VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Robert L. Vernon, *Mayor*
Enrique Garcia, *Vice Mayor*
Michael W. Davey
Robert Gusman
Michael E. Kelly
Jorge E. Mendia
Thomas Thornton

Village Manager
Genaro "Chip" Iglesias

DATE: March 16, 2010

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager

RE: Solid Waste- Choice Environmental Services, Inc.
Authorizing and Approving Agreement for Services

RECOMMENDATION

Award Solid Waste and Recycling Services to Choice Environmental Services, Inc. ("Choice") as per Village Council meeting motion at the March 9th, 2010. Also, authorize and approve attached agreement between the Village and Choice and authorize execution of such agreement.

RECOMMENDATION

The Village of Key Biscayne ("Village") issued an RFP for Solid Waste and Recycling Services on January 15th, 2010. On January 27th, 2010 we held a mandatory pre-proposal conference for any prospective contractors. The proposal submission deadline was on February 8th, 2010. The Village received four (4) proposals from the following companies:

1) Choice Environmental Services ("Choice")
2) Waste Management Inc. of Florida
3) Waste Pro of Florida
4) Waste Services of Florida

I created a Village Selection Committee ("Committee") comprised of Chair Ramon Castella (C3TS), Armando Nunez, Public Works Director, and Jud Kurlancheek, Building, Planning, and Zoning Director. The selection committee evaluated the proposals based on the following criteria:

1) Qualifications in terms of experience in solid waste management
2) Capacity and ability to perform
3) Organization, availability, and commitment to performance
4) Price and cost considerations
5) Other considerations, including Employee/Resident Safety Plan, Emergency Preparedness Plan, Transition Plan, Corporate Goodwill, , Customer Service Plan, and Litigation History
6) Overall responsiveness to RFP

At the March 9th Village Council meeting, a motion selecting Choice was passed. Exhibit "A" has the price ranking by type of service. Exhibit "B" is an agreement for your consideration with the terms for the provision of residential solid waste services.

RESOLUTION NO. 2010 -_____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING CHOICE ENVIRONMENTAL SERVICES, INC. TO PROVIDE SOLID WASTE SERVICES TO THE VILLAGE; AUTHORIZING AND APPROVING AGREEMENT FOR COLLECTION, TRANSPORTATION, AND DISPOSAL OF SOLID WASTE BETWEEN THE VILLAGE OF KEY BISCAYNE AND CHOICE ENVIRONMENTAL SERVICES, INC.; AUTHORIZING VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING IMPLEMENTATION OF THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") provides for solid waste collection and recycling services to be provided to residential customers within the Village; and

WHEREAS, proposals from qualified prospective contractors were solicited in a Request for Proposals ("RFP") issued by the Village on January 15, 2010; and

WHEREAS, pursuant to the RFP competitive selection process, four Proposals were received by the due date, and after a subsequent review the evaluation committee conducted oral presentations with the two highest ranked firms; and

WHEREAS, at the conclusion of the competitive selection process, and following a motion by the Village Council to select the desired method of solid waste and recycling collection, Choice Environmental Services, Inc. ("Choice") was selected to provide collection, transportation, and disposal of solid waste and recycling materials for the residential areas of the Village ("Residential Solid Waste Services"); and

WHEREAS, the attached Agreement for Collection, Transportation and Disposal of Solid Waste (the "Agreement") between the Village and Choice, attached hereto as Exhibit "A", provides the terms for the provision of Residential Solid Waste Services; and

WHEREAS, the Village Council finds that approval of the Agreement is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted**. That each of the recitals stated above is hereby adopted and confirmed.

Section 2. **Agreement Approved.** That the Agreement, in substantially the form attached hereto, is hereby approved, and the Village Manager is hereby authorized to execute the Agreement on behalf of the Village.

Section 3. **Implementation.** That the Village Manager is hereby authorized to take any and all action necessary to implement the terms and conditions of the Agreement and this Resolution.

Section 4. **Effective Date.** That this Resolution shall take effect immediately upon adoption hereof.

PASSED AND ADOPTED this _____ day of _____, 2010.

_____

ROBERT VERNON
MAYOR

ATTEST:

_____
Conchita H .Alvarez, CMC
Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
Village Attorney

VILLAGE OF KEY BISCAYNE
COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE
EVALUATION ANALYSIS
FEBRUARY 16, 2010

Description of Service	Lowest price	Second Lowest	Third Lowest	Fourth Lowest
Scenario 1 * Current side/back yard garbage pick up and recycling in bags	**WASTE PRO** $ 34.25	**CHOICE** $ 34.55	**WASTE MGMT** $ 47.23	**WASTE SRVS** $ 49.27
Scenario 2 Current side yard/back garbage pick up and recycling in wheeled container	**CHOICE** $34.94	**WASTE PRO** $ 35.75	**WASTE SRVS** $ 47.95	**WASTE MGMT** $ 50.53
Scenario 3 Current side yard/back garbage pick up and recycling in bin containers	**CHOICE** $ 34.18	**WASTE PRO** $ 34.75	**WASTE MGMT** $ 46.48	**WASTE SRVS** $ 47.27
Scenario 4 Garbage and recycling in wheeled containers	**WASTE PRO** $ 35.75	**CHOICE** $ 37.22	**WASTE SRVS** $ 45.79	**WASTE MGMT** $ 48.03

* current service under Waste Management's existing contract

FACTS

- The five year contract for Waste Management Inc of Florida will expire on February 28, 2010.
- For fiscal year 2010 Waste Management bills VKB $38.53 p/unit x 1,298 houses on a monthly basis
- In 2005 the starting rate was $33.00
- VKB bills residents $495.00 annually
- Current service provided to residents is:
  - side/back yard garbage pick up twice a week
  - Once a week curbside recycling pick up utilizing plastic bags (supplied by WM upon residents request)
  - Once a month bulk trash pick up

VILLAGE OF KEY BISCAYNE
COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE

ADDITIONAL ALTERNATIVE OPTION
SIDE/BACK YARD PICK UP FOR BOTH GARBAGE AND RECYCLING

FEBRUARY 22, 2010

Description of Service	Lowest price	Second Lowest	Third Lowest	Fourth Lowest
Scenario 5 Side/back yard pick up for both garbage and recycling **Recycling in bags**	**CHOICE** $ 32.44	**WASTE PRO** $ 36.00	**WASTE SRVS** $ 46.50	**WASTE MGMT** $ 52.53
Scenario 6 Side/back yard pick up for both garbage and recycling **Recycling in bins**	**CHOICE** $ 34.96	**WASTE PRO** $37.00	**WASTE SRVS** $ 47.95	**WASTE MGMT** $ 52.53
Scenario 7 Side/back yard pick up for both garbage and recycling **Recycling in containers**	**CHOICE** $ 33.96	**WASTE PRO** $ 37.50	**WASTE SRVS** $ 48.50	**WASTE MGMT** $ 53.53

AGREEMENT
FOR
COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE FOR THE RESIDENTIAL AREAS OF KEY BISCAYNE, FLORIDA

BETWEEN
THE VILLAGE OF KEY BISCAYNE
AND
CONTRACTOR

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AGREEMENT

This Agreement for the Collection, Transportation, and Disposal of Residential Solid Waste as defined hereunder (the "Solid Waste Services") (the or this "Agreement") is made and entered into as of this _____ day of March, 2010, by and between Choice Environmental Services, of Miami Inc. ("Contractor"), a Florida corporation and the Village of Key Biscayne, a municipal corporation of the State of Florida (the "Village").

Background

An Agreement pursuant to which the Village is currently providing its single family and duplex residences with solid waste collection services expired in February 2010.

