

CHAPTER 37

TRASH FRANCHISE

37-1-1 **TRASH FRANCHISE.** The trash and garbage collection franchise between the City and CWI of Illinois/Republic Services of De Soto, Illinois is hereby included as **Appendix "A"** as approved on **July 27, 2015.**

37-1-2 **TRASH CARTS.** It shall be unlawful for any person to leave a trash cart at the curbside or by the street for more than **twenty-four (24) hours** after the trash is picked up or collected.

APPENDIX "A"

MUNICIPAL CONTRACT

THIS CONTRACT, made and entered into this 27th day of July, 2015 by and between the City of Benton, Illinois (hereinafter called the "City"), represented herewith by its duly elected and acting Mayor, Fred Kondritz, and CWI of Illinois, Inc. d/b/a CWI of Illinois // Republic Services of De Soto, an Illinois corporation qualified to do and actually doing business in the State of Illinois (hereinafter called "Contractor"), herein represented by its duly qualified and acting Agent.

WITNESSED, THAT in consideration of the covenants and agreements herein contained, to be performed by the parties hereto and of the payments hereinafter agreed to be made, it is mutually agreed as follows:

1. The Contractor is hereby granted the sole and exclusive license and privilege within the territorial jurisdiction of the City and shall furnish all personnel, labor, equipment, trucks, and all other items necessary to collect waste materials during term of this Contract for all residential units.
2. The Contract Documents shall include the following documents, and this Contract does hereby expressly incorporate same herein as fully s if set forth verbatim in this Contract:
 - a. Exhibit A – General Specifications
 - b. Exhibit B – Insurance Requirements
 - c. Exhibit C – Contractor’s Proposal/Pricing
 - d. This Instrument
 - e. Any addenda or changes to the foregoing agreed to by the parties hereto.
3. All provisions of the Contract Documents shall be strictly complied with and conformed to by the Contractor, and no amendment to this Contract shall be made except upon written consent of the parties. No amendment shall be construed to release either party from any obligation of the Contract Documents except as specifically provided for in such amendment.
4. The initial term of this Contract shall be from August 1, 2015 (the "Effective Date") until July 31, 2019.

IN WITNESS HEREOF, Fred Kondritz, the Mayor of the City of Benton, Illinois, hereunto subscribed his/her name, and Doug McFarland, Authorized Agent of CWI of Illinois, Inc. d/b/a CWI of Illinois // Republic Services of De Soto, has also hereunto subscribe his/her name on the days and dates set forth after their various signatures.

CITY OF BENTON, ILLINOIS

BY: /s/ Fred Kondritz
Mayor

ON: July 27, 2015

CWI OF ILLINOIS, INC. d/b/a CWI OF ILLINOIS//
REPUBLIC SERVICES OF DE SOTO

BY: /s/ Doug McFarland
Authorized Agent

ON: July 24, 2015

EXHIBIT "A"

