetings and given the opportunity to attend.

F. RATES TO CUSTOMERS

Section 500. City Sets All Rates to Customers.

The City shall retain the authority to set Rates for all services to customers under this Contract, however the City will consult with the Contractor during the rate setting process. Rates shall be established by City ordinance. The City's rate ordinances shall specify the container size categories and service levels (frequency of services) that shall be made available to the customers by the Contractor. The Rates, service categories and service levels offered by the City may be changed at any time and as many times during the Contract as the City deems appropriate, so long as after the start of the Contract the Contractor is provided sixty (60) days notice of any change of Rate, service category, or service level. Customers shall be charged for services pursuant to rates established by the City.

Section 520. Commercial Recycling.

The City reserves the right to promote and contract for Recycling of any other component of the Commercial Waste stream at any time during the term of the Contract. The City shall be under no obligation to contract with the Contractor for the collection of any other

such Recyclable Materials. The City reserves the right to establish rates for Recyclable collection.

G. CUSTOMER SERVICE, BILLING, CASH TRANSFERS

Section 600. Customer Services.

In addition to other customer service provisions in this Contract, the Contractor shall provide the following services to Commercial Business customers:

- 1) Set up of new accounts for each commercial customer to be serviced by the Contractor in the Collection Area;
- 2) Provision of Containers for each Commercial Business customer;
- 3) Provision of pre-paid bags to Residential and Commercial customers for collection of Garbage, Recyclables and Compostables;
- 4) Provision of itemized monthly invoices to each Commercial Business customer;
- 5) Provision of on-line payment capability for Commercial Business customers;
- 6) Receipt and processing of payments from all Commercial Business customers serviced by the Contractor;
- 7) Provision and maintenance of systems and personnel for managing customer inquiries and complaints;
- 8) Provide regular information to customers on the procedures for appealing disputes to the City;
- 9) The Contractor shall provide a monthly record of all customer service requests, complaints and misses, categorized by type of request, complaint or miss;
- 10) The Contractor shall maintain a customer service operation with a Telephone Service Factor (TSF) of 80% of calls answered within one minute, and abandoned calls are less than 10% per month;
- 11) The Contractor's telephone system shall have the capacity to monitor and report the number of incoming calls received during the business day, and during the month; the average holding time for all calls received in a period, and the average holding time for all calls received. This information shall be available to the City on a daily basis and the Contractor shall provide a monthly report showing total calls accepted, average call wait times, number of abandoned calls, and TSF performance; and

- 12) A dispatch telephone number will be available to customers 24 hours per day, 7 days per week (or when the regular customer service operation is not operating). Staff and telephone equipment shall be sufficient to handle the volume of calls typically handled during these hours.

Section 610. Billing to Customers.

Commercial Business customers will be billed on a monthly basis at the rates set by the City as set forth in SMC 21.40. The Contractor shall be responsible for billing each Commercial Business customer serviced in its Collection Area. The Contractor will have authority to bill Commercial Business customers for services performed, including applicable taxes for which Contractor is acting only as collection agent for the City. The billing format shall be approved by the City prior to use. The Contractor will incorporate City customer service messages as text on bills and/or as an additional insert in the bill on request from the City. Billing procedures and forms of invoices will be established in the Operations Plan, as appropriate.

Section 620. Payment Receipt and Remittance to City.

- 1) Application of Funds: The Contractor will be responsible for collecting all payments from its designated Commercial Business customers served by the Contractor. Account balances will be divided into four (4) categories, and the payment received by the Contractor from each customer will be applied in the following order:
 - a) Specific billed services to that customer, prior or current, as directed in writing by the customer;
 - b) Balances carried forward by the Contractor or a previous contractor supplying Commercial Collection service to the City from pre-Contract services to that customer, for a period of ninety (90) days from the commencement of services under this Contract;
 - c) Prior Commercial Business services to that customer performed pursuant to this Contract and billed for the City, including any late penalties and interest as determined by the City; and
 - d) Current Commercial Business services to that customer performed pursuant to this Contract and billed for the City.
- 2) City not responsible for Contractor's debts: The City will not be responsible for collection of debts owed by Commercial Business customers to the Contractor for services performed by Contractor outside the scope of this Contract except for the employment of collection mechanisms as set forth in Section 630.
- 3) Remittances to City shall be as follows:
 - a) Payments received by the Contractor from its designated Commercial

Business customers as provided in Section 620 (1) shall be remitted by the Contractor to the City by daily wire transfer, or as agreed by the City, following posting to the customer account by the Contractor;

- b) NSF checks and fees and other non-clearing deposits will be charged back to the City, to the extent they were previously credited to the City; and
- c) Disputed billings will be reconciled by the Contractor's billing department, provided that, at the City's request, a representative of the City will join the Contractor in dealing with the disputed bill and, in that event, the City's determination of billing for City services shall be binding.

4) Treatment of Certain Taxes and Other Excises:

- a) The Parties agree that Contractor will act as collecting agent for the City with regard to the following taxes and any other taxes imposed by law on the Commercial Business customers for which the City has responsibility of remittance to the appropriate taxing authority:
 - i. Household Hazardous Waste Collection Fees, corresponding to the fees currently contained in Seattle Municipal Code § 21.44.060D;
 - ii. Seattle Solid Waste Collection Taxes contained in Seattle Municipal Code, §5.48.055;
 - iii. State Solid Waste Collection Taxes; and
 - iv. Retail Sales Tax levies on container rental charges.
- b) Nothing in this Contract is intended to impose liability as a taxpayer on Contractor for amounts attributable to the taxes described in this subsection, and nothing is intended to circumvent the existing regulatory structure with regard to such taxes. The Parties wish to establish a system under which Contractor will act solely as a collecting agent for the benefit of the City in the collection of such taxes. If the Contractor fails to collect such taxes the customer or the City, as the case may be, and not the Contractor, will bear the ultimate tax liability; and
- c) The Parties agree that if the regulatory structure governing the imposition and liability for such taxes changes, so as to prohibit or otherwise interfere with Contractor acting solely as collecting agent, the Parties will renegotiate the terms of the Contract governing

payment and collection of such taxes and, if necessary, make any adjustment to Contractor's compensation as may be necessary.

Section 630. Bad Debts.

All past due amounts that accrue from the services provided by the Contractor under this Contract or past due amounts for Commercial Business service provided during a 90 day period prior to the start of the Contract, either by the Contractor or by any other contractor supplying Commercial Collection service to the City will be pursued for collection by the Contractor for a ninety (90) day period as follows:

- 1) If no payment has been received at thirty (30) days from the date of the original invoice, send a second invoice with dunning message and late penalties and interest as determined by the City. If the Contractor fails to bill Commercial customers for late penalties and interest, the City will deduct such late penalties and interest from Contractor payments;
- 2) If no payment has been received at forty-five (45) days from the date of the original invoice, send a collection letter;
- 3) If no payment has been received at fifty-five (55) days from the date of the original invoice, call the customer;
- 4) If no payment has been received at sixty-five (65) days from the date of the original invoice; call the customer and notify the customer that service is being suspended, place the account on suspension and notify the City;
- 5) If no payment has been received at seventy-five (75) days from the date of the original invoice, send final collection letter or call the customer; and
- 6) If no payment has been received at ninety (90) days from the date of the original invoice, the account will be closed and the balance, including accrued interest, will be forwarded to the City for collection.

The above timing and notification dates may be modified by the City by notification to the Contractor.

Section 640. Record Keeping and Reporting.

The Contractor shall maintain complete and accurate books of account and records with respect to the performance of its obligations under this Contract including, but not limited to, all correspondence and invoices, transaction tickets, or receipts documented by books and records kept at Contractor's principal place of business. Contractor also agrees to maintain a system of internal accounting controls sufficient to ensure that all transactions are properly authorized, recorded, processed, summarized and reported and that all assets of the Contractor and the City are adequately safeguarded. The City shall have the right during reasonable business hours to inspect and audit such books, records and internal accounting controls. All books, accounts, and records required to be maintained

under this Section shall be preserved intact without alteration during the term of this Contract and for a period of twelve (12) months following the termination of this Contract.

H. REPORTING REQUIREMENTS

Section 700. Route and Scale Data.

The Contractor shall supply the following information to the City. Weekly files provided by the 2nd business day after the week and monthly files by the 10th of the month:

- 1) Weekly listing of the previous week's weight receipts, in an electronic flat file format specified by the City, for all materials collected each day by the Contractor in the Collection Area. Information must include gross and net weights (tare weights are not allowed, unless approved by the City), contractor code, truck number, route number, waste type, date, time in, time out, and other fields specified by the City. The Contractor shall keep as back-up a paper copy of each weight transaction. False or altered weight slips shall be cause for Contract termination;
- 2) Monthly electronic flat file of all the previous month's weight receipts, including corrections to any miss coding from the weekly files;
- 3) Monthly electronic flat file with detail on the types and sizes of detachable containers, commercial services and excess materials collected by each truck trip;
- 4) Quarterly electronic route file (or more frequent to reflect service day changes) of Residential Structures and Commercial Establishments receiving Garbage, Compostables, and Recyclable collection from Detachable Containers and/or Drop Boxes (per Section 105). The listing shall include address, account and premise number, number of residential units, number and size of Containers, number of weekly collections per address, collection route number and the truck number serving each route; and
- 5) Annual electronic listing of fleet inventory, including truck numbers, licensed and permitted gross vehicle weight, number of axles, year, make and model, and other detail as specified.

Section 710. Residential Service Data.

The Contractor shall supply the following information to the City:

- 1) Per Section 150, a daily electronic file of excess Garbage and Compostables collected from Residential Structures. The file will be prescreened for data entry errors. Included shall be the address, premise number, number of extra units picked-up at each address and pick-up date;

- 2) Per Sections 110, 115, 120 and 175, the Contractor must notify the City by electronic file, within 2 hours of the collection attempt, of any Residential Structure collections the Contractor has refused or been unable to make. This input shall include the service address, account number and the reason for the non-collection;
- 3) Per Sections 200, 210, 250 and 260, notification within 24 hours of all completed service orders;
- 4) Per Sections 200 and 210, the Contractor shall supply on a bi-weekly basis, an inventory listing of available Containers; and
- 5) Per Section 125, a bi-weekly listing of damaged, missing, and refurbished Street Side and/or Public Place Recycling Containers. Information shall include missing lids and/or liners, and broken or missing cables;

Section 720. Commercial Service Data.

The Contractor shall submit monthly, by the 10th of the month, electronic commercial account flat files, as specified by the City. The files will include detailed data on all commercial accounts; detailed data on all services performed; detailed billing data; and detailed invoice data.

Section 730. Monthly Reports.

The Contractor shall submit monthly reports for the length of the Contract period commencing upon Contract signing. These reports shall be due by the 10th of the month. At a minimum, the reports shall include:

- 1) Summary of service performance and trends including all monthly performance related to performance incentives in Section 830;
- 2) A listing of any overweight trucks. The listing to include the date, time, truck number, total truck weight and weight over the legal limit;
- 3) Summary of tonnages by waste type and sector. Commercial Garbage, Compostables and/or Recyclables co-collected with Residential Garbage, Compostables and/or Recyclables will be estimated based on the volume of commercial cubic yards co-collected;
- 4) A listing of all repeat residential and commercial collection complaints received by the Contractor the previous month (a repeat collection complaint is an initial collection complaint that was not resolved, or a reoccurrence of a collection complaint at the same address during a six (6) month period). This listing shall be sorted by collection route and shall include a detailed description of steps taken by the Contractor to ensure that these particular repeat complaints do not recur;

- 5) The number of incoming calls from Seattle accounts received per day by the Contractor's Commercial Business customer service section; the percent of calls abandoned; the percent answered in under one-minute; and the average holding time for all calls received;
- 6) Per Section 600, a listing of all Commercial Customer service contacts, including requests, complaints and misses. Included shall be the service and billing address, date and nature of request, complaint or miss, and action taken;
- 7) The number and locations of collections of Public Place Recycling Containers and Street Side Litter Containers, as well as the number, location and date of any Public Place Recycling Containers collected as Street Side Litter Collection Containers; and
- 8) Status of all complaints or Contract violation notices forwarded to the Contractor by letter from the City or from customers during the month and recent actions taken for earlier violations including, but not limited to:
 - replacement of Containers;
 - employee misconduct; and
 - Contractor responses to citizen's damage claims.

