

SERVICE AGREEMENT FOR COLLECTION AND DISPOSAL OF RESIDENTIAL SOLID WASTE, YARD TRASH, BULK WASTE, AND OPERATION OF THE CITY'S GREEN WASTE FACILITY

This Agreement is entered into this 9th day of June 2010, by and between **CHOICE ENVIRONMENTAL SERVICES OF MIAMI, INC.**, a Florida corporation with offices at 13300 N.W. 38th Court (Contractor), and the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation with offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (City), for the purpose of providing for residential solid waste, yard trash, and bulk waste collection and disposal services within the City of Miami Beach city limits (Collection Area), operation of the City's Green Waste Facility, and other such services as required by the City and as more particularly set forth herein.

RECITALS:

WHEREAS, the City's current agreement for the collection and disposal of residential solid waste, yard trash and bulk waste and for operation of the City's Green Waste Facility expired on December 31, 2009, and is currently continuing on a month to month basis; and

WHEREAS, on October 14, 2009, the City issued Request for Proposals No. 60-08/09 entitled, "Collection and Disposal of Residential Solid Waste, Yard Trash, Bulk Waste, and Operation of the City's Solid Waste Facility" (the RFP); and

WHEREAS, at its regular meeting on February 3, 2010, the Mayor and City Commission authorized the Administration to negotiate with the two (2) top-ranked proposers pursuant to the RFP, including Contractor; and

WHEREAS, the City and Contractor have negotiated the foregoing agreement to provide for residential solid waste, yard trash, bulk waste collection and disposal services, and operation of the City's Green Waste Facility, as more fully set forth herein (the Agreement).

GENERAL INFORMATION

1. RECITALS

The foregoing recitals are true and correct and are hereby incorporated by reference into this Agreement.

2. [Intentionally Omitted]

3. COMMENCEMENT OF SERVICES

The work and services outlined herein (the Services) shall commence immediately upon Contractor's receipt of a Notice to Proceed by the City but, in any event, no later than September 1, 2010 (Commencement Date).

4. TERM

4.1.1 Initial Term: The initial term of the Agreement shall commence on the Commencement Date, and terminate on August 31, 2015.

4.2 Renewal: Provided Contractor is not in default under the Agreement, the City Commission may elect, at its sole option and discretion, to renew the Agreement, subject to the same (or better) terms and conditions set forth herein, for up to three (3) consecutive one-year renewal terms, by giving Contractor written notice of such renewals at least thirty (30) days prior to the end of the previous term. At a minimum, any renewal term shall be at the same cost to the City as the immediately preceding term.

5. DEFINITION OF TERMS

5.1 Authorized Representative: The employee designated in writing by the City Manager to represent the City in the day-to-day administration and supervision of this Agreement and who, for purposes of this Agreement, shall be the City's Director of Sanitation. The Authorized Representative shall be authorized to coordinate, direct, and review all matters related to the Services and this Agreement. The Authorized Representative shall be authorized to transmit instructions, receive information, and interpret and define City policies and decisions with respect to the Services and the Agreement. However, the Authorized Representative is not authorized to issue any verbal written orders or instructions to Contractor that would have the effect (or be interpreted as having the effect) of materially modifying or changing the Services; the Term; or the amount of compensation the City is obligated or committed to pay Contractor. Additionally, the Authorized Representative is not authorized to issue any orders, instructions, decisions, and/or approvals (whether written or verbal) where the Agreement expressly reserves any or all of the aforesaid to the City Manager and/or the City Commission.

5.2 Biohazardous Waste: Any waste which may present a threat of infection to humans. The term includes, without limitation, non-liquid human tissue and body parts, laboratory and veterinary waste which contains human-disease-causing agents, used disposable sharps, human blood, human blood products, body fluids, and other materials representing a significant risk of infection to persons. The collection of Biohazardous Waste is not included in the scope of services for this Agreement.