GENERAL SPECIFICATIONS

1. DEFINITIONS.

- 1.1 Ashes. Residue from fires used for heating buildings and cooking.
- 1.2 Bags. Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty-five (35) pounds.
- 1.3 Bin. Metal receptacle designed to be lifted and emptied mechanically for use primarily at selected Municipal Facilities and Large Commercial and Industrial Units.
- 1.4 Bulky Waste. Stoves, refrigerators (with all CFC removed), water tanks, washing machines, furniture and other similar items, and, materials other than Construction Debris, Large Dead Animals, Hazardous Waste or Stable Matter with weights or volumes greater than those allowed for Bins or Containers, as the case may be.
- 1.5 Bundle. Tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four (4) feet in length or thirty-five (35) pounds in weight.
- 1.6 City. City of Benton, Illinois.
- 1.7 Container for Garbage, Rubbish & Yard Waste Collection. A receptacle with the capacities designated on the exhibits hereto that is designed for the purpose of curbside collection of Garbage and Rubbish and is constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid. The mouth of a container shall have a diameter greater than equal to that of the base. The weight of a container and its contents shall not exceed thirty-five (35) pounds.
- 1.8 Commercial and Industrial Refuse. All Bulky Waste, Construction Debris, Garbage, Rubbish and Stable Matter generated by a Producer at a Large Commercial and Industrial Unit.
- 1.9 Construction Debris. Waste building materials resulting from construction, remodeling, repair or demolition operations at a Residential Unit or Municipal Facility.
- 1.10 Disposal Site. A Waste Material depository designated by Contractor, including but not limited to sanitary landfills, transfer stations, incinerators, recycling facilities and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal of Waste Material and Small Dead Animals.
- 1.11 Excluded Waste. Excluded Waste is all Commercial and Industrial Refuse, Large Dead Animals, Institutional Solid Waste, Hazardous Waste, Offal Waste, Stable Matter, Vegetable Waste, and, Special Waste.
- 1.12 Garbage. Any and all Small Dead Animals; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of Excluded Waste.
- 1.13 Hazardous Waste. A form of Excluded Waste and is defined as any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic Hazardous Waste as defined by federal, state, provincial or local law or any otherwise regulated waste. Hazardous Waste shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other applicable federal, state or local laws or regulations.
- 1.14 Institutional Solid Waste. Solid waste originating from education, health care and research facilities such as schools, hospitals, nursing homes, laboratories and other similar establishments.

1.15 Large Commercial and Industrial Unit. All premises, locations or entities, public or private, requiring Garbage and Rubbish collection within the corporate limits of City that are not classified as a Residential Unit or Municipal Facility.

1.16 Large Dead Animals. Animals or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

1.17 Multi-Family. The term multi-family shall refer to all residential dwelling units of more than one (1) unit considered to be condominiums, apartment houses or grouped housing.

1.18 Offal Waste. Waste animal (land or marine) matter from establishments such as butcher shops, slaughterhouses, food processing and packing plants, rendering plants and fertilizer plants.

1.19 Producer. An operator or occupant of a commercial or industrial facility or a Residential Unit who generates Garbage, Rubbish, Yard Waste or Recyclable Materials.

1.20 Recycling. The collection of and the delivery of Recyclable Materials pursuant to the Contract Documents.

1.21 Residential Unit. A dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than four (4) families. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four (4) or less contiguous or separate single-family dwelling units, shall be treated as a Residential Unit, except that each single-family dwelling within any such Residential Unit shall be billed separately as a Residential Unit.

1.22 Rubbish. All waste wood, wood chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Excluded Waste.

1.23 Small Dead Animals. Animals or portions thereof less than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human use.

1.24 Solid Waste. Useless, unwanted or discarded materials with insufficient liquid content to be free-flowing, that result from domestic, industrial, commercial, agricultural, governmental and community operations which require proper storage, collection, transportation and disposal to prevent environmental pollution inimical to public health, safety and welfare. Solid Waste does not include sewage, earth or material used to fill land in accordance with construction codes, mining residues, slag, dissolved or suspended solids in industrial waste water effluents which are not acceptable for disposal in sanitary sewage treatment system or any material included in the definition of Excluded Waste.

1.25 Special Waste. Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special Waste includes, but is not limited to:

- (a) Waste generated by an industrial process or a pollution or a pollution control process;
- (b) Waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals;
- (c) Waste which is nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 ("RCRA");
- (d) Waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes;
- (e) Waste which may contain free liquids and requires liquid waste solidification;
- (f) Containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are "empty" as defined by RCRA;
- (g) Asbestos containing or asbestos bearing material that has been properly secured under existing Applicable Law;
- (h) Waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA);

- (i) Waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and
- (j) Municipal or commercial solid waste that may have come into contact with any of the foregoing.

