

CONSOLIDATED CONTRACT

THIS CONSOLIDATED CONTRACT (the "CONTRACT") is made and entered into on November 1, 2019, by and between the CITY OF SAGINAW, a municipal corporation of Tarrant County, Texas (hereinafter referred to as "CITY") and Waste Connections Lone Star, Inc., a Texas Corporation (hereinafter referred to as "CONTRACTOR").

WHEREAS, the City desires to provide residential and commercial customers within its corporate limits with solid waste collection, transport, disposal and recycling services for a term of five (5) years ending October 31, 2024; and

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained and in order to preserve and protect the public health of the citizens of the CITY it is hereby understood and agreed by the parties hereto as follows:

1. Grant. CITY hereby grants to CONTRACTOR a Contract with the exclusive franchise, license, and privilege to engage in the business of collecting and disposing of all residential and commercial Acceptable Waste and Special Waste as defined herein below which is generated within the corporate limits of the CITY and, further, hereby grants to CONTRACTOR a license and permit to use the public streets, alleys, easements and thoroughfares within the limits of the CITY for said business during the term of this Contract. Notwithstanding anything to the contrary contained in this Contract, the residential and commercial customers of the CITY shall not be required by local ordinance or other regulation to subscribe to the recycling collection services detailed in this Contract. Neither shall the City be required to compensate CONTRACTOR for those customers who elect not to subscribe to such recycling services. The CITY hereby grants to the CONTRACTOR, in accordance with the CITY's ordinances and regulations governing the collection and disposal of Acceptable Waste, the title to all Acceptable Waste collected and disposed of by the CONTRACTOR, over, upon, along and across the CITY's present and future streets, alleys, bridges, and public properties. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.
2. Term. The term of this Contract shall be for five (5) years commencing on November 1, 2019 and terminating on October 31, 2024. The term may be renewed for two (2) successive terms of two (2) years each, by mutual consent of the parties hereto. Notwithstanding the foregoing, either party hereto may terminate this Contract with or without cause at any time upon one hundred and eighty (180) days written notice to the other party.
3. Definitions. Wherever used herein, the hereinafter listed terms shall have the following meanings:
 - A. Acceptable Waste: Any and all waste that is solid waste, including brush, garbage, yard waste and trash, as solid waste is defined under the laws of the United States and/or the State of Texas and/or the regulations promulgated thereunder and that is acceptable for

disposal in a Landfill, except for "Unacceptable Waste", as defined herein.

- B. Bulky Item: Any item measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight, including, but not limited to, refrigerators, stoves, washing machines, water tanks, chairs, couches and other similar household items.
- C. By-Products With Residual Value: Any excess industrial, manufacturing or commercial by-products or significant and constant volumes of materials of a company which have a residual value on the open market, (such as cardboard and packing materials).
- D. Brush: Tree and shrub trimmings which are not easily placed in disposable containers.
- E. Commercial Containers: Metal containers supplied by CONTRACTOR affording adequate capacity to service a customer so as to prevent spillage, unsightly and unsanitary conditions.
- F. Curbside Service: Acceptable Waste or Recyclable Materials to be picked up by the CONTRACTOR will be located at the curbside of the street bearing the customer's address or, if there is no curb, where the customer's property line meets the street.
- G. Debris: Dirt, concrete, rocks, bricks, lumber, plaster, sand or gravel, other waste building materials, automobile frames, or large, uncut dead trees.
- H. Bags or Disposable Containers: Any plastic bag or cardboard box with a capacity or volume of fifty (50) gallons or less and which is capable of containing garbage or trash without leaking or emitting odors, and which weighs, when loaded, less than fifty (50) pounds.
- I. Garbage: Refuse animal or vegetable matter (as from a kitchen or food processing facility), tin cans, bottles, sacks, clothes, extinguished ashes, paper (not including heavy accumulations of newspapers and magazines) and any other household waste which is damp or capable of emitting noxious odors.
- J. Handicapped Residential Unit: Any residential dwelling that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place Acceptable Waste at the curbside, and that generates and accumulates Acceptable Waste. The identities of the members of a Handicapped Residential Unit shall be certified by the City Manager and agreed to by the CONTRACTOR.
- K. Hazardous Waste: Waste identified or listed as hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, or so classified by any federal or State of Texas statute, rule, order or regulation.

L. Multiple-Family/Apartment Residential Complex: A structure in which three (3) or more families reside and claim as their permanent address.

M. Permanent Containers: Any closed, waterproof, plastic or metal container or can with a capacity or volume of fifty (50) gallons or less and which is capable of containing garbage or trash without leaking or emitting odors, and which weighs, when loaded, less than fifty (50) pounds. It is recommended that plastic bags be used along with permanent containers to prevent spillage on City streets.

N. Recyclable Materials:

Metal Cans:	Rinse metal cans and place in bins composed of tin, steel, or aluminum.
Aluminum Cans:	Aluminum drink cans.
Glass:	Clear, green and brown glass bottles and jars. No mirrors, window glass, plate glass or light bulbs or ceramics.
Plastic Bottles:	Only plastic bottles with recycling symbols #1, #2, #3, #4, #5, #6, and #7. Examples include milk bottles, soft drink liter bottles, detergent bottles, cleaning bottles and shampoo bottles. Rinse and remove lids.
Newspapers, Magazines, Catalogs	Newspapers, magazines, and catalogs including slick and glossy inserts.
Junk Mail, Cardboard Mixed Household Paper	Junk mail, envelopes, cereal boxes, cardboard, chipboard and other household paper placed inside the bin. No tissues, wet paper or paper contaminated with food products are acceptable. All cardboard must be broken down to a size that will fit inside the bin.
Other:	Items that are identified as recyclable by the CITY, CONTRACTOR, or as the result of changes in any local, state, or federal laws, ordinances, or regulation.

