

SERVICE CONTRACT
MUNICIPAL RESOURCE RECOVERY SERVICES

For
THE CITY OF ANN ARBOR

THIS CONTRACT is made on the _____ day of _____, 2003, between the CITY OF ANN ARBOR, a Michigan Municipal Corporation, 100 N. Fifth Avenue, Ann Arbor, Michigan 48104 ("City") and Recycle Ann Arbor, a Michigan non-profit corporation, with offices at 2420 South Industrial Highway, Ann Arbor, Michigan 48104 ("Contractor").

Based upon the mutual promises below, the Contractor and the City agree as follows:

ARTICLE I - Services

The Contractor agrees to furnish all of the materials, equipment and labor necessary; and to abide by all the duties and responsibilities applicable to it for the project titled Municipal Resource Recovery Services in accordance with the requirements and provisions of the following documents, including all written modifications incorporated into any of the documents, which are incorporated as part of this Contract:

- Attachment A: Performance Based Compensation Schedule,
- Attachment B: Basic Performance Specifications,
- Attachment C: Optional Performance Specifications,
- Attachment D: Performance Measurement Plan,
- Attachment E: Transition Plan;
- Attachment F: Recyclable Materials and Quality Control Standards,
- Attachment G: Service District,
- Attachment H: Recycling Truck Inventory, Maintenance and Replacement Schedule; and
- Attachment I: City of Ann Arbor Nondiscrimination Ordinance Excerpt
- Attachment J: City of Ann Arbor Living Wage Ordinance Excerpt.

ARTICLE II - Definitions

- A: Administering Department. The Solid Waste Department.
- B: Contract. This written document and all attachments and amendments hereto, between City and Contractor, governing the provision of services as provided herein,
- C: Contract Year. The twelve (12) month period from July 1 to June 30.
- D: Contract Administrator. Director of Solid Waste Department or other persons acting under the authorization of the Director of the Administering Department.

All other definitions are established as part of the applicable Service Attachments.

ARTICLE III - Term

This contract shall become effective on December 1, 2003, and shall remain in effect for a period of approximately ten years, terminating June 30, 2013, unless terminated for breach or as provided in this contract.

This Contract may be twice extended for an additional five year term on the expiration of the existing term on the same terms and conditions existing at the end of the original or extended contract term if no later than 6 months prior to the end of the term, written notice is

given by either Party that it desires to renew the Contract. The Parties shall negotiate in good faith and on mutual agreement of the terms of Service shall execute a renewal contract based on the renegotiated terms. If the Parties cannot reach an agreement on extension of the Contract within 3 months of the end of the then current Contract term this Contract will terminate according to its terms unless otherwise agreed by the Parties in writing.

ARTICLE IV - Compensation

The Contractor shall receive Compensation for Services according to the provisions contained in Attachment A: Performance Based Compensation Schedule.

ARTICLE V – Insurance/Indemnification

A: The Contractor shall procure and maintain during the life of this Contract, such insurance policies, including those set forth below, as will protect itself from all claims for bodily injuries, death or property damage which may arise under this Contract; whether the acts were made by the Contractor or by any subcontractor or anyone employed by them directly or indirectly. The following insurance policies are required:

1. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit

2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements including, but not limited to: Products and Completed Operations or Pollution coverage. Further, the following minimum limits of liability are required:

\$500,000	Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined.
\$1,000,000	Per Job General Aggregate
\$1,000,000	Personal and Advertising Injury

3. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$500,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
4. Garage Keepers Insurance: The Contractor, or if applicable its subcontractor, facility used for storage, repairs and/or maintenance of the City's vehicles leased to RAA, either under the terms of this contract or other lease contract duly executed by the parties, will have Garage Keepers insurance in an amount sufficient to cover all City owned property while at the applicable facility. This Garage Keepers Insurance requirement shall be waived if the City Attorney is satisfied that this requirement is met by the Contractor's Commercial General Liability coverage,

5. Umbrella/Excess Liability Insurance shall be provided to apply excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$5,000,000
- B. Insurance required under V.A.2 and V.A.3 of this Contract shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City.
- C. The Contractor shall provide to the City before the commencement of any work under this Contract documentation demonstrating it has obtained the above mentioned policies. Documentation must provide and demonstrate an unconditional 30 day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which shall be approved by the City, in its sole discretion; (c) that the policy conforms to the requirements specified. An original certificate of insurance may be provided as an initial indication of the required insurance, provided that no later than 21 calendar days after commencement of any work the Contractor supplies a copy of the endorsements required on the policies. Upon request, the Contractor shall provide within 30 days a copy of the policy(ies) to the City. If any of the above coverages expire by their terms during the term of this Contract, the Contractor shall deliver proof of renewal and/or new policies to the Administering Department at least ten calendar days prior to the expiration date.
- D. Any insurance provider of Contractor shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.
- E. To the fullest extent permitted by law, for any loss not covered by insurance under this contract, the Contractor shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, to its proportionate extent, from any negligent, grossly negligent, reckless and/or intentional wrongful or tortuous acts or omissions by the Contractor or its employees and agents occurring in the performance of this contract.

ARTICLE VI – Compliance Requirements

- A. Nondiscrimination. The Contractor agrees to comply with the nondiscrimination provisions of Chapter 112 of the Ann Arbor City Code and to take affirmative action to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate any inequality based upon race, national origin or sex. The Contractor agrees to comply with the provisions of Section 9:161 of Chapter 112 of the Ann Arbor City Code.
- B. Living Wage. The Contractor is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code and agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor agrees to pay those employees providing

Services to the City under this Contract a "living wage," as defined in Section 1:815 of the Ann Arbor City Code; to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this contract are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23. A copy of selected provisions of Chapter 23 of the Ann Arbor City Code is attached as Exhibit E. The current living wage rates under Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3) of the Ann Arbor City Code, is \$9.09 an hour for a covered employer that provides employee health care to its employees and \$10.66 an hour for a covered employer that does not provide health care to its employees.

ARTICLE VII – Warranties by Contractor

- A. The Contractor warrants that the quality of its services under this contract shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills and experience necessary to perform the services it is to provide pursuant to this contract. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City except when it has actual notice of any defects in the reports and surveys.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the services specified in this contract.

ARTICLE VIII – Termination of Contract; Rights on Termination; Liquidated Damages

- A. This Contract may be terminated by either party in the case of a material breach of this Contract by the other party, if the breaching party has not corrected the breach within twenty (20) business days after notice of termination is given in conformance with the terms of this Contract. A party shall be considered in material breach of the terms of this contract if its failure to perform resulted or is anticipated to result in substantial harm to public health and safety or resulted in substantial damage to the City. Imperfections in the matters of detail which do not constitute a deviation from the general plan contemplated for the work are not considered material for purposes of this Article.
- B. Liquidated damages, as provided for in Article A-7, are intended to expeditiously compensate the City for actual damages that may be difficult to quantify. Contractor's payment, by withholding or otherwise, of such liquidated damages shall not preclude the City from obtaining recovery for all of the actual damages it may suffer due to a covered incident; provided that Contractor receive full credit against any such recovery for the amount of the liquidated damages previously paid or withheld. Liquidated damages under this section are in addition to any liquidated damages due under the Contract Compliance requirements of the Contract.
- C. The City shall have the privilege to cancel and annul this Contract at any time on twenty (20) business days written notice to the Contractor in accordance with the notice provisions contained in this Contract upon the occurrence of any one of the following events.
 - 1. Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its

reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

2. By order or decree of a Court, Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) business days after the entry thereof, any notice of default shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or
 3. By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of Contractor, and such possession or control shall continue in effect for a period of sixty (60) business days; or
 4. Contractor has defaulted, by failing or refusing to pay in a timely manner the liquidated damages charges or other monies due City and said default is not cured within thirty (30) business days of receipt of written notice by City to do so; or
 5. Contractor has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and said default is not cured within thirty (30) business days of receipt of written notice by City to do so; or
 6. In the event that the monies due City under Section VIII.C.4 above or an unsatisfied final judgment under Section VIII.C.5 above is the subject of a judicial proceeding, Contractor shall not be in default if the sum of money is bonded. All bonds shall be in a form acceptable to the City Attorney; or
 7. Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Contract or any of the rules and regulations promulgated by City pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto and said default is not cured within thirty (30) business days of receipt of written notice from City to do so or other time period as may be specified by rules, regulations or other applicable statute, or if by reason of the nature of such default, the same cannot be remedied within said specified time period following receipt by Contractor of written demand from City to do so, Contractor fails to commence the remedy of such default within said specified time period following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured said specified time period, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time).
- D. Upon termination of Contract, by breach, default or expiration, all City property including collection trucks, fuel and recycling containers, shall be promptly returned to the City. The City reserves the right to enter Contractor's property or premises to reclaim all City property is said property is not promptly returned to the City by the Contractor.

- E. If services are terminated for reasons other than the breach of the Contract by the Contractor, the Contractor shall be compensated for reasonable time spent and reasonable quantities of materials used prior to date of termination.
- F. Termination does not relieve the terminating party of performing its obligations that accrued before termination.

ARTICLE IX - Obligations of the City

- A. The City agrees to give the Contractor full and prompt access to staff and City owned properties and equipment, including collection trucks, fuel and recycling containers, and to perform such services as it has reserved to itself in the contract documents.
- B. The City shall notify the Contractor without delay of any defects in the services of which the City has actual notice.

ARTICLE X- Dispute Resolution Process

The City and the Contractor agree to first use the following process to resolve disputes about issues related to the performance of this contract. If an issue arises requiring resolution, either party shall initiate this dispute resolution process by notifying the other party and scheduling a meeting. The meeting shall serve as a fact finding opportunity to identify the issue, clarify the problem, review the applicable contract provisions relating to the issue, discuss alternative remedies, and agree upon a means of dispute resolution. The parties shall make a good faith effort to complete the agreed-upon tasks within 30 business days of the initial dispute resolution meeting, or specify an alternative schedule and deadline for resolving the issue. This dispute resolution process shall be considered as one alternative to the City imposing liquidated damages as per the contract provision immediately above. Nothing in this contract section, Dispute Resolution Process, shall be construed or implied to reduce, eliminate or otherwise affect the rights of the City or the Contractor to use any and all other means of legal remedies. In the event that the dispute is not resolved to the satisfaction of one or both parties, either party may initiate alternative methods of resolution and seek alternative remedies, by providing written notice to the other party advising them of the reasons for initiating such alternative measures.

ARTICLE XI - Assignment

- A. The Contractor shall not subcontract or assign any portion of the services without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as required of it under the Contract unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under the contract to third parties.

ARTICLE XII - Choice of Law/Severability

This Contract shall be construed, governed, and enforced in accordance with the laws of the State of Michigan. By executing this contract, the Contractor and the City agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this Contract.

Whenever possible, each provision of this contract will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this contract or the application of any provision to any party or circumstance will be prohibited by or invalid

under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this contract or the application of the provision to other parties or other circumstances.

ARTICLE XIII - Relationship of the Parties

The parties of the Contract agree that it is not a contract of employment but is a contract to accomplish a specific result. Contractor is an independent contractor performing services for the City. Nothing contained in this Contract shall be deemed to constitute any other relationship between the City and the Contractor.

Contractor certifies that it has no personal or financial interest in the project other than the compensation it is to receive under the Contract. Contractor certifies that it is not, and shall not become, overdue or in default to the City for any contract, debt, or any other obligation to the City including real or personal property taxes. City shall have the right to set off any such debt against compensation awarded for services under this contract.

ARTICLE XIV - Notice

All notices and submissions required under the contract shall be by personal delivery or by first-class mail, postage prepaid, to the address stated below or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this contract when personally delivered to the Contract Administrator or placed in the U.S. mail, postage prepaid to the Administering Department, care of the Contract Administrator.

Notices when mailed shall be forwarded to the following addresses:

For RAA	Executive Director Recycle Ann Arbor 2420 South Industrial Highway Ann Arbor, MI 48104
For City	Manager of Resource Recovery 100 N. Fifth Avenue Ann Arbor, MI 48104

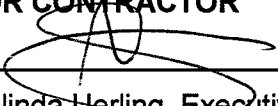
ARTICLE XV - Force Majeure

Contractor shall not be deemed to be in default or otherwise responsible for delays or failures in performance resulting from acts of God; acts of war, terrorism or civil disturbance; epidemic; federal, state or county governmental action or inaction; fires; earthquakes; unavailability of labor; power or other causes beyond Contractor's reasonable control. Under this Article, an act of Force Majeure shall be a temporary impossibility to perform and suspends Contractor's duty to perform while the impracticability exists but does not discharge its duty or prevent it from arising unless its performance after the cessation of the impracticability would be materially more burdensome than if there had been no impracticability.

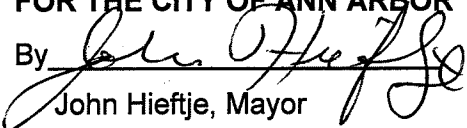
ARTICLE XVI - Entire Contract

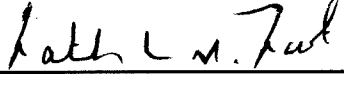
This Contract represents the entire understanding between the City and the Contractor and it supersedes all prior representations or contracts whether written or oral. Neither party has relied on any prior representations in entering into this Contract. This Contract may be altered, amended or modified only by written amendment signed by the City and the Contractor.

FOR CONTRACTOR

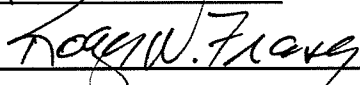
By 
Melinda Uerling, Executive Director

FOR THE CITY OF ANN ARBOR

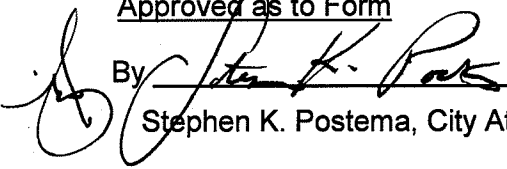
By 
John Hieftje, Mayor

By 
Kathleen M. Root, City Clerk

Approved as to Substance

By 
Roger W. Fraser, City Administrator

Approved as to Form

By 
Stephen K. Postema, City Attorney

ATTACHMENT A

CITY OF ANN ARBOR MUNICIPAL RESOURCE RECOVERY SERVICES PERFORMANCE BASED COMPENSATION SCHEDULE

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract defines Performance Specifications that are obligations of the Contractor and the City.

ARTICLE A-1 – Definitions

- A. Basic Services. The services described in Attachment B, Basic Performance Specifications.
- B. Business Day. Any day, Monday through Friday, that is not designated a holiday, and any Saturday on which collection occurs because of the holiday schedule adjustment
- C. Civic Unit. Any establishment defined under the Section 501 c of Internal Revenue Service Tax Code that is eligible as a Service Unit under the terms of this Contract.
- D. Commercial Unit. Any commercial establishment defined under Chapter 26 of the City Code that is eligible as a Service Unit under the terms of this Contract.
- E. Designated Services. Any Basic Service or Optional Service that the Contractor is authorized by the City to provide under the terms of this Contract.
- F. Eligible Tons. All Recyclable Material or Yard Waste and Source Separated Organics collected by the Contractor on behalf of the City under the terms of this Contract.
- G. Equipment Rental Rate. The hourly rental rate charged by the City against amounts owed the Contractor by the City for each hour of Contractor usage of City collection vehicles for purposes other than provision of the Designated Services as specified in this Contract. The Equipment Rental Rate shall be based on the sum of the collection vehicle's purchase price pro-rated over seven (7) years, plus annual maintenance costs, plus any other related operating cost, with that sum then divided by 2,000 hours.
- H. Independent Contractor Services. Those services that the Contractor arranges with other customers outside of the scope of this Contract for which the Contractor may use City owned equipment as provided for in Article A-7, D of this Attachment
- I. Optional Services. The services specified in Attachment C, Optional Performance Specifications.
- J. Recyclable Material. Each load of material as weighed at MRF scale (or other agreed upon scale in the case of unavailability or inaccuracy of the MRF scale) and delivered to the City of Ann Arbor's MRF or other agreed upon site that is collected on behalf of the City under the terms of this Contract.
- K. Recycling Collection Cost Adjustment Factor. The calculations used to adjust the compensation annually after Year 1 concludes on June 30, 2004 as provided for in this Attachment A.
- L. Residential Unit. Any individual living unit in a single family dwelling, multiple family dwelling or mixed use dwelling intended for, or capable of being utilized for, residential living. Residential Unit does not include an other type of individual living unit in a hotel or motel, guesthouse, residential care facility, extended care facility, sorority or fraternity house, school, dormitory, residential service facility, emergency residential shelter,

hospital, convent, or monastery, that would be defined as a commercial establishment as defined by the City Code.