1.26 Stable Matter. – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

1.27 Waste Material. All nonhazardous, Solid Waste (including Garbage, Rubbish, Ashes, Construction Debris and White Goods) generated at Residential Units that is not excluded by this Contract. Waste Material shall not include any Excluded Waste.

1.28 Vegetable Waste. Putrescible solid waste resulting from the processing of plants for food by commercial establishments such as canneries. This definition does not include waste products resulting from the preparation and consumption of food in places such as cafeterias and restaurants.

1.29 White Goods. Included as "white goods" are any and all refrigerators, ranges, water heaters, freezers, air conditioners, humidifiers, stoves, clothes dryers, dehumidifiers, ovens, dishwashers, water coolers, heat pumps, chillers, furnaces and boilers. Goods NOT considered "white goods" are hand-held appliances, televisions, VCRs, garbage disposals, business or office equipment, computers and microwave ovens.

2. SCOPE OF WORK.

2.1 General. The work under this Contract shall consist of all the supervision, materials, equipment, labor and all other items necessary to collect and dispose of the Waste Material from all Residential Units and other specified locations in accordance with the Contract Documents.

2.2 Work Not Covered by Contract. The work under this Contract does not include:

- (a) the collection or disposal of construction or demolition debris from commercial locations;
- (b) the collection or disposal of Excluded Waste materials;
- (c) the collection or disposal of any waste materials or recyclable materials from Large Commercial and Industrial Units in the City.

2.3 Additional Work Separately Contracted at Contractor's Election with Large Commercial and Industrial Units. Contractor may provide waste collection and disposal service, and/or recyclables collection services for Large Commercial and Industrial Units according to individual agreements negotiated between Contractor and such customers and under such terms and conditions as may be mutually agreed upon by Contractor and such customers. However, this Contract does not require such customers to use Contractor for such services.

2.4 Additional Work Separately Contracted at Contractor's Election with Residential Units and Municipal Facilities. Contractor may provide waste collection and disposal services and/or recyclable services to Residential Units and Municipal Facilities (e.g. collection and removal of construction debris, large dead animals, bulky items, etc.) that are not included within the scope of this Contract according to individual agreements negotiated between Contractor and such customers and under such terms and conditions as may be mutually agreed upon by Contractor and such customers. However, this Contract does not require such customers to use Contractor for such services.

3. COLLECTION OPERATIONS – GENERAL PROVISIONS.

3.1 Location of Containers, Bags and Bundles for Collection. Each Container, Bag and Bundle shall be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled City roadways. Containers, Bags and Bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, Containers, Bags and Bundles shall be placed as close as practicable to an access point for the collection vehicle.

3.2 Hours of Operation. Collection of Waste Material shall not start before 7:00 A.M. or continue after 6:00 P.M. on the same day. Exceptions to collection hours shall be effected only upon the mutual agreement of the City and Contractor, or when Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

3.3 Routes of Collection. Residential Unit collection routes shall be established by the Contractor. The Contractor may from time to time make changes in routes or days of collection affecting Residential Units, provided such changes in routes or days of collection are submitted to the City at least two (2) weeks in advance of the commencement date for such changes.

3.4 Holidays. The following shall be holidays for purposes of this Contract: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Contractor may decide to observe any or all of the above mentioned holidays by suspension of collection service on the holiday, but such decision in no manner relieves Contractor of his obligation to provide collection service at Residential Units at least one time per week.

3.5 Complaints. All complaints shall be made directly to the Contractor and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Contractor shall investigate and, if such allegations are verified, shall arrange for the collection of Waste Material not collected within two (2) business days after the complaint is received.

3.6 Collection Equipment. The Contractor shall provide an adequate number of vehicles meeting standards and inspection requirements as set forth by the laws of the State for regular municipal waste collection services. For Waste Material collection, all vehicles and other equipment shall be kept in good repair and appearance at all times. Each vehicle shall have clearly visible on each side the identity of the Contractor.