5.3 Bulk Waste: Any large item(s) of household refuse including, without limitation, appliances, furniture, accumulations from major tree cutbacks (exceeding ten (10) inches in diameter and four (4) feet in length or, in any event, which cannot be cut for placement in a garbage bag or container, or bundled, due to the materials exceeding the weight and size restrictions for regular trash collection, as provided in this Agreement). Bulk waste shall be of a type as to be readily handled by the mechanical equipment of the Contractor. Bulk waste does not include any matter or debris resulting from tree removal, land clearing, land development, building construction or demolition, automobiles, automotive components, boats, or internal combustion engines.

- 5.4 City: The City of Miami Beach, Florida, and its authorized representatives.
- 5.5 City Manager: The City Manager of the City of Miami Beach, Florida.
- 5.6 Construction and Demolition Debris: Discarded material(s) generally considered not to be water-soluble or hazardous, including, without limitation, steel, concrete, glass, brick, asphalt, pipe gypsum wallboard, or lumber from a construction or demolition project, and also including rocks, soils, tree remains, and other vegetative matter which normally results from land clearing or land development operations for a construction project.
- 5.7 Contractor: The business entity with whom the City has executed this Agreement for performance of the Services and its duly authorized representative(s). As used in this Agreement, the term "Contractor" shall also include any successors and/or assignees.
- 5.8 Disposal Costs (may also be referred to as "tipping fees"): The fees charged to Contractor for disposal of solid waste.
- 5.9 Garbage: Every refuse accumulation of animal, fruit, vegetable, or organic matter that attends the preparation, use, cooking, consumption, storage, or dealing of meats, fish, fowl, fruit or vegetables, and other foodstuffs (including packaging materials), and decay, putrefaction and the generation of noxious or offensive gases or odors or which, during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.
- 5.10 Garbage Can or Container: A container for collection of solid waste which has been approved for use in the Collection Area by the Authorized Representative, and made of galvanized metal, durable plastic or other suitable material of a capacity not less than ten (10) gallons, but not to exceed thirty (30) gallons. Such container shall have two (2) handles upon the sides thereof, or a bail, by which it may be lifted, and a tight fitting solid top.
- 5.11 Hazardous Waste: Any waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. Hazardous Waste is not included in the scope of services for this Agreement.
- 5.12 Household Furniture: All movable compactable articles or apparatus, such as chairs, tables, sofas, mattresses, etc., for equipping a residence.
- 5.13 Household Trash: All accumulations of paper, magazines, packaging, containers, sweepings, and all other accumulations of a nature other than garbage or yard trash, which are usual to housekeeping, as well as to the operation of stores, offices, and other places of business. Household trash shall include, without limitation, small appliances, small furniture, yard toys, and building material waste from remodeling and home repair projects. Waste generated by general contractors (or their subcontractors) shall not be considered household trash.

5.14 Industrial Waste: Any waste including, without limitation, oil, grease and petroleum, generated by construction, manufacturing, processing, land clearing, and demolition projects, and excavation of structures, roads, streets, sidewalks, or parkways. Industrial waste is not included in the scope of services for this Agreement.

5.15 Infectious Waste: Those wastes including, without limitation, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves, which may cause disease, or may reasonably be suspected of harboring pathogenic organisms. Infectious Waste is not included in the scope of services for this Agreement.

5.16 Landfill: Any land disposal facility, for which a permit (other than a general permit) is required pursuant to Section 403. 707, Florida Statutes (as same may be amended from time to time), that receives solid waste for disposal in or upon the land, other than a land-spreading site, injection well, or surface impoundment.

5.17 Loose Refuse: Any refuse stored in and collected from any type of container other than a mechanical container or garbage can or container. Refuse which is also collected from the ground is considered loose refuse.

5.18 Mechanical Container: Any detachable metal container designed or intended to be mechanically dumped into a loader/packer type of garbage truck.

5.19 Multiple Dwelling Units: Any building containing two (2), but not more than eight (8), permanent living units, but not including hotels and motels. Buildings containing over eight (8) living units are classified as commercial accounts and are not included in the scope of services for this Agreement.

5.20 Performance Bond: The form of security furnished by Contractor, and approved by the City, as a guarantee that Contractor will execute the Services in accordance with the terms of this Agreement.

5.21 Proposal Documents: City Request for Proposals No. 68-08/09, any addendums and exhibits thereto, and Contractor's proposal in response thereto.