Section 740. Quarterly Reports.

The Contractor shall submit a quarterly report within fifteen (15) working days of the close of the quarter, which shall include:

- 1) Summary of monthly performance data, trends and actions taken to improve performance;
- 2) Opportunities to improve City and contractor service partnership;
- 3) Description of progress in meeting the implementation schedule including any problems encountered and how they were resolved; and
- 4) Discussion of education and publicity efforts and their results.

Per Section 875, on a quarterly basis the Contractor and subcontractor shall file with the City an electronic copy of each payroll together with an electronic listing of time clock records and other information required by Section 875.

I. COMPENSATION

Section 800. Payment for Collection and Transfer Services in 2009.

The City will pay the Contractor monthly for all services under this Contract an amount derived by adding the amounts in 1) through 13), and subtracting, or adding 14):

- 1) **Residential Garbage Collection from Cans/Carts:** During the first year of collections (April 1, 2009 - March 31, 2010), the monthly sum of **\$497,510** for collection of Garbage from all Residential Structures receiving Can service and any per unit and ancillary service payments per Attachment 4;
- 2) **Delayed Implementation of Every Other Week Residential Garbage Collection from Cans/Carts:** If the City exercises its option for every other week Residential Garbage Collection from Cans/Carts beginning April 1, 2011 or April 1, 2013 the monthly sum of **\$347,383** for collection of Garbage from all Residential Structures receiving Can service and any per unit and ancillary service payments per Attachment 4. This monthly dollar amount will be adjusted per Section 820 to April 1, 2011 or April 1, 2013 dollars. This payment is in lieu of 1) above for weekly Garbage Collection.
- 3) **Compostables Collection from Cans/Carts:** During the first year of collections (April 1, 2009 - March 31, 2010), the monthly sum of **522,159** for collection of Compostables from all accounts subscribing to Compostables Can collection service and any per unit and ancillary service payments per Attachment 4;
- 4) **Delayed Implementation of Every Other Week Compostables Collection from Cans/Carts:** If the City exercises its option for every other week Compostables Collection from Cans/Carts beginning April 1, 2011 or April 1, 2013 the monthly sum of **\$305,930** for collection of Compostables from all accounts subscribing to Compostables Can collection service and any per unit and ancillary service payments per Attachment 4. This monthly dollar amount will be adjusted per Section 820 to April 1, 2011 or April 1, 2013 dollars. This payment is in lieu of 3) above for weekly Compostables Collection.
- 5) **Recyclable Collection from Cans/Carts:** During the first year of collections (April 1, 2009 – March 31, 2010) the monthly sum of **\$329,043** for collection of Recyclables from all Residential Structures and Commercial Establishments receiving Can service and any per unit and ancillary service payments per Attachment 4;
- 6) **Commercial Garbage Collection from Cans, Detachable Containers and Drop Boxes:** During the first year of collections (April 1, 2009 - March 31, 2010), the monthly sum of **\$489,402** for collection of Garbage from all Commercial Establishments receiving Can Service, and for collection of Garbage from all Residential Structures and Commercial Establishments receiving Detachable Container or Drop Box service, plus the unit collection prices for each Container collection and any ancillary service payments per Attachment 4. If the City bans Containers from the public right of way in the major business districts of the Collection Area, then the monthly sum for this service would be reduced to **\$489,382**;

- 7) **Commercial Compostables Collection:** ;
 During the first year of collections (April 1, 2009 – March 31, 2010) the City will pay the Contractor the following monthly sums for city-wide collection of Compostables from all Commercial Establishments and Residential Structures receiving Commercial Cart, Detachable Container or Drop Box service, plus the unit collection prices for each Container collection and any ancillary service payments per Attachment 4. Note that the following is a sliding scale with increasing dollar amounts with increases in the number of accounts. The monthly payment will be based on the number of accounts at the end of the relevant service month.

# of Accounts	Monthly Payment
0 -150	\$18,200
151 – 300	\$35,100
301 – 450	\$54,600
451 – 600	\$64,807
600+	\$69,987

- 8) **Recyclable Collection from Apartments:** During the first year of collections (April 1, 2009 - March 31, 2010), the monthly sum of **\$117,460** for collection of Recyclables from all Residential Structures receiving Apartment Recycling collection service, plus the unit collection prices for each Container collection and any ancillary service payments per Attachment 4;
- 9) **Street Side Litter and Public Place Recycling Collections:** During the first year of collections (April 1, 2009 – March 31, 2010), the monthly sum of **\$35,615** for collection of Street Side Litter and Public Place Recycling Containers. Plus the unit collection prices for these two services and any ancillary service payments in Attachment 4;
- 10) **Transfer and Processing Payments:** During the first year of the Contract (April 1, 2009 – March 31, 2010), the City will compensate the Contractor for transfer and processing services per the following amounts per ton:

Transfer and Processing of Garbage/CDL \$14/per ton;
 (Note: The Contractor may pre-sort material during collection prior to processing)

- 11) **Alley Cleaning Services:** (City Option) The monthly sum of \$25,000;
- 12) The City will add payments for the following collection services performed:

Repairing Street Side Litter and/or Public Place Recycling Containers (Section 125);
 Bulky Item, *Loose Item* and White Good Collections (Section 130);

Delivering Cans	(Section 200);
Delivering Detachable and Drop Box Containers	(Section 210);
Special Collections	(Section 360);
Ancillary services	(Attachment 4);

13) The City will add payments for the following services performed; and

Disposal at Transfer Station	(Section 180);
Pilot Tests	(Section 350);
Annual Changes in Container Inventory	(Sections 200, 210);

14) Deductions and withholdings under Section 880-885 and payments, charges, or penalties under Sections 55, 165, 170, 200, 210, 380, 630, 830, 840, 845, 850, and 1050.

Section 820. Adjustments in 2010 - 2016.

The City will compute inflation-adjusted payment amounts annually for both fixed and per-unit payments to the Contractor for the contract year beginning in April 2010 and later contract years as follows:

Inflation Adjustment Factor: The “Inflation Adjustment Factor” will be based on three indices computed by the United States Department of Labor, Bureau of Labor Statistics. The three indices and their weights are: 1) the second-half annual consumer price index for Urban Wage Earners and Clerical Workers for the Seattle-Tacoma-Bremerton Area, Series ID No. CWURA423SAO, or successor indices, which will have a weight of **42%**, 2) the Energy Information Agency annual West Coast Retail Price Series for On-Highway Diesel Fuel, Index No. PADD5, which will have a weight of **8%**, and 3) the Producers’ Price Index for Labor in Service-Producing Industries (National), Series ID No. ECS12102i, which will have a weight of **50%**.

The Inflation Adjustment Factor, for the contract year beginning in April 2010, and for each subsequent contract year, will be calculated by taking the weighted average, based on the weights above, of the percentage difference between the three indices’ most recent year-end values and the corresponding values for the year ending December 2008, and adding the result to 1.0.

This annual Inflation Adjustment Factor will be applied to all payments made under the Contract, unless otherwise noted herein. See Attachment 5 for a sample payment adjustment.

Section 825. Can/Cart Collection Payment Adjustments.

In addition to their annual adjustments for the Inflation Adjustment Factor defined in Section 820, the payments for Can collection of Garbage, and Cart collection of Recyclables and Compostables will also be adjusted annually for changes in their respective tonnages collected and structures served. (See Attachment 5 for a sample payment adjustment.) The specific bases for these payment adjustment calculations are as follows:

1. **Can Garbage Collection:** The compensation for Residential Can Garbage collection for each Collection Area in each contract year shall be calculated from the initial contract-year payment as modified by the Inflation Adjustment Factor, multiplied by two additional adjustment factors to account for changes in: 1) tonnage of Residential Can Garbage collected, and 2) numbers of Can Structures served.

Residential Can Garbage Collection Tonnage Adjustment Factor: The “**Tonnage Adjustment Factor**” for Residential Can Garbage collection for each Collection Area in each contract year will be based on the estimated tonnage of Residential Can Garbage collected by the Contractor in the Collection Area in the most recent calendar year, relative to the corresponding tonnage estimated to have been collected from that area during the calendar year 2009.

Tonnage shares for each area for the years 2009 will be estimated as follows: a) the collected Residential Can Garbage tonnages from each area for the period April – December, 2009 will be recorded, and used to calculate percentage shares of the City-wide Residential Can Garbage tonnage for the calendar years 2009; b) those percentages will be multiplied by the recorded total Residential Can Garbage tonnages for the calendar years 2009, to derive base year tonnages for each Collection Area. Calendar year tonnages for 2010 and subsequent years will be based on Contractor records of actual Residential Can Garbage tonnage collected in the Collection Area.

The Tonnage Adjustment Factor, for the contract year beginning in April 2011, and for each subsequent contract year, will be calculated by taking **35%** of the percentage difference between the most recent calendar year’s Residential Can Garbage tonnage collected in the Collection Area and the corresponding tonnage estimated to have been collected from that area for the calendar year 2009, and adding the result to 1.0.

Residential Can Garbage Collection Structure Adjustment Factor: The “**Structure Adjustment Factor**” for Residential Can Garbage collection for each Collection Area in each contract year will be based on the number of Structures in the Collection Area receiving “active Garbage can rate services” in December, 2009, as reported by the City’s Consolidated Customer Service System (CCSS) database.

The Structure Adjustment Factor for each area, for the contract year beginning in April 2011, and for each subsequent year, will be calculated by taking **30%** of the percentage difference between the number of CCSS accounts receiving active Garbage can rate services in that area in December of the most recent calendar year and the corresponding number of CCSS accounts in December, 2009, and adding the result to 1.0.

2. **Residential Cart Compostables Collection:** The compensation for Residential Cart Compostables collection for each Collection Area in each contract year shall be calculated from the initial contract-year payment as modified by the Inflation Adjustment Factor, multiplied by two additional adjustment factors to account for

changes in: 1) tonnage of Residential Cart Compostables collected, and 2) numbers of Structures receiving Residential Cart Compostables service.

Cart Compostables Collection Tonnage Adjustment Factor: The “**Tonnage Adjustment Factor**” for Residential Cart Compostables collection for each Collection Area in each contract year will be based on the estimated tonnage of Residential Cart Compostables collected by the Contractor in the Collection Area in the most recent calendar year, relative to the corresponding tonnage estimated to have been collected from that area during the calendar year 2009.

Tonnage shares for each area for the year 2009 will be estimated as follows: a) the collected Residential Cart Compostables tonnages from each area for the period April – December, 2009, will be recorded, and used to calculate percentage shares of the City-wide Residential Cart Compostables tonnage collected for the calendar year 2009; b) those percentages will be multiplied by the recorded total Residential Cart Compostables tonnages for calendar year 2009, to derive base year tonnages for each Collection Area. Calendar year tonnages for 2010 and subsequent years will be based on Contractor records of actual Residential Cart Compostables tonnage collected in the Collection Area.

The Tonnage Adjustment Factor, for the contract year beginning in April 2011, and for each subsequent contract year, will be calculated by taking **35%** of the percentage difference between the most recent calendar year’s Residential Cart Compostables tonnage collected in the Collection Area and the corresponding tonnage estimated to have been collected from that area for the calendar year 2009, and adding the result to 1.0.

Residential Cart Compostables Collection Structure Adjustment Factor: The “**Structure Adjustment Factor**” for Residential Cart Compostables collection for each Collection Area in each contract year will be based on the average number of accounts in the Collection Area receiving active Residential Yard Waste rate services in the most recent calendar year, as reported by the City’s Consolidated Customer Service System (CCSS) and Commercial Solid Waste (CSW) database.

The Structure Adjustment Factor for each area, for the contract year beginning in April 2010, and for each subsequent year, will be calculated by taking **30%** of the percentage difference between the number of CCSS and CSW accounts receiving active Residential Yard Waste rate services in that area in December of the most recent calendar year and the corresponding number of CCSS accounts in December 2009, and adding the result to 1.0.