3.7 Office. The Contractor shall maintain an office or such other facilities through which it can be contacted by direct visit or by local (toll free) call from anywhere in the City. It shall be equipped with sufficient telephones and shall have a responsible person in charge from 8:00 A.M. to 5:00 P.M. on regular collection days.

3.8 Hauling. All Waste Material hauled by the Contractor shall be so contained, tied or enclosed that leaking, spilling or blowing are minimized.

3.9 Disposal. All Waste Material collected within the City under this Contract shall be deposited at any Disposal Site properly authorized by the State. The Contractor shall negotiate directly with the Owner/Operator of the Disposal Site for permission to use the Disposal Site and the Contractor shall bear all disposal costs.

3.10 Notification. The City shall notify all Producers at Residential Units about complaint procedures, rates, regulations, and day(s) for scheduled Waste Material collections.

3.11 Litter or Spillage. The Contractor shall not litter premises in the process of making collections, but Contractor shall not be required to collect any Waste Material that has not been placed in approved containers or in a manner herein provided. During hauling, all Waste Material shall be contained, tied or enclosed so that leaking, spillage or blowing is minimized. In the event of spillage by the Contractor, the Contractor shall be required to clean up the litter caused by the spillage.

4. BASIS OF PRICES AND METHOD OF PAYMENT.

4.1 Waste Material Collection and Disposal Rates.

(a) Residential Units. The prices to be paid by the City for the collection and disposal of Waste Material from all Residential Units and Municipal Facilities shall be as shown on Exhibit C, as adjusted in accordance with this Agreement, and shall be computed based upon the actual number of Residential Units to which Contractor provided such services during each month of this Contract. The City shall also pay Contractor the other costs and charges as specified in Section 4.3.

4.2 Additional Costs and Charges.

(a) Intentionally Deleted

4.3 Modification to Rates. Contractor shall increase the rates for service effective on each anniversary of the effective date of this Contract as set forth in Exhibit C.

4.4 City to Act as Collector. The City shall submit statements to and collect from all Residential Units for services provided by the Contractor pursuant to this Contract, including those accounts that are delinquent.

4.5 Delinquent and Closed Accounts. The Contractor shall discontinue Waste Material collection service at any Residential Unit as set forth in a written notice sent to it by the City. Upon further notification by the City, the Contractor shall resume Waste Material collection on the next regularly scheduled collection day. The City shall indemnify and hold the Contractor harmless from any claims,

suits, damages, liabilities or expenses (including but not limited to expenses of investigation and attorney's fees) resulting from the Contractor's discontinuing service at any location at the direction of the City.

4.6 Contractor Billings to City. The Contractor shall bill the City for Waste Material collection and disposal services rendered to Residential Units within ten (10) days following the end of the month and the City shall pay the Contractor on or before the 15th day following the end of such month. Such billing and payment shall be based on the price rates and schedules set forth in the Contract Documents. Payments not made by the City on or before their due date shall be subject to late fees of: a) the greater of Five Dollars (\$5.00) or one and one-half percent (1.5%) per month or portion thereof; or, b) the maximum allowed by law, if less than a). In the event the City withholds payment of a portion or whole of an invoice and it is later determined that a portion or all of such withheld amount is owed to Contractor, such amount shall be subject to the late fees provided herein from the original due date until paid by City.

5. COMPLIANCE WITH LAWS. The Contractor shall conduct operations under this Contract in compliance with all applicable laws; provided, however, that the Contract shall govern the obligations of the Contractor where there exist conflicting ordinances of the City on the subject.

6. NON-DISCRIMINATION. Contractor shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin.

7. INDEMNITY AND INSURANCE. The Contractor shall provide insurance affording coverage to the City where appropriate, and shall include general public liability and property damage insurance and compensation insurance. Certificates evidencing the issuance of such insurance, addressed to the City shall be filed with the City Clerk's office within ten (10) days after the date of signing of the contract.