5.22 Recyclable Materials: Those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

5.23 Recycling: Any process by which recyclable materials are collected, separated, or processed and re-used or returned to use in the form of raw materials or products.

5.24 (Single Family) Residence: A detached building designed for or occupied exclusively by one person or family.

5.25 Refuse: All garbage and trash including, without limitation, paper, glass, metal, and other discarded matter, but excluding recyclable materials.

5.26 Refuse Regulations: Those administrative rules, regulations, and procedures as may be established from time to time, including those prescribed by the City from time to time, for the purpose of carrying out or effectuating the provisions of this Agreement.

5.27 Remodeling and Home Repairs Trash: Waste materials accumulated by a homeowner, tenant, or occupant during the course of a self-performed home improvement project including, without limitation, carpeting, cabinets, drywall, lumber, paneling, and other construction related materials. Such materials shall be prepared for collection in lengths not to exceed five (5) feet or fifty (50) pounds in weight. Carpeting will only be picked up if cut to lengths of six (6) feet or less, and bundled.

5.28 Residential Service: The solid waste collection and disposal service provided to residences and multiple dwelling units within the Collection Area which are not receiving commercial service.

5.29 Solid Waste: Garbage, bulky waste, construction & demolition debris, special waste, white goods, yard trash (regular and bulk), household furniture, household trash, refuse, remodeling and home repairs trash, and any and all other discarded materials the which Contractor is (or may be) required to collect and dispose of pursuant to the terms of this Agreement.

5.30 Solid Waste Disposal Facility: Any facility which is the final resting place for solid waste, including landfills and incineration facilities.

5.31 Special Pick-Up: Garden trash, tree and shrubbery trash, and any other household debris which is not ready to be picked up on the scheduled bulk trash pick up day, or the second scheduled garbage pick up day, per week. Special pick-ups shall be at the customer's expense, and shall be scheduled between the customer and Contractor. Contractor shall collect any fees for special pick-ups directly from the customer.

5.32 Special Waste: Waste that can require special handling and management, including, without limitation, asbestos, whole tires, used tires, used oil, lead-acid batteries, biological waste, infectious waste, hazardous waste, loose refuse, industrial waste, and construction and demolition debris.

5.33 [Intentionally Omitted]

5.34 White Goods: Discarded refrigerators, ranges, water heaters, freezers, small air conditioning units, and other similar large domestic appliances.

5.35 Yard Trash – Regular: Any and all accumulations of grass, palm fronds, leaves, branches, shrubs, vines, trees, tree stumps, and other similar items generated by the maintenance of yards and gardens, and by landscaping. Such trash shall be bundled or placed in containers which are susceptible to normal loading and collection in the same manner as other residential

solid waste. No yard trash shall be in excess of four (4) feet in length or four (4) inches in diameter. No bundle or filled container shall exceed fifty (50) pounds in weight.

5.36 Yard Trash – Bulk: Large cuttings of vegetative and wood matter which are part of normal yard maintenance and landscaping and which cannot be cut for placement in a container, or bundled due to the materials exceeding the weight and size restrictions for regular yard trash. Bulk yard trash shall be of a type so as to be readily handled by the mechanical equipment of the Contractor. Bulk yard trash shall not exceed six (6) feet in length. Bulk yard trash shall not include any form of matter or debris resulting from tree removal, land clearing, land development, building demolition, or home remodeling and/or repairs, and shall also not include automobiles and automotive components, boats, and internal combustion engines.

6. GENERAL CONDITIONS

6.1 Pre-Start Route Familiarization: The Contractor hereby certifies to the City that it shall be completely prepared to start collection, and any and all other Services required under this Agreement, no later than the Commencement Date. Prior to the Commencement Date, Contractor shall meet with the Authorized Representative for the purpose of familiarizing Contractor and, without limitation, Contractor's drivers, collectors, and other key personnel, with City routes, collection points, and any other points of service in the Collection Area.