- M. Service Unit. Any Residential Unit, Civic Unit or Commercial Unit in the Service District eligible to receive the Designated Services under the terms of this Contract.
- N. Service Unit Count. The number of Service Units eligible to receive a specific Designated Service to be used for billing purposes by the Contractor as determined by the Service Unit Count Audit provided for in Attachment D, Performance Measurement Plan, and adjusted as provided for in Section A-4. A, Service Unit Changes in this Attachment,
- O. Special Event Day. Any day that a Special Event is open to the public
- P. Valid Missed Collection Complaints. Missed pickups that have not been disputed by the Contractor and have been determined by the Contract Administrator to count towards the Performance Penalty calculation as provided for in this Section.
- Q. Yard Waste and Source Separated Organics. Each load of material as weighed at MRF scale (or other agreed upon scale in the case of unavailability or inaccuracy of the MRF scale) and delivered to the City of Ann Arbor's Compost Site or other agreed upon site that is collected on behalf of the City under the terms of this Contract.

ARTICLE A-2 –Designated Services Compensation

- A. Compensation per Service Unit: The City agrees to pay the Contractor a fee per month per Service Unit for each type of Designated Service as per the following Schedule:

Service Type	Year One Fixed Cost Rate
Curbside and Curb Cart	\$2.00 per Service Unit/Month
Special Events	\$250.00 per Event Day

- B. Compensation per Ton: The City agrees to pay the Contractor a fee for each Eligible Ton, collected by Contractor for the City, of Recyclable Material delivered to the City of Ann Arbor MRF as per the following Schedule.

Tons per Fiscal Year	Year One Fixed Cost Rate
First 10,804 tons	\$16/Ton
10,805 to 11,886 tons	\$67/Ton
11,887 to 13,075 tons	\$80/Ton
13,076 and above	\$85/Ton

ARTICLE A-3 –Optional Services Compensation

- A. Compensation per Service Unit: The City agrees to pay the Contractor a fixed fee per month per Service Unit for each type of Optional Service with the Compensation Schedule established as provided for in Article A-4.B of this Attachment.
- B. Compensation per Ton: The City agrees to pay the Contractor a fee for each Eligible Ton, collected by Contractor for the City, of Recyclables delivered to the City of Ann Arbor MRF and Yard Waste and Source Separated Organics delivered to the City of Ann Arbor Compost Site as per the schedule in Article A-2.B.

ARTICLE A-4 – Service Changes

A. Service Unit Changes. The City and Contractor acknowledge that during the term of this Contract it may be necessary or desirable to add or delete Service Units for which Contractor will provide Designated Services, which will be reflected in the Service Unit Count for a specific Designated Service.

1. Additions: Contractor shall provide Curbside Collection Services described in this Contract to new Curbside Service Units and shall provide Curb Cart Collection Services described in this Contract to new Curb Cart Service Units within ten (10) business days of receipt of notice from City through the Customer Service System to begin such Collection Services. Service Units may also be added at the request of Contractor with written approval of the Contract Administrator or at the request of the Service Unit and written approval of eligibility by the Contract Administrator. The Contract Administrator shall determine the type of Collection Services to be provided to any Service Units that are added to Contractor's Curbside Service District or Curb Cart Service District. The Contractor shall add the Service Unit Count addition requested by the City to their next monthly invoice to be submitted to the City for payment.
2. Deletions: Contractor shall immediately cease providing Collection Services to any Curbside Service Unit or Curb Cart Service Unit upon receipt of notice from City through the Customer Service System to stop such service. Service Units may also be deleted because of a determination by the Contract Administrator that the premises do not qualify for the Collection Services to be performed by Contractor pursuant to this Contract. The Contractor shall delete each Service Unit Count removal requested by the City from their next monthly invoice to be submitted to the City for payment.
3. Annexation Addition or Intergovernmental Service Authorization: If during the term of this Contract, additional territory within or adjacent to the City is acquired by City through purchase, annexation, eminent domain or other procedures or a governing body with jurisdiction for territory adjacent to the Service District at that time enters into an intergovernmental contract with the City for Designated Services covered by this Contract, the Contract Administrator may designate such additional territory as part of Contractor's Service District.. If the additional territory is so designated, Contractor shall provide the appropriate Designated Services, as determined by the Contract Administrator, in such additional territory in accordance with the provisions and service rates set forth in this Contract. Such Designated Services shall begin within fifteen (15) business days of receipt of written notice from the Contract Administrator. The Contract Administrator shall determine the type of Designated Services to be provided to any Service Units in the additional territory added per this section. The Contractor shall add the Service Unit Count addition requested by the City to their next monthly invoice to be submitted to the City for payment.

If at the time of service authorization by the City, the additional territory contains more than five hundred (500) Service Units for which Contractor will provide Designated Services, Contractor may phase in the distribution of Containers on a schedule approved by the Contract Administrator; provided that Contractor shall complete the distribution of all Containers within ninety (90) business days after Contractor receives notification to begin Designated Services in the additional territory.

If at the time of service authorization by the City, the closest part of the additional territory is located more than 15 miles from the City of Ann Arbor MRF then Contractor may decline to provide the proposed Designated Services at the price provided for under the terms of this agreement at which time the City and the Contractor may negotiate alternate pricing mutually acceptable to both parties.

4. Unit Count Verification and Reconciliation: The number of Residential Service Units used for billing purposes shall be verified and reconciled quarterly by 1) adding the number of occupancy permits for residential structures requiring Curbside or Curb Cart Service as issued by the City Building Department; and 2) deleting the number of complete demolition permits for residential structures issued by the City Building Department. Verification and reconciliation of units counts for all other types of premises receiving Curbside and Curb Cart Service shall be completed by physical unit count prepared by Contractor and submitted to the Contract Administrator.
 5. Updated Route Maps: The Contractor shall revise the Curbside and Curb Cart Service route maps referenced in Attachment D, Performance Measurement Plan, to show the addition or deletion of Service Units as provided above and shall provide such revised maps to the Contract Administrator upon request.
- B. Service Change Orders. The City and Contractor acknowledge that during the term of this Contract it may be necessary or desirable for the City to Authorize a Service Change Order as follows:
1. Authorization: Service Change Orders shall be prepared by the Contractor in a format as shown in Exhibit A-1 to this Attachment A and approved by signature of the Contract Administrator.
 2. Contract Terms: All terms and conditions of this Contract shall apply to Service Change Orders.
 3. Unanticipated Costs: Service Change Orders may be authorized by the Contract Administrator for increased costs unanticipated by both parties that directly affect the services being provided.
 4. Optional Services: Service Change Orders may be authorized by the Contract Administrator for those services identified in Attachment C: Municipal Resource Recovery Services, Optional Performance Specifications, under the following procedures:
 - i. No later than January 1 of each Contract Year, the Contract Administrator shall receive and consider Service Change Order requests from the Contractor for the next Contract Year for each of the Services identified in Attachment C: Municipal Resource Recovery Services, Optional Performance Specifications. Should the Contract Administrator authorizes that Service Change Order, then the Service Change Order becomes an exhibit to Attachment A of this Contract and Contractor is obligated to provide those services under the terms and conditions of this Contract.
 - ii. At any time during each Contract Year, the Contract Administrator may request from the Contractor a Service Change Order proposal for any of the Services identified in Attachment C: Municipal Resource Recovery Services, Optional Performance Specifications. Should the Contractor elect to submit the requested Service Change Order proposal, and the Contract Administrator authorizes that Service Change Order, then the Service Change Order

becomes an exhibit to Attachment A of this Contract and Contractor is obligated to provide those services under the terms and conditions of this Contract.

ARTICLE A-6 – Compensation Incentives and Additions

- A. Annual Price Adjustment Factor: After Year 1 concludes on June 30, 2004 and thereafter for the duration of this Contract, including any extensions, the compensation for Designated Services shall be calculated from the prior year Fixed Compensation per Service Unit, the Compensation per Ton and the Performance Incentive Payment multiplied by the Recycling Collection Cost Adjustment Factor. The Recycling Collection Cost Adjustment Factor will be calculated as the weighted sum of the following indices from the United States Department of Labor, Bureau of Labor Statistics (BLS), and adding the result to 1.0:
 1. Sixty percent (60%) of the BLS Series ID: EEU42495001 - Service Producing Sanitary Services, reflecting labor inputs in the Contractor's operating costs, plus
 2. Twelve percent (12%) of the BLS Series ID: ECU324021 – Employment Cost Index – Benefits,, reflecting health care insurance inputs in the Contractor's operating costs
 3. Twenty eight percent (27%) of the BLS Consumer Price Index, Series ID: CUUR0000SA0, CPI-All Urban Consumers, All Items, reflecting all other cost inputs in the Contractor's operating costs.
 4. One percent (1%) of the actual percentage increase in Pollution Liability Coverage Premiums from the Contractor' insurance carrier based on the Contractor's insurance carrier's quote for the upcoming year.
- B. Performance Incentive Payment: Each month, the City agrees to pay the Contractor a Performance Incentive Payment of Eight Dollars (\$8) for each additional Eligible Ton of Recyclables delivered by Contractor for that month above a baseline figure of 866 tons per average month (21.67 days and 39.96 tons per day) as calculated for the number of business days for that month.
- C. Prior Contract Extension Payment for Cost of Living: The City agrees to pay the Contractor an amount of \$6,000 on the first invoice to reflect cost of living increases due under prior contract for the period October, 2003 through November, 2003.

ARTICLE A-7 – Compensation Penalties and Deductions

- A. Liquidated Damages: The City and Contractor agree, in addition to any other remedies available to the City, the City may withhold payment from the Contractor in the amounts specified below as liquidated damages for failure of the Contractor to fulfill its obligations, not otherwise excused by this Contract, as determined by the City. These amounts are liquidated damages for losses suffered by the City, and not a penalty.

1:	Failure or neglect to address Service Complaint(s) for identified single incident according to the time and manner set forth in this Contract.	\$50.00.
2:	Failure to clean up spillage or litter caused by Contractor.	\$250.00 per incident.
3:	Failure to repair, within a reasonable time, damage to customer property caused by Contractor or its personnel.	\$100.00 per incident.

4:	Failure to maintain office hours as required by this Contract.	\$50.00 hour or portion thereof but no more than \$250 per business day.
5:	Failure to maintain or timely submit to City all documents and reports as required by this Contract.	\$100.00 per business day.
6:	Failure of more than one truck to comply with the hours of collection operation as required by this Contract.	\$500.00 per business day.
7:	Failure or neglect to service each route on the regular scheduled collection day.	\$500.00 for each route not serviced.
8:	Commingling of materials collected inside and outside the Service District.	\$1,000.00 per incident.
9:	Failure of Contractor to respond to damaged cart or tote report within the time required by this Contract.	\$100.00 per business day.
10:	Failure to deliver or exchange carts or totes within the time required by this Contract.	\$100.00 per business day.
11:	Failure of Contractor's field personnel to carry photographic identification or wear uniform shirts.	\$25.00 per incident per business day.
12:	Failure to deliver any collected materials to the Designated Facility as required by this Contract.	\$1,000 per truck incident

B. Procedure for Assessment and Review of Liquidated Damages. The Contract Administrator may assess liquidated damages pursuant to this Article A-6 on a monthly basis. At the end of each month during the term of this Contract, the Contract Administrator shall issue a written notice to Contractor ("Notice of Assessment") of the liquidated damages assessed and the basis for each assessment.

1. The liquidated damages assessment shall become final unless, within ten (10) business days of the date of the Notice of Assessment, Contractor provides a written request for a meeting with the Contract Administrator to present evidence that the assessment should not be made.
2. The Contract Administrator shall schedule a meeting between Contractor and the City Administrator or the City Administrator's designee as soon as reasonably possible after timely receipt of Contractor's request.
3. The City Administrator or the City Administrator's designee shall review Contractor's evidence and render a decision sustaining or reversing the liquidated damages as soon as reasonably possible after the meeting. Written notice of the decision shall be provided to Contractor.
4. In the event Contractor does not submit a written request for a meeting within ten (10) business days of the date of the Notice of Assessment, the Contract Administrator's determination shall be final and City may deduct the liquidated damages from amounts otherwise due to Contractor.

City's assessment or collection of liquidated damages shall not prevent City from exercising any other right or remedy, including the right to terminate this Contract, for Contractor's failure to perform the work and services in the manner set forth in this Contract.

C. Performance Penalties: In any one month, Contractor may be penalized by denial of a Performance Incentive Payment earned for that month, or, if no Performance Incentive Payment has been earned for that month, by a deduction of one percent (1%) of the total

amount due to the Contractor that month should the City document that Valid Missed Collection Complaints concerning missed pickups averaged 5 or more per business day for that month. Contractor may appeal the Performance Penalty following the Procedure for Assessment and Review of Liquidated Damages.

- D. Equipment Rental Deduction for Independent Contractor Services: Contractor may use City owned Recycling Trucks to provide services to other communities, provided that 1) City Service shall always be first priority, 2) Contractor first informs the City in writing and 3) Contractor then includes, as part of that month's invoice, a record of the total engine hours recorded for each Recycling Truck in servicing other communities and a deduction from the amount due from the City of the Equipment Rental Rate for each engine hour recorded.
- E. Container Sale Deduction: Contractor may sell City purchased Curbside Recycling Carts to residential customers provided that Contractor includes, as part of its invoice, a record of the total sales of Curbside Recycling Carts recorded that month and a deduction from the amount due from the City of a Unit Sale Price for each Curbside Recycling Cart sold. The Unit Sale Price shall be based on the Curbside Recycling Cart's purchase price and a 5% handling charge. The Contractor's sales price to residential customers shall be no more than the Unit Sale Price plus a 10% handling and delivery charge.

ARTICLE A-8 – Method of Payment

- A. Contractor Invoicing Process: The Contractor shall produce a monthly invoice for all services provided under this Contract no later than the tenth (10th) day of the month of services to be rendered.
1. The invoice shall include all Compensation per Service Unit, modified by the Annual Price Adjustment Factor and multiplied by the Service Units recorded for the previous Month.
 2. The invoice shall include all Compensation per Ton, modified by the Annual Price Adjustment Factor and multiplied by the Tons recorded as delivered to the MRF for the previous Month. Note that tonnages billed in the final month of the Contract will be based on the previous month.
 3. The invoice shall include all other Compensation Incentives and Additions for the previous Month.
 4. The invoice shall include all other Compensation Penalties and Deductions for the previous Month.
 5. The invoice shall be accompanied by all required reports.
- B. City Review of Contractor Invoice: The City shall review the monthly invoice prepared by RAA and within ten (10) business days of receipt of the invoice the City shall approve, in whole or in part, or dispute, and notify the Contractor of any discrepancies or deficiencies or disputes in said invoice.
- C. Billing Dispute Procedure: Contractor shall meet with the Contract Administrator within five (5) business days of Contractor's receipt of notice of discrepancies or deficiencies to resolve any such discrepancies or deficiencies and shall provide to the Contract Administrator any and all documentation relating to the discrepancy or deficiency that is requested by the Contract Administrator or which Contractor wishes to provide in support of Contractor's calculations. Within fifteen (15) business days of the receipt of documentation requested in writing by the Contract Administrator or within fifteen (15)

business days of the meeting between Contractor and the Contract Administrator, whichever occurs later, the Contract Administrator shall notify Contractor in writing of the Contract Administrator's resolution of the discrepancies or deficiencies. The Contract Administrator's determination shall be final unless within ten (10) business days of the date of the determination Contractor requests a review by the City Administrator or Designee.