The Contractor shall be an Independent Contractor and shall indemnify, defend, save and hold harmless the City, individually and collectively, all of its executives, representatives, elected officials, officers, agents, employees, successors and assigns jointly and severally of and from all or manner of liability, losses, expenses, demands, taxes, suits, action(s), payments, costs, charges, damages, lawsuits, proceedings, judgments, or claims, including workers' compensation claims, of any nature whatsoever including reasonable attorney's fees and costs of defense, on the account of any injury to, or death of, its employees, or injury to, or death of any other person, or damage to, or injury of, real estate, or personal property, in any way resulting from, arising out of, in connection with, or pursuant to the contract, caused by the operations of the Contractor, its agents, retailers, employees, or any subcontractors in performance of the services to be conducted, including ownership, maintenance, use, operation, or control of any vehicle owned, operated, maintained, or controlled by the Contractor or subcontractor.

The Contractor shall, at its own expense, appear, defend, and pay all reasonable fees of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgments shall be rendered against the City in any such action, the Contractor shall, at its own expense, satisfy and discharge same.

The Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and hold harmless and defend the City, and to pay expenses and damages as herein provided.

The Contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, costs, expenses and attorney's fees arising out of a willful or negligent act or omission of the City, its officers, agents, servants and employees.

8. LICENSES AND TAXES. The Contractor shall obtain all licenses and permits (other than the license and permit granted by this Contract) and promptly pay all taxes required by the City and by the State.

9. FORCE MAJEURE. Except for City's obligation to pay amounts due to Contractor, any failure or delay in performance under this Contract due to contingencies beyond a party's reasonable control, including, but not limited to, strikes, riots, terrorist acts, compliance with applicable laws or governmental

orders, fires, bad weather and acts of God, shall not constitute a breach of this Contract, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Contract during the term of such event and for a reasonable time thereafter. The collection or disposal of any increased volume resulting from a flood, hurricane or similar or different Act of God over which the Contractor has no control, shall be include as part of the Contractor's service under this Agreement. In the event of such a flood, hurricane or other Act of God, the Contractor and the City shall negotiate the payment to be made to the Contractor. Further, when the City and the Contractor reach such agreement, then the City shall grant the Contractor variances in routes and schedules, as deemed necessary, of the Contractor.

10. ASSIGNMENT OF CONTRACT. Neither party shall assign this Contract in its entirety without the other party's prior written consent, which consent shall not be unreasonably withheld, delayed or modified. Notwithstanding the foregoing, Contractor may assign this Contract without the City's consent to its parent companies or any of their subsidiaries, to any person or entity that purchases any operations from Contractor or as a collateral assignment to any lender to Contractor.

11. EXCLUSIVE CONTRACT. The Contractor shall have an exclusive franchise, license and privilege to provide Waste Material collection and disposal services within the corporate limits for and on behalf of the City to the designated Residential Units and Municipal Facilities covered by this Agreement.

12. TITLE; EXCLUDED WASTE.

12.1 Title. Title to Waste Materials shall pass to the Contractor when placed in Contractor's collection vehicle. Title to and liability for any Excluded Waste shall at no time pass to Contractor.

12.2 Excluded Waste. If Excluded Waste is discovered before it is collected by Contractor, Contractor may refuse to collect the entire Bin, Container, Bag or Bundle of waste. In such situations, Contractor shall contact the City and the City shall undertake appropriate action to ensure that such Excluded Waste is removed and properly disposed of by the depositor or generator of the waste. In the event any Excluded Waste is not discovered by Contractor before it is collected, Contractor may, in its sole discretion, remove, transport and dispose of such Excluded Waste at a location authorized to accept such Excluded Waste in accordance with all applicable laws and charge the depositor or generator of such Excluded Waste all direct and indirect costs incurred due to removal, remediation, handling, transportation, delivery and disposal of such Excluded Waste. The City shall provide all reasonable assistance to Contractor to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Contractor in connection with such Excluded Waste. Subject to the City's providing all such reasonable assistance to Contractor, Contractor shall release City from any liability for any such costs incurred by Contractor in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the City.