Accordingly, pursuant to applicable provisions of the Village Code and other legislative authority, Proposals from Qualified Prospective Contractors were solicited in a Request For Proposals dated January 15, 2010. The Proposals were evaluated, and on March 9, 2010, Choice Environmental Services of Miami, Inc. was recommended by the Village Manager for selection as the Contractor under certain service scenarios. After the Village Council chose a service scenario that ranked Contractor first, the selection of the Contractor was then ratified by Village Council motion. This Agreement was then negotiated into final form and its execution was authorized by the Village Council.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, it is agreed as follows:

1. <u>Definition of Terms.</u>

1.1 Contractor Shall mean Choice Environmental Services of Miami, Inc.

1.2 Biohazardous Waste Shall mean any Solid Waste which may present a threat of infection to humans. The term includes, but is not limited to, non-liquid human tissue and body parts, laboratory and veterinary waste which contains human disease-causing agents, used disposable sharps, human blood, and human blood products and body fluids, and other materials which represent a significant risk of infection to persons outside of the generating facility.

1.3 Bulk Trash Shall mean those non-vegetative large items of various types customary to ordinary residential housekeeping operations which due to their size cannot be placed in a Garbage Container or disposable bag. Bulk Trash shall not include White Goods, automobiles and automotive components, internal combustion engines or Construction Debris. Bulk Trash shall include carpeting of any diameter if folded, tied, and rolled or bundled and cut in lengths of six feet or less.

1.4 Code Shall mean the Code of The Village of Key Biscayne, Florida, as amended from time to time.

1.5 Collection Services Shall mean, collectively, collection, transportation, and disposal services with respect to Solid Waste, including Garbage, Yard Trash, Recyclable Materials, Bulk Trash, and White Goods.

1.6 Collection Vehicles Shall mean a boom truck, rear loader truck, roll-off truck or other vehicle used by Contractor to collect or transport Solid Waste or Recyclable Materials. Individually each is a Collection Vehicle.

1.7 Construction Debris Shall mean materials generally not water soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete or roofing material, pipe, gypsum wallboard, and lumber. Construction Debris shall include materials from the construction or destruction of a structure as part of a construction or demolition project, and including rocks, soils, stumps, and other vegetative matter which normally results from land clearing or land development operations for a construction or home improvement project.

1.8 County Shall mean Miami-Dade County, Florida.

1.9 Day Shall mean a calendar day.

1.10 Garbage Shall mean every refuse accumulation of animal, fruit, vegetable or organic matter that attends the preparation, use, cooking and dealing in or storage of meats, fish, fowl, fruit or vegetables, and decay, putrefaction, and the generation of noxious or offensive gases or odors or which, during or after decay, may serve as breeding or feeding material for flies or other germ carrying insects.

1.11 Garbage Container Shall mean a container made of galvanized metal, durable plastic or other suitable material of a capacity not to exceed 32 gallons or 50 pounds in weight, customary to ordinary housekeeping operations, approved for use by the Village Manager. Such container shall have two handles, one on each side, or a bail by which it may be lifted, and shall have a tight fitting solid top.

1.12 Hazardous Waste Shall mean any materials defined as hazardous waste or hazardous materials under any applicable laws, rules or regulations.

1.13 Holidays Shall mean collectively Independence Day and Christmas Day. Individually each is a Holiday.

1.14 Other Collections Shall mean collectively emergency collections, requested Holiday collections, and special pickups.

1.15 Pickup Point Shall mean a location designated by each Residential Customer at curbside or sideyard/backyard to which Contractor has unobstructed, safe access at the time of collection.

1.16 Prohibited Waste Shall mean any Hazardous Waste, Biohazardous Waste or Special Waste. Nothing herein shall be construed to require Contractor to pick up Prohibited Waste.

1.17 Recyclable Materials Shall mean those materials which are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste such as:

a newspapers, including the normal percentage of rotogravure and colored sections. Phone books, magazines, and any paper other than newspaper are not acceptable.

b aluminum beverage cans, commingled with ferrous food containers (cans should be clean and dry);

c high density polyethylene plastics (HDPE) commingled with polyethylene terephthalate plastics (PET) (beverage containers only; clean and dry with lids removed);

d clear glass (beverage and food containers only; clean and dry with lids removed);

e brown glass (beverage and food containers only; clean and dry with lids removed);

f green glass (beverage and food containers only; clean and dry with lids removed); and

g any other material agreed to by the Village Manager and Contractor. Recyclable Materials shall not include Prohibited Waste, white office paper, aerosol cans, pharmaceutical glass containers, medical waste containers, pesticide containers or containers originally containing Prohibited Waste.

1.18 Recycling Services Shall mean the collection, separation or processing, and reuse or return to use in the form of raw materials or products of Recyclable Materials.

1.19 Regular Schedule Shall mean the Initial Schedule or any Modified Schedules.

1.20 Residential Customers Shall mean those Single Family and Duplex residences as specified by the Village that are to receive Collection Services. The list of Residential Customers may be amended in accordance with Section 12.3.

1.21 Service Area Shall mean all property located within the Village's corporate boundaries as defined in the Village Charter for which service is provided herein.

1.22 Solid Waste Shall mean and includes Garbage, Yard Trash, Bulk Trash, White Goods or other discarded material resulting from normal housekeeping activities, and shall exclude Prohibited Waste.

1.23 Solid Waste Collection Services Shall mean the collection of Solid Waste for each Residential Customer and transportation to and disposal in a Solid Waste Disposal Facility.

1.24 Solid Waste Disposal Facility Shall mean any properly permitted and licensed Solid Waste management facility which is the final resting place for Solid Waste, including but not limited to, landfills, transfer stations, and incineration facilities that produce ash from the process of incinerating municipal Solid Waste.

1.25 Special Waste Shall mean Solid Waste that requires special handling and management, including, but not limited to, asbestos, whole tires, used tires, used oil,

lead-acid batteries, and Biohazardous Wastes and shall include items that exceed the size limitation for Yard and Bulk Trash.

1.26 Tipping Fee Shall mean the fee per ton charged at a Solid Waste Disposal Facility.

1.27 Village The Village of Key Biscayne, Florida.

1.28 Village Government Facilities Shall mean the Village Civic Center Complex which includes the Village Hall/Police Station, Village Fire Rescue Station, and Village Community Center, and any other facilities owned or operated by the Village or to be built, owned or operated by the Village in the future.

1.29 Village Manager Shall mean the Village Manager of the Village of Key Biscayne, Florida, or his/her designee.

1.30 White Goods Shall mean refrigerators, washing machines, dryers, ranges, water heaters, freezers, air conditioning units, and other similar large appliances.

1.31 Yard Trash Shall mean vegetative matter resulting from normal yard and landscaping maintenance and shall include materials such as tree and shrub trimmings, grass clippings, palm fronds or small tree branches that shall not exceed four feet in length and four inches in diameter. Yard Trash shall include Christmas Trees regardless of size. Yard Trash shall be bundled or tied. Grass clippings shall be placed in a Garbage Container, disposable bag, or bundled. No bundle, bag, or filled container shall exceed 50 pounds in weight and no more than six containers, bags or bundles per Residential Customer shall be collected at one time.

2. Term.

2.1 Initial Term

The initial term of this Agreement shall be for five years ("Initial Term") beginning March 28, 2010, and terminating March 31, 2015.

2.2 Additional Terms

The term of this Agreement may be extended upon mutual written consent of both parties upon substantially the same terms as were in effect prior to the extension ("Additional Terms").

3. Prerequisites To Commencement of Service.

3.1 Pre-Start Route Familiarization

Contractor shall, at no charge to the Village, perform a pre-start route familiarization program in conjunction with the Village to help route drivers become aware of and familiar with the Pickup Points and with the method by which Collection Services shall be performed.