If Contractor timely requests a review by the City Administrator, the City Administrator shall review the Contract Administrator's determination, all relevant documentation presented to the Contract Administrator, and any additional relevant information provided by Contractor at the time of Contractor's request for review. If requested by Contractor, the City Administrator or the City Administrator's designee shall meet with Contractor within fifteen (15) business days of Contractor's request for review. The City Administrator shall render a written decision to Contractor sustaining or reversing the Contract Administrator's determination, in whole or in part, within twenty (20) business days of receipt of Contractor's request for review.

- D. City Payment Process: Except as otherwise provided in this Contract, City shall make monthly payments to Contractor within twenty (20) business days of City's approved amount of Contractor's invoice. In the event there are any amounts listed on the invoice which remain in dispute after Contractor and City complete the Resolution of Discrepancies process set forth in this section above, City shall pay to Contractor the amounts accepted by the Contract Administrator or the City Administrator, as appropriate.

**EXHIBIT A-1
To
ATTACHMENT A**

**SERVICE CHANGE ORDER FORMAT
for
CITY OF ANN ARBOR
MUNICIPAL RESOURCE RECOVERY SERVICES
PERFORMANCE BASED COMPENSATION SCHEDULE**

**CITY OF ANN ARBOR
RAA/CITY OF ANN ARBOR SERVICE CHANGE ORDER
CHANGE ORDER NO. _____**

Date: _____ Encumbrance Order No. _____ Change Order No. _____

File No. _____ Contractor Recycle Ann Arbor.

Contract Name _____

No.	Description of Change	Quantity	Unit	Unit Price	Addition (Deduction)
1	Attach additional pages as needed				\$ 0.00
Sub-total from page 2					\$ 0.00
Net Addition or (Deduction) this Change Order					\$ 0.00
Contract amount previous Change Order Nos. <u>-0-</u> to <u>-0-</u>					\$ 0.00
NEW TOTAL CONTRACT AMOUNT					\$ 0.00

Time of Completion * No Change;

Recommended by: _____
Bryan Weinert, Contract Manager

Date _____

The Contractor agrees to the changes and prices outlined above.

Accepted by: _____
Melinda Uerling, Executive Director
Recycle Ann Arbor

Date _____

Approved by: _____
Sue F. McCormick, Utilities Director

Date _____

Approved by: _____
Roger Fraser, City Administrator

Date _____

CHANGE ORDER NO. _____

Project: _____
 Page 2 of 3

DESCRIPTION	TOTAL QUANTITY	TOTAL VALUE WORK	QUANTITY CHANGE	VALUE CHANGE
1)	0	\$0.00	0	\$0.00
2)	0	\$0.00	0	\$0.00
3)	0	\$0.00	0	\$0.00
4)	0	\$0.00	0	\$0.00
5)	0	\$0.00	0	\$0.00
6)	0	\$0.00	0	\$0.00
7)	0	\$0.00	0	\$0.00
8)	0	\$0.00	0	\$0.00
9)	0	\$0.00	0	\$0.00
10)	0	\$0.00	0	\$0.00

CHANGE ORDER NO. _____

Project: _____
Page 3 of 3

Change Item Explanation

- 1)
- 2)
- 3)
- 4)
- 5)
- 6)
- 7)
- 8)
- 9)
- 10)

ATTACHMENT B

CITY OF ANN ARBOR MUNICIPAL RESOURCE RECOVERY SERVICES BASIC PERFORMANCE SPECIFICATIONS

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract defines Basic Performance Specifications that are obligations of the Contractor and the City for the duration of the Contract.

ARTICLE B-1 - Definitions.

- A. Collection Services. Curbside Recycling Collection Services and Curb Cart Recycling Collection Services.
- B. Curb Cart Recycling Service. The collection of Recyclable Materials from Curb Cart Recycling Carts set out by Service Units in the Service Districts and the delivery of those Recyclable Materials to the Materials Recycling Facility.
- C. Curb Cart Recycling Cart. A heavy plastic receptacle having a hinged tight-fitting lid and wheels, that is approved by the Contract Administrator for use by Service Recipients for Curb Cart Recycling Service and that is appropriately labeled as either a Commingled Paper or Commingled Containers Recycling Cart. The specifications for Curb Cart Recycling Carts are set forth in this Attachment.
- D. Curbside Recycling Cart. A heavy plastic receptacle having a hinged tight-fitting lid and wheels, that is approved by the Contract Administrator for use by Service Recipients for Curbside Recycling Service and that is appropriately labeled as a Recycling Cart. The specifications for Curbside Recycling Carts are set forth in this Attachment.
- E. Curbside Recycling Service. The collection of Recyclable Materials from Curbside Recycling Totes or Curbside Recycling Carts set out by Service Units in the Service Districts and the delivery of those Recyclable Materials to the Materials Recycling Facility.
- F. Curbside Recycling Tote. Lightweight plastic receptacle that is approved by the Contract Administrator for use by Service Recipients for Curbside Recycling Service and that is appropriately labeled as either a Commingled Paper or Commingled Containers Recycling Tote. The specifications for Curbside Recycling Totes are set forth in this Attachment.
- G. Customer Service System. The computer-based system maintained by Contractor for service records, billing, reporting and other operations data for the Recycling Program
- H. Designated Facility. That Material Recovery Facility site or other sites selected by the City to receive the materials that the Contractor must collect.
- I. Downtown Development Authority District (DDA). The Downtown Development Authority as described in City of Ann Arbor Municipal Code Section 1154.
- J. Material Recovery Facility (MRF). City's MRF located at 4150 Platt Road, south of Ellsworth, Ann Arbor, Michigan, or such other facility that is approved in advance by the City that is designed, operated, and legally permitted for the purpose of receiving, sorting, processing, storing, or preparing Recyclable Materials for sale.

- K. Missed Collection. Contractor failure to collect Recyclable Materials set out by the Service Recipient for collection by Contractor pursuant to this Contract.
- L. Mixed Use Dwelling. A building or structure which contains both Business(es) Service Units and Dwelling Unit(s).
- M. MRF Facility Delivery Standards. The list of Recyclable Materials and quality standards for permitted levels of Non-recyclable Materials that has been agreed upon between the City and its Material Recovery Facility operator.
- N. Neighborhood Environmental Network. An information distribution system maintained by the Contractor to inexpensively provide outreach on recycling and recovery options to Service Recipients.
- O. Non-Collection. Intentional Contractor decision to not collect Recyclable Materials set out by the Service Recipient for collection by Contractor pursuant to this Contract for quality control reasons provided for in this Contract.
- P. Non-Collection Quality Control Notice. A form approved by the Contract Administrator and used by Contractor to notify Service Recipients of the reason for non-collection of Recyclable Materials set out by the Service Recipient for collection by Contractor pursuant to this Contract.
- Q. Non-recyclable Materials. Any material set out by the Service Recipient that is not on the list of Recyclable Materials as described in Attachment F, Recyclable Materials and Quality Control Standards.
- R. Recyclable Materials. The list of Recyclable Materials as described in Attachment F, Recyclable Materials and Quality Control Standards as mutually agreed upon in writing by Contractor and the Contract Administrator.
- S. Service District. Those areas designated as the City on the map set out in Attachment G, Recycling Service District, to this Contract.
- T. Service Recipient. An occupant of a Service Unit that receives services pursuant to this Contract.
- U. Used Oil Collection Service. The collection of Used Oil in Used Oil Containers and Used Oil Filters in Used Oil Filter Containers from Service Units in the Service District and the appropriate disposition of the Used Oil and Used Oil Filters in accordance with the requirements of this Contract.
- V. Used Oil. Any oil that has been refined from crude oil or has been synthetically produced, and is no longer useful to the Service Recipient because of extended storage, spillage or contamination with non-hazardous impurities such as dirt or water; or has been used and as a result of such use has been contaminated with non-hazardous physical or chemical impurities. Used Oil must be generated at the Service Unit from which the Used Oil is collected. Used Oil does not include transmission fluid.
- W. Used Oil Container. A clear plastic container that is no more than four (4) quarts in capacity, leak-proof, has a screw-on lid, has a label designating it for use as a Used Oil Container, is approved by the Contract Administrator, and is provided by Contractor for the accumulation of Used Oil.
- X. Used Oil Filter. Any oil filter that is no longer useful to the Service Recipient because of extended storage, spillage or contamination with non-hazardous impurities such as dirt or water; or has been used and as a result of such use has been contaminated with non-

hazardous physical or chemical impurities. Used Oil Filters must be generated at the Service Unit from which the Used Oil Filter is collected.

- Y. Used Oil Filter Container. A clear poly bag with double track seal with at least one quart capacity for the accumulation of Used Oil Filters.

ARTICLE B-2 – General

- A. Grant of Exclusive Contract: Except as otherwise provided in this Contract, Contractor is hereby granted an exclusive contract to provide Curbside and Curb Cart Collection Services at all Service Units within the Service District.
- B. Requirements of Service Recipients: The City's Mandatory Recycling and Anti-Scavenging Ordinances in Section 26 of the City Code as amended, are incorporated herein by reference.
- C. Service Standards: Contractor shall perform all services under this Contract in a thorough and professional manner. All Collection Services described in this Contract shall be performed regardless of weather conditions or difficulty of collection. Adverse weather or other extraordinary circumstances shall not be considered reason for not providing services unless cessation is authorized by the Contract Administrator by 6 a.m. of that business day. Contractor shall perform all additional services described in this Contract professionally, promptly and courteously.
- D. General Conditions: The Contractor shall make its own determination as to conditions and shall assume all risk and responsibility and shall complete the work in and under whatever conditions it may encounter or create without extra cost to the City.

All applicable State laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over the work to be performed shall apply to the contract throughout, and the same as though herein written out in full.

The specifications for collection in no way limit the innovativeness of Contractor in its use of vehicles and personnel supplying recycling curbside collection service. However, any changes in the manner of service must be approved by the Contract Administrator.

- E. Labor and Equipment: Contractor shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of Contractor's obligations under this Contract except as provided in Attachment B, Article B-6 regarding City provided collection vehicles. Contractor shall at all times have sufficient backup labor to fulfill Contractor's obligations under this Contract. No compensation for Contractor's services or for Contractor's supply of labor, equipment, tools, facilities or supervision shall be provided or paid to Contractor by City or by any Service Recipient except as expressly provided by this Contract.
- F. Customer Service Center: The Contractor shall maintain, during the term of this contract, a Customer Service Center that will include the following:
1. Office: The Contractor will maintain a Customer Service Office where inquiries and complaints can be received. The office will be open during the normal business hours of 8:00 a.m. to 5:00 p.m. on all business days. Contractor will ensure that responsible persons are in charge of the office during collection hours, and are available to receive inquires and complaints during normal business hours.
 2. Telephone Information System: The Contractor will maintain a Customer Service Telephone Information System with sufficient capability to handle phone inquiries for information on the Curbside Recycling and Curb Cart Recycling Collection Services,

the scheduled days of service, the materials that can be recycled and the procedure for reporting a missed pickup. The Contractor will provide either a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when Contractor's office is closed.

3. Service Recipient Calls: The City will direct all service inquiries and complaints to Contractor through the Customer Service System. Contractor shall record all calls including any inquiries, service requests and complaints into the Customer Service System. Contractor's customer service representatives shall return Service Recipient calls as provided in this Section. For all messages left before 3:00 p.m., Contractor shall attempt all "call backs" at least one time prior to 5:00 p.m. on the day of the call. For messages left after 3:00 p.m., Contractor shall attempt all "call backs" at least one time prior to noon the next business day. Contractor shall make minimum of three (3) attempts within twenty-four (24) hours of the receipt of the call. If Contractor is unable to reach the Service Recipient on the next business day, Contractor shall send a postcard to the Service Recipient on the second business day after the call was received, indicating that Contractor has attempted to return the call. All attempts to contact the caller shall be recorded in the Customer Service System.
4. Service Complaints: The Contractor will handle all service complaints in a prompt and efficient manner. In the case of a dispute between Contractor and a Service Recipient, Contractor will refer the matter to the Contract Administrator for review. The Contract Administrator will review the matter and make a determination as to the resolution of the dispute.
5. Missed Collections: For those complaints related to missed collections that are received by 2:00 p.m. on a business day, the Contractor will return to the Service Unit address and collect the missed materials before leaving the Service District for the day. For those complaints related to missed collections that are received after 2:00 p.m. on a business day, the Contractor will have until the end of the following business day to collect the materials. At the end of each business day the Contractor will utilize the Customer Service System to provide the Contract Administrator with a response to each complaint which was received from a Service Recipient, or City in the event the complaint was made by City, during the preceding business day.
6. Repeated Missed Collections: Contractor acknowledges and agrees that it is in the best interest of City that all Recyclable Materials be collected on the scheduled collection day. However, in the event a Service Recipient requests missed collection service more than two (2) times in any consecutive two (2) month period City will work with Contractor to determine an appropriate resolution to that situation. In the event Contractor believes any complaint to be without merit (e.g. late set outs or improper recycling), Contractor shall utilize the Customer Service System to notify the Contract Administrator. The Contract Administrator will investigate all disputed complaints and render a written determination within ten (10) business days of receipt of Contractor's notification. Disputed complaints shall not be considered Valid Missed Collection Complaints for purposes of calculating Missed Pickups used for determining Performance Penalties until they have been determined to be valid by the Contract Administrator.
7. Reporting to City: The Customer Service Center will have the capability to report, via fax, internet or email, to the City on the status of service complaints and missed

pickups by the end of each business day. In the timeframe described in Attachment E, Transition Plan, the Contractor shall provide web based real time internet access for the City to the Customer Service Center to allow the City to review Contractor performance status on demand.