O. Recycling Containers: Eighteen (18) gallon container with a lid provided by CONTRACTOR for each residential Customer at no charge. Any container must be approved by the City Council.

- P. Single-Family Residential Unit: Any residential dwelling that is designed for, and inhabited by, a single person or family unit and that generates and accumulates Acceptable Waste.
- Q. Special Waste: Any waste, even though it may be part of a delivered load of waste excluding insignificant quantities found in residential, commercial or industrial waste, which is:
- (1) defined as such by the laws of the United States and/or the State of Texas and/or the regulations promulgated thereunder; or
 - (2) medical waste, including infectious or pathological waste from laboratories, research facilities, and health and veterinary facilities; and
 - (3) dead animals and/or slaughterhouse waste, except for animals euthanized under the authority and direction of the CITY; or
 - (4) sludge waste, including water supply treatment plant sludges and stabilized and/or unstabilized sludges from municipal or industrial wastewater treatment plants; or
 - (5) liquid waste, which for the purposes of this Contract means any waste material that is determined to be or contain "free liquid" by the paint filter test (EPA Method 9095); or
 - (6) waste from an industrial process; or
 - (7) waste from a pollution control process; or
 - (8) waste transported in a bulk tanker; or
 - (9) friable and/or nonfriable asbestos waste; or
 - (10) empty containers which have been used for pesticides, herbicides, fungicides, or rodenticides; or
 - (11) containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in this definition; or
 - (12) residue or debris from the cleanup of a spill or release of chemical substances, commercial products or other wastes listed in this definition; or
 - (13) soil, water, residue, debris or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in this definition, including soil contaminated from underground storage tanks used or formerly used for the storage of petroleum products; or

- (14) residential wastes, only if a change in federal or state law, statute, regulation, rule, code, ordinance, permit, or permit condition, which occurs after the Effective Date of this Contract, requires special or additional management that differs from the requirements applicable on the Effective Date of this Contract; or
 - (15) any waste that requires other than normal handling, storage, management and/or disposal.
- R. Trash: All household refuse other than garbage, debris, brush, household furniture and appliances. Trash shall include grass, yard clippings, leaves, weeds, heavy accumulations of newspapers and magazines, Recyclable Waste, old clothes and other household trash of like kind, but shall not include Hazardous Wastes.
- S. Unacceptable Waste: Any and all waste that is either:
- (1) waste which is now or in the future prohibited from disposal at a sanitary landfill by state, federal and/or local laws and/or the regulations promulgated thereunder; or
 - (2) "Hazardous Waste", as defined herein; or
 - (3) waste which is prohibited from disposal at the Landfill by CONTRACTOR including tires, concrete, and bulk petroleum or chemical products or by-products; or
 - (4) liquid waste, as defined herein, and septic tank pumpings and grease and grit trap wastes; or
 - (5) sludge waste, including water supply treatment plant sludges and stabilized, and/or unstabilized sludges from municipal or industrial wastewater treatment plants; or
 - (6) dead animals and/or slaughterhouse waste, except for animals euthanized under the authority and direction of the CITY; or
 - (7) any waste, including "Special Waste" as defined herein, which because of its quantity, concentration, frequency of disposal, required disposal procedures, regulatory status, or physical, chemical, infectious or other characteristics jeopardizes or may jeopardize the environmentally sound operation of the disposal site, as determined by CONTRACTOR in its sole discretion.
- T. White Good: Any item measuring in excess of either three (3) cubic feet in size or fifty (50) pounds in weight and that is manufactured primarily from metal, including, but not limited to, a bath tub, heater, hot water heater, refrigerator, sink or washer and dryer.
- U. Yard Waste: Grass or shrubbery cuttings, leaves, tree limbs (no more than 48 inches in length) and other materials accumulated as the result of the care of lawn, shrubbery, vines and trees. Yard waste does not include food wastes from gardens such as fruits or

vegetables.

4. Single Family Residential Units

A. Duties and Obligations of Single Family Residential Unit. Every owner, agent, lessee, tenant or occupant of any single family residential premises in the CITY ("residential customer") shall have the following duties and obligations:

- (1) Brush and Trash: Each residential customer shall place brush or trash which cannot be placed in disposable containers or permanent containers into lengths not to exceed four (4) feet and with a weight not to exceed fifty (50) pounds, tie same in bundles, and stack such brush or trash at curbside (as is hereinafter provided).
- (2) Containers Secured: Each residential customer shall keep all such containers in use securely closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to insects, rodents and other animals.
- (3) Draining Liquids: Each residential customer shall drain all Acceptable Waste and Recyclable Materials mixed with water or other liquids before placing the same into appropriate containers.
- (4) Items Exceeding Fifty (50) Pounds: No residential customer shall place for collection, or permit to be placed for collection, any permanent container, disposable container, recyclable container, item, or bundle of brush or trash exceeding fifty (50) pounds in weight.
- (5) Placement of Waste and Materials: Each residential customer shall place appropriate containers containing Acceptable Waste, Recyclable Materials at the curbside on the street bearing such residential customer's address in such a manner as to be easily accessible for collection and as to prevent Acceptable Waste and Recyclable Materials from being scattered.
- (6) Residential Containers: Each residential customer shall provide and use containers (disposable or permanent) sufficient in number to hold the Acceptable Waste accumulating on the premises with a maximum of fourteen (14) bags per pick up day. Only the recycling containers furnished by CONTRACTOR shall be used for Recyclable Materials.
- (7) Unacceptable Waste: No residential customer shall place for collection, or permit to be placed for collection, any Unacceptable Waste.
- (8) Time of Placement of Waste and Materials: All appropriate containers and bundled brush required to be located at the curbside shall be placed at the prescribed curbside locations not more than twelve hours prior to the scheduled collection day and not later than 7:00 a.m. on the scheduled collection day.