3.2 Initial Schedule

Prior to the commencement of Collection Services, Contractor shall provide the Village Manager with a monthly schedule including the days of the week or month that Garbage, Yard Trash, Recyclable Materials, Bulk Trash and White Goods shall be collected from each Residential Customer and Village Government Facility within the frequency required by this Agreement ("Initial Schedule"). The Initial Schedule shall also specify the days of the week pickup service shall be provided for the roll-off container consistent with the frequency required by this Agreement. The parties recognize that existing residential Collection Services in the Village are currently subject to an existing collection schedule. In order to provide seamless services to each Residential Customer, Contractor agrees to utilize the existing collection schedule as the Initial Schedule. The Village Manager shall review and approve the Initial Schedule prior to implementation.

3.3 Distribution of Recycling Containers

Contractor will be given forty-five days to provide to the Village Recycling Carts as described in the RFP for Solid Waste Services. Contractor shall purchase and distribute, at its sole cost, one Village-approved recycling cart with a capacity of roughly 64 gallons to each residential property in the Village. Each recycling container shall be hot-stamped with Contractor's recycling information and telephone number, the words: "Property of Village of Key Biscayne Recycling Program" and any other information as approved by the Village.

Until these, recycling materials shall be picked up by the Contractor using the bag system currently in use.

4. Commencement of Collection Services

Collection Services shall commence on Monday, March 29, 2010.

5. Collection Services.

5.1 Collection Services to Residential Customers

Contractor shall provide sideyard/backyard pickup and disposal services to all Residential Customers within the Service Area for Garbage and Recycling. If Garbage containers and/or Recycling Containers are left sideyard/backyard for pick-up, Contractor shall return garbage and recycling containers to sideyard/backyard. If Garbage containers and/or Recycling Containers are placed at curbside by Residential Customers then the Contractor shall return the containers to within five (5) feet of the front façade of the residence unless it is not reasonably possible to do so.

Contractor shall provide curbside pickup and disposal services to all Residential Customers within the Service Area for Bulk Trash and White Goods. All Bulk Trash and White Goods to be collected shall be placed within six feet of the curb, paved surface of the roadway, closest accessible right-of-way or other such location agreed to by Contractor that shall provide safe and efficient accessibility to Contractor's collection crew and vehicles. For purposes of this Agreement, roadway or right-of-way means a road owned and maintained by the Village, the County or the State of Florida, or a road on private property for which an easement has been granted to the public or the residents in the immediate vicinity. Contractor is also required to make a reasonable effort to restore the area directly underneath where the Bulk Trash was deposited for pickup, including raking that specific area if necessary.

Yard Trash that is canned or bagged may be placed by Residential Customers either sideyard/backyard or curbside for Contractor pickup and disposal. Bundled Yard Trash shall be placed curbside for Contractor pickup and disposal.

Contractor shall provide side/yard backyard pickup and disposal services for Recycling Materials. The materials shall be deposited by the Residential Customer in the container described under section 3.3 of this Agreement .

Where: (1) A resident is physically unable (as determined by the Village Manager) to deliver Bulk Trash, White Goods, or Recycling Materials to curbside; (2) the residential structure is located in such a manner as to provide non-accessibility to Contractor's crew or vehicle; or (3) clear and safe passage of heavy equipment is prevented as a result of road closings or encumbrances; an alternative location may be arranged between the Residential Customer and Contractor at no extra cost to the Residential Customer. In the event an appropriate location cannot be agreed upon, the Village Manager shall designate the location.

5.2 Regular Collections

Contractor shall collect, transport, and dispose of all Solid Waste and Recyclable Materials generated by Residential Customers in the Service Area at such frequencies as described below.

5.2.1 Garbage

Contractor shall collect Garbage from each Residential Customer at least two times per week, with collections at least two days apart pursuant to the Regular Schedule ("Garbage Collection Day").

5.2.2 Yard Trash

Contractor shall collect Yard Trash from each Residential Customer one day per week pursuant to the Regular Schedule ("Yard Trash Collection Day"). See section 1.31 .

5.2.3 Recycling Materials

Contractor shall collect Recycling Materials from each Residential Customer once per week.-

5.2.4 White Goods

Contractor shall provide curbside pickup and disposal service of White Goods to each Residential Customer pursuant to the same schedule as Bulk Trash.

5.2.5 Bulk Trash

Bulk Trash shall be picked up curbside on a monthly basis.

5.2.6 Neighborhood Trash Station

At no cost Contractor shall supply the Village with a large roll-off container or equivalent that shall be available at the neighborhood trash station at all times for use of Village staff and residents at a site approved by the Village Manager. Contractor shall provide pickup service of the roll-off container six times per week pursuant to the Regular Schedule, one container per day, and so Contractor should anticipate that two would need to be available for Village use at any given time.

5.2.7 Services to the Handicapped

Contractor shall provide, at no additional charge, back-door Collection Services (except for Bulk Trash, White Goods and Yard Trash) to handicapped persons as determined by and upon the request of the Village Manager.

5.2.8 Option of Other Services

Collection Services in the Village, other than Residential Customers, may be provided by Contractor based upon a separate agreement with the Village. The Village shall have the right, but not the obligation, to enter into the Agreement.

5.3 Village Collections

Garbage, solid waste, yard trash, recycling material, bulk trash, and white goods shall be collected from Village Facilities at no additional charge to the Village two times each week. ("Village Collections").

5.4 Changes to Initial Schedule

The Village shall be immediately notified in writing of any changes to the Initial Schedule. Any permanent changes to the Initial Schedule ("Modified Schedule") that alter the day of any pickup are subject to prior approval by the Village Manager. Contractor shall notify each affected Residential Customer at least seven days prior to the effective date of any Modified Schedule, in a newspaper of general circulation in the Village and by direct notification to each Residential Customer. The cost of publication shall be borne solely by Contractor.

5.5 Hours of Collection

Collection Services performed pursuant to this Agreement shall begin no earlier than 7:00 a.m., and shall be completed no later than 4:00 p.m. Collection can occur only on Monday, Tuesday, Thursday or Friday. Collection Services shall not take place on Wednesday, Saturday, Sunday or on Holidays. In the case of an emergency or breakdown of Collection Vehicles, Collection Services may be permitted on Sundays or during times not permitted by this paragraph, provided Contractor has received prior verbal approval from the Village Manager, to be later evidenced by a written memorandum from the Village Manager confirming the approval.

5.6 Protection of Property

Contractor shall conduct Collection Services in such a manner as to avoid damage to private and public property, including, but not limited to, carts, racks, trees, shrubs, flowers, and other plants, and shall promptly repair or pay for any damage caused by its operations after a reasonable time to investigate such claims (not to exceed ten days). In the event that repairs are not made or damage paid for within ten working days after Contractor has concluded its investigation and to the satisfaction of the Village Manager, the Village Manager may make such repairs or pay for such damage and deduct the cost from amounts due to Contractor pursuant to this Agreement. Contractor shall provide Collection Services with minimum disturbance to Residential Customers and to the neighborhood.

5.7 Spillage

Contractor shall make every effort to minimize leaks from vehicles, litter, and spillage occurring on public or private property as a result of Collection Services. In the event of any litter, leaks or spillage caused by Contractor, Contractor shall clean up such spillage within four hours of notice to Contractor from the Village or a Residential Customer. In the event that litter or spillage is

not picked up or cleaned up within four hours, the Village may, in its sole discretion, pick up the litter or spillage and deduct from amounts owed Contractor the cost for the pickup or cleanup.