8. Emergency Contact: The Contractor will provide the Contract Administrator with an emergency phone number where Contractor's representative authorized to act on Contractor's behalf can be reached outside of the required office hours.
 9. Customer Service Representative Training. All of Contractor's customer service representatives shall be required to attend annual training to be provided by City. The Contract Administrator shall coordinate with Contractor to schedule such training.
- G. Holiday Service: City observes New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day as legal holidays. Contractor shall not be required to provide services under this Contract or maintain office hours on these designated holidays. In any week in which one of these holidays falls on a business day, Collection Services for the holiday and each business day thereafter will be delayed one business day for the remainder of the week with normally scheduled Friday Collection Services being performed on Saturday.
- H. Accessibility of Streets: In those instances where a public or private street within the Service District is temporarily closed to vehicular traffic but is accessible to pedestrian traffic, Contractor shall utilize pedestrian access to manually provide Curbside and Curb Cart Collection Service with no disruption of service to the Service Units.
- I. Commingling of Materials Prohibited:
- 1) Contractor shall not at any time prior to weighing the collected materials, commingle Recyclable Materials collected during the provision of Curbside and Curb Cart Service with Recyclable Materials collected during the provision of any other Recycling Service pursuant to this Contract, without the express prior written authorization of the Contract Administrator.
 - 2) Contractor shall not at any time prior to weighing the collected materials, commingle, Recyclable Materials collected pursuant to this Contract with any other materials, whether collected by Contractor or any other person, without the express prior written authorization of the Contract Administrator.
- J. Materials to be Collected: The Contractor is responsible for collection of Recyclable Material placed in the recycling containers or placed next to the recycling containers. Recyclable Materials collected and quality control standards for those materials are listed in Attachment F, Recyclable Materials and Quality Control Standards. All cardboard shall be collected curbside as long as it is flattened and reasonably sized to fit within the collection vehicles. The City's official policy will be not to collect household batteries and motor oil at multi-family cart unless an exemption is granted for a specific location. However, if household batteries or motor oil are placed next to the cart, and these materials are properly prepared, the contractor shall collect those items.
- K. Quality Control Responsibilities: The Contractor shall assure that these quality control standards for materials listed in Attachment F, Recyclable Materials and Quality Control Standards are maintained and that Non-recyclable Materials as defined are not delivered to the MRF in excess of the MRF Facility Delivery Standards. If the Contractor has a load of Recyclable Materials that is rejected at the City's Designated Facility, the

Contractor will be responsible for the disposition of those materials in a legal and safe manner. In these instances, there will be no additional cost to the City and the Contractor will bear the full cost of the disposition.

L. Spillage and Litter:

- 1) Contractor shall not litter premises in the process of providing Collection Services or while its vehicles are on the road. Contractor shall transport all Recyclable Materials in such a manner as to prevent the spilling or blowing of such waste from Contractor's vehicle. Contractor shall exercise all reasonable care and diligence in providing Collection Services so as to prevent spilling or dropping of Recyclable Materials during collection activity and shall immediately, at the time of occurrence, clean up such spilled or dropped Recyclable Materials.
- 2) Contractor shall immediately cover with petroleum-absorbent material all equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from Contractor's operations or equipment repair and shall remove the debris and the petroleum-absorbent material from the street surface before the end of the calendar day immediately following the day of the spill. When necessary, Contractor shall apply a suitable cleaning agent to the street surface to provide adequate cleaning.
- 3) Notwithstanding Sections B-3.J.1 and B-3.J.2 below, Contractor shall clean up any spillage or litter caused by Contractor within four (4) hours after notice from City. Such notice may be by telephone or facsimile.
- 4) To facilitate cleanup, Contractor's vehicles shall at all times carry sufficient quantities of petroleum-absorbent materials, brooms and shovels, and other appropriate cleanup materials or equipment.

M. Ownership of Materials and Designated Facility: All collected recyclables must be taken to the Designated Facility under this program and remain the property of the City unless otherwise designated by the City. The Contractor will not receive any revenues from the sale of the recyclable materials collected under this Contract.

ARTICLE B-3 – Curbside Recycling Collection Services

- A. **Scope of Service:** Contractor shall perform Curbside Collection Service in accordance with the following terms and conditions contained herein.
- B. **Conditions of Service:** Contractor shall provide Curbside Collection Service to all Curbside Service Units in the Service District whose Recyclable Materials are properly containerized in a Recycling Tote or Curbside Recycling Cart and have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Contractor and the Service Recipient, that will provide safe and efficient accessibility to Contractor's collection crew and vehicle. In the event the Service Recipient produces more Recyclable Materials than can fit in the Recycling Tote, Contractor shall collect such excess Recyclable Materials as are set out beside the Recycling Tote in an additional container whose loaded weight does not exceed fifty (50) pounds, or in the case of corrugated cardboard, as is placed beside the Recycling Tote.
- C. **Units Receiving Service:** Curbside Service Units shall be designated by the City and shall include single family housing units, duplex and triplex housing units, attached condominium and multiple family receiving curbside refuse service and any other commercial unit and civic unit (municipal, parks, schools, non-profit agencies) where Curbside Collection is appropriate.

- D. Back Door Service: There are Service Units on Curbside Collection routes occupied by individuals who have been determined by the City to be unable to move recycling containers to the curb; these locations will require back door service by the Contractor. The Contractor shall be required to bring the container to the curb and service it. This is considered a limited special service that, in future grantings, the City shall use its sound discretion so as not to unreasonably burden the Contractor. Currently, there are 149 backdoor pickup locations throughout the city.
- E. Frequency of Service: Contractor shall provide Curbside Collection Service to each Service Unit in the Service District once every week on a scheduled route basis on the same business day as City has scheduled collection of Residential Solid Waste to that Service Unit. Where the scheduled collection day falls on a holiday, Contractor shall adjust the route schedule as set forth in Section B-2.G.
- F. Hours of Collection: Except as set forth below, Contractor shall provide Curbside Collection Services commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m., Monday through Friday, with no service on Saturday (except for holiday service as set forth in Section B-2.G. of this Contract) or Sunday. Exceptions to collection hours shall be made only upon the mutual agreement of the City and Contractor, or when the Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.
- G. Manner of Collection: Contractor shall provide all Curbside Collection Services with as little disturbance as possible. Except in the case of on-premises service, Contractor shall leave any Curbside Recycling Tote or Cart in an upright position at the same point from which its contents were collected, without obstructing alleys, roadways, driveways, sidewalks or mail boxes. In the case of Back Door service, Contractor shall remove the Curbside Recycling Tote or Cart from the back or side of the Service Unit (or from such other location as agreed to by Contractor and the Service Recipient), shall empty the contents into the collection vehicle, and shall return the Curbside Recycling Tote or Cart to the location from which it was removed.

Contractor's employees providing Curbside Collection Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.

- H. Quality Control Responsibilities: If a Curbside Recycling Tote or Cart has less than 20 percent (by volume) non-recyclable items, then the Contractor shall pick the recyclable materials out of the container for collection. However, if the Curbside Recycling Tote or Cart has over 20 percent non-recyclable items, the Contractor may leave the container with its entire contents on the curb. The Contractor shall develop a quality control sheet, to be approved by the City, that shall be left at the Service Recipient's curb tagged to the Non-Recyclable Materials
- I. Recyclable Material Overflow: In the case of repeated set-outs of excess Recyclable Materials, Contractor shall contact the Service Recipient to arrange for an appropriate change from Recycling Totes to Recycling Carts or the provision of additional Recycling Totes.

In the event Contractor cannot successfully contact the Service Recipient after three attempts, or cannot reach an agreement with such Service Recipient regarding the

change in service, Contractor shall utilize the Customer Service System to provide the Contract Administrator with the details of the set-outs of excess Recyclable Materials, and the attempts at communication with the Service Recipient. The Contract Administrator shall respond to Contractor's report and make a final written determination. Within five (5) business days of receipt of the Contract Administrator's written determination, Contractor shall exchange the Recycling Tote for a Recycling Cart or shall provide additional Recycling Totes to the extent required by such written determination.

- J. Spillage: Contractor shall not be responsible for cleaning up sanitary conditions around Recycling Totes or Carts caused by the carelessness of the Service Recipient; however, Contractor shall clean up any Recyclable Materials spilled from a Curbside Recycling Tote or Cart by Contractor or its employees.

During transport, all Recyclable Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the materials is prevented. Contractor shall be responsible for the immediate cleanup of any spillage caused by Contractor or its employees.

- K. Inspections: City shall have the right to inspect the collection vehicles and their contents at any time while operating inside or outside the City.
- L. Reporting of Problems and Non-Collections: Contractor shall use the Customer Service System on a daily basis to report all situations that prevent or hinder collection; all instances of non-collection and the reason for the non-collection; all replacements, repairs and exchanges of Curbside Recycling Totes and Carts. Except as otherwise provided in this Contract, to the extent possible, Contractor shall make such reports by the end of the business day in which the event occurred; where it is not possible to make such reports by the end of the business day, Contractor shall report such events no later than the end of the next business day.

ARTICLE B-4 – Curb Cart Recycling Collection Services

- A. Scope of Service: Contractor shall perform Curb Cart Recycling Collection Service in accordance with the following terms and conditions contained herein.
- B. Conditions of Service: Contractor shall provide Curb Cart Recycling Collection Service to all Curb Cart Service Units in the Service District whose Recyclable Materials are properly containerized in a Curb Cart Recycling Cart and have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Contractor and the Service Recipient, that will provide safe and efficient accessibility to Contractor's collection crew and vehicle. In the event the Service Recipient produces more Recyclable Materials than can fit in the Recycling Cart, Contractor shall collect such excess Recyclable Materials as are set out beside the Recycling Cart in an additional container whose loaded weight does not exceed fifty (50) pounds, or in the case of corrugated cardboard, as is placed beside the Recycling Cart.
- C. Units Receiving Service: Curb Cart Service Unit Counts shall be designated by the City and shall include residential units, commercial unit and civic unit (municipal, parks, schools, non-profit agencies) where Curb Cart Collection is appropriate. Contractor shall determine actual Curb Cart locations as needed to maximize recovery and contractor performance with the sole location requirement being that each residential unit dumpster location will have Curb Carts at that location.

- D. Frequency of Service: Contractor shall provide Curb Cart Recycling Collection Service to each Service Unit in the Service District at least once every week on a scheduled route basis.
- E. Hours of Collection: Except as set forth below, Contractor shall provide Curb Cart Recycling Collection Services commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m., Monday through Friday, with no service on Sunday. Exceptions to collection hours shall be made only upon the mutual contract of the City and Contractor, or when the Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.
- F. Manner of Collection: Contractor shall provide all Curb Cart Recycling Collection Services with as little disturbance as possible. Contractor shall leave any Recycling Cart in an upright position at the same point from which its contents were collected, without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

Contractor's employees providing Curb Cart Recycling Collection Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.

- G. Quality Control Responsibilities: The Contractor shall service all Curb Cart Recycling Carts on a weekly basis, even if the Carts are only partially filled or even if the Carts contain over 20 percent Non-recyclable Materials. If the materials in a Cart cannot be collected on the recycling truck due to quality control issues, the Contractor shall notify the City to make arrangements for the City to remove and properly dispose of the contents of that Cart in a safe and legal manner. The Contractor shall develop a quality control sheet, to be approved by the City, that shall be left at the Service Recipient's curb tagged to the Cart if over 20 percent Non-recyclable Materials are contained in the Cart.
- H. Recyclable Material Overflow: In the case of repeated set-outs of excess Recyclable Materials, Contractor shall either increase the frequency of collection to eliminate the accumulation of excess Recyclable Materials or contact the Service Recipient to arrange for provision of additional Recycling Carts.

In the event Contractor cannot successfully contact the Service Recipient after three attempts, or cannot reach an agreement with such Service Recipient regarding the change in service, Contractor shall utilize the Customer Service System to provide the Contract Administrator with the details of the set-outs of excess Recyclable Materials, and the attempts at communication with the Service Recipient. The Contract Administrator shall respond to Contractor's report and make a final written determination. Within five (5) business days of receipt of the Contract Administrator's written determination, Contractor shall provide additional Recycling Carts to the extent required by such written determination.

- I. Spillage: Contractor shall not be responsible for cleaning up sanitary conditions around Recycling Carts caused by the carelessness of the Service Recipient; however, Contractor shall clean up any Recyclable Materials spilled from a Recycling Cart by Contractor or its employees.

During transport, all Recyclable Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the materials is prevented. Contractor shall be responsible for the immediate cleanup of any spillage caused by Contractor or its employees.

- J. Inspections: City shall have the right to inspect the collection vehicles and their contents at any time while operating inside or outside the City.
- K. Reporting of Problems and Non-Collections: Contractor shall use the Customer Service System on a daily basis to report all situations that prevent or hinder collection; all instances of non-collection and the reason for the non-collection; all replacements, repairs and exchanges of Curb Cart Recycling Carts. Except as otherwise provided in this Contract, to the extent possible, Contractor shall make such reports by the end of the business day in which the event occurred; where it is not possible to make such reports by the end of the business day, Contractor shall report such events no later than the end of the next business day.

ARTICLE B-5 – Special Event Recycling Collection Services

- A. Scope of Service: Contractor shall perform Special Event Recycling Collection Service in accordance with the following terms and conditions contained herein.
- B. Conditions of Service: Contractor shall provide Special Event Recycling Collection Service to all Special Events requested by the Contract Administrator including, at a minimum:
 - 1. Art Fair: The contractor shall provide recycling services to the Art Fair which shall include, at a minimum, delivery, servicing and subsequent removal of twelve sets of two carts to separate locations around the Art Fair. Deliveries shall take place on the Tuesday preceding the Art Fair. The carts shall be serviced on a daily basis starting on Wednesday and ending on Sunday, and the carts, banners, and stands shall also be picked up and delivered back to their storage areas.
 - 2. Student Move In: The Contractor shall provide recycling services during the University Student Move-in to the Student Move-in/Move-out Special Collection District as shown in Attachment G, Service District. All recyclables, and particularly cardboard, in the Special Collection District must be collected by 5:00 p.m. on the third day after the end of summer term and 5:00 p.m. on the third day after the beginning of fall term. Any questions regarding the term dates will be determined by the Contract Administrator.
 - 3. Student Move Out: The Contractor shall provide recycling services during the University Student Move-Out to the Student Move-in/Move-out Special Collection District as shown in Attachment G, Service District. All recyclables, and particularly cardboard, in the Special Collection District must be collected by the morning of the Saturday graduation in May. Any questions regarding the term dates will be determined by the Contract Administrator.
- C. Quality Control Responsibilities: If the materials in a Cart as part of a Special Event Recycling Collection Service cannot be collected on the recycling truck due to quality control issues, the contractor shall remove and properly dispose of the contents of that Cart in a safe and legal manner.
- D. Spillage: As part of the Special Event Recycling Collection Service, Contractor shall clean up any Recyclable Materials spilled from a Recycling Cart.
- E. Compensation: The Contractor shall be compensated as provided for In Attachment A, Performance Based Compensation.

ARTICLE B-6 – Collection Trucks

- A. Purchase and Ownership: The City shall provide the Contractor, for an annual lease payment of \$1, with primary and backup recycling trucks as specified in Attachment H, Recycling Truck Inventory, Maintenance and Replacement Schedule, for regular Curbside and Curb Cart Recycling Collection Services. If the Contractor supplements the existing City recycling trucks with their own vehicles, Contractor will be responsible for all costs, inclusive of insurance, on their own trucks.
- B. Vehicle Numbering and Signage: Each vehicle shall be identified by its own unique four-digit number displayed prominently on all four sides of the vehicle. Each vehicle shall have displayed prominently on all four sides the program's graphic image that includes the Recycle Ann Arbor logo and the words "The City of Ann Arbor's Curbside Recycling Service".
- C. Truck Type, Inventory, Purchase and Replacement: The City and Contractor shall jointly determine the truck types to be purchased with each of the newly purchased vehicles having compacting bodies, the ability to lift curb carts, and cab over low right hand drive entry. Attachment H: Recycling Truck Inventory, Maintenance and Replacement Schedule, identifies the current inventory of Recycling Trucks, the Replacement Schedule for that Inventory under a seven year lifecycle as a primary collection vehicle and the specifications for those replacement vehicles. Each year, the City and Contractor shall complete a truck evaluation that determines the estimated useful remaining life for the vehicle. If, at the end of a vehicle's seven-year lifecycle, the City and Contractor agree that the vehicle need not be replaced that year (or any ensuing year), then the required purchase of the replacement vehicle will be delayed by that one year until the next annual vehicle evaluation cycle.
- D. Backup Trucks: At the time of its replacement, each Recycling Truck shall become a backup vehicle for the Program. The backup vehicle that is being replaced shall be declared excess property and sold as provided for in Chapter 14 of the City Code, Property, with the Contractor granted first right of refusal on any subsequent sale.
- E. Access and Location: The Recycling Trucks will be stored at a location to be jointly determined by the City and the Contractor.
- F. Operating Costs and Daily Pre and Post Trip Inspections: The Contractor will be responsible for all other operating costs for the vehicles, as well as for any taxes that may be incurred. The Contractor will provide a comprehensive and thorough daily pre-trip and post-trip inspection report, with documentation in writing and available to the City on request, by all drivers and vehicle washing of each truck interior and exterior every other week.
- G. General Maintenance and Repairs: The City will be responsible for all other maintenance, towing, and repairs to the vehicles including tires and field calls, except for repairs and towing due to negligence by the Contractor.
- H. Radios and Communication Equipment: The City will provide radios for each of the trucks and for the Contractor's office equivalent to radios installed on City operated refuse vehicles. The City will be responsible for all maintenance and repairs to the radios, except for repairs due to negligence by the Contractor. The Contractor will promptly inform the City of any malfunction of a radio unit and cooperate with the City to complete required repairs or replacement.