3. **Cart Recyclables Collection:** The compensation for Cart Recyclables collection for each Collection Area in each contract year shall be calculated from the initial contract-year payment as modified by the Inflation Adjustment Factor, multiplied by two additional adjustment factors to account for changes in: 1) tonnage of Cart Recyclables collected, and 2) numbers of Structures with Cart Recyclables service.

Cart Recyclables Collection Tonnage Adjustment Factor: The “**Tonnage Adjustment Factor**” for Cart Recyclables collection for each Collection Area in each contract year will be based on the estimated tonnage of Cart Recyclables collected by the Contractor in the Collection Area in the most recent calendar year, relative to the corresponding tonnage estimated to have been collected from that area during the calendar year 2009.

Tonnage shares for each area for the years 2009 will be estimated as follows: a) the Cart Recyclables tonnages from each area for the period April – December 2009, will be recorded, and used to calculate percentage shares of the City-wide Cart Recyclables tonnage for the calendar year 2009; b) those percentages will be multiplied by the recorded total Cart Recyclables tonnages for the calendar year 2009, to derive 2009 base year tonnages of Recyclables for each Collection Area. Calendar year tonnages for 2010 and subsequent years will be based on Contractor records of actual Cart Recyclables tonnage collected in each Collection Area.

The Tonnage Adjustment Factor for each Collection Area, for the contract year beginning in April 2011, and for each subsequent contract year, will be calculated by taking **25%** of the percentage difference between the most recent calendar year’s Cart Recyclables collected in the Collection Area and the corresponding tonnage estimated to have been collected from that area for the calendar year 2009, and adding the result to 1.0.

Cart Recyclables Collection Structure Adjustment Factor: The “**Structure Adjustment Factor**” for Cart Recyclables collection for each Collection Area in each contract year will be based on the number of Structures with active Curb/Alley Recycling services in the Collection Area in December 2009, as reported by the City’s Consolidated Customer Service System (CCSS) database and Commercial Solid Waste (CSW) database.

The Structure Adjustment Factor for each area, for the contract year beginning in April 2011, and for each subsequent year, will be calculated by taking **40%** of the percentage difference between the number of CCSS accounts receiving active Curb/Alley Recycling services in that area in December of the most recent calendar year and the corresponding number of CCSS and CSW accounts in December 2009, and adding the result to 1.0.

Section 830. Performance Incentives.

The following performance incentives will be applied for performance above or below City service expectations (Section 300):

- 1) Residential Collection Incentives**
Monthly performance bonuses or penalties will be applied for residential service above or below service standards based on the following scale:

<u>Service standard</u>	<u>Low</u>	<u>High</u>	<u>Bonus (Debit)</u>	
6 Exceptional	0	<0.5	\$50	per complaint below standard
5 Above standard	0.5	<0.75	\$25	per complaint below standard
4 Standard	0.75	1	\$0	
3 Below standard	>1	1.5	(\$25)	per complaint
2 Poor	>1.5	2	(\$50)	per complaint
1 Failing	>2	NA	(\$100)	per complaint

Bonuses or penalties will be applied separately for misses (per 1,000 stops) and repeat miss (per 10,000 stops) and applied separately for each residential service type including Garbage Can service, Garbage Detachable Container/Drop Box, Cart Recyclables service, Apartment Recycling service, and Can Compostable collection service.

2) Residential Extras Recording Incentives

The City expects the reporting of extra waste records (as described/defined in Section 150) to be at least 85% accurate. Semi-annual performance bonuses or penalties will be applied according the following scale:

<u>Service standard</u>	<u>Low</u>	<u>High</u>	<u>Bonus (Debit)</u>	
4 Above standard	>90%	100%	\$10,000	per % above standard
3 Standard	85%	90%	\$ -	
2 Below standard	75%	<85%	(\$10,000)	per % below standard
1 Failing	0%	<75%	(\$20,000)	per % below standard

3) Commercial Call Wait Incentives

The City expects 80% of customer calls to be answered in one minute. Monthly performance bonuses and penalties based on average speed to answer (in seconds) will be applied as follows:

<u>Service standard</u>	<u>Low</u>	<u>High</u>	<u>Bonus (Debit)</u>	
4 Above standard	>90%	100%	\$1,000	per % point above standard
3 Standard	80%	90%	\$ -	
2 Below standard	60%	<80%	(\$1,000)	per % below standard
1 Failing		<60%	(\$2,000)	per % below standard

4) Commercial Abandoned Call Incentives

The City expects average abandoned calls to be under 10% per month. Monthly performance bonuses and penalties for abandoned calls will be applied as follows:

<u>Service standard</u>	<u>Low</u>	<u>High</u>	<u>Bonus (Debit)</u>	
4 Above standard	0%	>5%	\$1,000	per % above standard
3 Standard	5%	10%	\$ -	
2 Below standard	<10%	15%	(\$1,000)	per % below standard
1 Failing		>15%	(\$2,000)	per % below standard

5) Commercial Customer Satisfaction

The City expects the Contractor to maintain a customer satisfaction rating above 5 on a scale of 1 – 7 for commercial garbage service. Bi-annual performance bonuses or penalties will be applied as follows:

<u>Service standard</u>	<u>Low</u>	<u>High</u>	<u>Bonus (Debit)</u>	
4 Above standard	6	7	\$20,000	per point above standard
3 Standard	5	6	\$ -	
2 Below standard	4	5	(\$20,000)	per point below standard
1 Failing	-	3	(\$40,000)	per point below standard

6) Transfer Station Cycle Time

The City expects the Cycle Time at the transfer facility to be 15 minutes or less. The Contractor shall pay the City \$1.25 per minute for every individual truck trip at the transfer facility that exceeds a Cycle Time of 15 minutes. The Contractor shall receive a credit from the City of \$1.25 per minute for every individual truck trip at the transfer facility that is less than a Cycle Time of 10 minutes.

Section 840. Quarterly Partnership Payments.

The Contractor will partner with City to provide effective service delivery, self-monitoring and timely, accurate communication. The elements of the agreed partnership will be included in the Operations Plan. Each quarter the City will credit or deduct up to \$3,000 per item below in Contractor payments for succeeding or failing to achieve each major component of effective service and communication partnership:

- 1) Monitoring, resolving and reporting all service discrepancies;
- 2) Completing all electronic communications as described in the Contract and Operations Plan;
- 3) Maintaining sufficient container inventory and providing accurate and timely inventory reporting;
- 4) Performing all services above service standards (for bonus) or all services below standards (for penalty) as the described in Section 830; and
- 5) Other major components as agreed by the City and the Contractor.

Section 845. Annual Recycling and Reduction Incentive.

The City will reward the Contractor for successful recycling and waste prevention efforts. Baseline tons will be established from the initial Contract year, April 2009 – March 2010. In subsequent Contract years, the Contractor will be rewarded \$20 per ton for reduced Residential and Commercial Garbage tons compared to the prior contract year, and \$10 per ton reduced Residential Recycling or Compostables tons. The first annual incentive payment will be for the second Contract year, ending March 2011. The final incentive payment be for the fifth Contract year, ending March 2014, unless extended by both parties.

The incentive payment will not include changes in tons due to significant changes in City policies or rates, state regulations, the impact of household growth on Residential tons, economic growth on Commercial tons, or weather impacts on Compostables tons. The maximum incentive payment shall not exceed \$150,000 per year. The Contractor and City will agree on the methodology for the incentive payments in the Operations Plan.

Section 850. Performance Fees.

The City may deduct the following performance fees from the monthly payment for the service delivery omissions or acts as described below. Deductions for misses will not be applied for collections prevented by weather or holiday rescheduling or collections missed due to labor disruptions during the first week of the disruption. Performance Fees will be reasonably applied and may be appealed using the procedures outlined in the Operations Plan. The individual deductions for Performance Fees will be documented and will be applied with consideration of the specific circumstances and related events as well as the Contractor's overall performance, including the Contractor's efforts to mitigate impacts and maintain service levels during labor disruptions.

Performance Requirement	Penalty
<u>Collection Failure</u>	
1) Failure to collect missed collection on the day the request is given to the Contractor if submitted prior to 10 am, or by the following business day (including Saturday) if request is given to the Contractor after 10 am.	\$200 each Detachable or Drop Box Container \$100 each Can, Street Side Litter or Public Place Recycling Container.
2) Failure to collect Special Collection within twenty-four hours after receipt of a notice from the City or the customer.	\$200 each Detachable or Drop Box Container \$100 each Can, Street Side Litter or Public Place Recycling Container.
3) Missed collection of whole block . (This excludes collections prevented by weather and holiday rescheduling.) A whole block miss is defined as missing 3 or more houses on the same side of the street or alley between two streets.	\$250 per whole residential block
4) The third miss within one (1) year of any particular service at a particular address.	\$500 each incident
<u>Manner of collection</u>	
5) Collection outside of the hours as specified in Section 155.	\$250 each incident, to a maximum of \$1000 per truck per day

- | | |
|---|---|
| 6) Collection on other than the scheduled collection day per Section 105, including early collection due to a holiday. | \$100 per Structure or Commercial Establishment, to a maximum of \$1000 per truck per day |
| 7) Failure to place Containers, lids and locks back in original location or collect spillage consistent with Sections 125, 135, 140 and 320. | \$50 per incident
\$500 per route per day |
| 8) Collection trucks exceeding weight limits. | \$250 each incident |
| 9) Unsatisfactory performance by Contractor after two (2) notices to correct specific incidences involving the same address or collector in any six (6) month period, e.g. leaving gates or doors open, crossing planted areas, abusive language to customers, failure to return Containers to their original location after collection, failure to perform collections, violation of noise statutes, or similar violations. | \$300 each incident |

Containers

- | | |
|--|--|
| 10) Failure to deliver Containers for new Garbage service within 3 business days. | \$50 per Can, bin, lid or lock per day, \$100 per Detachable or Drop Box Container per day |
| 11) Failure to deliver, pick-up or replace Cans, lids, locks, Detachable or Drop Box Containers within 5 business days of notification, including any identified needing repair or replacement and those for new or increased recycling or compost service. | \$50 per Can, bin, lid or lock per day, \$100 per Detachable or Drop Box Container per day |
| 12) Failure to deliver, pick-up or to increase or decrease the regular collection frequency of Street Side Litter and/or Public Place Recycling Containers within five (5) business days of notification. | \$50 per Container per day (after 5 business days) |
| 13) Failure to deliver Detachable or Drop Box Containers or modify collection frequency within ten (10) business days of notification for modified service levels. | \$200 per Container per day (after 10 business days) |
| 14) Failure to remove or repaint graffiti on Containers within five (5) business days of notice. | \$50 per Container per day (after 5 business days) |

The Parties recognize that during the first ninety days following April 1, 2009, Contractor will be undergoing an "implementation period," to the extent it will be providing new services in areas of the City it has not previously serviced, and as such, the City acknowledges that during this ninety day period, the City will only assess Performance Fees under this Section 850 in extreme circumstances.

Section 855. Payment Procedure.

No later than the 10th of each month, the Contractor will submit an invoice, and monthly report per Section 730, to the City, for services provided during the prior month. The Contractor shall not receive their monthly compensation until all items required in Sections 710, 720 and 730 are accurately submitted to the City.

This invoice will be paid by the City to the Contractor by wire transfer on or before the 30th of the same month (or 20 calendar days after the invoice date, if the invoice/monthly report is presented late). This invoice will be at a level of detail that will allow the City to determine the type (i.e., Garbage, Compostables or Recyclables), container size, frequency and per unit compensation associated with each service.

Compensation paid by the City to the Contractor for services under this Contract will determine the taxable income under this Contract for which Contractor will be responsible for paying B&O taxes. It is the intent of both the City and the Contractor that Contractor's taxable income for services under this Contract is not based upon the remittances paid by the Commercial Waste customers to the Contractor acting as collecting agent for the City, including those taxes described in Section 620.

The City will make payments to the Contractor for the items listed in Section 800 (1) through (9), not including any unit or ancillary service payments associated with these payments, on a twice per month basis (the 15th and the 30th). Under this option the first Contractor payment (equal to ½ the monthly amount) would be due to the Contractor on April 15, 2009.

Section 860. Wage Increases for Employees.