(9) Vines and Bushes: Each residential customer shall place all vines and thorny bushes in disposable containers.

(10) Waste and Materials in Containers: Each residential customer shall place all Acceptable Waste and Recyclable Materials (including brush, if the size of the brush allows) in either disposable containers, permanent containers or recyclable containers.

(11) Notwithstanding anything to the contrary contained herein, the CONTRACTOR agrees to assist Handicapped Residential Units with house-side collection of their Acceptable Waste and Recyclable Materials; provided that the CONTRACTOR receives prior written notice from the Handicapped Residential Unit of such special need. The CITY shall be solely responsible for all other modifications and accommodations required by the Americans with Disabilities Act or any other applicable law or regulation in connection with the services provided hereunder to Single-Family Residential Units.

B. Contractor's Duties and Obligations - Residential. It shall be the duty and obligation of CONTRACTOR to perform the following services:

(1) Collection: CONTRACTOR agrees to make two (2) weekly collections for Acceptable Waste and one (1) weekly collection for Recyclable Materials. Collections for Recyclable Materials from residential customers shall be on one of the same days that Acceptable Waste is collected. CONTRACTOR shall not commence service to residential customers prior to 7:00 a.m. and no collections will be made on Sundays. Collections may be made on designated holidays that do not fall on a Sunday, but shall not be required. The recycling collection will be in addition to the regular twice weekly collection of acceptable waste. CONTRACTOR shall pickup customers in the manner specified herein.

(2) Customer Service Number: CONTRACTOR agrees to maintain a toll free telephone number for the purpose of handling complaints and other calls regarding the collection service provided by CONTRACTOR. CONTRACTOR agrees to secure an annual listing in the appropriate telephone directory under the name by which it conducts business in the community. CONTRACTOR agrees to keep said phones available for calls from 8:00 a.m. to 5:00 p.m. weekdays and Saturday 8:00 a.m. to 12:00 p.m. every day except Sunday and the holidays set forth in Section (6.K.) herein, and to keep said phone staffed with sufficient competent personnel to handle calls and inquiries during the above-mentioned hours. A daily log of all service calls, complaints, inquiries and the action taken thereon, shall be maintained by CONTRACTOR.

(3) Equipment and Services Furnished: CONTRACTOR agrees to furnish trucks, equipment, machinery, tools, and labor at its own expense, to adequately, efficiently and properly collect and dispose of Acceptable Waste or Recyclable

Materials from premises within the corporate limits of the CITY in a systematic, clean, healthful, and sanitary manner. CONTRACTOR shall not be responsible under this Contract for collecting and disposing of Hazardous Waste, Special Waste or debris.

- (4) Take-all Service: CONTRACTOR shall collect all items placed on the curb as part of the regular waste collection cycle providing that the items are acceptable for landfill disposal and the items are containerized in a can, bag or box. Brush and tree limbs must be tied in bundles not to exceed four (4) feet in length and fifty (50) pounds in weight. This service includes construction and fencing materials generated by the homeowner resulting from repair and remodeling projects as long as said materials are containerized or tied in bundle's not to exceed four (4) feet in length and fifty (50) lbs. in weight with a three (3) cubic yard maximum.

Bulky items, bundled brush, cut fence panels (no more than three 6'x8' panels cut into six 6'x4' sections) and white goods, including stoves, furniture, water heaters, dishwashers, etc., when placed on the curb, will be picked up as part of normal service collections on the second pickup day of the week. Federal Law prohibits the collection of refrigerator or freezer units unless certification is provided that CFC's have been removed by a certified technician.

- (5) Landfill Disposal and Vehicle Standards: CONTRACTOR agrees that the Acceptable Waste collected will be disposed of in compliance with the laws of the State of Texas. All vehicles used by the CONTRACTOR for the collection and transportation of Acceptable Waste or Recyclable Materials shall be protected at all times while in transit to prevent leakage and the blowing or scattering of materials or waste onto the public streets of CITY or properties adjacent thereto and shall at all times be maintained in good repair. Further, such vehicles shall be clearly marked with CONTRACTOR'S name in letters not less than four (4) inches in height and shall be individually numbered. All collection equipment shall be washed and deodorized as necessary, but at minimum once each week, and shall be kept in sanitary condition.
- (6) Bulky Brush Pick up: CONTRACTOR shall plan two, one week bulky item and brush pick ups each calendar year. This will be the first week of April and the first week of October. CONTRACTOR shall develop and maintain a bulky brush collection schedule, identifying the contiguous areas where collection will occur during days of the week. This schedule shall be in the form of a map, with the sections of the City marked. This shall be presented to the City Manager of CITY for approval. CONTRACTOR shall collect all bulky brush from residential accounts, where such brush is placed at the curb in front of the residential account. The brush will not be restricted to four (4) feet lengths nor be required to be tied in bundles. The CONTRACTOR shall report to the City Manager at the end of each day stating which sections are complete.