- I. Geographical Positioning System (GPS) Equipment: At the Contractor's request, the City will cooperate with the Contractor in the installation of GPS equipment and related support equipment, at Contractor's cost, on each collection vehicle as part of the Contractor's web based vehicle tracking system.
- J. Replacement: The City will replace the Recycling Trucks at the end of each Recycling Truck's seven year lifecycle as a primary collection vehicle on the Schedule shown in Attachment H: Recycling Truck Inventory, Maintenance and Replacement Schedule.
- K. Cost Accounting: The City will maintain and keep up to date a depreciation schedule and full cost accounting for the City's share of the Collection Truck ownership and maintenance costs such that a depreciated value of the Collection Truck assets and an annual operating cost (with capital amortization) of the Collection Truck program is available from the Contract Administrator within 30 business days of a request from the City or Contractor.

ARTICLE B-7 – Collection Containers

- A. Container Purchase and Ownership: All collection containers and replacement parts for these containers will be purchased by the City and will remain the property of the City except for Carts sold by Contractor as provided for in Article B-7 E.
- B. Container Type: Collection container types will be determined jointly by the City and the Contractor and include the following: 1) recycling totes and recycling carts for the Curbside Recycling Collection Service; and 2) curb carts for the Curb Cart Recycling Collection Service,
- C. Container Inventory and Storage: The City shall purchase sufficient quantities of each container type to allow Contractor to maintain an inventory in sufficient number for Contractor to perform deliveries, repairs and exchanges of such equipment in a timely manner. At no time shall the City allow the inventory of each Container type to drop below 50 containers. The City shall provide the Contractor a Container Storage Site (Currently a trailer at the entrance to the MRF on Platt Road just south of Ellsworth). The City shall cause new shipments of containers to be delivered to the Container Storage Site and shall notify the Contractor upon issuance of an order for a new shipment. The Contractor shall maintain the Container Storage Site which shall include keeping a Container Inventory as part of the Customer Service System. The Contractor, upon notice from the City of an order for a new shipment, shall receive all shipments of containers, logging them into the Container Inventory including serial numbers from all curb carts. The Contractor shall arrange and stack the carts and containers in the storage trailers (or equivalent) provided by the City at the Container Storage Site. The Contractor shall conduct quarterly inventories of all containers at the Container Storage Site to reconcile actual inventory with the Container Inventory as part of the Customer Service System. The Contractor shall maintain the Container Storage Site in a clean, neat, and orderly manner. Mowing the Container Storage Site is the responsibility of the City. At the Contractor's discretion, some or all of the containers may be stored at the Drop-off Station (currently at 2950 E. Ellsworth Road). The Contractor shall keep the containers stored in an orderly manner at the Drop-off Station and follow all other Container inventory and storage requirements as described herein.
- D. Distribution: The Contractor shall deliver any replacement collection containers or new collection containers to locations that had not previously been receiving services. Delivery shall also include appropriate educational material as reviewed and approved by the Contract Administrator. The Contractor shall enter all deliveries into the

Customer Service System including logging serial numbers from all curbside carts along with the locations they were delivered to.

- E. Contractor Sales of Carts: The Contractor may sell Curbside Recycling Carts to Curbside Service Units for Curbside Recycling collection. Terms of sale are between the Contractor and residents with the unit sale price determined as provided for in Attachment A, Performance Based Compensation, Section A-7 E. However, the Contractor shall clearly inform residents that the use of the Recycling Carts is a voluntary option. The City will review and approve all public information relating to the optional use of the Curbside Recycling Carts. For each Curbside Recycling Cart sold to residents Contractor shall report such sale in the Customer Service System so that the City may deduct the Cost of purchasing the Cart from the next Contractor Invoice.
- F. Cleaning: At a rate of no more than once each Contract Year, at the request of the Contract Administrator or the management of the Curb Cart Recycling Service Unit, and at no charge to City or the Curb Cart Recycling Service Unit, Contractor shall clean all Curb Cart at the Curb Cart Recycling Service Unit's premises or shall replace the dirty Curb Cart with clean Curb Carts and remove the dirty Curb Carts for cleaning. Cleaning of all other containers will be the responsibility of the Service Recipient.
- G. Field Maintenance: The Contractor will be responsible for visual inspection of the containers as part of the routine servicing of the containers, and may take any needed actions for repair and/or replacement prior to reporting of such need by a Service Recipient.
- H. General Repairs: The Contractor will be responsible for labor and tools to repair recycling curbside carts. The City will furnish parts for these repairs.
- I. Replacement: Within five (5) business days of notification, the Contractor shall provide replacement containers to replace those damaged, destroyed, lost by the Service Recipient or stolen.
- J. Contractor Caused Damage to Containers: The Contractor shall be responsible for loss or damage of any approved container caused by their agents or employees in the course of performance of their work and/or due to lifting mechanism or packing blade and shall fix or replace damaged carts at no cost to the owner or occupant or the City. Lifting mechanism may not be set to cycle in less than 9 seconds and must be fully compatible to dumping the approved City containers.
- K. Cost Accounting: The City will maintain and keep up to date a depreciation schedule and full cost accounting for the City's share of the Container ownership and maintenance costs such that a depreciated value of the Container asset and an annual operating cost (with capital amortization) of the Container program is available from the Contract Administrator within 30 business days of a request from the City or Contractor.

ARTICLE B-8 – Additional Services

- A. Contractor Educational Information and Outreach: The City and the Contractor will work together to provide educational information on the Curbside and Curb Cart Recycling Collection Service to all Service Units and conduct an ongoing outreach campaign to encourage use of the Curbside and Curb Cart Recycling Collection Service. As part of this Program Educational Information and Outreach the City will conduct survey analysis to determine best practices for educational information and campaigns and work with the Contractor to incorporate those best practices into the Program Educational Information and Outreach.

1. The Contractor will include informative recycling "start-up kits" to all new and replacement tote and cart deliveries. In addition to recycling information these kits will have information on the compost program, solid waste guidelines, additional material recovery options at the Drop-Off Station, Reuse options, and the Home Toxics Reduction program.
 2. The Contractor will provide mailings regarding all Recycle Ann Arbor, City and County programs in response to informational requests.
 3. The Contractor will provide a website for internet access to program information. The site will be linked to the City's sites as well, with the City's approval.
 4. The Contractor will continue improvement and expansion of a quality control program intended to educate rather than punish for improperly prepared or inappropriate materials.
 5. The Contractor will continue participation in the publication of the Recycler's Guide articles in the Ann Arbor News as long as the Ann Arbor News supports this activity with space at no cost. The Contractor will provide the City with notice as soon as possible if Contractor is told by the Ann Arbor News that there will be a charge for publishing Recycler's Guide articles.
 6. The Contractor will maintain a Neighborhood Environmental Network for the purpose of distributing information regarding the various recovery and other environmental options available to residents. Targeted distributions will be provided at least three times a year either to encourage the recycling of specific materials or to increase participation in specific neighborhoods such as for low participation areas or multi-family complexes. A schedule of expected distributions will be provided to the City periodically.
 7. The Contractor will provide special recycling promotions for Earth Day and America Recycles Day and develop at least three Cable Television Network (CTN) broadcasts each year.
 8. The Contractor will continue efforts to bring attention to the City's progressive approach to recovery through national publications, conferences and workshops.
- B. Pilot Tests: The City and the Contractor may work together to conduct pilot tests that temporarily change one or more provisions of this Contract. A pilot test is an experiment with a new collection method and/or a different type of service or schedule. The City and the Contractor shall sign a letter of agreement covering the expected cost and the pilot program duration prior to commencing any such test. Which shall be attached to and incorporated by reference into this Contract and subject to all other terms and conditions of the Contract not specifically modified by the letter of agreement.
1. If the pilot test affects regular collections, the parties shall negotiate an adjustment of the Contract payment to reflect the benefits and/or burdens of the pilot test. The adjustment shall be set so as to capture any increase or decrease in the Contractor's direct operating costs as a result of the pilot test. "Direct operating cost" includes, without limitation, planning costs; labor expenses, including supervision (wages, employment taxes, and fringe benefits); materials, supplies and fuel; and amortized costs of new equipment purchased for the pilot test, or equipment modified for the test.
 2. "Direct operating cost" excludes depreciation of equipment usable elsewhere. The parties shall agree before the start of the pilot test on what equipment is usable

elsewhere by the Contractor. Any equipment that is agreed to be not usable elsewhere by the Contractor shall be purchased by the City, at Contractor's purchase cost plus 10%, at the conclusion of the pilot test.

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

ATTACHMENT C

CITY OF ANN ARBOR MUNICIPAL RESOURCE RECOVERY SERVICES OPTIONAL PERFORMANCE SPECIFICATIONS

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract defines Optional Performance Specifications that are obligations of the Contractor and the City upon authorization by the City to initiate service delivery.

ARTICLE C-1 – Selection of Optional Services.

The City and Contractor may agree to the provision of any or all of the following Designated Services as specified below, with additional clarifying schedules as needed to provide further definition and detail, following the pricing and selection procedures in Article A-4 B Service Change Orders of Attachment A, Performance Based Compensation Schedule.

ARTICLE C-2 – General

- A. Grant of Exclusive Contract: Except as otherwise provided in this Contract, Contractor is hereby granted an exclusive contract to provide the designated Services to all Service Units within the Service District.
- B. Requirements of Service Recipients: The City's Mandatory Recycling and Anti-Scavenging Ordinances, as amended, are incorporated here by reference.
- C. Service Standards: Contractor shall perform all selected Optional Collection Services under this Contract in a thorough and professional manner. All selected Optional Collection Services described in this Contract shall be performed regardless of weather conditions or difficulty of collection. Adverse weather shall not be considered reason for not providing services unless approved by the Contract Administrator. Contractor shall perform all additional services described in this Contract professionally, promptly and courteously.
- D. General Conditions: The contractor shall make its own determination as to conditions and shall assume all risk and responsibility and shall complete the work in and under whatever conditions it may encounter or create without extra cost to the City.

All applicable State laws, municipal ordinances, and rules and regulations of all authorities having jurisdiction over the work to be performed shall apply to the contract throughout, and the same as though herein written out in full.

The specifications for collection in no way limit the innovativeness of Contractor in its use of vehicles and personnel supplying recycling curbside collection service. However, any changes in the manner of service must be approved by the City's Contract Administrator.

- E. Labor and Equipment: Contractor shall provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of Contractor's obligations under this Contract except for City provided collection vehicles and collection containers. Contractor shall at all times have sufficient backup labor to fulfill Contractor's obligations under this Contract. No compensation for Contractor's services or for Contractor's supply of labor, equipment, tools, facilities or supervision shall be provided or paid to Contractor by City or by any Service Recipient except as expressly provided by this Contract.

- F. Customer Service Center: The Contractor shall utilize its Customer Service Center, as so described in Attachment B, in servicing the selected Optional Collection Services.
- G. Holiday Service: The Contractor shall follow the same holiday schedule as described in Attachment B, in servicing the selected Optional Collection Services.
- H. Accessibility of Streets: The Contractor shall follow the same provisions for accessibility of streets as described in Attachment B, in servicing the selected Optional Collection Services.
- I. Spillage and Litter: The Contractor shall follow the same Spillage and Litter procedures and requirements as described in Attachment B, in servicing the selected Optional Collection Services.
- J. Ownership of Materials and Designated Facility: The Contractor shall follow the same provisions for ownership of materials and designated facility as described in Attachment B, in servicing the selected Optional Collection Services.

ARTICLE C-3 – Downtown Development Area Recycling Collection Services

- A. Scope of Service: Contractor shall perform Downtown Development Area Recycling Collection Service in accordance with the following terms and conditions contained herein.
- B. Conditions of Service: Contractor shall provide Downtown Development Area Recycling Collection Service to all Service Units in the DDA Service District whose Recyclable Materials are properly containerized in a Curb Cart Recycling Cart and have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Contractor and the Service Recipient, that will provide safe and efficient accessibility to Contractor's collection crew and vehicle. In the event the Service Recipient produces more Recyclable Materials than can fit in the Curb Cart Recycling Cart, Contractor shall collect such excess Recyclable Materials as are set out beside the Curb Cart Recycling Cart in an additional container whose loaded weight does not exceed sixty (60) pounds, or in the case of corrugated cardboard, as is placed beside the Curb Cart Recycling Cart.
- C. Units Receiving Service: Downtown Development Area Service Units shall be designated by the City and shall include, within the DDA Service Area, all commercial units as well as residential units receiving dumpster refuse service and any other civic unit where Downtown Development Area Recycling Collection is appropriate.
- D. Frequency of Service: Contractor shall provide Downtown Development Area Recycling Collection Service to each Service Unit in the Service District three times every week on a scheduled route basis.
- E. Hours of Collection: Except as set forth below, Contractor shall provide Downtown Development Area Recycling Collection Services commencing no earlier than 6:00 a.m. and terminating no later than 7:00 p.m., Monday through Friday, with no service on Sunday. Exceptions to collection hours shall be made only upon the mutual agreement of the City and Contractor, or when the Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.
- F. Manner of Collection: Contractor shall provide all Downtown Development Area Recycling Collection Services with as little disturbance as possible. Contractor shall leave any Recycling Cart in an upright position at the same point from which its contents

were collected, without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

Contractor's employees providing Downtown Development Area Recycling Collection Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.

- G. Quality Control Responsibilities: The Contractor shall service all Curb Cart Recycling Carts on a weekly basis, even if the Carts are only partially filled or even if the Carts contain over 20 percent Non-recyclable Materials. If the materials in a Cart cannot be collected on the recycling truck due to quality control issues, the Contractor shall notify the City to make arrangements for the City to remove and properly dispose of the contents of that Cart in a safe and legal manner. The Contractor shall develop a quality control sheet, to be approved by the City, that shall be left at the Service Recipient's curb tagged to the Cart if over 20 percent Non-recyclable Materials are contained in the Cart.
- H. Recyclable Material Overflow: In the case of repeated set-outs of excess Recyclable Materials, Contractor shall either increase the frequency of collection to eliminate the accumulation of excess Recyclable Materials or contact the Service Recipient to arrange for provision of additional Recycling Carts.

In the event Contractor cannot successfully contact the Service Recipient after three attempts, or cannot reach an agreement with such Service Recipient regarding the change in service, Contractor shall utilize the Customer Service System to provide the Contract Administrator with the details of the set-outs of excess Recyclable Materials, and the attempts at communication with the Service Recipient. The Contract Administrator shall respond to Contractor's report and make a final written determination. Within five (5) business days of receipt of the Contract Administrator's written determination, Contractor shall provide additional Recycling Carts to the extent required by such written determination.