All wage increases for collectors or any other employees of the Contractor granted during the term of this Contract shall be the sole responsibility of the Contractor. Any benefits or added costs resulting from changes in technology, laws and regulations, labor practices, availability of equipment, and other foreseeable business risks that may affect the performance of this Contract shall be to the Contractor's advantage or expense respectively, except as provided in Section 1295.

Section 865. Prevailing Rate of Wage.

The Contractor shall ensure that all Contractor and subcontractor collectors performing work under this Contract are paid not less than the prevailing rate of wage for the same trade or occupation as set by the City. The term "collectors" includes drivers, swappers, and others working on Garbage, Compostables, and Recyclables collection; it excludes office workers and management. If a collector, during the same pick-up, is collecting both

Garbage and Recyclables, or Compostables and Recyclables (co-collection), he/she must be paid the highest prevailing rate of wage for collection.

The term, "prevailing rate of wage" includes the hourly wage, usual benefits and overtime paid in the locality as defined in RCW 39.12.010(b). The Contractor's duty to pay the prevailing rate of wage and to ensure that subcontractors pay the prevailing rate of wage is absolute and mandatory. No worker may waive full compliance or accept a lesser sum.

The prevailing rate of wage, as of 4/1/2009, for Garbage, and Compostables collectors, and workers collecting Recyclables is listed in Attachment 3. This Attachment will be updated and reissued in June, 2009 with an effective date of July 1, 2009, to reflect any changes in effect on April 1, 2009. The prevailing wage will then be updated on a yearly basis thereafter.

Within thirty (30) days of starting collections on this Contract and thereafter on a yearly basis, the Contractor shall supply to each collector (including employees of the subcontractor) a copy of the prevailing wage. The Contractor shall also supply a copy to each new employee or temporary employee. The information shall be in both Spanish and English.

Should an employee prevail in suit against the Contractor for wages or benefits due and establish that his or her wages paid were less than the prevailing rate of wage set forth in Attachment 3, the Contractor shall pay to the employee, in addition to the wages or benefits due and accrued interest, a reasonable attorney's fee, expert witness' fee, and court costs, as well as any other damages that may be awarded.

Under-payment of prevailing wages shall be a material default of the Contract.

Section 870. Hiring Preference.

For initial hiring under this Contract the Contractor and subcontractors shall give hiring preference to any Garbage, Compostables or Recyclables collection workers who have been displaced as a result of the City awarding this Contract. All displaced collection workers that meet basic hiring requirements (including commercial drivers license, safe vehicle report, drug screening, physical exam, and background check) shall be hired for a minimum ninety (90) day trial period.

Section 875. Payroll Records and Reports.

The Contractor and subcontractors shall keep complete and accurate payrolls containing the following information with respect to each collector employed upon or in connection with this Contract:

- 1) Name and residence address;
- 2) Classification of work;
- 3) City route number;
- 4) Number of hours employed each day, as verified by a time clock record;
- 5) Total number of hours employed each payroll period, as verified by a time clock record;

- 6) Rate of wages;
- 7) Total amount earned;
- 8) All deductions;
- 9) Net amount paid; and
- 10) Funds paid by employer for prevailing benefits.

All employees shall be paid in lawful money of the United States, in the full amount accrued to each employee at the time of closing the payroll.

The Contractor's and subcontractor's payroll records shall be available for inspection by City staff during office hours at the Contractor's Seattle office.

On a quarterly basis the Contractor and subcontractor shall file with the City an electronic copy of each payroll together with an electronic listing of time clock records and other above information.

The City shall withhold payment on all estimates for work performed by the Contractor under this Contract until: (1) all payroll reports, with the above information of said Contractor and subcontractor for work performed have been filed with the City; and (2) all employees doing collection work under this Contract have been paid the prevailing rate of wage as determined by the City.

Section 880. Withholding and Payment of Tax Liens and Judgments.

The City may withhold and pay to the United States of America or to any federal court, or the State of Washington or any state court, the amount claimed in a levy filed by the United States Internal Revenue Service or the Washington State Department of Revenue, respectively; the amount directed by a writ of garnishment, writ of attachment, or writ of execution, or by an order of a Bankruptcy Court, and/or by any court order, each for monies claimed from the Contractor. When presented such an order, the City may in its discretion institute interpleader proceedings. The City may make a payment in conjunction with the interpleader action to the appropriate court. Payments so made or deposited into the registry of the court shall be satisfaction of payment due to the Contractor.

Section 885. Withholding and Payment to Workers.

If any worker doing collection work for the Contractor (or any subcontractor) shall be paid by a postdated check, a check presented and dishonored for insufficient funds on account, or other negotiable instrument or promissory note that is not payable on the worker's regular payroll date or paid when presented, the worker may present the unpaid document to the City and request payment directly from the City. The City shall contact the Contractor, and if payment is not made within twenty-four hours, the City may issue a warrant drawn on the City for the amount of the unpaid wages and the City shall deduct the amount paid, together with a service charge of Fifty Dollars (\$50.00) per warrant from the next succeeding payment to be made to the Contractor.

J. NON-DISCRIMINATION/EMPLOYMENT PROVISIONS

Section 900. Nondiscrimination - Employment Actions.

The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification.

The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to employment, upgrading, promotion, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training.

Section 910. Recordkeeping for Employment Actions.

The Contractor shall furnish to the Director of Seattle Public Utilities an annual report outlining the action taken by the Contractor in implementing the requirements of affirmative efforts in employment actions, including documented reasonable attempts in good faith to contact and employ women and minorities.

Section 920. Affirmative Efforts in Subcontracting.

In accordance with Seattle Municipal Code Chapter 20.42, Contractor shall actively solicit the employment and subcontracting of women and minority group members when necessary and commercially useful for purposes of fulfilling the scope of work required for this Contract. Contractors shall actively solicit subcontracting bids from subcontractors as needed to perform the work of this contract, from qualified, available and capable women and minority businesses. Contractors shall consider the grant of subcontracts to women and minority bidders on the basis of substantially equal proposes in the light most favorable to women and minority businesses. At the request of Seattle, Contractor shall promptly furnish evidence of the Contractor's compliance with these requirements.

Section 930. Record-Keeping for Subcontracts.

The Contractor shall furnish to the Director of Seattle Public Utilities an annual report outlining the Contractor's affirmative efforts to achieve women and minority business participation. The report shall also identify any subcontracting opportunities which may arise during the next 12 month period, and shall outline the affirmative steps that the Contractor intends to take to recruit and hire women and minority subcontractors for these subcontracting opportunities.

Section 950. Investigation.

If upon investigation, the Director of Executive Administration finds probable cause to believe that the Contractor has failed to comply with any of the requirements of Sections 900, 910, 920, or 930, the Contractor shall be so notified in writing. The Director of Executive Administration shall give the Contractor an opportunity to be heard, after ten

calendar days' notice. If, after the Contractor's opportunity to be heard, the Director of Executive Administration still finds probable cause, he/she may suspend the Contract and/or withhold any funds due or to become due to the Contractor, pending compliance by the Contractor with the requirements of this Section.

Section 960. Sanctions for Violation.

Any violation of the mandatory requirements of Sections 900, 910, 920, 930, or 950, or a violation of Seattle Municipal Code Chapter 14.04 (Fair Employment Practices), Chapter 14.10 (Fair Contracting Practices), Chapter 20.45 (City Contracts – Non-Discrimination in Benefits), or other local, state, or federal non-discrimination laws, shall be a material breach of the Contract for which the Contractor may be subject to damages and sanctions provided for by this Contract and by applicable law.

Section 970. Equal Benefits/Compliance with SMC Ch. 20.45.

The Contractor shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Contractor is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as the Contractor provides to its employees with spouses. At the City's request, the Contractor shall provide complete information and verification of the Contractor's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract. (For further information about SMC Ch. 20.45 and the Equal Benefits Program Rules call (206) 684-0430 or review information at [http://cityofseattle.net/contract/equalbenefits/.](http://cityofseattle.net/contract/equalbenefits/))

Section 980. Remedies for Violations of SMC Ch. 20.45.

Any violation of Section 970 shall be a material breach of Contract for which the City may:

- 1) Require Contractor to pay actual damages for each day that the Contractor is in violation of SMC Ch. 20.45 during the term of the Contract; or
- 2) Terminate the Contract; or
- 3) Disqualify Contractor from bidding on or being awarded a City contract for a period of up to five (5) years; or
- 4) Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

Section 990. Americans with Disabilities Act.

The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Contractor is providing services, programs or activities to City employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities, to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

K. SECURITY; LIABILITY; DAMAGES

Section 1000. Letter of Credit.

The Contractor shall provide and maintain at all times a valid Irrevocable Standby Letter of Credit (Performance), conforming to the International Chamber of Commerce Publication No. 500, or similar financial instrument acceptable to the City (a "Surety Instrument"), in an amount no less than twenty percent (20%) of the estimated annual compensation to the Contractor under the Contract. The Surety Instrument shall be issued for a period of not less than one year and the Contractor shall provide a new Surety Instrument, or evidence satisfactory to the City of the renewability of the current Surety Instrument at least 90 calendar days before it expires.

The initial Surety Instrument must be in place prior on or before March 30, 2009.

The Surety Instrument shall be conditioned upon full performance of all obligations imposed upon the Contractor in this Contract and subject to approval by the City Attorney as to the company, form and sufficiency of surety. If the instrument is found by the City Attorney to be flawed, the Contractor must correct the flaw promptly prior to contract execution or the award may be terminated.

The Surety Instrument shall contain appropriate recitations that it is issued pursuant to this Section of this Contract, that it shall be construed to meet all requirements specified herein and that any condition or limitation in the Surety Instrument which is in conflict with the conditions and requirements of this Section is void.

Failure of the Contractor to furnish and maintain the Surety Instrument shall be considered a material default of this Contract and grounds of its immediate termination at the option of the City.

Section 1010. Default of Contractor.

This Section is independent, notwithstanding any other provisions of this Contract. Except as provided in the last paragraph of this Section, the Contractor may be held in default of the Contract in the event the Contractor:

- 1) Fails to perform ninety percent (90%) the collections required by this Contract and appears, to the City, to have abandoned the work, or to be unable to resume collections within forty-eight hours;
- 2) Has failed on three or more occasions of three (3) working days duration each, in any year, or fifteen (15) days in a calendar year to perform the collections required by the Contract; except as otherwise provided in Section 165;
- 3) Fails to comply with the prevailing wage requirements per Section 865;
- 4) Fails to comply with the terms of any of the Sections in Chapter J;

- 5) Fails to furnish and maintain a Surety Instrument per Section 1000;
- 6) Fails to furnish and maintain Insurance per Section 1030; or
- 7) Repeatedly neglects, fails, or refuses to comply with any of the terms of the Contract, after having received notice of its obligation to do so.

To initiate proceedings under this Section, the City shall give notice to the Contractor and its Lender of the location, time, and date within the following seven calendar days of a meeting with the Director at which the Contractor will be given the opportunity to correct the deficiency above and to show cause why it should not be declared in default or why it should be given the opportunity to cure said default. The Lender may attend such meeting. In the event the Contractor fails to show, to the reasonable satisfaction of the Director, why the Contractor should not be declared to be in default of this Contract, the Director may make a declaration of default. In evaluating whether to make such a declaration of default, the Director shall, in her/his discretion, consider the severity of the alleged violations and the overall performance of the Contractor under the Contract.

Upon such declaration of default, the City may, subject to the Lender's rights described in this Section and Section 1015, terminate the Contract; provided that no such termination shall be effective unless and until either:

(1) the Contractor (or the Lender) has failed to cure the default within five business days, including by procurement of a third party entity to perform the obligations of the Contractor (a "Substitute Operator"); or

(2) the City or a Substitute Operator has executed either an agreement with the Lender to pay the Lender any remaining principal due the Lender (excluding any arrearages, balloon payment, accrued interest, accelerated charges in the event of a default, or other extraordinary payment) on the most recent inventory described in Section 65 or an agreement with the Lender to assume the Contractor's periodic obligations to the Lender concerning the principal and interest payments (excluding any arrearages, balloon payment, accrued interest, accelerated charges in the event of a default, or other extraordinary payment) to become due on the most recent inventory described in Section 65. Upon the City's payment of principal or satisfaction of Contractor's periodic obligations, the Lender shall as soon as reasonably practical transfer title to the inventory to the City or its nominee.