13. TERMINATION OF CONTRACT.

13.1 Termination by the City. In the event of a failure by Contractor to perform any material provision of this Contract, the City shall give written notice of such breach to the Contractor along with at least thirty (30) days (the "cure period") to correct such breach. City may terminate this Contract after such cure period if Contractor has not adequately corrected such breach in accordance with this Contract and City so notifies Contractor in writing of such termination action. At such time, City shall pay Contractor only all charges and fees for the services performed on or before such termination date. Thereafter, in the event such termination occurs during the initial term of this Contract, City, as its sole and exclusive remedy may exercise its rights under Contractor's performance bond, and procure the services of another waste services provider to complete the work covered under this Contract for the remainder of the time period covered by the initial term of this Contract. Except for such right during the initial term of this Contract, following any such termination and the final payment from the City to the Contractor, neither party shall have any further obligation under this Contract other than for claims for personal injuries or property damage as expressly provided in this Contract and arising prior to such termination date.

13.2 Termination by Contractor. In the event of a failure by City to perform any material provision of this Contract, the Contractor shall give written notice of such breach to the City along with at

least thirty (30) days (the "cure period") to correct such breach. Contractor may terminate this Contract after such cure period if City has not adequately corrected such breach in accordance with this Contract and Contractor so notifies City in writing of such termination action. At such time, City shall pay Contractor for all charges and fees for the services performed on or before such termination date. Thereafter, following any such termination and the final payment from the City to the Contractor, neither party shall have further obligation under this Contract other than for claims for personal injuries or property damage as expressly provided in these terms and arising prior to such termination date.

14. CONTRACTOR'S PROPERTY. All bins, containers, trucks and any other equipment that Contractor furnishes under this Contract shall remain Contractor's property. City shall be liable for all loss or damage to such equipment (except for normal wear and tear and for loss or damage resulting from Contractor's handling of the equipment) caused due to the negligence or willful misconduct of the City. City and its residents shall use the equipment only for its proper and intended purpose and shall not overload (by weight or volume), move or alter the equipment.

15. NEWLY DEVELOPED AREAS. Contractor will, within thirty (30) days of notification to the City, provide Waste Material Collection and Disposal Services of the same frequency and quality required by the Contract to newly developed areas within the City's current territorial limits. Any areas that may be annexed by the City which contain Residential Units which the City would like Contractor to service, shall be subject to negotiation of a mutually acceptable amendment to this Contract and possible adjustment to Contractor's pricing for such new areas.

16. MISCELLANEOUS TERMS.

16.1 Damage to Property. Contractor shall be responsible for repair of any damages to City's property or equipment located adjacent to the collection receptacles (Bins, Containers, Bags or Bundles), and to City's pavement, curbing or other driving surfaces resulting from Contractor's negligence or willful misconduct while providing the services under this Contract.

16.2 Confidentiality. Contractor shall have no confidentiality obligation with respect to any Waste Materials collected pursuant to this Contract.

16.3 No Guaranties or Liquidated Damages. Except as may be specifically provided herein, Contractor provides no guarantees or warranties with respect to the work performed. No liquidated damages or penalties may be assessed against Contractor by City.

16.4 Intellectual Property. No intellectual property (IP) rights in any of Contractor's IP are granted to City under this Contract.

16.5 Binding Effect. This Contract shall be binding upon and inure solely to the benefit of the parties and their permitted assigns.

16.6 Severability. If any provision of this Contract shall be invalid, illegal or unenforceable, it shall be modified so as to be valid, legal and enforceable but so as most nearly to retain the intent of the parties. If such modification is not possible, such provision shall be severed from this Contract. In either case, the validity, legality and enforceability of the remaining provisions of this Contract shall not in any way be affected thereby.