- I. Spillage: Contractor shall not be responsible for cleaning up sanitary conditions around Recycling Carts caused by the carelessness of the Service Recipient; however, Contractor shall clean up any Recyclable Materials spilled from a Recycling Cart by Contractor or its employees.

During transport, all Recyclable Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the materials is prevented. Contractor shall be responsible for the immediate cleanup of any spillage caused by Contractor or its employees.

- J. Inspections: City shall have the right to inspect the collection vehicles and their contents at any time while operating inside or outside the City.
- K. Reporting of Problems and Non-Collections: Contractor shall use the Customer Service System on a daily basis to report all situations that prevent or hinder collection; all instances of non-collection and the reason for the non-collection; all replacements, repairs and exchanges of Curb Cart Recycling Carts. Except as otherwise provided in this Contract, to the extent possible, Contractor shall make such reports by the end of the business day in which the event occurred; where it is not possible to make such reports by the end of the business day, Contractor shall report such events no later than the end of the next business day.

ARTICLE C-4 –Cardboard Dumpster Recycling Collection Services

- A. Scope of Service: Contractor shall perform Cardboard Recycling Dumpster Collection Service in accordance with the following terms and conditions contained herein.
- B. Conditions of Service: Contractor shall provide Cardboard Recycling Dumpster Collection Service to all Cardboard Recycling Dumpster Service Units in the Service District whose Cardboard is properly containerized in a Cardboard Recycling Dumpster and have been placed in a location that will provide safe and efficient accessibility to Contractor's collection crew and vehicle.
- C. Units Receiving Service: Cardboard Recycling Dumpster Service Units shall be designated by the City and shall include any commercial unit and civic unit where the City determines that Cardboard Recycling Dumpster Collection is appropriate.
- D. Frequency of Service: Contractor shall provide Cardboard Recycling Dumpster Collection Service to each Service Unit in the Service District up to twice per week on a scheduled route basis.
- E. Hours of Collection: Except as set forth below, Contractor shall provide Cardboard Dumpster Recycling Collection Services commencing no earlier than 6:00 a.m. and terminating no later than 7:00 p.m., Monday through Sunday. Exceptions to collection hours shall be made only upon the mutual agreement of the City and Contractor, or when the Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.
- F. Manner of Collection: Contractor shall provide all Cardboard Recycling Dumpster Collection Services with as little disturbance as possible. Contractor shall leave any Cardboard Recycling Dumpster at the same point from which its contents were collected, without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

Contractor's employees providing Cardboard Recycling Dumpster Collection Services shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.

- G. Quality Control Responsibilities: The Contractor shall service all Cardboard Recycling Dumpster on a weekly basis, even if the Dumpsters are only partially filled or even if the Dumpster contain over 20 percent Non-recyclable Materials. If the materials in a Cardboard Recycling Dumpster cannot be collected on the recycling truck due to quality control issues, the Contractor shall notify the City to make arrangements for the City to remove and properly dispose of the contents of that Cardboard Recycling Dumpster in a safe and legal manner. The Contractor shall develop a quality control sheet, to be approved by the City, that shall be left tagged to the Cardboard Recycling Dumpster if over 20 percent Non-recyclable Materials are contained in the Cardboard Recycling Dumpster.
- H. Recyclable Material Overflow: In the case of repeated set-outs of excess Cardboard, Contractor shall either increase the frequency of collection to eliminate the accumulation of excess Cardboard or contact the Service Recipient to arrange for provision of additional Cardboard Recycling Dumpsters or more frequent service.

In the event Contractor cannot successfully contact the Service Recipient after three attempts, or cannot reach an agreement with such Service Recipient regarding the change in service, Contractor shall utilize the Customer Service System to provide the Contract Administrator with the details of the set-outs of excess Cardboard, and the

attempts at communication with the Service Recipient. The Contract Administrator shall respond to Contractor's report and make a final written determination. Within five (5) Business days of receipt of the Contract Administrator's written determination, Contractor shall provide additional Cardboard Recycling Dumpsters or more frequent service to the extent required by such written determination.

- I. Spillage: Contractor shall not be responsible for cleaning up sanitary conditions around Cardboard Recycling Dumpster caused by the carelessness of the Service Recipient; however, Contractor shall clean up any Cardboard spilled from a Cardboard Recycling Dumpster by Contractor or its employees.

During transport, all Recyclable Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the materials is prevented. Contractor shall be responsible for the immediate cleanup of any spillage caused by Contractor or its employees.

- J. Inspections: City shall have the right to inspect the collection vehicles and their contents at any time while operating inside or outside the City.
- K. Reporting of Problems and Non-Collections: Contractor shall use the Customer Service System on a daily basis to report all situations that prevent or hinder collection; all instances of non-collection and the reason for the non-collection; all replacements, repairs and exchanges of Cardboard Recycling Dumpsters. Except as otherwise provided in this Contract, to the extent possible, Contractor shall make such reports by the end of the Business day in which the event occurred; where it is not possible to make such reports by the end of the Business day, Contractor shall report such events no later than the end of the next Business day.

ARTICLE C-5 – Yard Waste Composting Collection Services

- A. Scope of Service: Contractor shall perform Yard Waste Composting Collection Service in accordance with the following terms and conditions contained herein.
- B. Conditions of Service: From the first day of April to the last day of November, Contractor shall provide Yard Waste Composting Collection Service to all Yard Waste Composting Service Units in the Service District whose Yard Waste is properly containerized in a Kraft Paper Bag or properly labeled Yard Waste Composting Container, and whose loaded weight does not exceed fifty (50) pounds, and that have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Contractor and the Service Recipient, that will provide safe and efficient accessibility to Contractor's collection crew and vehicle.
- C. Units Receiving Service: Yard Waste Composting Service Units shall be designated by the City and shall include single family housing units, duplex and triplex housing units, attached condominium and multiple family receiving curbside refuse service and any other commercial unit and civic unit where Yard Waste Composting Collection is appropriate.
- D. Frequency of Service: Contractor shall provide Yard Waste Composting Collection Service to each Service Unit in the Service District once every week on a scheduled route basis on the same Business day as City has scheduled collection of Residential Solid Waste to that Service Unit. Where the scheduled collection day falls on a holiday, Contractor shall adjust the route schedule as set forth in Section B-2.F.
- E. Hours of Collection: Except as set forth below, Contractor shall provide Yard Waste Composting Collection Services commencing no earlier than 7:00 a.m. and terminating

no later than 7:00 p.m., Monday through Friday, with no service on Saturday (except for holiday service as set forth in Section B-2.F. of this Contract) or Sunday. Exceptions to collection hours shall be made only upon the mutual agreement of the City and Contractor, or when the Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

- F. Manner of Collection: Contractor shall provide all Yard Waste Composting Collection Services with as little disturbance as possible. Contractor shall leave any Yard Waste Composting Container in an upright position at the same point from which its contents were collected, without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

Contractor's employees providing Yard Waste Composting Collection Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.

- G. Quality Control Responsibilities: If the Yard Waste Composting Container has over five (5) percent non-compostable items, the Contractor shall leave the container with its entire contents on the curb. The Contractor shall develop a quality control sheet, to be approved by the City, that shall be left at the Service Recipient's curb tagged to the Container.

- H. Spillage: Contractor shall not be responsible for cleaning up sanitary conditions around Yard Waste Composting Containers caused by the carelessness of the Service Recipient; however, Contractor shall clean up any Yard Waste spilled from a Yard Waste Composting Container by Contractor or its employees.

During transport, all Recyclable Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the materials is prevented. Contractor shall be responsible for the immediate cleanup of any spillage caused by Contractor or its employees.

- I. Inspections: City shall have the right to inspect the collection vehicles and their contents at any time while operating inside or outside the City.
- J. Reporting of Problems and Non-Collections: Contractor shall use the Customer Service System on a daily basis to report all situations that prevent or hinder collection; all instances of non-collection and the reason for the non-collection; all replacements, repairs and exchanges of Yard Waste Composting Containers. Except as otherwise provided in this Contract, to the extent possible, Contractor shall make such reports by the end of the Business day in which the event occurred; where it is not possible to make such reports by the end of the Business day, Contractor shall report such events no later than the end of the next Business day.

ARTICLE C-6 – Source Separated Organics Collection Services

- A. Scope of Service: Contractor shall perform Source Separated Organics Collection Service in accordance with the following terms and conditions contained herein.
- B. Conditions of Service: Contractor shall provide Source Separated Organics Collection Service to all Service Units in the Service District whose Source Separated Organic Materials are properly containerized in a Source Separated Organics Cart and have been placed within three (3) feet of the curb, swale, paved surface of the public roadway,

closest accessible roadway, or other such location agreed to by Contractor and the Service Recipient, that will provide safe and efficient accessibility to Contractor's collection crew and vehicle.

- C. Units Receiving Service: Source Separated Organics Service Unit Counts shall be designated by the City and shall include all residential units, commercial units and civic units where Source Separated Organics Collection is appropriate. Contractor shall determine actual Source Separated Organics Cart locations as needed to maximize recovery and contractor performance.
- D. Frequency of Service: Contractor shall provide Source Separated Organics Collection Service to each Service Unit in the Service District at least once every week on a scheduled route basis and more frequently to those Service Units generating sufficient volume to justify more frequent collection.
- E. Hours of Collection: Except as set forth below, Contractor shall provide Source Separated Organics Collection Services commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m., Monday through Friday, with no service on Sunday. Exceptions to collection hours shall be made only upon the mutual contract of the City and Contractor, or when the Contractor reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.
- F. Manner of Collection: Contractor shall provide all Source Separated Organics Collection Services with as little disturbance as possible. Contractor shall leave any Source Separated Organics Collection Cart in an upright position at the same point from which its contents were collected, without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

Contractor's employees providing Source Separated Organics Collection Services shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings.

- G. Quality Control Responsibilities: The Contractor shall service all Source Separated Organics Carts on a weekly basis at a minimum, even if the Carts are only partially filled or even if the Carts contain Non-Source Separated Organic Materials. If the materials in a Cart cannot be collected on the truck due to quality control issues, the contractor shall immediately notify the City in order to arrange with the City to remove and properly dispose of the contents of that Cart in a safe and legal manner. The Contractor shall develop a quality control sheet, to be approved by the City, that shall be left at the Service Recipient's curb tagged to the Cart if over 20 percent Non-Source Separated Organic Materials are contained in the Cart.
- H. Source Separated Organic Material Overflow: In the case of repeated set-outs of excess Source Separated Organic Materials (e.g. in alternate containers), Contractor shall either increase the frequency of collection to eliminate the accumulation of excess Source Separated Organic Materials or contact the Service Recipient to arrange for provision of additional Source Separated Organics Collection Carts.

In the event Contractor cannot successfully contact the Service Recipient after three attempts, or cannot reach an agreement with such Service Recipient regarding the change in service, Contractor shall utilize the Customer Service System to provide the Contract Administrator with the details of the set-outs of excess Source Separated

Organic Materials, and the attempts at communication with the Service Recipient. The Contract Administrator shall respond to Contractor's report and make a final written determination. Within five (5) business days of receipt of the Contract Administrator's written determination, Contractor shall provide additional Source Separated Organics Collection Carts to the extent required by such written determination.

- I. Spillage: Contractor shall not be responsible for cleaning up sanitary conditions around Source Separated Organics Collection Carts caused by the carelessness of the Service Recipient; however, Contractor shall clean up any Source Separated Organic Materials spilled from a Source Separated Organics Collection Carts by Contractor or its employees.

During transport, all Source Separated Organic Materials shall be contained, covered or enclosed so that leaking, spilling and blowing of the materials is prevented. Contractor shall be responsible for the immediate cleanup of any spillage caused by Contractor or its employees.

- J. Inspections: City shall have the right to inspect the collection vehicles and their contents at any time while operating inside or outside the City.

- K. Reporting of Problems and Non-Collections: Contractor shall use the Customer Service System on a daily basis to report all situations that prevent or hinder collection; all instances of non-collection and the reason for the non-collection; all replacements, repairs and exchanges of Source Separated Organics Collection Carts. Except as otherwise provided in this Contract, to the extent possible, Contractor shall make such reports by the end of the Business day in which the event occurred; where it is not possible to make such reports by the end of the Business day, Contractor shall report such events no later than the end of the next Business day.

ARTICLE C-7 – Large Item Collection and Recycling Service

The Large Item Collection and Recycling Service agreed to by the City and Contractor may include any or all of the following services:

- A. Curbside Electronics Waste Collection and Recycling: Contractor shall provide Curbside Electronics Waste Collection and Recycling Service to all Service Units in the Service District that have scheduled this service following procedures established by the City and the Contractor. The City and Contractor shall agree on the list of acceptable electronic waste and the methods of preparation required for set-out. The Contractor shall be responsible for collection, consolidation, packaging and shipping of all collected electronic waste to an electronics waste recycler selected by the Contractor and determined to be acceptable to the City. The Contractor shall cover the fees charged by the selected electronics waste recycler as part of its charges to the City and shall be entitled to keep any revenues received from the sale of reusable/re-sellable electronics waste.
- B. Curbside Scrap Metal Collection and Recycling: Contractor shall provide Curbside Scrap Metal Collection and Recycling Service to all Service Units in the Service District that have scheduled this service following procedures established by the City and the Contractor. The City and Contractor shall agree on the list of acceptable scrap metal and the methods of preparation required for set-out. The Contractor shall be responsible for collection, consolidation and delivery of all collected scrap metal to a scrap metal recycler selected by the Contractor and determined to be acceptable to the City. The Contractor shall be responsible for freon removal from as required in order to safely and legally recycle freon containing appliances. The Contractor shall cover the cost for freon

removal and any fees charged by the selected scrap metal recycler as part of its charges to the City and shall be entitled to keep any revenues received from the sale of reusable, re-sellable or recyclable scrap metal.

- C. Reusable Large Item Collection and Recycling: Contractor shall provide Curbside Reusable Large Item Collection and Recycling Service to all Service Units in the Service District that have scheduled this service following procedures established by the City and the Contractor. The City and Contractor shall agree on the list of acceptable reusable large items and the methods of preparation required for set-out. The Contractor shall be responsible for collection, consolidation and delivery of all collected reusable large items to the Contractor's Reuse Center and or other locations selected by the Contractor and determined to be acceptable to the City. The Contractor shall be responsible for disposal of any large item collected under this program that must be disposed of. The Contractor shall cover the cost for such disposal as part of its charges to the City and shall be entitled to keep any revenues received from the sale of reusable, large items.
- D. Tag System for Collection and Recycling of Reusable, Re-sellable or Recyclable Items from the City's Bulky Waste Collection: Contractor shall be authorized to inspect Bulky Waste Set-outs that have been scheduled following procedures established by the City and either immediately remove items and or tag items in the set-outs that have been determined by the Contractor to be reusable, re-sellable or recyclable. The City agrees that it will not collect those tagged items as trash and will leave those items for the Contractor to pickup within 24 hours. The City makes no guarantee that those tagged items will not be picked up by others. The Contractor shall be responsible for disposal of any item it collects under this program that must be disposed of. The Contractor shall cover the cost for such disposal as part of its charges to the City and shall be entitled to keep any revenues received from the sale of any of the collected items.
- E. Comprehensive Bulky Waste Collection, Recycling and Disposal: Contractor shall provide Curbside Comprehensive Bulky Waste Collection, Recycling and Disposal Service to all Service Units in the Service District that have scheduled this service following procedures established by the City and the Contractor. The City and Contractor shall agree on the list of acceptable bulky waste and the methods of preparation required for set-out. The Contractor shall be responsible for collection, consolidation, packaging and shipping of all collected electronic waste to an electronics waste recycler selected by the Contractor and determined to be acceptable to the City. The Contractor shall be responsible for collection, consolidation and delivery of all collected scrap metal to a scrap metal recycler selected by the Contractor and determined to be acceptable to the City. The Contractor shall be responsible for freon removal from as required in order to safely and legally recycle freon containing appliances. The Contractor shall be responsible for collection, consolidation and delivery of all collected reusable large items to the Contractor's Reuse Center and or other locations selected by the Contractor and determined to be acceptable to the City. The Contractor shall be responsible for collection and disposal of all remaining bulky waste set out according to the terms of this service specification. The Contractor shall cover the cost for freon removal and any fees charged by the selected electronic waste recycler, scrap metal recycler, other recyclers and the transfer/disposal facility as part of its charges to the City and shall be entitled to keep any revenues received from the sale of reusable, re-sellable or recyclable materials.