- (7) Large Objects/Large Quantity: The CONTRACTOR agrees to provide an on-call service for the collection of large objects and quantities of debris, including temporary roll-off service. Upon request by a customer, CONTRACTOR agrees to provide an estimate of the cost to remove and dispose of such items and upon mutual Contract between CONTRACTOR and customer, the CONTRACTOR shall perform the service. The agreed upon fee for the service shall be paid by the customer immediately upon completion of the work performed. (See Section "6.E." for more information.)
- (8) Non-Collection Days: CONTRACTOR agrees that no collections will be made on Sundays. Collections may be made on designated holidays that do not fall on a Sunday, but will not be required. (See Section "6. L." for more information about holidays).
- (9) Residential Recycling Containers: CONTRACTOR shall provide for each residential customer an eighteen (18) gallon container with a lid at no charge, which shall be dedicated solely for the collection of Recyclable Materials. Such container shall be delivered to each residential customer by the CONTRACTOR along with a brochure explaining how the container is to be used and other information pertinent to the recycling service. The CONTRACTOR shall charge a replacement cost as recommended by the CONTRACTOR and approved by the City Manager for any recycling container which is lost, stolen, or destroyed after a residential customer is initially provided a recycling container. The residential customer shall not be responsible for any containers damaged or destroyed by CONTRACTOR. Any container must be approved by the City Council.
- (10) Routes and Schedules: CONTRACTOR agrees to establish daily routes and special schedules for the collection of Acceptable Waste or Recyclable Materials as necessary to fulfill the requirements of this Contract. Further, CONTRACTOR will utilize written route books for use in the collection of Acceptable Waste or Recyclable Materials from all residential customers. CITY shall have the right to require alteration of service to any premises wherein unsightly or unsanitary conditions have resulted from inadequate containers or an insufficient number of collections, and CONTRACTOR shall be compensated for any such required additional services.
- (11) Christmas Tree Pick up: See Section 6.D.
- (12) Recycling Education: CONTRACTOR shall continue an ongoing public education program to encourage citizen participation in recycling including but not limited to informational flyers or brochures (with a detailed description of recycling program).

C. Residential Charges

- (1) Customer Billing: CITY agrees to bill all residential customers served by

CONTRACTOR. CITY further agrees to collect and remit all sales taxes to the appropriate governmental authority and shall issue to CONTRACTOR a Resale Certification.

(2) Payment to CONTRACTOR: CITY agrees to pay to CONTRACTOR on or before the 15th day of each month following the services provided. Example - Service begins November 1st with the first payment due on or before December 15th and each month thereafter. The appropriate charges as herein provided:

- a. Residential Acceptable Waste Charges and Residential Recycling Charges: For the Contract granted herein, CONTRACTOR agrees to pay a franchise fee to the CITY in an amount equal to 2% of the gross receipts (excluding all appropriate sales taxes) from the collection of acceptable waste and for recycling services within the corporate limits of the CITY and 8% of the gross receipts for billing and collection fee, for a total of 10%. CITY shall remit to the CONTRACTOR its check in the amount of 90% of all amounts billed for residential garbage and recycling service for ACCEPTABLE WASTE and recyclables collected. The 10% not remitted for residential billings shall become the Property of the CITY.

Any mutually agreed upon billing that the CITY may do on behalf of Contractor for the ACCEPTABLE WASTE collection service outside the City limits of Saginaw, CONTRACTOR agrees that the CITY shall retain 10% for the collection.

(3) Combined Residential Acceptable Waste and Residential Recycling: the monthly residential customer service charge for acceptable waste and recycling shall be combined as a single rate and CITY and CONTRACTOR agree that said fee shall be as described on ATTACHMENT "A".

(4) The Contractor will collect Recycling from Residential Units once per week; provided that (a) such Recycling is placed in the provided Recycling Container, and (b) such Recycling Container is placed within five (5) feet of the curbside or right of way adjacent to the Residential Unit no later than 7:00 a.m. on the scheduled collection day. Service Provider reserves the right to inspect Recycling put out for collection and to reject Recycling observed to be contaminated with Municipal Solid Waste or any other materials excluded from this Agreement. CONTRACTOR's exercise, or failure to exercise, its rights hereunder shall not operate to relieve the CITY of its responsibilities or liability under this Agreement. The occupant of the Residential Unit shall be responsible for, and bear all reasonable expenses and damages incurred by CONTRACTOR, as a result of the Unacceptable Waste and in the reloading and removal of Unacceptable Waste disposed in the Facility. The City acknowledges that: (a) Service Provider has the right, with agreement by City, to determine that there exists no viable secondary market for Recycling or any of its constituent categories of waste; and (b) if no viable secondary market exists for Recycling or any of its constituent categories of waste, Service Provider may dispose of any such Recycling in any method permitted by law, including but not limited to disposing of such Recycling as Municipal Solid Waste pursuant to the terms

hereof. Notwithstanding anything to the contrary herein, CITY and CONTRACTOR agree that residential customers may discontinue/"opt-out" of the herein describe recycling collection services and/or may provide for independent third party recycling collection services without penalty: provided, however, that the combined Residential Acceptable Waste and Residential Recycling service charge as set forth on ATTACHMENT "A" shall not be reduced or modified as a result thereof.

- (5) Rate Adjustments – Beginning November 1, 2020 rates may be adjusted annually to reflect changes in the cost of operations, as reflected by percentage change in the Consumer Price Index (CPI) for All Urban Customers, Garbage and Trash Collection in U.S. City Average, Not Seasonally Adjusted, Base Period December 1983=100 as published by the U.S. Department of Labor, Bureau of Labor Statistics with a maximum increase of five percent (5%). The measured increase will span a twelve month period (beginning September 1 and ending August 31) immediately preceding the Rate Adjustment Date. If the CONTRACTOR desires a review of the existing rates, CONTRACTOR shall submit, in writing, its adjustments to the rate and supporting data for the same period, on or before September 15 of the numbered year, beginning September 15, 2020.