6. Other Collections

6.1 Severe Weather/Emergencies

6.1.1 Emergency Collections/Charges

In case of severe weather which may create a danger to Contractor's employees or the public, the Village Manager may grant Contractor the right temporarily to vary from the Regular Schedule. In the case of severe weather or emergencies where it is necessary for Contractor to acquire additional Collection Vehicles and to hire extra crews to clear the Village of debris resulting from the severe weather ("Emergency Collections"), Contractor shall be required to cooperate with the Village in all possible ways for the efficient and rapid clean-up of the Village. The necessity of Emergency Collections may only be determined upon mutual consent of the Village Manager and Contractor. Such cooperation shall include undertaking steps necessary for an appropriate response to the emergency, including reasonable assistance to the Village at the Village Manager's request for extra collections both before and after the emergency.

Contractor shall receive extra compensation above that set forth in this Agreement for Emergency Collections, provided Contractor has first secured prior written authorization from the Village Manager based on rates jointly agreed to by the Village Manager and Contractor. In the event the emergency is a Federally recognized disaster event, the extent of such extra compensation shall by limited to amounts approved for payment or reimbursement by FEMA. The Village may contract with other firms or units of government to provide the Emergency Collections. As soon as practical after severe weather or an emergency, Contractor shall advise the Village Manager and Residential Customers of the estimated time required before Regular Schedules can be resumed. At the Village's sole discretion, Contractor may be required to provide emergency services using those rates provided by the Contractor during the Solid Waste RFP process under Attachment IV-A and pursuant to Section III(J) of the RFP.

6.1.2 Emergency Collection Vehicles

The Emergency Debris Equipment List, attached as Exhibit "C", lists the emergency collection vehicles and equipment which may be necessary for storm or disaster cleanup in the Village and the associated charges for each item. The emergency collection vehicles and equipment shall be supplied on an "as needed" basis only as approved by the Village Manager. The specified charges do not include disposal costs which shall be paid by the Village upon presentation of documentation to the Village Manager by Contractor.

6.1.3 Hurricane/Disaster Response Plan

Contractor shall within thirty days of execution of this Agreement submit to the Village a final Hurricane/Disaster Response Plan ("Emergency Plan") detailing variations from the regular services and outlining its responsibilities as well as instructions to Residential Customers. Specifically, the Emergency Plan shall address the following: (1) instructions for Residential Customers; (2) modified pick-up schedules; (3) pruning and trimming of vegetation; (5) bulky waste; and equipment management. In the case of a hurricane, the Emergency Plan shall cover all phases of the emergency from warning, through the various aspects of public/private response, and ending with the recovery phase of the emergency. The Emergency Plan shall apply not only to hurricanes but to all events declared emergencies by the Village. This also incorporates all other provisions of the plan provided by the Contractor pursuant to Section III(J) of the RFP.

6.2 Holidays

Contractor shall be obligated to provide Collection Services on holidays, except Independence Day and Christmas Day. Contractor shall collect those Residential Customers affected by these Holidays on the next scheduled collection day.

6.3 Special Pickups

From time to time the Village or Residential Customers may have the need for Solid Waste pickups, including Garbage, Yard Trash, White Goods, Special Waste, and Bulk Trash, outside of and in addition to the Regular Schedule ("Special Pickups"). Contractor shall provide Special Pickups as requested by the Village or Residential Customer within five working days from the date of the request at the rates listed in Exhibit "A". Special Pickups requested by a Residential Customer paid directly to the Contractor by the Residential Customer. Prior to making a Special Pickup for a Residential Customer, Contractor shall provide that Residential Customer with a firm written proposal as to the total cost of the Special Pickup. No additional costs beyond those listed in the written proposal may be charged by Contractor. Notwithstanding the provisions of this section, the Village reserves the right to contract with other entities or to provide directly Special Pickups.

7. Contractor's Personnel

Contractor shall provide, at its own expense, all labor and supervision necessary to provide the Collection Services as set forth in this Agreement.

7.1 Contractor's Officer(s)

Immediately upon execution of this Agreement Contractor shall assign a qualified person or persons to be responsible for the Collection Services under this Agreement ("Responsible Person"). The Responsible Person shall be available at all times and the availability of communication between the Village and the Contractor shall be unencumbered 24 hours a day. Contractor shall provide to the Village, in writing, the name, home telephone, pager, and mobile

phone numbers of this person or persons. Contractor shall also provide to the Village information regarding the Responsible Person's experience and qualifications.

7.2 Assignment of Employees

Specific Contractor employees shall be assigned to regularly service each Residential Customer. Contractor recognizes that Residential Customers enjoy having employees regularly scheduled to service their homes and shall make every effort to insure consistency in the employees servicing each route.

7.3 Conduct of Employees

Contractor employees shall serve the public in a courteous, helpful, and impartial manner. Contractor's employees shall use available sidewalks or other walkways for pedestrians. Trespassing by employees shall not be permitted. Employees shall not cross the property of one Residential Customer in order to service another Residential Customer unless residents or owners of both such properties have given written permission.

7.4 Employee Uniforms

While providing Collection Services, Contractor employees shall wear a clean uniform including a shirt or overalls bearing the name of Contractor and the employee's first name written in letters at least one inch high, uniform in type. Contractor shall keep a record of employees' names, numbers, and route assignments to allow identification of the employees at all times. Contractor shall provide its then current employee list and route assignments to the Village upon request by the Village Manager.

7.5 Residents

Contractor shall, wherever reasonably practical, recruit and employ its personnel performing services under this Agreement from among residents of the Village.

7.6 Equal Opportunity

No person shall be denied employment by Contractor for reasons of race, sex, national origin, creed, age, religion or sexual orientation.

7.7 Full Time Employees

All employees assigned to provide Collection Services in the Village shall be full-time or regular part-time Contractor employees and shall not be subcontractors.

7.8 Dismissal

Contractor shall, upon receipt of a request from the Village Manager specifying cause, immediately exclude any employee of Contractor from providing Collection Services pursuant to this Agreement.

8. Collection Vehicles and Equipment

8.1 Quality and Quantity

Contractor shall have on hand at all times and in good working order such Collection Vehicles, machinery, tools, accessories, and other items necessary to perform Collection Services under this Agreement (collectively "Collection Equipment"). Collection Equipment shall be obtained from nationally known and recognized manufacturers of garbage collection, recycling, and disposal equipment. All Collection Equipment shall be kept in good repair and appearance and in a sanitary and clean condition at all times.

8.2 Collection Vehicles, Equipment Description and Replacement

All Collection Vehicles and other vehicles used by Contractor to provide Collection Services ("Other Vehicles") shall be equipped with state-of-the-art communication equipment capable of providing direct communication with the Village, including, but not limited to portable cellular telephone devices. All Collection Vehicles and Other Vehicles are to be painted uniformly with the name of Contractor, business telephone number, and the number of the vehicle in letters not less than five inches high on each side of the vehicle. All Collection Vehicles and Other Vehicles shall be numbered and a record kept as to the utilization of the vehicle to which each number is assigned. Contractor shall provide like new equipment at start-up and shall maintain all equipment in accordance with the equipment's life expectancy. The Village Manager may require the repair or replacement of equipment as reasonably necessary.

8.3 Reserve Collection Equipment

Contractor shall have available reserve Collection Equipment that can be put into service on the same day of any breakdown. Such reserve Collection Equipment shall correspond in size and capacity to the Collection Equipment regularly used by Contractor to perform the Collection Services.

8.4 Advertising

No advertising shall be permitted on Collection Vehicles with the exception of the logo of the Contractor. Any public service signage shall first be approved by the Village.