Without terminating the Contract, the Director may nevertheless order the Contractor to discontinue further performance of work under the Contract and transfer the obligation to perform such work from the Contractor to a Substitute Operator designated by the City. Additionally, without terminating the Contract, the Director may allow the Lender additional time to cure the default, including by procurement of a Substitute Operator, who shall be subject to the City's approval in its sole discretion.

A Substitute Operator shall have the right to take possession of all materials and equipment, as described in Section 1020. If the Director transfers the Contractor's

obligations to perform under the Contract to a Substitute Operator, the City shall pay the Substitute Operator for all work it performs under the Contract, and the Contractor shall have no claim upon such payments; provided, however, that unless the City has executed an agreement with the Lender to pay the remaining principal or to assume the Contractor's periodic obligations, as described above, the City's payments to the Substitute Operator shall be conditioned upon the Substitute Operator's execution of an agreement with the Lender providing for the satisfaction of Contractor's periodic obligations. If within six months of the Director's transferring the Contractor's obligations to perform under the Contract to a Substitute Operator, the Substitute Operator has not executed an agreement with the Lender providing for the satisfaction of the Contractor's periodic payments, then the City may terminate the Contract and have no further obligations hereunder.

The City may take any other action it deems advisable, consistent with the foregoing, in order to protect its rate-payers and the public health, safety, and welfare. Nothing in this Contract relating to any rights given the Lender shall be construed to require any payments by the City to the Lender, except to the extent the City and Lender may enter into an agreement as described above, or to relieve the Contractor of its obligations and liabilities arising under this Contract.

In the event the City secures the performance of work under the Contract at a lesser cost than would have been payable to the Contractor had the Contractor performed the same, then the City shall retain such difference; but in the event such cost to the City is greater, the Contractor shall be liable for and pay the amount of such excess to the City.

In the event the Director declares the Contractor in default, the Director may draw on the Surety Instrument to cover the costs the City incurs as a result of the default, including, without limitations, costs the City incurs while Contractor or Lender is attempting to cure a default.

All payments due the Contractor at the time of default, less amounts due the City from the Contractor, shall be applied by the City against damages suffered and expense incurred by the City by reason of such default, any excess shall be paid to the Contractor unless otherwise provided herein.

Notwithstanding the provisions of this Section, a delay or interruption in the performance of all or any part of the Contract resulting from causes beyond the Contractor's control shall not be deemed to be a default and the rights and remedies of the City provided for herein shall be inapplicable; provided that labor disputes shall not be considered a cause beyond the Contractor's control.

Section 1015. Lender's Rights.

The Lender is not a party to this Contract, nor is it a beneficiary except as specifically provided in this Section. For the limited purposes of securing the Contractor's payment of its obligations to the Lender relating to the equipment and other assets used in the performance of this Contract, the Contractor may grant the Lender an assignment or other security interest in this Contract. For such limited purposes, the City hereby consents to

such assignment and agrees to execute a consent to assignment and such other documentation of the assignment and the Lender's security interest as may reasonably be requested by the Lender.

If (1) the Director has declared a default, (2) the City or a Substitute Operator has not executed either an agreement with the Lender to pay the Lender any remaining principal due the Lender or an agreement with the Lender to assume the Contractor's periodic obligations to the Lender, as provided in Section 1010, and (3) the Lender cannot practicably cure the default without Lender taking possession of the equipment and other assets Contractor used in its performance under this Contract, then the City shall not take action to terminate this Agreement so long as the Lender (1) proceeds to obtain possession of the assets as mortgagee (through the appointment of a receiver or otherwise), diligently pursues judicial or non-judicial foreclosure proceedings or assignment in lieu of foreclosure, as appropriate, and upon obtaining possession, promptly commences and diligently prosecutes to completion such action as may be necessary to make effective the provisions relating to the City and any Substitute Operator described herein and (2) pays and continues to pay all compensatory damages and performance fees payable under this Contract throughout the entire period during which the Lender is attempting to effect a cure and/or obtain possession of the assets whether through the City's drawing on the Surety Instrument or otherwise.

The Lender shall not be required to continue to attempt to a cure or obtain possession of the equipment; provided, however, that if such Lender shall have commenced to cure or attempt to cure the Contractor default, the Lender shall give Notice to City of any decision to cease to cure or attempt to cure such Contractor default, and shall pay all compensatory damages and performance fees payable under this Contract through the date of such Notice.

If this Agreement terminates for any reason, including, without limitation, a default by Contractor hereunder or rejection of this Contract in any bankruptcy proceeding, and within thirty (30) days after notice to the Lender of such termination, the Lender makes a written request to the City to enter into a new Contract, then the City will consider entering into a new Contract with the Lender (or a Substitute Operator, subject to approval of the City). The City will not unreasonably withhold its approval of a new Contract, provided that (1) the Lender continues to keep current all compensatory damages and performance fees under this Contract up to and including the effective date of the new Contract, (2) the terms of the new Contract are no less favorable to the City than the terms of this Contract, (3) the Lender delivers to the City a written agreement, acceptable to the City, to cure all defaults of Contractor under this Contract (other than defaults which the Lender cannot cure or cause to be cured), and (4) the Lender pays all outstanding sums of money due under this Contract.

Section 1020. Commitment of Equipment.

Unless a replacement or substitute is provided, all vehicles, facilities, equipment and property identified in the Contractor's inventory under Section 65 for use in the performance of this Contract (called "such property") shall be available for use in collecting

Garbage, Compostables and Recyclables in the Collection Area. When provided, this Section applies to the replacement and substitute.

For the duration of this Contract, any document (including a lease to or by the Contractor, financing contract, acquisition over time, mortgage, or other instrument establishing a security interest) that encumbers or limits the Contractor's interest in such property shall:

- 1) In event the Contractor is in default, allow the City to use without further documentation all or a portion of such property and without requiring the City to post any bond, pledge, deposit or other security for such equipment and materials, at the City's discretion, for a period of up to six months following the date of the City's declaration of default, to provide such collection services on the condition that the City pays to the Lender for the equipment or property actually used in an amount no greater than the monthly lease in event of a lease, the installment payment in event of a purchase contract, or the monthly interest and principal in event of a financing arrangement;
- 2) In event the Contractor is in default, allow a Substitute Contractor to use all or a portion of such property for a period of up to six months following the date of the City's declaration of default, to provide such collection services on the condition that the Substitute Contractor executes an agreement with the Lender requiring it to pay the Lender for the equipment or property actually used in an amount no greater than the monthly lease in event of a lease, the installment payment in event of a purchase contract, or the monthly interest and principal in event of a financing arrangement;
- 3) Exempt the City or the Substitute Contractor from liability during its usage of such property for arrearages, balloon payments, accrued interest, accelerated charges on account of a default, or other extraordinary payments, and not make satisfaction thereof a condition of the City's or the Substitute Contractor's interim usage; and
- 4) Forbid any foreclosure, trustee's sale or other dispossession of the Contractor's interest in such property without giving both the City and the Lender sixty days' prior notice, and then make any termination of the Contractor's interest in such property pursuant to such action or the enforcement thereof subject to the requirements of subsections (1), (2) and (3) of this Section.

Contractor agrees to cooperate with the City and any Substitute Operator and hereby agrees to lease, rent or otherwise transfer its right to use the equipment and to promptly execute any leases or other documents reasonably required to allow the latter to take over operations and use the equipment in the manner described in this Section and Sections 1010 and 1015.

To assure compliance with this Section, the Contractor shall submit to the City for its review and approval or disapproval prior to execution all contracts, leases, or other documents for acquisition of, or encumbering or limiting the Contractor's interest in, such

property or for replacements thereof and any proposed agreement that would encumber or transfer any interest of the Contractor in such property before the Contractor's execution of such agreement. The City's approval shall not be unreasonably withheld.

Section 1030. Insurance.

At all times during the term of this Agreement, the Contractor shall maintain in force the following minimum levels of coverage for insurance or self-insurance (“Insurance”):

1) **COVERAGES AND LIMITS**

The Insurance shall provide the minimum coverages and limits of liability set forth below:

a) **COMMERCIAL GENERAL LIABILITY (CGL) Insurance** including coverage for:

- i) Premises/Operations
- ii) Products/Completed Operations
- iii) Pollution – On-Site and Off-Site*
- iv) Personal/Advertising Injury
- v) Contractual
- vi) Independent Contractors
- vii) Stop Gap/Employers Liability

Such Insurance must provide the following minimum limits of liability:

\$10,000,000	each occurrence Combined Single Limit bodily injury and property damage (CSL)
\$1,000,000	each Offense Personal/Advertising Injury,
\$5,000,000	each accident/disease/policy limit

b) **AUTOMOBILE LIABILITY INSURANCE** for owned, non-owned, hired, and leased vehicles, as applicable, with MCS 90 and CA 99 48 endorsements. Such insurance must provide a minimum limit of liability of \$10,000,000 CSL.

c) **WORKERS’ COMPENSATION INSURANCE** as required by the Industrial Insurance laws of the state of Washington.

The limits of liability specified above may be satisfied with primary limits of liability or any combination of primary limits and excess/umbrella limits.

* Pollution Liability Insurance minimum limits of liability may be evidenced with separate coverage.

2) GENERAL REQUIREMENTS

- a) Each insurer must either be (1) authorized to do business in the state of Washington and maintain A.M. Best's ratings of A-: VII or higher, or (2) procured as surplus lines under the provisions of chapter 48.15 RCW ("Unauthorized Insurers"). The City reserves the right to reject insurance including based on the insurer, terms and coverage, the certification of insurance, and/or policy provisions.
- b) The Contractor shall keep this Insurance in force during the term of the contract.
- c) The liability Insurance policies for which there is a requirement to include the City as an additional insured shall contain a "cross liability" provision.
- d) The Contractor and any subcontractor insurance liability Insurance coverage required to include the City as an additional insured shall be primary and non-contributory as respects the City's self-insurance and/or insurance.
- e) All Insurance shall include a requirement providing for a minimum of thirty (30) days prior written notice to the Contracting Agency of any cancellation in any Insurance, except a minimum of ten (10) days as respects cancellation for non-payment.
- f) Upon request, the Contractor shall forward to the City a true and certified copy of any Insurance policy(s) or self-insurance documents.
- g) The Contractor shall not begin work under the contract until the required Insurance has been obtained and approved by the City.
- h) Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such Insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Contracting Agency on demand, or at the sole discretion of the Contracting Agency, offset against funds due the Contractor from the Contracting Agency.
- i) Any self-insured retention (S.I.R.) in excess of \$250,000 must be disclosed and is subject to City's approval. The Contractor shall furnish financial information that the City shall reasonably require for performing a risk retention analysis and Contractor shall protect the City against any claim within the S.I.R. to the same extent that

coverage would be afforded under the relevant excess of loss commercial insurance policy. The cost of any claims payments for defense and indemnity falling within the S.I.R. shall be the responsibility of the Contractor.

- j) All costs for Insurance shall be incidental to and included in the unit or lump sum prices of the contract and no additional payment will be made.

3) NO LIMITATION OF LIABILITY; ADDITIONAL INSURED

The limits of liability specified herein are minimum limits only. Such minimum limits of liability requirements shall not be construed to limit the liability of the Contractor, any subcontractor of any tier or of any of their respective insurers or reinsurers. Any provision in any Contractor or subcontractor Insurance policy that limits available limits of liability to those specified in a written agreement or contract shall not apply and all Insurance policies, with the exception of Workers Compensation Insurance, shall include the City of Seattle as an additional insured for primary and non-contributory limits of liability for the full valid and collectible limits of liability maintained by the Contractor, whether primary, excess, contingent or otherwise. This provision shall apply regardless of whether such limits maintained by the Contractor are greater than those required by this Contract, and regardless whether the certification of Insurance provided by a subcontractor of any tier pursuant to 4) below specifies lower minimum limits than those specified for or maintained by the Contractor.