Governmental Fees Adjustment - If any new state, federal, or City mandated fees and/or taxes are imposed upon the services provided hereunder, the Service Provider shall notify the City. If the Service Provider desires to pass such fees or taxes through as part of its Base Rates, the Service Provider shall petition the City. The petition shall include documentation of the basis and method of assessment of such fees or taxes and such petition shall be considered by the City and shall not be unreasonably denied.

Other than the foregoing, no other rate adjustments shall be considered by the City.

- (6) Revisions: The CITY is under no obligation to grant rate adjustments during the term of this CONTRACT. Any adjustment or revision in rates shall be determined at the discretion of the City Council. In the event the CITY fails or refuses to consent to any such requested rate increase and the CONTRACTOR can demonstrate that such rate increase is necessary to offset the CONTRACTOR'S increased costs in connection with performing the services under this Agreement not otherwise offset by any previous rate adjustments hereunder, the CONTRACTOR may, in its sole discretion, terminate this Agreement upon one hundred eighty (180) days written notice to the CITY.

5. Commercial, Industrial, and Multi-Family/Apartment

- A. Duties and Obligations of Commercial, Industrial, and Multi-Family/Apartment Customers. Every owner, agent, employee or person otherwise in charge of any commercial, industrial, or multi-family/apartment premises within the CITY ("commercial customer") shall have the following duties and obligations:

- (1) Containers Secured: Each commercial customer shall keep all commercial containers in use securely closed in such a manner as to prevent the scattering of the contents thereof and to render said contents inaccessible to insects, rodents, and other animals.
- (2) Draining Liquids: Each commercial customer shall drain all Acceptable Waste or Recyclable Materials mixed with water or other liquids before placing same into a commercial container, and, further, no commercial customer shall place for collection, or permit to be placed for collection, any Hazardous Waste or Special Waste.
- (3) Sufficient Containers: Each commercial customer shall be provided by CONTRACTOR containers sufficient in number to hold the Acceptable Waste or Recyclable Materials accumulating on the premises.
- (4) Waste and Materials in Containers: Each commercial customer shall cause all Acceptable Waste or Recyclable Materials accumulating on such premises to be placed in commercial containers. Commercial customers shall place said containers in a certain designated location which is agreed to by CONTRACTOR and customer, bearing such commercial customer's address for collection at the same time and in the same manner as is provided for residential refuse collection. The location of the commercial customer's container shall be placed such that no damage results to the pavement or asphalt surfaces. CONTRACTOR shall not be liable for damages to pavement or asphalt surfaces which result from the container being placed in such location.

B. Contractor's Duties and Obligations – Commercial, Industrial, and Multi-Family/Apartment. It shall be the duty and obligation of CONTRACTOR to perform the following services:

- (1) Containers: CONTRACTOR shall provide all commercial containers for Acceptable Waste or Recyclable Materials storage which are available upon request of the owner or occupant of any premises within the corporate limits of CITY, excluding single family and two family residences. The commercial containers provided by CONTRACTOR shall be (i) equipped with suitable covers to prevent blowing or scattering of Acceptable Waste or Recyclable Materials while being transported for disposal of their contents, (ii) maintained in good repair, appearance, and in a sanitary condition, and (iii) clearly marked with the CONTRACTOR'S name and telephone number in letters not less than two (2) inches in height, and (iv) emptied not less than one time each week.
- (2) Customer Service Number: CONTRACTOR agrees to maintain a toll free telephone number for the purpose of handling complaints and other calls regarding the collection service provided by CONTRACTOR. CONTRACTOR agrees to secure an annual listing in the appropriate telephone directory under the name by which it conducts business in the community. CONTRACTOR agrees to keep said phones available for calls from 8:00 a.m. to 5:00 p.m. weekdays and

Saturday 8:00 a.m. to 12:00 p.m. every day except Sunday and the holidays set forth in Section "6K" herein, and to keep said phone staffed with sufficient competent personnel to handle calls and inquiries during the above-mentioned hours. A daily log of all service calls, complaints, inquiries and the action taken thereon, shall be maintained by CONTRACTOR.

- (3) Equipment Furnished: CONTRACTOR agrees to furnish trucks, equipment, machinery, tools, and labor at its own expense, to adequately, efficiently and properly collect and dispose of Acceptable Waste or Recyclable Materials from premises within the corporate limits of the CITY in a systematic, clean, healthful, and sanitary manner. CONTRACTOR shall not be responsible under this Contract for collecting and disposing of Hazardous Waste, Special Waste or debris.
- (4) Large Objects/Large Quantity: The CONTRACTOR agrees to provide an on-call service for the collection of large objects and quantities of debris, including temporary roll-off service. Upon request by a customer, CONTRACTOR agrees to provide an estimate of the cost to remove and dispose of such items and upon mutual Contract between CONTRACTOR and customer, the CONTRACTOR shall perform the service. The agreed upon fee for the service shall be paid by the customer immediately upon completion of the work performed.
- (5) Lawful Disposal: CONTRACTOR agrees that the Acceptable Waste collected will be disposed of in compliance with the laws of the State of Texas. All vehicles used by the CONTRACTOR for the collection and transportation of Acceptable Waste or Recyclable Materials shall be protected at all times while in transit to prevent leakage and the blowing or scattering of materials or waste onto the public streets of CITY or properties adjacent thereto and shall at all times be maintained in good repair. Further, such vehicles shall be clearly marked with CONTRACTOR'S name in letters not less than four (4) inches in height and shall be individually numbered. All collection equipment shall be washed and deodorized as necessary, but at minimum once each week, and shall be kept in sanitary condition.
- (6) Non-Collection Days: CONTRACTOR agrees that no collections will be made on Sundays. Collections may be made on designated holidays that do not fall on a Sunday, but shall not be required.
- (7) Routes and Schedules: CONTRACTOR agrees to establish daily routes and special schedules for the collection of Acceptable Waste or Recyclable Materials as necessary to fulfill the requirements of this Contract. Further, CONTRACTOR will utilize written route books for use in the collection of Acceptable Waste or Recyclable Materials from all commercial customers. CITY shall have the right to require alteration of service to any premises wherein unsightly or unsanitary conditions have resulted from inadequate containers or an insufficient number of collections, and CONTRACTOR shall be compensated for any such required additional services.