ARTICLE C-8 – On-Call Recycling Service

On-Call Recycling Services agreed to by the City and Contractor may include any or all types of services that would increase the recovery of waste generated within the service District, thereby reducing disposal volumes and increasing the City and surrounding region's overall waste diversion rate.

ATTACHMENT D

CITY OF ANN ARBOR MUNICIPAL RESOURCE RECOVERY SERVICES PERFORMANCE MEASUREMENT PLAN

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract defines a Performance Measurement Plan and associated obligations of the Contractor and the City.

ARTICLE D-1 - Definitions.

- A. Effective Curb Hour. Each hour spent at the curb picking up curbside recyclables or servicing curb carts, not including time for lunch, breaks, travel to route, travel from route, mobilization, demobilization, refueling, travel to MRF or travel from MRF.
- B. Performance Incentive Payment. The method of compensating Contractor for the costs that are incurred when more than the specified Eligible Tons are collected in any one month, as detailed in Article A-6 Compensation Incentives and Additions to Attachment A, Performance Based Compensation.
- C. Performance Penalty. The method of penalizing Contractor for the loss in quality of service that is incurred through failure of the Contractor to meet Minimum Requirements for Quality of Service, as detailed in Article A-7 Compensation Penalties and Deductions to Attachment A, Performance Based Compensation.
- D. Target Productivity Rate. The rate of worker/truck productivity, measured in lbs collected per Effective Curb Hour, that a Curbside and Curb Cart collection program is expected to achieve, on average, over a twelve month period.

ARTICLE D-2 – Performance Measures, Quality of Service Indicators, Minimum Requirements

The Contractor shall be held accountable to the following Minimum Requirements for key Performance Measures and Quality of Service Indicators:

- A. Curbside and Curb Cart Collection Tonnage. The Contractor shall strive to achieve a minimum of 800 Eligible Tons collected per month and is encouraged through Performance Incentive Payments to surpass 866 Eligible Tons collected per average month.
- B. Curbside and Curb Cart Collection Efficiency: The Contractor and City agree that the Target Productivity Rate for the Curbside and Curb Cart Collection Service is 2,000 lbs per Effective Curb Hour.
- C. Quality of Service Indicator. The Contractor shall strive to achieve a zero rate of customer complaints concerning missed pickups and related customer service problems and is encouraged through a Performance Penalty, as detailed in Article A-7 Compensation Penalties and Deductions, to have Valid Missed Collection Complaints concerning missed pickups average no more than 5 per business day for any one month.

ARTICLE D-3 – Data Collection

The Contractor shall participate with the City in the following Data Collection activities as required to establish the Performance Measurement Plan detailed in this Attachment.

- A. Curbside and Curb Cart Collection Tonnage. The City will provide certified and accurate scales at the MRF, or alternate location if needed, and the Contractor agrees to weigh each load containing Eligible Tons that is delivered to City facilities in order to accurately document Eligible Tons for each month for the purposes of the Performance Measurement Plan. Reporting of Eligible Tons shall be provided by the City in electronic form to Contractor within five (5) business days of the end of each month, with a breakdown report showing totals by day, by truck and by route.
- B. Curbside and Curb Cart Collection Efficiency. The Contractor will provide a web accessed geographical positioning system (GPS) based collection vehicle tracking and data collection system in order to accurately document the Target Productivity Rate for the purposes of the Performance Measurement Plan and Performance Based Compensation. The City agrees to cooperate with the installation of the GPS system on each truck along with supporting data entry equipment (to be supplied by Contractor) and to supply the Contractor with up to date geographical information system (GIS) based mapping of the Service District. Contractor agrees to collect data and to provide a report to the City on an annual basis documenting the Contractor's performance against the Target Productivity Rate along with average lbs diverted per household, average stops per route and average lbs diverted per stop. Until such time as the GPS system is in place Contractor agrees to provide such data on an annual basis using a sampling based data collection system.
- C. Quality of Service Indicator. The Contractor will provide, as part of its web based Customer Service System described in Article B-2. F Customer Service Center in Attachment A, Basic Performance Specifications, a monthly report documenting all logged customer contacts with the Customer Service Center, classifying them by type, showing totals by type for the month and averages by type per business day for the month in order to accurately document the Quality of Service Indicator for the purposes of the Performance Measurement Plan and Performance Based Compensation. The City will provide real time access for Contractor into the City's web based customer service call center to enable Contractor to access on the same business day all relevant contacts by Customers made to the City so that the Contractor can import such contacts into the Customer Service System, respond to them promptly as required by this Contract and include them in the monthly report. Customer contacts not forwarded by the City to the Contractor will not be entered into the Customer Service Center and will not be allowed to be included in the Quality of Service Indicator, Performance Measurement Plan or calculations required for Performance Penalties.

ARTICLE D-4 – Service Counts and Route Maps

The Contractor and the City shall cooperate in establishing a Service Count for each Designated Service, to be used for the purposes of Performance Based Compensation and otherwise as required to meet the requirements of this Contract.

- A. Initial Service Counts. Prior to commencement of this Contract, the City and Contractor shall document, using actual route counts as well as GIS based data from the City's ITSD System, the Current Service Counts by type of Service Unit (Residential, Commercial, Civic) and by type of Designated Service (Curbside, Curb Cart, Other). This Initial Service Count shall become the basis for the Performance Based Compensation and shall become an Exhibit D-1 to this Attachment as part of this Contract.
- B. Service Count Adjustments. After the Initial Service Counts have been established, any additions or deletions to each Service Count shall be made following procedures

established in Article A-4, Service Unit Changes, in Attachment A, Performance Based Compensation. These subsequent additions or deletions shall be used to update the Service Counts in the Exhibit D-1 to this Attachment.

- C. Service Count Audit. Either the City or the Contractor may request an audit, at their own cost unless jointly agreed to by both parties, of the Service Count for any Designated Service at any time, which audit shall be jointly and immediately conducted by undertaking a physical walk-through of the routes supported by available route map and GIS data in order to mutually agree on Service Counts for each Designated Service, which shall be used to immediately update the Service Counts in the Exhibit D-1 to this Attachment and shall be applied to the next subsequent billing as described in Attachment A, Performance Based Compensation.
- D. Route Curbside and Curb Cart Route Maps. The Contractor shall supply the City with route maps of the Curbside and Curb Cart Recycling Collection Area showing the day of the week Recyclables shall be collected from each sector. These maps shall be generated electronically and shall also include route boundaries, route numbers and the truck number for the truck which will normally collect the route. The Contractor shall also provide the City a listing, in electronic data format, of Service Units where Curb Cart Recycling Collection Service is located. The listing shall include the Service Unit address, number of units in the Service Unit, number, size and serial numbers of Curb Cart Containers, collection route number and the truck number serving each route. This listing will be supplied on a quarterly basis or more frequently to reflect service day changes. The City may withhold the Contractor's monthly payment until this list is supplied.

ARTICLE D-5 – Tri-annual Performance Indicators Benchmarking and Pricing Adjustment

Six months prior to the conclusion of each third year of service under this Contract, the Contractor shall prepare a Tri-annual Performance Indicators Benchmarking and Pricing Adjustment report to determine what adjustment, if any, should be made in the next year's Performance Based Compensation as provided for in this section.

The content and format of the Tri-annual Performance Indicators Benchmark report shall be determined as provided for in Attachment E, Transition Plan, but shall, at a minimum document benchmark data for total program performance and Contractor productivity as measured by the Minimum Requirements for key Performance Measures and Quality of Service Indicators identified in this Attachment.

The City and Contractor agree that report findings shall be used as the basis for discussion, consideration and final decision on any Service Change Order, as provided for in Attachment A, reflecting appropriate adjustments in either service specifications or compensation as determined by both parties to be appropriate.

Should the parties fail to agree on adjustments then the Dispute Resolution Process in Article X of the Contract will be followed to resolve the matter, with the final decision being applied, retroactively if needed, to the subsequent year following the three year period that was the subject of the Tri-annual Performance Indicators Benchmarking and Pricing Adjustment report.

ATTACHMENT E
CITY OF ANN ARBOR
MUNICIPAL RESOURCE RECOVERY SERVICES
TRANSITION PLAN

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract defines a Transition Plan and associated obligations of the Contractor and the City.

ARTICLE E-1 Customer Service Center. The City and Contractor agree that the web based and automated reporting functions of the Contractor's Customer Service Center and the City's Call Center, including Contractor real time access to the City's address/road GIS database, will be put in place and operating no later than December 31, 2004.

ARTICLE E-2 City Truck Purchases. The City agrees to place the order for the first four new trucks described in Attachment H, Recycling Truck Inventory, Maintenance and Replacement Schedule, no later than May 1, 2004. The City agrees to place the order for the fifth and sixth new trucks described in Attachment H, Recycling Truck Inventory, Maintenance and Replacement Schedule, no later than July 31, 2004 and that all subsequent truck orders as specified will be placed no later than 60 days after the beginning of the fiscal year identified.

ARTICLE E-3 City Fuel Provision. The City agrees that fuel will be provided for City owned trucks, as specified in this Contract, immediately upon execution of this Contract, either at the Landfill Site or the South Industrial Utilities Site.

ARTICLE E-4 City Provided Truck Maintenance. The City agrees that all maintenance services for City owned trucks, as specified in this Contract, will be provided immediately upon execution of this Contract or, no later than the opening date of the planned Service Center at the City Landfill site. Should Contractor need to provide any of these Services prior to that date the City shall reimburse the Contractor for all direct costs including Contractor's labor and materials.

ARTICLE E-5 Service District Map – Attachment G. The City and Contractor will use a map of the City's boundaries as a new version of the Service District Map is developed no later than March 1, 2004, specifically to address township islands.

ATTACHMENT F

CITY OF ANN ARBOR MUNICIPAL RESOURCE RECOVERY SERVICES RECYCLABLE MATERIALS AND QUALITY CONTROL STANDARDS

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract defines the Recyclable Materials to be collected by the Contractor as specified in the Contract and the Quality Control Standards to be used by the Contractor in determining if Recyclable Material has been suitably prepared by the Service Recipient.

ARTICLE F-1 – Periodic Review of Recyclable Materials and Preparation Requirements

The City and Contractor agree that the following list of recyclable materials and quality control standards will be reviewed on an annual basis and changes made as required by mutual agreement of both parties, all changes which shall be documented in a written update to this Attachment F which shall be incorporated herein by reference..

ARTICLE F-2 - Recyclable Materials and Preparation Requirements.

- A. Paper and Fibers. These items should be placed inside the tan “newspaper” bin loosely unless otherwise noted:
- a. Newspapers – includes all inserts
 - b. Magazines – includes all glossy, newsprint and mixed paper magazines, catalogs and advertisements. Staples and glue bindings are acceptable.
 - c. Mixed Paper and Junk Mail - includes stationary, copier paper, loose-leaf filler paper, computer paper, file folders, blueprints and paper envelopes with plastic labels and “windows”. Crayon marks are acceptable.
 - d. Phonebooks and Paperback Books – No hardcover books.
 - e. Paper Bags – no plastic bags.
 - f. Corrugated Cardboard – empty and flatten rippled boxes such as pizza boxes. If large sized, then cut or fold up to 3x2 feet and place in bin or tie/tape and set next to the recycling bins. Staples and tape are acceptable. No waxed cardboard.
 - g. Boxboard – place inside a brown paper bag or boxboard box. Includes non-corrugated grayboard, cereal, tissue, and shoe boxes, canned beverage cases, backs of note paper pads, paper towel rolls, and paper egg cartons. No freezer food boxes.
 - h. No paper napkins, paper towels, cups or tissue products. No treated papers such as thermal fax paper or carbon paper. No plastic envelopes such as Tyvek. No metal or plastic binders, clips or tags.
- B. Containers. These items should be emptied, rinsed and placed inside the green “container” bin:
- a. Glass and Ceramics – includes clear and colored glass bottles, jars, drinking glass, pyrex, mugs, plates, flower pots. Remove all lids.

- b. Plastic Bottles #1 and #2 – Includes bottle and screw-top jar shapes only, marked 1 or 2 (PETE or HDPE), such as milk jugs and bottles used for laundry, cleansers, cooking oils and water. Remove and discard all lids.
 - c. Milk Cartons and Juice Boxes – Includes empty juice cartons. No freezer food boxes. No straws.
 - d. Cans, Aerosols, and Scrap Metal – includes steel and aluminum cans, foil, pie tins, metal jar lids and empty aerosols. Also includes residential scrap metal such as pots and pans, utensils, metal pipes, coat hangers, and other metal items up to 1 cubic foot, weighing up to 20 pounds. Teflon coated and non-metallic handles are acceptable. No electrical appliances.
 - e. Only plastic bottles numbered #1 or #2 are acceptable. No tubs, such as used for margarine. No containers that held a toxic material, such as motor oil. No Styrofoam cups, packing peanuts, plastic bags, PVC pipes or any other plastic.
- C. Batteries. Place used household batteries in a clear plastic bag. No vehicle batteries or appliances.
- D. Motor Oil. Place used motor oil only in one-gallon plastic jugs (milk and water type) with a screw-on or taped lid. Accept only up to three gallons each week. No other liquids mixed with the oil, including transmission fluid, antifreeze or gasoline.
- E. Oil Filters. Drain used oil filters for 2 to 4 hours and store filter in sturdy, clean plastic bag. Accept only up to three filters per week. Do not store in oil filter boxes.

ATTACHMENT G

**CITY OF ANN ARBOR
MUNICIPAL RESOURCE RECOVERY SERVICES
SERVICE DISTRICT**

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract provides a map and bounded street descriptions that define the boundaries of the Service District(s) for the Collection Services to be provided by the Contractor as specified in the Contract.

Service District Map is a digital map on file with Contract Administrator.

ATTACHMENT H
CITY OF ANN ARBOR
MUNICIPAL RESOURCE RECOVERY SERVICES
RECYCLING TRUCK INVENTORY, MAINTENANCE
AND REPLACEMENT SCHEDULE

This Attachment to the City of Ann Arbor Municipal Resource Recovery Service Contract defines the specifications for Curbside Recycling Trucks, the current Inventory and the Maintenance and Replacement Schedules for that Inventory.