4) EVIDENCE OF INSURANCE (DOES NOT APPLY TO STATE OF WASHINGTON STATUTORY WORKERS' COMPENSATION)

The Contractor shall deliver to the City certification of Insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the work. The certification of Insurance must include the following:

- a) An ACORD certificate or equivalent form fully disclosing all coverages and limits of liability maintained.
- b) A copy of the additional insured endorsement or blanket additional insured language to the Commercial General Liability Insurance documenting that the City of Seattle is an additional insured for primary and non-contributory limits off liability. A statement of additional insured status on an ACORD or other form of certificate of Insurance will not satisfy this requirement.
- c) A copy of each policy's declarations page and schedule of forms and endorsements.

- d) Any other amendatory endorsements to document compliance with the requirements herein.

Section 1040. Indemnity.

To the extent permitted by law, the Contractor shall protect, defend, indemnify and hold the City (and the City’s officers, employees and agents) harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, judgments, expenses and attorney fees, resulting from the injury or death of any person (including but not limited to the Contractor, its agents, employees, subcontractors and their successors and assigns as well as the City or the City’s agents, and all third parties) or the damage to or destruction of property of any kind, whether tangible or intangible, including loss of use resulting therefrom, or the infringement of any patent, copyright, or trademark, or trade secret, arising out of, in connection with or related to the work performed under this Contract, or arising out of, in connection with or related to (in whole or in part by reason of) the presence of the Contractor or its subcontractors, or their property (or property subject to their use and control), employees or agents, upon or in proximity to the property of the City, or any other property (upon which the Contractor is performing any work called for), or arising out of, in connection with or related to the Contractor’s violation of any law, ordinance or regulation, except for damages resulting from the sole negligence or willful misconduct of the City. As to the City of Seattle, and for purposes of the Contractor’s indemnification obligations under this Section 1040 only, the Contractor waives any immunity it may have under RCW Title 51 or any other Worker’s Compensation statute. The parties acknowledge that this waiver has been specifically and mutually negotiated by them.

Section 1050. Liquidated Damages.

This Section is independent of Section 1010. The acts or omissions in the left hand column are a breach of this Contract; the amounts in the right hand column are set as Liquidated Damages. Liquidated Damages may be deducted from the monthly payment to the Contractor.

<u>OMISSION</u>	<u>LIQUIDATED DAMAGE</u>
1) Failure to forward funds received from Commercial Establishments for collection services to the City in the time frames expressly established herein.	\$5000 each incident
2) Submitting false data, information or reports to the City.	\$5000 each incident

In addition to the above damages, the Contractor shall not be paid for work not performed. If the Contractor, for any reason, fails to make collections called for in the Contract for any period (except as provided for elsewhere in this Contract), with the result that any portion of the scheduled collection is not completed within a given calendar week, the City shall deduct, for such nonperformance, a reasonable amount from the Contractor's next monthly payment(s), which amount shall be based on, among other factors, the number of

Residential Structures and/or Commercial Establishments from which collections have not been made, the duration of such failure of collection, and special costs including administrative expenses incurred by the City as a consequence of such failure.

Procedures for applying, appealing and reversing liquidated damages will be included in the Operations Plan.

Section 1060. Contract Buyout.

The City will have the right to terminate the Contract early, provided that: a) the Contract has been in effect for at least five years, and b) the Contractor has performed at either the “Poor” or “Failing” performance standard for Residential collection misses, as defined in Section 830 (1), for at least four of the preceding twelve months.

If the City exercises this option, it will compensate the Contractor according to the schedule and amounts defined in Attachment 6.

L. PROPRIETARY AND CONFIDENTIAL INFORMATION

Section 1100. No disclosure unless required by law.

The parties agree that they will not permit the duplication or disclosure of any information designated in advance by the other party as "Confidential and Proprietary" to any person (other than its own employee, agent, or representative who must have such information for the performance of that party's obligations hereunder) unless such duplication, use or disclosure is specifically authorized in writing by the other party or is required by law. "Confidential and Proprietary" information does not include ideas, concepts, know-how or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Contract. Likewise, "Confidential and Proprietary" information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

Section 1110. Contractor's Understanding and Obligations.

The Contractor understands that any records (including but not limited to proposal submittals, the Contract, and any other contract materials) it submits to the City, or that are used by the City even if the Contractor possesses the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. The Contractor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.

The Contractor must separate and clearly mark as “proprietary” information all records related to this Contract or the performance of this Contract that the Contractor believes are exempt from disclosure. The Contractor is to be familiar with potentially-applicable public disclosure exemptions and the limits of those exemptions, and will mark as “proprietary” only information that the Contractor believes legitimately fits within an exemption and will state the statutory exception upon which it is relying.

If the City notifies the Contractor of a public records request, and the Contractor believes records are exempt from disclosure, it is the Contractor's responsibility to make its own determination and pursue a lawsuit under RCW 42.17.330 to enjoin disclosure. The Contractor must obtain the injunction and serve it on the City before the close of business on the tenth business day after the City sent notification to the Contractor. It is the Contractor's discretionary decision whether to file the lawsuit.

If the Contractor does not timely obtain and serve an injunction, the Contractor is deemed to have authorized releasing the record.

Notwithstanding the above, the Contractor must not take any action that would affect (a) the City's ability to use goods and services provided under this Contract or (b) the Contractor's obligations under this Contract.

The Contractor will fully cooperate with the City in identifying and assembling records in case of any public disclosure request.

Section 1120. The City's Obligations.

The City will disclose those parts of records the Contractor has marked as "proprietary information" only to authorized persons unless: (a) the City discloses the records in response to a public records request or (b) the Contractor has given the City express advance written permission to disclose the records. "Authorized persons" means those City officers, employees, contractors and consultants for whom the proprietary information is necessary to perform their duties or obligations to the City. The term "proprietary information" does not include ideas, concepts, know-how or techniques related to any information that, at the time of disclosure, is in the public domain, unless the entry of that information into the public domain is a result of a breach of this Contract.

If the City receives a public records request for records that Contractor has marked as "proprietary information", the City may promptly notify the Contractor of the request. The City may postpone disclosing these records for ten business days after it has sent notification to the Contractor, in order to allow the Contractor to file a lawsuit under RCW 42.56.540 to enjoin disclosure. It is the Contractor's discretionary decision whether to file the lawsuit.

If the City has notified the Contractor of a public records request, and the Contractor has not obtained an injunction and served the City with that injunction by the close of business on the tenth business day after the City sent notice, the City may disclose the record.

The City has no other obligations concerning records the Contractor has marked as "proprietary information" under this Contract. The City has no obligation to claim any exemption from disclosure. The City is not obligated or liable to the Contractor for any records that the City releases in compliance with this Section or in compliance with the order of a court of competent jurisdiction.

M. ANCILLARY PROVISIONS

Section 1200. Assignment or Pledge of Moneys by the Contractor.

The Contractor shall not assign or pledge any of the monies due under this Contract without securing the written approval of the Lender and providing at least thirty (30) calendar days' prior notice to the City of such assignments or pledge together with a copy of the Lender's approval thereof. Such assignment or pledge, however, shall not release the Contractor or its Lender from any obligations or liabilities arising under or because of this Contract.

Section 1210. Assignment; Subcontracting; Delegation of Duties.

Except for the subcontracting identified in the Contractor's proposal, the Contractor shall not assign or subcontract or transfer any of the work or delegate any of its duties under the Contract without the prior written approval of the City, which approval may be granted or withheld in the City's sole discretion.

Any subcontract made by Contractor shall incorporate by reference all the terms of this Contract except for Equal Benefit provisions (Sections 970 and 980). Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract, except for Equal Benefit provisions (Sections 970 and 980).

The City's consent to any assignment or subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract. In the event of an assignment, subcontract or delegation of duties, the Contractor shall remain responsible for the full and faithful performance of this Contract and the assignee, subcontractor, other obligor shall also become responsible to the City for the satisfactory performance of the work assumed. The City may condition its approval upon the delivery by the assignee, subcontractor or other obligor of its covenant to the City to fully and faithfully complete the work or responsibility undertaken.

During the term of this Contract, the Contractor shall not have any ownership interest in any other company that has a contract for Solid Waste collection with the City.

Section 1220. Audit.

The Contractor shall maintain in its office in King County full and complete accounting records, prepared in accordance with generally accepted accounting principles, reflecting the Contractor's work on this Contract. The City may require an audit of such books and records at any reasonable time. Such audit will be conducted by City staff or by a certified public accounting firm with experience in auditing public service companies selected by the City.

Upon request, the Contractor shall permit the City to inspect and audit all pertinent books and records of the Contractor, any subcontractor, or any other person or entity that performed work in connection with or related to this Contract, at any and all times deemed necessary by the City, including up to six years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall

occur in King County, Washington or other such reasonable location as the City selects. The Contractor shall supply the City with, or shall permit the City to make, a copy of any books and records and any portion thereof. The Contractor shall ensure that such inspection, audit and copying right of the City is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work under this Contract.

Section 1225. Violation of Antitrust or Corrupt Practice Laws.

In the event the Contractor is found to be guilty of a violation of antitrust or corrupt practice laws for acts performed in Washington during the term of this Contract, the City at its election may terminate this Contract by giving the Contractor written notice of the City's intent to terminate this Contract effective on the date designated by the City in the notice. For purposes of this Section, the "antitrust or corrupt practice laws" shall include all civil and criminal statutes, both state and federal, pertaining to the antitrust laws, fair practices acts, and any laws governing corrupt standards or practices. Further, for the purposes of this Section, the Contractor shall be considered to be "guilty" of a violation of such antitrust or corrupt practice laws if the Contractor or any of its officers or management employees: (1) enters a plea of guilty to a charge, (2) enters a plea of nolo contendere, or (3) is found guilty of a criminal violation or is held liable for a civil violation by the highest court or tribunal which considers the case.

Section 1230. Contract Rights.

The parties reserve the right to amend this Contract from time to time by mutual agreement in writing.

Rights under this Contract are cumulative, and in addition to rights existing at common law.

Payment by the City and performance by the Contractor do not waive their contract rights.

Failure by either party on any occasion to exercise a contract right shall not forfeit or waive the right to exercise the right on another occasion. The use of one remedy does not exclude or waive the right to use another.

Section 1240. Interpretation.

This Contract shall be interpreted as a whole and to carry out its purposes. This Contract is an integrated document and contains all the promises of the parties; no earlier oral understandings modify its provisions.

Captions are for convenient reference only. A caption does not limit the scope or add commentary to the text.

Section 1250. Law; Venue.

The laws of the State of Washington and Charter and Ordinances of the City shall govern the validity, construction and effect of this Contract. The venue for any claims, litigation, or causes of action between the parties shall be in the Superior Court of the State of Washington for King County.

Section 1260. Notices.

All official notices or approvals shall be in writing. Unless otherwise directed, notices shall be delivered by messenger, by certified or registered mail, return receipt requested, or by fax to the parties at the following respective addresses:

To the City:

Hans VanDusen
The City of Seattle
Seattle Public Utilities
Seattle Municipal Tower, Suite 4900
700 Fifth Avenue
P.O. Box 34018
Seattle, Washington 98124-4018
Phone: (206) 684-4657

To the Contractor:

Jerry Hardebeck
CleanScapes, Inc.
Chief Operating Officer
5939 4th Avenue South
Seattle, Washington 98109
Phone: (206) 859-6709

Either party may from time to time designate a new address for notices. Unless a return receipt or other document establishes otherwise, a notice sent by U.S. Mail shall be presumed to be received the second business day after its mailing.

Section 1270. Severability.

Should any term, provision, condition, or other portion of this Contract or its application be held to be inoperative, invalid or unenforceable, and the remainder of the Contract still fulfills its purposes, the remainder of this Contract or its application in other circumstances shall not be affected thereby and shall continue in force and effect.

Section 1280. Termination.

Notwithstanding any other provisions of this Contract, the City may terminate this Contract upon a material default under or breach of this Contract by the Contractor. A termination for violation of an equal opportunity provision, or violation of any other provision shall take effect in fifteen (15) days after delivery of notice of termination.

Section 1285. Force Majeure – Suspension.

This section applies in the event either party becomes unable to perform its obligations under this Contract as a result of a Force Majeure Event. A Force Majeure Event is an external event that is beyond the control of the party or its agents and that renders the party severely compromised in its ability to perform all its obligations under the Contract. Such events may include a natural or man-made disaster or an action or decree of a superior governmental body, which completely prevents the party from performing all its obligations under the Contract. In circumstances where the Contractor's performance of its obligations under the Contract is not completely prevented, but is disrupted by an emergency or disaster, the provisions of Section 1290 shall apply.