C. Commercial, Industrial, and Multi-Family/Apartment Charges

- (1) Commercial/Industrial/Multi-Family/Apartments Acceptable Waste: CITY and CONTRACTOR agree that the commercial/industrial/multifamily/apartments monthly service charges shall be provided in ATTACHMENT "A", which is attached hereto and incorporated herein by reference.
- (2) Commercial Recycling Charges: The service charge for commercial recycling shall be as specified in ATTACHMENT "A".
- (3) Rate Adjustments – Beginning November 1, 2020 rates may be adjusted annually to reflect changes in the cost of operations, as reflected by percentage change in the Consumer Price Index (CPI) for All Urban Customers, Garbage and Trash Collection in U.S. City Average, Not Seasonally Adjusted, Base Period December 1983=100 as published by the U.S. Department of Labor, Bureau of Labor Statistics with a maximum increase of five percent (5%). The measured increase will span a twelve month period (beginning September 1 and ending August 31) immediately preceding the Rate Adjustment Date. If the CONTRACTOR desires a review of the existing rates, CONTRACTOR shall submit, in writing, its adjustments to the rate and supporting data for the same period, on or before September 15 of the numbered year, beginning September 15, 2020.

Governmental Fees Adjustment - If any new state, federal, or City mandated fees and/or taxes are imposed upon the services provided hereunder, the Service Provider shall notify the City. If the Service Provider desires to pass such fees or taxes through as part of its Base Rates, the Service Provider shall petition the City. The petition shall include documentation of the basis and method of assessment of such fees or taxes and such petition shall be considered by the City and shall not be unreasonably denied.

Other than the foregoing, no other rate adjustments shall be considered by the City.

- (4) Customer Billing: CONTRACTOR agrees to bill all commercial customers served by CONTRACTOR. CONTRACTOR further agrees to collect and remit all sales taxes to the appropriate governmental authority.
- (5) Payment to CITY: CONTRACTOR agrees to pay to CITY on or before the 15th day of each month the appropriate charges as herein provided:
 - a. Commercial/Industrial/Multi-Family/Apartments Acceptable Waste Charges and Commercial/Industrial/MultiFamily/Apartments Recycling Charges: For the Contract granted herein, CONTRACTOR agrees to pay the CITY an amount equal to 8% of the gross receipts (excluding all appropriate sales taxes) from the collection of acceptable waste and for recycling services within the corporate limits of the CITY. CONTRACTOR shall remit to the CITY a check in the amount of 8% of all amounts billed for commercial/industrial ACCEPTABLE

WASTE and recyclables collected.

(6) Revisions: The CITY is under no obligation to grant rate adjustments during the term of this CONTRACT. Any adjustment or revision in rates shall be determined at the discretion of the City Council. In the event the CITY fails or refuses to consent to any such requested rate increase and the CONTRACTOR can demonstrate that such rate increase is necessary to offset the CONTRACTOR'S increased costs in connection with performing the services under this Agreement not otherwise offset by any previous rate adjustments hereunder, the CONTRACTOR may, in its sole discretion, terminate this Agreement upon one hundred eighty (180) days written notice to the CITY.

6. Miscellaneous

- A. Assignment of Contract: This Contract and any and all rights and obligations of CONTRACTOR hereunder may be assigned by CONTRACTOR to any parent company, affiliate, or subsidiary of CONTRACTOR without the consent of CITY, but may not be assigned to any other third party without the prior written consent of the CITY'S City Council.
- B. Applicable Law: CITY and CONTRACTOR (and customers) shall comply with all rules and regulations of any federal, state or local authority. In this regard, CONTRACTOR shall not be required to collect and dispose of any Hazardous Waste, or any other Unacceptable Waste. Should CONTRACTOR elect to dispose of such materials, CONTRACTOR shall receive a fee or charge mutually acceptable to CONTRACTOR and the party requesting disposal of such materials. CONTRACTOR further agrees to comply with all applicable state and federal laws regulating collection and disposal of waste.
- C. Bad Debt Collections and Write-Offs: The CITY will diligently pursue the collection of bad debts, and those which are deemed uncollectible after 90 days, will be written off annually by the CITY. Write-offs will be adjusted (deducted) from CONTRACTOR'S monthly payment following the date of the write-offs. Although write-offs will be made, CITY will continue to pursue collection and any bad debts collected after any quarterly payment adjustment will be added to the next monthly payment to the CONTRACTOR.
- D. Christmas Tree Recycling: CONTRACTOR shall collect Christmas Trees when placed at curbside two times during December 26 through January 9 each year during the term of the Contract. Christmas Trees do not have to be cut or bound in any way and shall be picked-up whole.
- E. City Liaison: CONTRACTOR and CITY agree that the City Manager will be the authority for the approval of charges for any service not contemplated by this Contract and for the disposition of any dispute between customer and CONTRACTOR. The CITY may designate a CITY employee to act as an enforcement officer hereunder and to act as a liaison between the CITY and CONTRACTOR.