RAA/City of Ann Arbor Performance Based Contracting

TRUCK REPLACEMENT SCHEDULE - CONVERSION OF FLEET TO COMPACTING TRUCKS

TRUCK REPLACEMENT SCHEDULE		Start	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
1	8680	2002	ECO-SA33	P	B	B	B	B	B	B	B	Salvage
2	8686	2002	Evosplit Compacting-T28 C275	P	P	B	B	B	B	B	B	Salvage
3	8687	2001	Evosplit Compacting	P	P	B	B	B	B	B	B	Salvage
4	8692	2001	Lodal Compacting	P	P	B	B	B	B	B	B	Salvage
5	8699	2000	Lodal	P	B	B	B	B	B	B	B	Salvage
6	8698	1998	Lodal	P	B	B	B	B	B	B	B	Salvage
7	8697	1991	Lodal	P	B	B	B	B	B	B	B	Salvage
8	8696	1991	Lodal	P	B	B	B	B	B	B	B	Salvage
9	8695	1991	Lodal	P	B	B	B	B	B	B	B	Salvage
10	8694	1991	Lodal	P	B	B	B	B	B	B	B	Salvage
11	8693	1991	Lodal	P	B	B	B	B	B	B	B	Salvage
12	8691	1991	Lodal	P	B	B	B	B	B	B	B	Salvage
13	8691	1991	Lodal	P	B	B	B	B	B	B	B	Salvage
14	8401	1989	Lodal	P	B	B	B	B	B	B	B	Salvage
15	?	2004	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
16	?	2004	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
17	?	2004	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
18	?	2004	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
19	?	2005	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
20	?	2005	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
21	?	2006	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
22	?	2006	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
23	?	2011	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
24	?	2011	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
25	?	2012	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
26	?	2012	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
27	?	2013	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
28	?	2013	New 30+ cy Compacting	P	P	P	P	P	P	P	P	B
TRUCK INVENTORY SUMMARY												
Total Primary Compacting Trucks In Service		3	7	8	8	8	8	8	8	8	8	8
Total Primary Non-Compacting Trucks In Service		6	1	0	0	0	0	0	0	0	0	0
Total Backup Compacting Trucks In Service		0	0	1	3	3	3	3	3	3	3	3
Total Backup Non-Compacting Trucks In Service		5	4	4	2	2	1	1	1	1	1	0
Total Collection Vehicles In Service		14	12	13	13	13	12	12	12	14	14	14
TRUCK REPLACEMENT FUND STATUS												
Start of Period Fund Balance		\$980,000	\$1,090,822	\$504,969	\$342,790	\$207,026	\$487,440	\$764,819	\$1,050,520	\$1,344,792	\$1,231,853	\$1,103,787
Funded Depreciation Contribution		\$81,422	\$81,422	\$181,422	\$221,671	\$274,202	\$262,756	\$262,756	\$262,756	\$262,756	\$261,419	\$293,768
Number of Trucks Purchased		0	4	2	2	0	0	0	0	2	2	2
Purchase Price for That Period (2.5% annual escalator)		\$0	\$175,000	\$179,375	\$183,859	\$188,456	\$193,167	\$197,996	\$202,946	\$208,020	\$213,221	\$218,551
Payments for Trucks Purchased		\$0	\$700,000	\$358,750	\$367,719	\$0	\$0	\$0	\$0	\$416,040	\$426,441	\$437,102
Interest on Fund Balance (start of period @ 3%)		\$29,400	\$32,725	\$15,149	\$10,284	\$6,211	\$14,623	\$22,945	\$31,516	\$40,344	\$36,956	\$33,114
End of Period Fund Balance		\$1,090,822	\$504,969	\$342,790	\$207,026	\$487,440	\$764,819	\$1,050,520	\$1,344,792	\$1,231,853	\$1,103,787	\$993,566

ATTACHMENT I

CITY OF ANN ARBOR MUNICIPAL RESOURCE RECOVERY SERVICES HUMAN RIGHTS CONTRACT

NONDISCRIMINATION: FAIR EMPLOYMENT PRACTICE

The Contractor, its agents or sub-contractors, shall comply with all requirements of Chapter 112 of Title IX of the Code of the City of Ann Arbor and in particular the following excerpts therefrom:

9:161 NONDISCRIMINATION BY CITY CONTRACTORS

- (1) All contractors proposing to do business with the City of Ann Arbor shall satisfy the nondiscrimination administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All contractors shall receive approval from the Director prior to entering into a contract with the City, unless specifically exempted by administrative policy. All City contractors shall take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon race, national origin or sex.
- (2) Each prospective contractor shall submit to the City data showing current total employment by occupational category, sex and minority group. If, after verifying this data, the Director concludes that it indicates total minority and female employment commensurate with their availability within the contractor's labor recruitment area, i.e., the area from which the contractor can reasonably be expected to recruit, said contractor shall be accepted by the Director as having fulfilled affirmative action requirements for a period of one year at which time the Director shall conduct another review. Other contractors shall develop an affirmative action program in conjunction with the Director. Said program shall include specific goals and timetables for the hiring and promotion of minorities and females. Said goals shall reflect the availability of minorities and females within the contractor's labor recruitment area. In the case of construction contractors, the Director shall use for employment verification the labor recruitment area of the Ann Arbor-Ypsilanti standard metropolitan statistical area. Construction contractors determined to be in compliance shall be accepted by the Director as having fulfilled affirmative action requirements for a period of six (6) months at which time the Director shall conduct another review.
- (3) In hiring for construction projects, contractors shall make good faith efforts to employ local persons, so as to enhance the local economy.
- (4) All contracts shall include provisions through which the contractor agrees, in addition to any other applicable Federal or State labor laws:
 - (a) To set goals, in conference with the Human Resources Director, for each job category or division of the work force used in the completion of the City work;

- (b) To provide periodic reports concerning the progress the contractor has made in meeting the affirmative action goals it has agreed to;
 - (c) To permit the Director access to all books, records and accounts pertaining to its employment practices for the purpose of determining compliance with the affirmative action requirements.
- (5) The Director shall monitor the compliance of each contractor with the nondiscrimination provisions of each contract. The Director shall develop procedures and regulations consistent with the administrative policy adopted by the City Administrator for notice and enforcement of non-compliance. Such procedures and regulations shall include a provision for the posting of contractors not in compliance.
- (6) All City contracts shall provide further that breach of the obligation not to discriminate shall be a material breach of the contract for which the City shall be entitled, at its option, to do any or all of the following:
- (a) To cancel, terminate, or suspend the contract in whole or part and/or refuse to make any required periodic payments under the contract;
 - (b) Declare the contractor ineligible for the award of any future contracts with the City for a specified length of time;
 - (c) To recover liquidated damages of a specified sum, said sum to be that percentage of the labor expenditure for the time period involved which would have accrued to minority group members had the affirmative action not been breached;
 - (d) Impose for each day of non-compliance, liquidated damages of a specified sum, based upon the following schedule:

<u>Contract Amount</u>	<u>Assessed Damages Per Day of Non-Compliance</u>
\$ 10,000 - 24,999	\$ 25.00
25,000 - 99,999	50.00
100,000 - 199,999	100.00
200,000 - 499,999	150.00
500,000 - 1,499,999	200.00
1,500,000 - 2,999,999	250.00
3,000,000 - 4,999,999	300.00
5,000,000 - and above	500.00

- (e) In addition the contractor shall be liable for any costs or expenses incurred by the City of Ann Arbor in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under this contract.

ATTACHMENT J
LIVING WAGE REQUIREMENTS

If a "covered employer," Contractor will comply with all the requirements of Chapter 23 of the Ann Arbor City Code (Sections 1:811 B 1:821), in particular but not limited to the following sections thereof:

1:813. Definitions.

For purposes of this Chapter, the following definitions shall apply:

- (1) "Contractor/vendor" is a person or entity that has a contract with the City primarily for the furnishing of services where the total amount of the contract or contracts with the City exceeds \$10,000 for any 12month period. "Contractor/vendor" does not include a person or entity that has a contract with the City primarily for the purchase of goods or property, or for the lease of goods or property to or from the City.
- (2) "Covered Employee" means a person employed by a covered employer to perform services which are covered or funded by the contract with or grant from the City; provided, however, that persons who are employed pursuant to federal, state or local laws relating to prevailing wages shall be exempt from this Chapter.
- (3) "Covered Employer" means a contractor/vendor or grantee that has not been granted an exemption from this Chapter pursuant to Section 1:817.
- (4) "Employee" means an individual who provides personal services performed for wages under any contract calling for the performance of personal services, whether written or oral, express or implied. The term "employee" does not include any individual who volunteers to perform services for an employer if
 - (a) The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
 - (b) Such services are not the same type of services which the individual is employed to perform for such employer.
- (5) "Employee Health Benefits" or "Health Benefits" means providing health care benefits for employees (or employees and their dependents) at employer cost or making an employer contribution toward the purchase of such health care benefits for employees (or employees and their dependents), provided that the employer cost or contribution equals no less than \$1 an hour for the average work week of such employee, and provided further that any employee payment or contribution toward health care shall not exceed 50 cents an hour for the average work week for such employee.

- (6) "Grant" means any form of financial assistance to a "Grantee" as set forth and defined in Section 1:813(7). "Grant" does not include financial assistance used for the purchase or lease of property or other nonpersonnel costs.
- (7) "Grantee" is a person or entity that is a recipient of any financial assistance from the City in the form of any federal, state or local grant program administered by the City, revenue bond financing, tax increment financing, tax abatement, tax credit, direct grant, or any other form of financial assistance that exceeds \$10,000 for any 12month period, including any contractors, subcontractors, or leaseholders of the grantee whose contract, subcontract or lease with the grantee exceeds \$10,000 for any 12month period.
- (8) "Living Wage" means a wage equal to the levels established in Section 1:815.
- (9) "Person" means any individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (10) "\$10,000 for any 12 month period" is computed by taking the total amount of the contract, grant or loan and dividing it by the number of months the contract, grant or loan covers.

1:814. Applicability.

- (1) This Chapter shall apply to any person that is a contractor/vendor or grantee as defined in Section 1:813 that employs or contracts with five (5) or more individuals; provided, however, that this Chapter shall not apply to a nonprofit contractor/vendor or nonprofit grantee unless it employs or contracts with ten (10) or more individuals.
- (2) This Chapter shall apply to any grant, contract, or subcontract or other form of financial assistance awarded to or entered into with a contractor/vendor or grantee after the effective date of this Chapter and to the extension or renewal after the effective date of this Chapter of any grant, contract, or subcontract or other form of financial assistance with a contractor/vendor or grantee.

1:815. Living Wages Required.

- (1) Every contractor/vendor or grantee, as defined in Section 1:813, shall pay its covered employees a living wage as established in this Section.
 - (a) For a covered employer that provides employee health care to its employees, the living wage shall be \$8.70 an hour, or the adjusted amount hereafter established under Section 1:815(3).
 - (b) For a covered employer that does not provide health care to its employees, the living wage shall be \$10.20 a hour, or the adjusted amount hereafter established under Section 1:815(3).
- (2) In order to qualify to pay the living wage rate for covered employers providing employee health care under subsection 1:815(1)(a), a covered employer shall

furnish proof of said health care coverage and payment therefor to the City Administrator or his/her designee.

- (3) The amount of the living wage established in this Section shall be adjusted upward no later than April 30, 2002, and every year thereafter by a percentage equal to the percentage increase, if any, in the federal poverty guidelines as published by the United States Department of Health and Human Services for the years 2001 and 2002. Subsequent annual adjustments shall be based upon the percentage increase, if any, in the United States Department of Health and Human Services poverty guidelines when comparing the prior calendar year's poverty guidelines to the present calendar year's guidelines. The applicable percentage amount will be converted to an amount in cents by multiplying the existing wage under Section 1.815(1)(b) by said percentage, rounding upward to the next cent, and adding this amount of cents to the existing living wage levels established under Sections 1:815(1)(a) and 1:815(1)(b). Prior to April 1 of each calendar year, the City will notify any covered employer of this adjustment by posting a written notice in a prominent place in City Hall, and, in the case of a covered employer that has provided an address of record to the City, by a written letter to each such covered employer.

1:816. Employees Covered.

A covered employer shall pay each of its employees performing work on any covered contract or grant with the City no less than a living wage as defined in Section 1:815.

1:817. Exemptions.

Notwithstanding any other provisions in this Chapter, the following exemptions shall apply:

- (1) Sweat equity contracts for home construction or rehabilitation grant will not subject the grantee to coverage under this Chapter. Housing construction or rehabilitation grants or contracts that are passed through to a contractor in their entirety are exempt from the provisions of this Chapter, even when the City participates in the selection of the contractor.
- (2) For any contract or grant, the City Council may grant a partial or complete exemption from the requirements of this Chapter if it determines one of the following:
 - (a) To avoid any application of this Chapter that would violate federal, state or local law(s); or
 - (b) The application of this Chapter would cause demonstrated economic harm to an otherwise covered employer that is a nonprofit organization, and the City Council finds that said harm outweighs the benefits of this Chapter; provided further that the otherwise covered nonprofit employer shall provide a written plan to fully comply with this Chapter within a reasonable period of time, not to exceed three years, and the City Council then agrees that granting a partial or complete exemption is necessary to ameliorate the harm and permit the nonprofit organization sufficient time to reach full compliance with this Chapter.

- (3) A loan shall be considered a grant under this ordinance only to the extent that a loan is provided at below market interest rates and then only the difference between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan, shall be treated as financial assistance under this ordinance.
- (4) A payment of funds for the purpose of purchasing services, property, or goods on behalf of individuals being assisted by a covered employer or potentially covered employer (sometimes known as a "pass through" grant) that is used for said purchases shall not be considered a grant; such funds shall be considered a grant only to the extent that any such funds are retained by the covered employer or potentially covered employer to provide financial assistance and support to its own operations.

1:818. Monitoring and Enforcement.

(1) Every covered employer shall agree to the payment of a living wage as a condition of entering into or renewing a covered contract or grant with the City, shall agree to post a notice regarding the applicability of this Chapter in every work place or other location in which employees or other persons contracted for employment are working, and shall agree to provide payroll records or other documentation as deemed necessary within ten (10) business days from the receipt of the City's request. All City contracts and grants covered by this Chapter shall provide that a violation of the living wage requirements of this Chapter shall be a material breach of the contract or grant. The Human Rights Office of the City shall monitor the compliance of each contractor/vendor or grantee under procedures developed by the Human Rights Office and approved by the City Administrator.

- (2) Each covered employer shall submit to the Human Rights Office of the City information regarding number of employees and applicable wage rates of its employees covered by this Chapter in such manner as requested by that office. At the request of the Human Rights Office, any contractor/vendor or grantee shall provide satisfactory proof of compliance with the living wage provisions of this Chapter.
- (3) Any person may submit a complaint or report of a violation of this Chapter to the Human Rights Office. Upon receipt of such a complaint or report, the Human Rights Office shall investigate to determine if there has been a violation.

1:819. Penalties and Enforcement.

- (1) A violation of any provision of this Chapter is a civil infraction punishable by a fine of not more than \$500.00 plus all costs of the action. The Court may issue and enforce any judgment, writ, or order necessary to enforce this Chapter, including payment to the affected employee or employees of the difference between wages actually paid and the living wage that should have been paid, interest, and other relief deemed appropriate.
- (2) Each day upon which a violation occurs shall constitute a separate violation.

- (3) In addition to enforcement under Subsections (1) and (2), the City shall have the right to modify, terminate, and/or seek specific performance of any contract or grant with an affected covered employer or to cancel, terminate or suspend the contract in whole or in part and/or to refuse any further payments under the contract or grant;
- (4) Nothing contained in this Chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any other person for the correction of violations of this Chapter

1:821. Other Provisions.

- (1) No affected covered employer shall reduce the compensation, wages, fringe benefits, or leave available to any covered employee or person contracted for employment in order to pay the living wage required by this Chapter.

- (3) No employee covered by a federal, state or local law requiring the payment of prevailing wages shall be covered by this Chapter.
- (4) This Chapter shall not be construed to apply to any person or entity that is a tax exempt religious, educational or charitable organization under state or federal law, but is not a contractor/vendor or grantee as defined in Section 1:813.
- (5) This Chapter shall not be applicable to the establishment and/or continuation of the following if developed specifically for high school and/or college students:
 - (a) A bona fide training program;
 - (b) A summer or youth employment program;
 - (c) A work study, volunteer/public service, or internship program.