9. Containers

9.1 General

Solid Waste, including Garbage, Yard Trash, and other non-bulk trash shall be placed in either a Garbage Container or a disposable garbage bag by Residential Customers.

9.2 Handling of Containers

Garbage Containers shall be handled carefully by Contractor, shall not be bent or otherwise abused, and shall be thoroughly emptied and then left upright. Covers on Garbage Containers shall be put securely and properly in place and Garbage Containers returned to the curbside or sideyard/backyard Pickup Point. In the event of damage caused by Contractor to Garbage Containers, other than normal wear and tear, Contractor shall be responsible for the timely repair or replacement of the Garbage Container within four days of receiving a complaint from the Residential Customer or the Village Manager.

9.3 Garbage Containers

Garbage Containers or disposable garbage bags shall be provided by each Residential Customer. The Village hereby reserves its right to require uniform Garbage Containers for all Residential Customers.

9.4 Recycling Containers

Recycling Containers shall be provided consistent with Section 3.3 of this Agreement.

9.5 Containers Supplied By Contractor

In the event the Village requires uniform Garbage Containers for its Residential Customers, Contractor shall assist the Village in procurement of such containers at the Village's sole cost and expense.

10. Disposal of Solid Waste

Contractor hereby represents and warrants to the Village that it shall dispose of the Solid Waste collected pursuant to this Agreement at a Solid Waste Disposal Facility. Contractor shall notify the Village in writing from time to time which Solid Waste Disposal Facility is being used for Solid Waste collected pursuant to this Agreement ("Current Solid Waste Disposal Facility"). Contractor may not utilize a Solid Waste Disposal Facility with a Tipping Fee greater than that currently charged by Miami-Dade County per ton without prior written approval of the Village Manager.

11. Compensation to Contractor

11.1 Monthly Residential Fee

As indicated more specifically on Exhibit "A" ("price schedule"), the Village shall pay Contractor the sum of $33.96 per month per Residential Customer (the "Monthly Residential Fee") as full compensation for the performance of Regularly Scheduled Residential Collection and Disposal Services, including Garbage Collection twice a week, Yard Trash Collection once a week, Recyclable Materials Collection once a week, and Bulk Trash and White Goods Removal pursuant to the Bulk Trash Schedule as determined by the Village Manager. This initial amount is based upon 1300 units. The number of Residential Customers shall be adjusted quarterly to equal the number specified in the records of the County Tax Assessor. Should the number of units change, the parties may negotiate a new Monthly Residential Fee.

11.2 No Fee for Village Collections/Roll-Off Container

There shall be no compensation paid Contractor for collections from the roll-off container located at the Neighborhood Trash Station or from small containers as specified in Section 5.3 of this Agreement that are located at Village owned, occupied or operated property and facilities, including, but not limited to Village Government Facilities.

12. Billing

12.1 Residential Billing

The Village shall be solely responsible for the billing of all Residential Collection Services in order to offset Village's costs hereunder. Contractor shall be responsible for billing of Special Services. Contractor shall provide the Village with a copy of each agreement for Special Services and shall provide a monthly report to include such billing and the volume by cubic yards involved in such services, on a timely basis. The invoice shall include a breakdown of charges per cubic yard."

12.2 Invoices

Contractor shall submit an invoice to the Village by the 10th of each month for Residential Collection Services rendered during the preceding month. Payments will be made to Contractor by the Village on or before the 20th day of the following calendar month upon verification of the invoice submitted. The total number of Residential Customers served shall be furnished by Contractor to the Village along with each invoice.

12.3 Billing Adjustment Procedures

On the first day of each Quarter the number of Residential Customers may be adjusted by the Village, if necessary, to correspond with Collection Services being provided. The Village Manager will notify Contractor verbally, and will confirm in writing within 15 days of any Residential Unit to which Collection Services should be terminated and of any Residential Unit to which Collection Services should be commenced. Collection Services shall commence or terminate as appropriate at the next regularly scheduled pickup after verbal notification.

12.4 Cost of Living Adjustments

Beginning on October 1, 2010, and annually thereafter, Contractor may petition the Village to adjust the collection and hauling component of the rates to reflect the cost of doing business, measured by the fluctuation in the Consumer Price Index (CPI) (All Urban Consumers, Miami-Fort Lauderdale, Florida) as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor agency. The Contractor's request shall contain reasonable proof and justification to support the need for the rate adjustment. The Village may request from the Contractor, and the Contractor shall provide, such further information within its possession as may be reasonably necessary in making its determination. The Village shall approve or deny the request, in whole or in part, within sixty (60) days of receipt of the request and all other additional information required by the Village. The Village shall make a reasonable determination based upon the documentation provided in reaching its decision. In the event an adjustment is granted, the collection and hauling component shall be adjusted by 100% of the percentage change in the CPI from the previous July to July of the year in which the adjustment is effected (but not to exceed 5%).

12.5 Changes in Disposal Charges

In the event that the disposal charges charged to Contractor at the Current Solid Waste Facility should increase or decrease, the Village Manager, not more frequently than once per Village fiscal year, upon written request from Contractor by October 1st, shall adjust the Monthly Residential Fee in accordance with such change. The change in Monthly Residential Fee due to disposal adjustments shall not exceed 5% in any calendar year. In order to justify any increase on the Monthly Residential Fees, Contractor shall provide to the Village Manager:

a. documentation showing actual disposal charges paid for the four months prior to the request for the increase; and

b. the publication or other evidence announcing the disposal fee increase.

12.6 Extraordinary Increases in Cost Adjustment

The Contractor may petition the Village to adjust Contractor's rates based upon unusual and unanticipated increases in the cost of doing business, including but not limited to a change in law or regulation ("Change in Law"). Any such request shall be supported by full documentation establishing the increase in operating costs and the reasons therefor. The Village shall be entitled to audit the Contractor's financial and operational records directly related to the Contractor's request in order to verify the increase in costs and the reasons therefor.

"Change in Law" means (I) the adoption, promulgation, or modification after the date of this Agreement of any law, regulation, order, statute, ordinance, or rule that was not adopted, promulgated, or modified on or before the date of this Agreement, or (ii) the imposition of any

material conditions in connection with the issuance, renewal, or modification of any permit, license, or approval after the date of this Agreement , which in the case of either (I) or (ii) establishes requirements affecting the Contractor's operation under this Agreement more burdensome than the requirements that are applicable to Contractor and in effect as of the date of this Agreement. A change in any federal, State, county, or other tax law or workers compensation law shall not be a Change of Law. However, in the event that a federal, state or local entity imposes a fee, charge or tax after the date of this Agreement that applies to Contractor's operations per se, such fee, charge or tax shall be treated as a Change in Law.

The Contractor's request must be made within one hundred twenty (120) days of the occurrence of such unusual change or cost, and shall contain reasonable proof and justification to support the need for the rate adjustment. The Village may request from the Contractor, and the Contractor shall provide, such further information within its possession as may be reasonably necessary in making its determination. The Village shall approve or deny the request, in whole or in part, within sixty (60) days of receipt of the request and all other additional information required by the Village. The Village shall make a reasonable determination based upon the documentation provided in reaching its decision.

12.7 Fuel Costs

There shall be an adjustment in the base rate for Contractor should the cost of fuel increase significantly during the term of the contract. The threshold diesel fuel price per gallon for consideration of such a change is $3.10 per gallon as per the U.S. Energy Information Administration, and should the cost of diesel fuel rise to or above that level the Village shall adjust the base rate of the Contractor. The first potential change will be effective October 1, 2011. The actual methodology to be used to determine the amount of the increase in the base rate shall be agreed upon by mutual consent of the Village and the Contractor prior to implementation.