- F. City Ordinances: CITY agrees to pass such ordinances as are necessary to effectuate all terms of this Contract including all duties and obligations required of residential and commercial customers.
- G. Contract Execution: This Contract may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original, and all of which are identical.
- H. Contract Validity: If any provision or portion of this Contract is for any reason unenforceable, inapplicable, or invalidated then such provision or portion shall be reformed in accordance with applicable laws and the other provisions hereof will remain in full force and effect in the same manner as if such unenforceable, inapplicable or invalidated provision had never been contained herein. The invalidity, inapplicability, or unenforceability of any provision or portion of this Contract shall not affect the validity, applicability or enforceability of the other provisions or portions of this Contract.
- I. Contractor Liability/Insurance: CONTRACTOR assumes all risk of loss or injury to property or persons caused by willful misconduct or a negligent act or omission from performing any of its operations under this Contract, and agrees to indemnify and hold harmless the CITY from all claims, demands, suits, judgments, costs or expenses caused by any such loss or injury. CONTRACTOR likewise assumes all responsibility and liability for, and shall indemnify and hold harmless, the CITY for any and all injury or damage to CITY property arising out of or in connection with its negligent operations under this CONTRACT. It is expressly understood that the foregoing provisions shall not in any way limit liability of CONTRACTOR. CONTRACTOR agrees to carry the following types of insurance:

(1) Performance Bond - \$250,000 Annual Renewable.

(2) Worker's Compensation insurance covering all employees engaged in any operations covered by this Contract as required by the State of Texas;

(3) Automobile Liability - \$1,000,000 Single Limit, bodily injury and property damage combined; and

(4) General Liability - \$1,000,000 Single Limit, bodily injury and property damage combined.

CONTRACTOR agrees to furnish the CITY Certificates of Insurance evidencing that such insurance has been procured and is in force.

- J. Free Service to City: CONTRACTOR shall provide free pickup and disposal for all CITY facilities in manners specified by the City. The CITY shall also have free dumping privileges during the term of this agreement at the nearest landfill or transfer station used by the CONTRACTOR. Free dumping is interpreted as meaning no charge or cost

assessed to the CITY.

- K. Special Events: The CONTRACTOR will provide, at no cost to the CITY, one (1) Roll-Off with one (1) free haul of such Roll-Off to collect Municipal Solid Waste at two (2) special events held each calendar year; provided that the CITY gives the CONTRACTOR reasonable notice of the dates of such special events as well as the number of containers required. For any excess hauls or additional Roll-Offs, the CONTRACTOR shall charge the rates contained in Exhibit A, attached hereto.
- L. Holidays/Make-Up Days: CITY and CONTRACTOR agree that the following days shall be recognized as holidays:

New Years Day
Thanksgiving Day
Christmas Day

A make-up day must be provided by the CONTRACTOR the next working day following the holiday, except Sunday, so that each customer receives the same number of collection days as would normally be received in a non-holiday week.

- M. Interruption in Service: In the event that the collection and disposal of Acceptable Waste or Recyclable Materials should be interrupted by any reason for more than forty-eight (48) hours, CITY shall have the right to make temporary independent arrangements for the purposes of continuing this necessary service to its residents in order to provide and protect the public health and safety.

If such interruption in service mentioned in the paragraph above continues for a period of seventy-two (72) hours, and is not caused by a catastrophe, riot, war, governmental order or regulation, strike, fire, accident, act of God, changes in laws, statutes, regulations or ordinances or other similar of different contingency beyond the reasonable control of the CONTRACTOR, then the CITY shall have the right to terminate the rights and privileges granted in this franchise.

- N. Investigations and Public Hearings: The City Council shall have full power to examine or cause to be examined at any time, and at all times, the books, papers and records of CONTRACTOR with relation to the operation of the services set forth herein. In this connection, the CITY shall have the right, through its Council, to take testimony and compel the attendance of witnesses or the production of books, papers and records and to examine witnesses under oath and under such rules and regulations as it may adopt. Notwithstanding the foregoing, CONTRACTOR shall not disclose any books, papers and records of CONTRACTOR that are in CONTRACTOR's reasonable discretion determined to be confidential, proprietary or protected by applicable trade secret or intellectual property laws.
- O. Judicial Interpretation: CITY and CONTRACTOR agree that if any term or provision of this Contract is submitted to a court for judicial interpretation that such court shall not

apply the presumption which results from the rule of construction that a document or its contents is to be construed against the person who himself or through his agent prepared the same.

- P. Non-Collection: Should a dispute arise between the CITY, CONTRACTOR, and/or a customer as to whether the CONTRACTOR actually failed to make a collection (whether the CONTRACTOR missed a pickup) the decision of the City Manager in such matter shall be final and CITY and CONTRACTOR agree to abide by said decision. However, it is understood and agreed by and between CITY and CONTRACTOR that if any customer fails to timely place brush, permanent containers, disposable containers, Recyclable Materials or commercial containers out, maintains improper or inadequate containers for the nature, volume, or weight of Acceptable Waste or Recyclable Materials to be removed from the premises, or places improper bundles or volumes of Acceptable Waste or Recyclable Materials for collection, CONTRACTOR may refrain from collecting all or a portion of such Acceptable Waste or Recyclable Materials and shall notify CITY of the reason for such non-collection. CONTRACTOR shall also provide notice to the customer of the reason for such non-collection (unless such non-collection is the result of the customer's failure to timely place the brush or containers out for collection). Contractor's notice to the customer shall be in writing, attached to the container or the front door of the residence or commercial business, and shall indicate the nature of the violation and the correction required in order that such waste or recycling materials may then be collected at the next regular collection date. When CITY is notified by a customer that Acceptable Waste or Recyclable Materials have not been removed from his premises on the scheduled collection day and where no notice of non-collection nor a change in collection schedule has been received from CONTRACTOR, CITY shall investigate. If the investigation disclosed that CONTRACTOR has failed to collect Acceptable Waste or Recyclable Materials from the subject premises without cause, CONTRACTOR shall collect same within twelve (12) hours after a collection order is issued by CITY, at no additional charge.
- Q. Records and Reports: The CITY shall have access at all reasonable hours to all CONTRACTOR'S records, customer service cards, and all papers relating to the operation of the services set forth herein. CITY shall have the right to audit CONTRACTOR'S records upon giving written notice. Notwithstanding the foregoing, CONTRACTOR shall not disclose any records, customer service cards, and all papers relating to the operations of CONTRACTOR as set forth herein, that are in CONTRACTOR's reasonable discretion determined to be confidential, proprietary or protected by applicable trade secret or intellectual property laws.