Should either party suffer from a Force Majeure Event, such party shall provide the other party with notice as soon as practical and shall act with speed and diligence to mitigate any potential damage that may result from the event and resume performance of all its obligations under the Contract as soon as possible. When notice has been properly provided, the obligations of both parties shall be suspended for the period of time the

Force Majeure Event prevents the party from resuming performance of all its obligations under the Contract.

Section 1290. Emergencies, Disasters – Major Service Disruption.

This section applies in the event an emergency or disaster causes a major disruption to the Contractor's ability to maintain standard levels of service in the performance of its obligations under the Contract. Such events may include, but are not limited to, a severe storm, high wind, earthquake, flood, hazardous material release, transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above (except as provided in Sections 165 and 170). In such an event:

1) The City shall notify the Contractor of the emergency or disaster, describing the relevant circumstances arising from the event, and request emergency and priority services from the Contractor.

2) Upon such notice from the City, the Contractor shall consult with the City and exercise its best efforts in providing the emergency and priority services as requested by the City in as timely a manner as possible.

3) The Contractor shall make the City's customers its first priority, and its efforts to provide City's customers with emergency and priority services shall not be diminished as a result of the Contractor providing service to other customers.

4) If the Contractor is unable to respond in the time requested by the City, the Contractor shall respond as soon as practical. The Contractor shall immediately assist the City to the extent reasonable in providing services, which may include offering the City substitutions, provided that the Contractor obtains prior approval from the City for the substitutions.

5) The City shall compensate the Contractor for performing emergency and priority services under this section in a manner consistent with the compensation provisions of this Contract.

The City and Contractor shall jointly develop a Contingency Plan addressing the above.

Section 1295. Change of Law – Adjustment.

This section applies in the event a change in federal, state, or local laws results in a substantial increase (or decrease) in costs to the Contractor in the performance of its obligations under this Contract. To qualify as a substantial increase in costs under this section, Contractor must demonstrate to the satisfaction of the City that the change in law has resulted in an increase of more than fifteen percent over the actual costs incurred by the Contractor for the same services provided under this Contract. A change in law under this section shall not include changes in law with respect to any form of taxes, including but not limited to property, income, business, payroll, franchise, employment, excise, sales or use taxes.

The Contractor may request an adjustment under this section. Any adjustment the City decides to grant under this section shall be prospective only. If the Contractor decides to request an adjustment under this section, the Contractor shall file with the City an adjustment request setting forth the Contractor's calculation of its increase in costs and documenting how the increase qualifies as a substantial increase in costs under this section. The burden of demonstrating that the Contractor has suffered a substantial increase in costs under this section rests with the Contractor. The Contractor shall provide the City with any and all documentation and data reasonably necessary to evaluate the request. The City shall act within 90 days of receipt of a properly filed request and may either grant, grant in part, or deny the request, which shall not be unreasonably denied.

In the event a change in federal, state, or local law results in a decrease of more than fifteen percent from the actual costs incurred by the Contractor for the same services provided under this Contract, and upon 60 days prior notice from the City, the Contractor shall accept an adjustment to reflect such decrease in its costs.

IN WITNESS WHEREOF, the parties hereto have executed this Contract by having their representatives affix their signatures below.

CLEANSCAPES, INC.

THE CITY OF SEATTLE

By _____
Signature

By _____
Chuck Clarke, Director
Seattle Public Utilities

Type or Print Name

Date

Title

Date

Authorized by Ordinance Number _____

Attachment 1

Map of Collection Area

Attachment 1 – Collection Map

Map of Collection Area inserted after Contract negotiation and signing.

Attachment 2

Operations Plan

Attachment 2 – Operations Plan

Operations Plan developed jointly by Contractor and City after Contract signing and inserted in this section.

Attachment 3

Prevailing Wages

Attachment 3 - Prevailing Wages

Wages for Garbage and Compostable Waste Collection

1. **Hourly Wages** -- Effective April 1, 2009, The prime and subcontractors shall pay all employees on work under this contract not less than the following rate of hourly wages:

<u>a) Classifications</u>	<u>Per Hour</u>
Drivers	\$25.77
Helper	70% of Driver rate

b) New Employees

1 - 1000 hours of employment -	70% of above rate
1001 – 2000 hours of employment -	80% of above rate
2001 – 3000 hours of employment -	90% of above rate

“New employees” do not include employees who have collected refuse and/or compostable waste on a City of Seattle contract for 3000 or more hours since October 1, 2007.

c) Overtime

All time worked over forty (40) hours in any workweek, or eight (8) hours in any workday (over ten (10) for 4/10 employees) shall be compensated at time and one-half.

All Saturday or Sunday work is time and one-half, with an eight (8) hour guarantee, except employees regularly assigned to work Saturday on centralized routes. Employees who work Saturday or Sunday due to a special event are guaranteed four (4) hours.

Saturday work following Thanksgiving Day, Christmas Day or New Year’s Day shall be straight-time unless Christmas Day or New Year’s Day falls on Saturday or Sunday.

d) Work Week

Regular employees assigned to a five (5) day route and who appear for work on assigned days shall be paid for five (5) consecutive days of eight (8) consecutive hours.

2. **Health And Retirement Benefits** -- For each employee, the following rate of contribution shall be made to either: (1) a trustee or to a third person pursuant to a fund, plan or program; (2) additional wages to each employee, or; (3) additional wages minus any contribution to a trustee or to a third person pursuant to a fund, plan or program.

- a) Health Benefits -- Provided or paid to all employees after one thousand (1000) hours of employment, and who were compensated for eighty (80) hours in the previous month.

Health, Dental and Vision \$1,224.77 per month

- b) Retirement -- Retirement payments do not need to exceed one hundred eighty four (184) hours per month per employee.

Retirement \$5.57 per hour

3. Vacation, Holiday and Sick Leave Benefit Days -- For each regular employee, the following shall be provided in either: (1) actual benefit days; (2) additional wages to each employee, or; (3) additional wages minus any actual benefit days:

- a) Vacation

One (1) week after one (1) year of employment
Two (2) weeks after two (2) years
Three (3) weeks after eight (8) years
Four (4) weeks after fifteen (15) years
Five (5) weeks after twenty (20) years

The employer may pro rate vacations for employees with less than one thousand eight hundred (1,800) compensated hours during an employment year (i.e., anniversary date to anniversary date). Formula shall be: All employees with one thousand eight hundred (1,800) or more compensated hours during an employment year shall be entitled to full vacation benefits. Formula for employees with less than one thousand eight hundred (1,800) compensated hours shall be: Compensated hours, divided by two thousand (2,000), equals percentage earned vacation due employees.

- b) Holidays -- Eight paid holidays shall be provided. To be eligible for a paid holiday, the employee must work the last scheduled day immediately preceding and the first scheduled work day immediately following these days:

The following eight (8) days are holidays (unless the employer selects another day(s)):

- January 1st -- New Year's Day
- Martin Luther King Day or a Floating Holiday (at the Employer's option)
- Washington's Birthday (3rd Monday of February)
- Memorial Day (last Monday of May)
- July 4th
- Labor Day (first Monday of September)
- Thanksgiving Day
- Christmas Day

Contractors will provide collection services on all holidays except New Year's Day, Thanksgiving, and Christmas.

- c) Sick Leave -- If sick leave is provided in actual benefit days, the following applies:

Regular employees shall accumulate forty-eight (48) hours of sick leave benefits a year, on the basis of one (1) hour per forty (40) hours of compensation. Benefits shall be payable for bona fide absences caused by illness or accident commencing the second scheduled working day of sickness; however, when an employee suffers a job-related injury and is taken to the hospital or ordered or required to leave work, benefits shall commence the first day. Employees collecting Workmen's Compensation temporary disability benefits may not receive sick leave as herein provided, however, if Workmen's Compensation benefits are less than the amount of sick leave otherwise provided, employees shall, in addition to Workmen's Compensation benefits, receive sick leave benefits sufficient to equal the amount of sick leave that would otherwise have been received.

A maximum of three hundred fifty (350) hours of sick leave can be accumulated. Sick leave shall be used on an hourly basis. Benefits for days off must be for eight (8) hours and must be for scheduled work days.

- 4. Combined Compliance** -- The Contractor shall be deemed to be in compliance with Sections 1, 2, and 3 if its payments to or for the benefit of its employees are at least equal to the total amount derived by adding each of the required wage and benefit components described herein (overpayments in one category may be used as offsets in another category).

Wages for Recycling Collection

- 1. Hourly Wages** – Effective April 1, 2009, the prime and subcontractors shall pay all employees on work under this contract not less than the following rate of hourly wages:

<u>a) Classifications</u>	<u>Per Hour</u>
Drivers	\$19.97
Helpers	\$15.33

- b) New Employees

1 - 1000 hours of employment - 80% of above rate
1001 – 2000 hours of employment - 90% of above rate

"New employees" do not include employees who have collected recyclables on a City of Seattle contract for 2000 or more hours since April 1, 2008.

- c) Overtime

All time worked over forty (40) hours in any workweek shall be compensated at time and one-half.

Saturday work following Thanksgiving Day, Christmas Day or New Year's Day shall be straight-time unless Christmas Day or New Year's Day falls on Saturday or Sunday.

2. Health And Retirement Benefits – For each employee, the following rate of contribution shall be made to either: (1) a trustee or to a third person pursuant to a fund, plan or program; (2) additional wages to each employee , or; (3) additional wages minus any contribution to a trustee or to a third person pursuant to a fund, plan or program.

a) Health Benefits -- Provided or paid to all employees after ninety (90) workdays of employment, and who were compensated for eighty (80) hours in the previous month.

Health and Welfare	\$890.57 per month
Dental	\$91.65 per month
Vision	\$11.55 per month

b) Retirement -- Retirement payments do not need to exceed one hundred eighty four (184) hours per month per employee.

Retirement	\$2.55 per hour
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3. Vacation, Holiday and Sick Leave Benefit Days – For each regular employee, the following shall be provided in either: (1) actual benefit days; (2) additional wages to each employee, or; (3) additional wages minus any actual benefit days.

a) Vacation -- All regular employees after one (1) year's service shall receive the following vacation benefits:

- One (1) week after one (1) year of employment
- Two (2) weeks after two (2) years
- Three (3) weeks after eight (8) years
- Four (4) weeks after fifteen (15) years

Regular employees, who work less than 1800 hours during the year, shall have their vacation benefit prorated on the basis that 1800 hours is a complete year of service.

b) Holidays -- Nine paid holidays shall be provided. To be eligible for a paid holiday, the employee must work the last scheduled day immediately preceding and the first scheduled work day immediately following the holiday. The following nine (9) days are holidays (unless the employer selects another day(s)):

- January 1st -- New Year's Day
- Martin Luther King Day

Washington's Birthday (3rd Monday of February)
Memorial Day (last Monday of May)
July 4th
Labor Day (first Monday of September)
Thanksgiving Day
Christmas Day
Floating Holiday

Contractors will provide collection services on all holidays except New Year's Day, Thanksgiving, and Christmas.

- c) Sick Leave -- If sick leave is provided in actual benefit days, the following applies:

Regular employees shall accumulate forty-eight (48) hours of sick leave benefits a year, on the basis of one (1) hour per forty (40) hours of compensation. Accumulated sick leave pay shall be payable at the rate of one (1) day's (8 hours) pay per day at the straight-time rate commencing with the first (1st) day of any illness for the first (1st) three (3) absences in a consecutive twelve (12) month period and commencing with the second (2nd) day for any additional illness.

Employees collecting Workmen's Compensation temporary disability benefits may not receive sick leave as herein provided, however, if Workmen's Compensation benefits are less than the amount of sick leave otherwise provided, employees shall, in addition to Workmen's Compensation benefits, receive sick leave benefits sufficient to equal the amount of sick leave that would otherwise have been received.

Sick leave shall be cumulative from year to year, but not to exceed three hundred fifty (350) hours.