13. Ownership of Recyclable Materials

Contractor shall be the owner of all Recyclable Materials it collects from Residential Customers and may recycle, process or sell the Recyclable Materials, in its discretion. Neither the Village nor the Residential Customers shall be entitled to the proceeds of any sale by Contractor of processed or unprocessed Recyclable Materials.

14. Newsletter

Contractor shall, at Contractor's sole cost, publish an annual Newsletter with prior Village approval providing Residential Customers with information concerning a wide range of solid waste management topics designed to facilitate collection, transportation and disposal of Solid Waste and Recyclable Materials as well as to produce savings in the performance of Contractor's services.

15. Agreement Performance

15.1 Supervision by Village Manager

Contractor's performance of this Agreement shall be supervised by the Village Manager. If at any time during the Initial Term or an Additional Term of the Agreement, performance is considered unsatisfactory to the Village Manager, Contractor shall immediately take all steps necessary to perform this Agreement, including but not limited to increasing or improving its work force, tools, and Collection Equipment as needed. The failure of the Village Manager to give such notification shall not be a precondition to the exercise of other rights of the Village under this Agreement nor relieve Contractor of its obligation to perform in the manner specified in this Agreement.

15.2 Contractor Performance Disclosure

Contractor shall furnish the Village Manager any information directly related to this Agreement deemed reasonably necessary by the Village Manager to ascertain whether or not Collection Services are being performed in accordance with the requirements of this Agreement.

15.3 Inspection

The Village Manager may inspect Contractor's operations and equipment upon reasonable notice to Contractor. Contractor shall permit the Village Manager to make such inspections at reasonable times and places.

16. Complaints and Complaint Resolution/Penalties

16.1 Complaint Line

Contractor shall maintain a telephone complaint line ("Complaint Line") where complaints can be received. In the event of a dispute between Contractor and a Residential Customer as to whether an item falls within a particular category of Solid Waste or Prohibited Waste, the situation will be reviewed and resolved by the Village Manager in the reasonable exercise in his/her sole discretion.

16.2 Complaint Register

Contractor shall prepare and maintain, in accordance with a format approved by the Village Manager a written register of all complaints received, indicating the disposition of each complaint ("Complaint Register"). The Complaint Register shall be available for inspection by the Village Manager at all times during which the office is open. The Complaint Register shall indicate, at a minimum, the name and address of the complainant, the date and hour on which the complaint was received, the nature of the complaint, and the date and hour on which it was

resolved. The Complaint Register shall be submitted to the Village Manager each week along with the applicable monthly invoice.

16.3 Response to Complaints

All complaints shall be resolved by Contractor within 24 hours from the time of Contractor's receipt of a complaint or receipt of the Village Notice. When a complaint or Village Notice is received on the day preceding a Holiday, or on a weekend, it shall be resolved no later than the next working day.

16.4 Disputes

Unresolved disputes between Contractor and Residential Customers shall be referred to the Village Manager whose decision shall be final and binding.

16.5 Penalties

Contractor shall be assessed penalties by the Village for failure of performance in accordance with the Penalty Schedule attached as Exhibit "B", which shall be deducted monthly from payments due Contractor by the Village.

16.6 Monthly Meetings

Contractor shall have a monthly meeting with the Village to discuss service provided.

17. Annual Reports

For purposes of this section, Contractor agrees to utilize the Village's fiscal year as the period for annual reporting. On December 1, following each fiscal year, Contractor shall submit to the Village a report ("Report") containing the following information for the previous fiscal year:

a. Total Solid Waste tonnage collected.

b. Total Tipping Fees paid to dispose of the Solid Waste.

c. Gross Billing for all Residential Solid Waste collection, including all Special Services, within the Village's Service Area.

d. Total Recyclable Material collected by category.

e. Proof that all insurance and bonds required by this Agreement are in effect.

f. Other information and data as requested by the Village Manager, except information which is properly withheld by Contractor as confidential under Florida law.

g. Complaint Register.

Contractor shall be assessed penalties for failure to submit the Report on a timely basis, in accordance with the penalty schedule attached as Exhibit "B." The amount of the penalties shall be deducted from payments due Contractor by the Village.

18. Subcontractors

Contractor shall not employ subcontractors to perform services pursuant to this Agreement without prior written approval of the Village.

19. Performance Bond

Simultaneously with its delivery of the executed Agreement, Contractor shall deliver to the Village Manager an executed Performance Bond, in the amount of one year of the Agreement as security for the faithful performance and for the payment of all persons performing labor or furnishing materials under the Agreement. The Performance Bond shall be written and signed by a licensed agent of the State of Florida. The attorney-in-fact or other officer who signs a Performance Bond for a surety company, shall file with such bond a certified copy of his/her power-of-attorney authorizing him/her to do so. The address and telephone number of the local representative of the Surety Company furnishing the performance bond shall be inscribed on the certificate furnished to the Village. The Performance Bond shall be accompanied by an affidavit executed by a qualified officer of the company tendering such bond, or by the attorney-in-fact of such company, setting forth the amount of capital and the amount of surplus held by said surety company as of the last published report. The surety company issuing the Performance Bond shall be subject to approval by the Village. Failure to provide the Performance Bond no later than the execution date of the Agreement or alternate date established by the Village Manager by written notice, shall be considered an Event of Default. Posting the Performance Bond shall in no way limit or relieve the Contractor of its liability for damages pursuant to the Agreement. The Performance Bond shall remain in force for one year from the date of actual completion of the work to protect the Village against losses resulting from latent defects in materials or improper performance of work under the Contract. The Performance Bond shall be adjusted annually in accordance with the CPI increase.

20. Indemnification

Contractor shall defend (at the trial and appellate levels), and to the extent of Contractor's and/or Contractor's employees fault, negligence or liability, indemnify and hold harmless the Village, its elected officials, officers, agents, and employees from and against and assume all liability for any and all claims, suits, actions, damages, liabilities, expenditures, judgments, orders, decrees,

attorneys' fees, costs, investigation expenses or causes of actions of any kind arising out of Contractor's performance or nonperformance under this Agreement, including, but not limited to the use of public streets. As limited above, this indemnification provision shall also apply to claims arising from Village's negligence but shall not apply to claims, losses, expenses or liability arising out of the sole negligence or gross negligence of the Village. Further, Contractor shall defend, indemnify and hold harmless the Village and any Residential Customer from any claim for damages made against Village or Residential Customer as a result of any injury sustained by an employee of Contractor while upon the premises of the Village or Residential Customer, including claims arising from the negligence of Village or of Residential Customer, but not from claims arising from the intentional wrongful conduct or the sole negligence or gross negligence of Village or Residential Customer, respectively. This indemnification provision shall survive the termination of this Agreement.

21. Insurance

21.1 Insurance Requirements

Contractor and any subcontractor(s) of the Contractor shall maintain throughout the entire term of this Agreement, and any Additional Terms:

a. Commercial general liability insurance in the minimum amount of $1,000,000.00 per occurrence combined single limit for bodily injury and property damage. This shall include coverage for premises/operations, products/completed operations, contractual liability, and independent contractors. This policy shall include coverage for contractual liability specifically covering the indemnity set forth in this Agreement. The Village shall be named as an additional insured on this policy.

b. Automobile liability in the amount of $1,000,000.00 per occurrence combined single limit for bodily injury and property damage, covering all vehicles owned, leased, rented or otherwise hired or used by Contractor in association with this Agreement. The Village shall be named as an additional insured on this policy.

c. Workers compensation and employer's liability, as required by Florida Statutes.

21.2 Ratings

All companies providing insurance shall be authorized to do business in the State of Florida and rated B+:VI or better by Best's Key Rating Guide, latest edition.