The following records and reports shall be filed semi-annually (May and November) by the fifteenth (15th) day with the City Manager:

- (1) Adequate report on recyclable collections will be submitted and shall include the annual tonnage of recyclable waste.
- (2) CONTRACTOR will provide an annual report on tonnage of garbage deposited at the

landfill from Saginaw. The report will include a breakdown of how much is from residential customers, commercial/industrial customers, CITY facilities, and landfill days.

(3) Reports of the results of all complaints and investigations received and completed by the CONTRACTOR.

(4) A listing of all commercial accounts served. This list shall include customers name, address, frequency of pickup, size of container or type of service and charges for same.

R. Revocation: In the event of an alleged breach by CONTRACTOR of any of the terms, covenants, or conditions herein contained, CITY shall notify CONTRACTOR of such alleged breach and if same is not cured within fifteen (15) days from such notice, CITY may, upon a determination (at a hearing as described herein) that a breach has occurred and remains uncured, cancel and revoke this Contract. The hearing prerequisite to such revocation shall not be held until notice of such hearing has been given to the CONTRACTOR at the address shown on the records of the CITY, and a period of at least ten (10) days has elapsed since the mailing of such notice. The notice shall specify the time and place of the hearing and shall include the alleged reasons for revocation or cancellation of the Contract. The hearing shall be conducted in public by the CITY'S City Council and the CONTRACTOR shall be allowed to be present and shall be given full opportunity to answer such charges and allegations as are set out against it in the notice. If, after the hearing is concluded, the City Council shall determine that an uncured breach of the terms, covenants or conditions of the Contract, as set forth in the notice, has occurred, they may revoke and cancel this Contract and the same shall be null and void. This Contract may, at the option of the CITY, be terminated in the event of bankruptcy, receivership, or assignment for the benefit of creditors by the CONTRACTOR.

R. Spillage: CONTRACTOR will not be required to clean up or collect loose residential Acceptable Waste or Recyclable Materials not created by its operation, but if same is not collected by CONTRACTOR, CONTRACTOR shall report the location of such conditions to CITY so that proper notice can be given to the occupant of the residence to properly contain such waste or materials. Spillage or excess Acceptable Waste or Recyclable Materials at the location of commercial containers may be picked up by CONTRACTOR after the customer reloads the commercial container. CONTRACTOR shall then be entitled to, and shall receive, an extra collection charge for each reloaded container requiring an extra collection provided CONTRACTOR notifies CITY of such extra charge. Should such commercial spillage continue to occur, CITY shall require the commercial customer and CONTRACTOR to increase the frequency of collection of such customer's Acceptable Waste or Recyclable Materials or require the customer to utilize a commercial container with a larger capacity and CONTRACTOR shall be compensated for such additional services.

S. Due Care: The CONTRACTOR shall exercise due care and caution in providing the

Services so that the CITY'S public and private property, including streets and parking areas, will be protected and preserved.

- T. Personnel and Performance Standards: The CONTRACTOR shall not deny employment to any person on the basis of race, creed or religion, and will insure that all federal and state laws pertaining to salaries, wages and operating requirements are met or exceeded. The CONTRACTOR, its agents, servants and employees shall perform the Services in a courteous, competent and professional manner. During the term of this Agreement and any extension thereof, the CONTRACTOR shall be responsible for the actions of its agents, servants and employees while such agents, servants and employees are acting within the scope of their employment or agency.
- U. Venue: Should any action, whether real or asserted, at law or in equity, arise out of terms and conditions of this contract, venue for said action shall be in Tarrant County, Texas.
- V. Unacceptable Waste: Notwithstanding anything herein to the contrary: (a) CONTRACTOR shall have no obligation to collect any material which is or contains, or which CONTRACTOR reasonably believes to be or contain, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state or local laws or regulations ("Unacceptable Waste"); (b) if CONTRACTOR finds what reasonably appears to be discarded Unacceptable Waste, CONTRACTOR shall promptly notify the CITY and the producer of the Unacceptable Waste, if the producer can be readily identified; and (c) title to and liability for any Unacceptable Waste shall remain with the producer of the Unacceptable Waste, even if CONTRACTOR inadvertently collects or disposes of such Unacceptable Waste.
- W. Removal of Contaminants: Customers and CITY must comply with any description of and/or procedures with respect to removal of contaminants or preparation of recyclable materials as reasonably provided by CONTRACTOR.
- X. Excused Performance: Except for the payment of amounts owed hereunder, neither party hereto shall be liable for its failure to perform or delay in its performance hereunder due to contingencies beyond its reasonable control including, but not limited to, strikes, riots, compliance with laws or governmental orders, inability to access a container, fires, inclement weather and acts of God, and such failure shall not constitute a breach under this Agreement.

CONTRACTOR

CITY OF SAGINAW

By: _____

By: _____

Name: _____

Todd Flippo

Title: _____

Mayor

ATTEST:

By: _____
Janice England
City Secretary