16.7 No Waiver. The failure or delay on the part of either party to exercise any right, power, privilege or remedy under this Contract shall not constitute a waiver thereof. No modification or waiver by either party of any provision shall be deemed to have been made unless made in writing. Any waiver by a party for one or more similar events shall not be construed to apply to any other events whether similar or not.

16.8 Governing Law. This Contract shall be interpreted and governed by the laws of the state where the work is performed.

16.9 Entire Agreement. This Contract sets forth the entire agreement of the parties and supersedes all prior agreements, whether written or oral, that exists between the parties regarding the subject matter of this Contract.

16.10 Attorneys' Fees. If any litigation is commenced under this Contract, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses and court or other costs incurred in such litigation or proceeding.

EXHIBIT "B"

INSURANCE REQUIREMENTS

During the term of this Contract, Contractor shall maintain in force, at its expense, insurance coverage with minimum limits as follows:

Workers' Compensation

Coverage A	Statutory
Coverage B – Employers Liability	\$1,000,000 each Bodily Injury by Accident
	\$1,000,000 policy limit Bodily Injury by Disease
	\$1,000,000 each occurrence Bodily Injury by Disease

Automobile Liability

Bodily Injury/Property Damage Combined – Single Limit	\$3,000,000 Coverage is to apply to all owned, non-owned, hired and leased vehicles (including trailers)
Pollution Liability Endorsement	MCS-90 endorsement for pollution liability coverage

Commercial General Liability

Bodily Injury/Property Damage Combined – Single Limit	\$2,500,000 each occurrence \$5,000,000 general aggregate
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All such insurance policies will be primary without the right of contribution from any other insurance coverage maintained by City. All policies required herein shall be written by insurance carriers with a rating of A.M. Bests of at least "A-" and a financial size category of at least VII. Upon City's request, Contractor shall furnish City with a certificate of insurance, evidencing that such coverages are in effect. Such certificate: (i) will also provide for thirty (30) days prior written notice of cancellation to the City; (ii) shall show City as an additional insured under the Automobile and General Liability policies; and, (iii) shall contain waivers of subrogation in favor of City (excluding Worker's Compensation policy) except with respect to the sole negligence or willful misconduct of City. In addition, the following requirements apply:

- The Commercial General Liability policy must include Contractual Liability coverage specifically covering Contractor's Indemnification of City herein.
- Coverage must be provided for Products/Completed Operations.
- The policy shall also contain a cross Liability/Severability of Interests provision assuring that the acts of one insured do not affect the applicability of coverage to another insured.

EXHIBIT "C"

WASTE MATERIAL COLLECTION AND DISPOSAL RATES
CONTRACTOR'S PRICING

City of Benton Residential Trash Removal:

August 1, 2015 – July 31, 2019: \$9.77 per home per month (Regular Rate)
August 1, 2015 – July 31, 2019: \$9.52 per home per month (Senior Adult)

**Each household will receive one (1) 95-gallon trash cart*

The following will receive weekly service at no charge:

1. City Hall
2. Street Department Building
3. Public Square (Four locations)
4. Benton Fire Department
5. Benton Water Plant (two locations)
6. Municipal Airport
7. Mini Park
8. City Parking Lot Northeast of Square
9. Twin Oaks
10. Lake Benton Bridges
11. Antique Car Museum
12. Scout Cabin
13. Benton Civic Center
14. Benton Public Library
15. Churches within the City limits of Benton
16. Non-Profit Organizations 501(c)(3)

Move-Out Service

Contractor will provide service for "move-outs" where property has changed hands and furniture and/or bagged debris is placed at the curb for collection. The City will verify residents who qualify for this service.

Back Door Service

Residents with disabilities or elderly residents unable to transport their trash to the curb for collection can have their trash collected at the side of the house or garage. The City will verify residents who qualify for this service.

City Cleanup:

Two (2) curbside cleanups will be provided each year on dates mutually agreed upon by the City and Contractor.

**During City cleanup, Contractor shall not pick up any Excluded Waste*