21.3 Cancellation

Each insurance policy shall state that it cannot be cancelled or modified without written notice to the Village at least 30 days prior to the effective date of cancellation or modification.

21.4 Certificates of Insurance

Simultaneously with its delivery of the executed Agreement, Contractor shall deliver to the Village Manager certificates of insurance indicating that the above referenced insurance coverage has been obtained consistent with the terms of this Agreement.

22. Events of Default by Contractor

Each of the following events or conditions shall constitute an "Event of Default" by Contractor for the purposes of this Agreement:

22.1 Failure to comply

Any material failure by Contractor to perform or comply with the terms and conditions of this Agreement.

22.2 Insolvency or filings against Contractor

Filing by or against Contractor or the Performance Bond surety of a bankruptcy, receivership, assignment for the benefit of creditors, liquidation, dissolution, composition or reorganization, petition or other insolvency proceeding.

22.3 Failure to provide Collection Service

Failure by Contractor to provide Collection Services for a period of three consecutive days, excluding Sundays, Holidays, and natural disasters.

22.4 Complaints

Complaints constituting verified deviations from Contractor's duties or obligations under this Agreement in any calendar month in excess of 25 per month.

22.5 Unresolved Problems

Not resolving legitimate complaints of missed service within the time frame specified six or more times in any calendar month.

22.6 Misrepresentation

If any representation or warranty furnished by Contractor in this Agreement is found to be false or misleading in any material respect.

22.7 Inspection refusal

Refusal of Contractor to allow inspection or review of records.

22.8 No Annual Report

Failure to provide the annual report.

22.9 Failure to Provide Emergency Plan/Emergency Collections

Failure of Contractor to provide the required Emergency Plan within thirty days of execution of the Agreement and/or failure of the Contractor to cooperate with the Village by providing adequate Emergency Collections during severe weather or emergencies.

23. Remedies Upon Default By Contractor

This Agreement may be terminated by the Village if Contractor breaches a material requirement of this Agreement, provided that the Village gives written notice of the breach and 30 days for a cure of the breach, except where this Agreement expressly provides otherwise. In such case, the Village may, without recourse to legal process:

a. Immediately terminate this Agreement by delivery of a written notice of termination to Contractor.

b. Seek recovery on the Performance Bond.

c. Exercise all remedies available at law or at equity or other appropriate proceedings including bringing an action or actions from time to time for recovery of amounts due and owing to the Village, and/or for damages which shall include all costs and expenses reasonably incurred in exercise of its remedy, and/or for specific performance.

24. Termination Rights of Village

In addition to the remedies identified in Section 23, the Village Council shall have the right to terminate this Agreement, in its sole discretion, at any time, by giving 180 days prior written notice to Contractor. In such event, the Village shall pay to the Contractor compensation for services rendered prior to the effective date of termination. In no event shall the Village be liable to Contractor for any additional compensation, or for any consequential or incidental expenses, damages, or costs. Contractor recognizes that it shall not have a similar right of termination and acknowledges that other covenants of this Agreement support this provision.

25. Representations and Warranties of Contractor

Contractor represents and warrants as follows:

a. Certain times during the year, the quantity of Solid Waste to be disposed of is materially increased by the influx of visitors. Contractor agrees that seasonal fluctuation shall not be justification for Contractor to fail to maintain the Regular Schedules or to justify a rate increase.

b. All Solid Waste collected by Contractor under this Agreement shall be disposed of at a duly licensed and permitted Solid Waste Disposal Facility.

c. Contractor has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver and perform its obligations under this Agreement.

d. Contractor's execution, delivery, and performance of this Agreement have been duly authorized by, or are in accordance with, its organic instruments, this Agreement has been duly executed and delivered for it by the signatories so authorized, and it constitutes its legal, valid, and binding obligations.

e. Contractor's execution, delivery, and performance of this Agreement shall not result in a breach or violation of or constitute a default under any agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected.

f. Contractor has not received any notice, nor to the best of its knowledge is there pending or threatening any notice or any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially adversely affect its ability to perform hereunder.

g. Contractor has, or will have, under its control at the date of commencement of services under this Agreement, all equipment, machinery, labor, and access to a Solid Waste Disposal Facility necessary to perform under this Agreement.

26. Compliance with Law

Contractor shall perform its obligations hereunder in compliance with any and all applicable Federal, State, County and Village laws, rules, and regulations, in accordance with sound safety practices, and in compliance with any and all rules of the Village relative to the service. Contractor shall be responsible for obtaining all governmental permits, consents, and authorizations as may be required to perform its obligations hereunder prior to beginning of providing Collection Service.

27. Taxes, Liens, and Fees

At all times during the existence of this Agreement, Contractor shall pay on or before the due date all taxes, fees, and assessments which may be levied upon or in respect of the equipment, or its operation, including but not limited to commercial personal property taxes, sales taxes, and intangible taxes, and Contractor shall pay on or before the due date any other charge of any character which may be imposed by any public authority as an incident to title to, ownership or operation of the equipment. In the event that any lien or encumbrance of any nature relating to Contractor's equipment or the operation or maintenance thereof is filed upon the Village, Contractor shall have 30 days from the date of written notice by the Village to have such lien or encumbrance bonded off or discharged.

28. Access to Books and Records

Contractor shall maintain adequate records of all Solid Waste Collection and Recycling Services. The Village Manager shall have the right to audit, inspect, and review all records, including, but not limited to, the Residential Customer list served pursuant to this Agreement, maintained by Contractor upon 48 hours written notice. On a monthly basis, Contractor shall provide to the Village the previous month's volume of Solid Waste and Recyclable Materials collected under this Agreement. Contractor shall provide a copy of the Annual Report of its parent, which includes Contractor, by March 30 of each year. Such Annual Report shall contain an annual audit of Contractor's books and records by a certified public accountant prepared in accordance with generally accepted accounting principles.

29. Public Awareness Program

Contractor annually shall, at its sole cost, assist the Village, within reason, with a Public Awareness Program by distributing door hangers, stickers, flyers or other medium to Residential Customers as requested by the Village. Additionally, it is Contractor's responsibility to provide information to the Village about those Residential Customers who repeatedly do not prepare or set out their Recyclable Materials or Solid Waste as specified within this Agreement. Contractor shall also distribute to each Residential Customer, within reason, information in a readily available, handy, and convenient form, a schedule of specific dates for each year of the term of the Agreement, for Bulk Trash and White Goods collection, including collection sites and other instruction to Residential Customers.

30. Notices and Changes of Address

Unless otherwise provided for in this Agreement, all notices, demands, requests, and other communications required under this Agreement may be given orally (either in person or by telephone) if confirmed in writing within 24 hours thereafter, by telex, telegram, facsimile or telecopy, or in writing delivered by hand or mail and shall be conclusively deemed to have been received if delivered or attempted to be delivered by United States first class mail, return receipt requested, postage prepaid, addressed to the party for whom it is intended at its address set forth below in this section of this Agreement. Any party may designate a change of address by written

notice to the other party, received by other party at least ten days before the change of address is to become effective.

The Village should be addressed as follows:

The Village of Key Biscayne, Florida
88 West McIntyre Street
Key Biscayne, Florida 33149
Attn: Genaro "Chip" Iglesias, Village Manager

With a required copy to:

Stephen Helfman, Esq.
Weiss Serota Helfman Pastoriza Guedes Cole & Boniske, P.A.
2525 Ponce De Leon Boulevard, Suite 700
Coral Gables, Florida 33134

Contractor should be addressed as follows:

_____

_____

_____

With a required copy to:

_____

_____

_____

31. <u>No Waiver</u>

The failure of Contractor or the Village to insist upon the strict performance of the terms and conditions of this Agreement shall not constitute or be construed as a waiver or relinquishment of either party's rights to thereafter enforce their rights in accordance with this Agreement in the event of a continuing or subsequent default on the part of Contractor or the Village.