Sick leave shall be used on an hourly basis. Benefits for days off must be for eight (8) hours and must be for scheduled work days.

- 4. Combined Compliance** – The Contractor shall be deemed to be in compliance with Sections 1, 2, and 3 if its payments to or for the benefit of its employees are at least equal to the total amount derived by adding each of the required wage and benefit components described herein (overpayments in one category may be used as offsets in another category).

Attachment 4

Prices

Attachment 4

2009 Contract Year Per-Unit Collection Service Payments

All payments listed below are for the 2009 Contract Year. Each subsequent Contract Year the prices below will be adjusted per the inflation adjustment provisions in Section 820. All pickups for Temporary Services will be compensated with the Special Pickup prices below.

Residential Can/Cart Paid Special Collections, per unit payments

The Contractor will be compensated for each Paid Special collection of Residential Can/Cart services at a rate of \$8.00 per pickup.

[If the City selects every other week Residential Garbage Can service, or in 2011 or 2013 opts for every other week Compostables collection and offers a premium weekly Compostable Can collection option to customers, then the Contractor will be compensated for any scheduled off-week Garbage Can, or any off-week Compostables Can pickups at \$8 per pickup when less than 10% of the Residential Can customers request the service. The Contractor will be compensated at \$4 per pickup if more than 10% participate.]

Commercial Cart and Detachable Container Garbage Collection, payment per pickup (includes Residential Detachable Containers)

Container Size	Scheduled Pickups	Special Pickups	Compacted Scheduled Pickups	Compacted Special Pickups
Loose/CY[1]	\$12.00	\$12.00	n/a	n/a
Prepaid Bag	\$ 2.90	\$ 8.50	n/a	n/a
32 Gal	\$ 2.80	\$ 8.80	n/a	n/a
64 Gal	\$ 5.60	\$12.35	n/a	n/a
96 Gal	\$ 6.20	\$13.00	n/a	n/a
1 CY	\$ 7.35	\$14.20	\$9.15	\$16.00
1.5 CY	\$ 8.05	\$14.95	n/a	n/a
2 CY	\$ 8.75	\$15.70	\$11.55	\$18.50
3 CY	\$10.20	\$17.30	\$13.90	\$21.00
4 CY	\$11.60	\$18.80	\$16.30	\$23.50
5 CY	\$13.00	\$20.30	\$18.70	\$26.00
6 CY	\$14.45	\$21.90	\$21.10	\$28.55
8 CY	\$17.25	\$24.95	n/a	n/a

[1] Loose, extra waste will be measured and compensated in ¼ CY units.

Drop Box Garbage and Compostables Collection, payment per pickup

Container Size	Permanent Service	Temporary Service
3-8 CY	\$49.50	\$54.45
10-40 CY	\$66.50	\$73.15

Commercial Cart and Detachable Container Compostables Collection, payment per pickup

Container Size	Scheduled Pickups	Special Pickups
64 Gal	\$ 6.70	\$14.80
96 Gal	\$ 7.45	\$15.60
1 CY	\$ 8.80	\$17.05
1.5 CY	\$ 9.65	\$17.95
2 CY	\$10.50	\$18.85
3 CY	\$12.25	\$20.75
4 CY	\$13.90	\$22.55
5 CY	\$15.60	\$24.35

Apartment Recycling Collection, payment per pickup

Container Size	Scheduled Pickups	Special Pickups
64/96 Gal	\$ 2.95	\$ 6.35
1 CY	\$ 5.90	\$11.35
1.5 CY	\$ 6.45	\$11.95
2 CY	\$ 7.00	\$12.55
3 CY	\$ 8.15	\$13.85
4 CY	\$ 9.30	\$15.05
5 CY	\$10.40	\$16.25
6 CY	\$11.55	\$17.50

Street Side Litter and Public Place Recycling Collection, per unit payments

Container	Scheduled Pickups	Special Pickups
Non-compacted	\$ 2.00	\$ 4.00
Compacted	\$ 4.00	\$ 6.00

Ancillary Service per unit Payments

Type of Ancillary Service	Contractor Compensation per unit
Deliveries/Pick-ups/Swap-outs/Round-trips	
Can/Toter	\$10.00
Detachable Container	\$12.00
Drop Box 3-8 CY	\$16.00
Drop Box 10-40 CY	\$25.00
Other Ancillary Services	
Hourly Paid Special, Truck and Driver	\$90.00
Hourly Paid Special, Swamper	\$30.00
Can Field Maintenance, Street Side Litter or Public Place Recycling	\$5.00

Note: The above service prices do not apply to regular Contract requirements, such as the annual field maintenance of Street Side Litter or Public Place Recycling Containers.

Used Motor Oil, Electronics, Bulky, White Good, Loose Item and Sunday Collection Rates

Used motor oil collection	\$2/gal.
Electronics collection	\$7/pick-up
Bulky item pick-up	\$15/item
White good pick-up	\$15/item
Loose item collection	\$5/yard
Loose Yard Waste collection	\$5/yard

Saturday/Sunday Collection Rates

Bulky item pick-up	\$35/item
White good pick-up	\$35/item
Loose item collection	\$25/yard
Loose Yard Waste collection	\$25/yard

Sunday Collection Rates

Truck and Driver Rate for Sunday collections	
Garbage, Compostables truck and driver rate	\$115/hourly rate
Recyclables truck and driver rate	\$109/hourly rate

Other Rates

Shop Repair Rate	
In Yard	\$62/per hour
In Field	\$85/per hour
Round Trip Haul to Cedar Grove	
6:00 am – 7:00 pm	\$275/per trip
7:00 pm – 6:00 am	\$225/per trip
Alley Washing	\$85/per hour

Attachment 5
Sample Payment
Adjustments

Attachment 5 – Sample Payment Adjustments

Sample Payment Adjustments inserted after Contract negotiation and signing.

Attachment 6

Buyout Calculations

Attachment 6 Contract Buyout Calculations

Contract Vehicle Cost Allowance

At the beginning of the Contract, the City will calculate a “Contract Vehicle Cost Allowance” for the purposes of calculating the potential vehicle purchase payment, as called for in Section 1060. The Contract Vehicle Cost Allowance will be calculated as \$275,000 per vehicle for compactor collection trucks, multiplied by the number of Contract compactor vehicles defined by the City and the Contractor at the outset of the Contract.

Buyout Schedule

The City’s potential buyout payments, as described in Section 1060, will be based on the “Contract Vehicle Cost Allowance” above, multiplied by the percentage in Table 6 below that corresponds to the month at the end of which the termination becomes effective.

Table 6 Contract Buyout Payment Percentages					
Buy-Out Date		Percentage of Allowance	Buy-Out Date		Percentage of Allowance
April	2014	45.5%	October	2015	23.7%
July	2014	42.1%	January	2016	19.7%
October	2014	38.6%	April	2016	15.7%
January	2015	35.0%	July	2016	11.5%
April	2015	31.3%	October	2016	7.3%
July	2015	27.5%	January	2017	3.0%

In the event that the City exercises the Contract Buyout, and makes payment to the Contractor as defined herein, the Contractor will transfer to the City full ownership in all vehicles included in the Contract Vehicle Cost Allowance calculation.

Attachment 7
Haul Time Payment
Allowance

Attachment 7 – Haul Time Payment Allowance

Compensation for Alaskan Way Viaduct Closure Impacts on Haul Time

In the event of an Alaskan Way Viaduct closure for a **week or more**, either to collection vehicles or to all vehicles, the City will estimate the additional haul time required for the transfer trips of a Contractor whose collection zone includes an area north of the Ship Canal, using the Seattle Department of Transportation (SDOT) Travel Analysis Model.

The SDOT Travel Analysis Model will be used to calculate the one-way haul time from the Contractor's Route Center in its North Seattle collection area to the facility south of the Ship Canal at which it has been directed to transfer a specified portion of its tonnage of any waste stream, under two conditions:

- 1) The Alaskan Way Viaduct is open to all vehicles; and either:
- 2) The Alaskan Way Viaduct is closed to collection vehicles, but open to other vehicles, or
- 3) The Alaskan Way Viaduct is closed to all vehicles, as appropriate.

The City will then calculate the total annual increase in haul travel time by: a) calculating the difference between 1) and either 2) or 3), as appropriate to the Alaskan Way Viaduct traffic limitations, b) multiply that difference expressed in hours by the number of Contractor transfer trips affected, and c) double the result to obtain the total increase in annual round-trip haul travel time.

The City will compensate the Contractor for the resulting number of additional hours at a rate of \$112/hour, effective in the first Contract year. The per-hour rate for any compensation in later Contract years will be calculated by applying the Inflation Adjustment Factor defined in **Section 820**.

Compensation for Redirected Transfer Trips

The City will adjust the Contractor's payment for redirected transfer of Garbage, Compostables, or Recycling tonnage in any of the following "Transfer Payment Adjustment Conditions":

- 1) The City directs less than 40% or more than 60% of Garbage collected north of the Ship Canal to the City's North Recycle and Disposal Station.
- 2) The City directs less than 40% or more than 60% of Compostables collected north of the Ship Canal to the City's North Recycle and Disposal Station.
- 3) The City directs less than 100% of Garbage collected south of the Ship Canal to a transfer facility located in the Duwamish Industrial Area (DIA).

- 4) The City directs less than 100% of Compostables collected south of the Ship Canal to a transfer facility located in the DIA.
- 5) The City directs less than 100% of Recycling collected in the City to a transfer facility located in the DIA.

If the City directs the Contractor to an alternate transfer station so that any of the preceding Transfer Payment Adjustment Conditions are met, the City will adjust the Contractor's payment as follows:

- 1) The "Route Center" for the Contractor's Collection Area shall be defined as the intersection of (*insert street intersection of collection center of Contract Collection Area*);
- 2) Using the SDOT Travel Analysis Model, the City will measure the distance from the Route Center to the present transfer station site, in miles, one way, along the most direct route on streets usable by collection trucks;
- 3) Again using the SDOT Travel Analysis Model, the City will measure the distance from the Route Center to the alternate or new transfer station site, in miles, one way, along the most direct route on streets usable by collection trucks;
- 4) The City will then multiply the difference in those two distances by the number of tons of Garbage, Compostables, and/or Recyclables collected under this Contract and actually delivered to the alternate or new transfer station site, to the extent that those deliveries meet one of the Transfer Payment Adjustment Conditions above; and
- 5) The City will then multiply the ton-miles by the rate of \$1.00 per ton-mile.

Example A:

The Contractor collects 60,000 tons of Garbage north of the Ship Canal in a Contract year. Between 24,000 (40%) and 36,000 (60%) of that amount can be directed to the City's North Recycling and Disposal Station without payment adjustment.

The City in that Contract year directs 36,000 tons to a facility within the DIA, 14,000 tons to the North Recycling and Disposal Station, and 10,000 tons to King County First NE Transfer Station. The 10,000 tons directed to the King County facility trigger a payment adjustment per Transfer Payment Adjustment Condition #1.

The Route Center for the area north of the Ship Canal is (for this example) N 85th Street and Meridian Avenue.

Distance, 85th and Meridian to NRDS: 3.2 miles
Distance, 85th and Meridian to First NE: 3.9 miles

Ton-miles redirected $(3.9 - 3.2) * 10,000 = 7,000$

Payment Adjustment, to the Contractor: \$7,000

Example B:

The Contractor collects 100,000 tons of Garbage south of the Ship Canal in a Contract year. In the preceding year, all 100,000 tons had been directed to the City's South Recycling and Disposal Station.

The City in that Contract year directs 50,000 tons to the facility at 3rd & Lander, within the DIA, and the other 50,000 tons to a new "Southwest" facility outside the DIA. The 50,000 tons directed to the 3rd & Lander facility does not trigger a payment adjustment, since the facility is still within the DIA. The remaining 50,000 tons, however, does trigger a payment adjustment per Transfer Payment Adjustment Condition #3.

The Route Center for the area south of the Ship Canal is (for this example) 4th Avenue S and S Spokane Street.

Distance, 4th S and Spokane to SRDS: 2.1 miles
Distance, 4th S and Spokane to Southwest: 3.7 miles

Ton-miles redirected $(3.7 - 2.1) * 50,000 = 80,000$

Payment Adjustment, to the Contractor: \$80,000