32. <u>Severability</u>

In the event that any clause or provision of this Agreement or any part thereof shall be declared invalid, void or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Agreement.

33. Binding Effect

This Agreement shall be binding upon the parties hereto, their heirs, administrators, successors, and assigns.

34. Assignment

Contractor shall not assign, sell, transfer or dispose of the rights or obligations granted by this Agreement in any manner whatsoever without the express prior written consent of the Village. The Village shall have the full discretion to approve or deny, with or without cause, any proposed sale, transfer or assignment by Contractor. Any assignment, sale or transfer of this Agreement made by Contractor without the express written consent of the Village shall be grounds for the Village to declare an Event of Default of this Agreement and immediately terminate this Agreement by giving written notice to Contractor. This Agreement shall be deemed immediately terminated as of the date of such notice, and, upon such termination, all liability of the Village under this Agreement to Contractor shall cease, and the Village shall have the right to call the Performance Bond and shall be free to negotiate with any other person or company for Collection Services in the Service Area which is the subject of this Agreement. In the event the Village agrees to an assignment, sale or transfer of the rights or obligations granted by this Agreement, the assignee shall fully assume all the liabilities and obligations of Contractor under this Agreement.

35. Complete Agreement

This Agreement along with the Village of Key Biscayne Solid Waste RFP which selected Contractor, and the proposal submitted by Contractor in response to the RFP, when executed, together with the attached Exhibits, as provided for by this Agreement, shall constitute the entire Agreement between both parties and this Agreement may not be amended, modified or terminated except by writing signed by both parties. Where those terms of the Agreement, the Solid Waste RFP and the proposal submitted by the Contractor conflict, the terms of this Agreement shall prevail. When the terms of the proposal and the RFP conflict, the terms of the proposal shall prevail. The Village Manager is authorized to act on behalf of the Village hereunder.

36. Independent Parties

Nothing contained in this Agreement shall be deemed or construed for any purpose to establish, between Village and Contractor, a partnership or joint venture, a principal-agent relationship or any relationship other than independent contractor.

37. Force Majeure

The performance of any act by the Village or Contractor hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any other cause beyond the reasonable control of such party, provided however that the Village shall have the right to provide substitute service from third party contractors or Village forces and in such event the Village shall withhold payment due Contractor for such period of time. If the condition of force majeure exceeds a period of seven days the Village may, at its sole option and discretion, terminate or renegotiate this Agreement.

38. Time of the Essence

Time is of the essence with respect to each and every term and condition of this Agreement.

39. Amendment

The parties hereby irrevocably agree that no attempted amendment, modification, discharge or change of this Agreement shall be valid and effective, unless both parties shall unanimously agree in writing to such amendment.

40. Attorneys Fees

If the Village or Contractor incurs any expenses in enforcing the terms of this Agreement in a judicial proceeding, the prevailing party shall be reimbursed by the other party for all reasonable attorneys' fees and costs.

41. Gender and Use of Singular and Plural

All pronouns shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the party or parties, or their personal representatives, successors, and assigns may require.

42. Counterparts

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

43. Headings

The article and section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of the Agreement.

44. Governing Law/Waiver of Jury Trial

This Agreement shall be construed in accordance with the laws of the State of Florida and any proceeding arising between the parties in any manner pertaining or related to this Agreement shall, to the extent permitted by law, be held in Miami-Dade County, Florida. Each party hereby knowingly, voluntarily and intentionally waives any right they may have to a trial by jury in respect of any litigation based upon the Agreement or arising out of, under or in connection with any other agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party. This provision is a material inducement for the parties entering into this Agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto subscribe their names to this instrument on the date first above written.

VILLAGE:

The Village of Key Biscayne , Florida
88 West McIntyre Street
Key Biscayne, Florida 33149

By: _____
Genaro "Chip" Iglesias
Village Manager

ATTEST:

_____
Conchita H. Alvarez, CMC, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, P.L.,
Village Attorney

Witnesses:

_____

Print Name: _____

CONTRACTOR:

By: _____

_____

Print Name: _____

Title: _____

EXHIBIT "A"

Pricing Schedule

RESIDENTIAL:

Garbage (twice/week)
Yard Trash (once/week) once
Recyclable Materials (~~twice~~/week)
Bulk Trash (monthly)

Total Per Month	$33.96/month	$407.52/year

Special Pick-ups	A reasonable fee per cubic yard as mutually agreed upon by the Village Manager and Contractor

Additional residential service of White Goods on the Bulk Trash Schedule shall be provided at no additional cost.

General Considerations

All of the above prices include collection, disposal, transportation, permits, and license required for providing Collection Services to and for the Village.

EXHIBIT "B"

VIOLATIONS		PENALTY
a.	Failure to collect missed Residential Customers by 8:00 p.m.the same day when given notice before noon, or by 12:00 p.m. the following day when given notice between 12:00 p.m. and 5:00 p.m.	$25.00 per incident to maximum of $150.00 per truck per day
b.	Over twelve (12) legitimate complaints per month	$100.00 per incident
c.	Collection of Residential Solid Waste and /or Recyclables before 7:00 a.m. or after 4:00 p.m.	$100.00 per incident
d.	Failure to clean spillage	$100.00 per incident
e.	Failure to return container consistent with terms of the Agreement.	$100.00 per incident
f.	Failure to repair damage to Residential Customer property.	$100.00 per incident
g.	Failure to provide documents and reports in a timely manner.	$100.00 per incident
h.	Failure to provide clean, safe, and sanitary equipment.	$100.00 per incident
i.	Not providing schedule and route map	$100.00 per incident
j.	Failure to complete a route on the regular scheduled pick-up day.	$5,000.00 for each route per day not completed
k.	Failure to finish the uncompleted route(s) of the previous day on the next calendar day.	$1,500 for each failure to complete.
l.	Failure to collect on a holiday, except Christmas and Independence Day	$5,000.00 for each failure
m.	Leaving truck overnight in Village	$5,000.00 for each incident

EXHIBIT "C"

Emergency Debris Equipment List	
Labor Position or Equipment	**Cost per Hour**
210 Prentice Loader with driver/operator	$165.00
Self-loading Prentice Truck 25-40 Yard Dump Body with driver/operator	$165.00
Wheel Loader – 2½ to 3 cubic yards with driver/operator	$135.00
Tandem Dump Truck with driver/operator	$95.00
Tractor trailer type Dump Truck 60-80 yards with driver/operator	$155.00
Skid Steer Loading Bobcat or Equivalent with driver/operator	$135.00
D6 Dozer or equivalent with driver/operator	$135.00
Cat 330 Excavator with debris loading grapple with driver/operator	$155.00
950 Wheel Loader or equivalent with driver/operator	$135.00
Chainsaw operator with gear	$50.00
Supervisor with pickup truck	$60.00
Safety manager with pickup truck	$60.00
Mechanic with Mechanic's truck and tools	$65.00
Flagmen for traffic control	$30.00
12-foot Morbark Tub Grinder or equivalent with driver/operator	$420.00
13-foot Morbark Tub Grinder or equivalent with driver/operator	$470.00
Bucket Truck 50 cubic yard bed with driver/operator	$145.00
Clerical Support	As specifically approved by the Village Manager
Mobilization & Demobilization	As specifically approved by the Village Manager
Boom Truck with driver/operator	A reasonable fee mutually agreed upon by Village Manager and Contractor
Rear Loader Truck with driver/operator	$275.00
Roll-off Truck with driver/operator	$95.00