6.2 Comprehensive Notification: Prior to the Commencement Date, and thereafter, at least annually during the Term of this Agreement, on the anniversary of the Commencement Date (or such other date as may first be approved, in writing, by the City Manger), Contractor shall provide comprehensive, written notice to all customers within the Collection Area; which notice shall include, without limitation, notice of start date, routes and schedules, description of services, customer service numbers, and any changes to collection schedules and/or routes. The form of any and all notices required under this subsection must be approved, in writing, by the Authorized Representative, at least two (2) weeks prior to the required date of issuance for same.

6.3 Resources: The Contractor shall provide, at its sole cost and expense, all labor, and equipment (including, without limitation, collection trucks and any other vehicles) and any other items, as necessary, to perform the Services in accordance with, and comparable to, first-class standards for collection and disposal of solid waste, as contemplated under this Agreement.

6.4 Protection of Adjacent Property and Utilities: The Contractor shall diligently prosecute the Services and conduct all work and services related thereto in such a manner so as to avoid damage to private or public property(ies) in the Collection Area, Contractor shall be solely responsible for any damage or destruction to such property(ies) which is caused by Contractor's operations. Contractor shall immediately repair (or pay for repair of) damage incurred as a result of its operations. Without limiting the generality of the foregoing, the Contractor shall take cognizance of all existing utilities; shall operate with due care in the vicinity of such utilities; and shall immediately repair (or pay for repair of) any utility(ies) breakage or damage caused by its operations.

6.5 Spillage: The Contractor shall not litter or cause any spillage to occur on any private or public property(ies) including, without limitation, any rights-of-way, in the Collection Area. During hauling, all solid waste shall be contained, tied, or enclosed so that spillage is prevented. The Contractor shall immediately clean up any spillage. If the Contractor fails to promptly clean up any spillage, the City may, at its sole option and discretion, but not its obligation, clean-up such spillage, and bill the Contractor for the cost for same.

6.6 Method of Collection: Contractor shall make collections with a minimum of noise and disturbance to the customer and the neighborhood.

Staging will not be permitted. "Staging" is defined as placing cans or containers, bags, and yard trash at one location ahead of the servicing truck.

Garbage cans or containers shall be handled carefully; shall not be bent or otherwise abused; shall be thoroughly emptied; and then left at the point of collection. Metal cans shall be replaced upright with covers securely and properly in place, or inverted with covers placed topside on the ground, next to the container. Plastic cans shall be inverted with covers placed topside on the ground, next to the container. Any receptacle found in a rack, cart, or enclosure of any kind shall have the lid securely placed on top of said receptacle.

In the event of damage to garbage receptacles caused by Contractor, other than normal wear and tear, Contractor shall be solely responsible for the prompt repair or replacement of said receptacles, which, in any event, shall be no later than seven (7) days from Contractor's receipt of notice (whether verbal or written) from customer and/or Authorized Representative (as the case may be).

6.7 The City Manager reserves the right to deny Contractor's trucks/vehicles access to any streets, bridges, alleys, or other rights of way in the Collection Area, in the event that the Manager determines, in his/her sole and reasonable judgment and discretion, that it is in the best interest of the City to do so because of the condition of the affected street, bridge, etc.

The Authorized Representative shall use reasonable efforts to notify Contractor of street closures. If a street closure impacts, or could potentially impact, a route or schedule within the Collection Area, Contractor shall be responsible for immediately notifying the Authorized Representative, so that (if required) alternate arrangements for service may be made in such manner as shall cause the least disruption to customers. Notwithstanding the preceding, no collection route and/or schedule shall be changed (from the regular schedule) because of street closures of less than eight (8) hours in duration.

6.8 Contractor hereby acknowledges that the City has embarked on an aggressive, City-wide Capital Improvements Program (CIP) which includes, without limitation, extensive roadway and streetscape, water and sewer, and stormwater and drainage improvements. The Authorized Representative shall use reasonable efforts to notify Contractor of all CIP construction activities within the Collection Area.

6.9 Notwithstanding anything in this Agreement, including, without limitation, subsections 6.7 and 6.8 hereof, it shall be Contractor's sole and exclusive obligation and responsibility to ensure that the regular collection schedule and routes, and quality of the Services is not interrupted, and is provided in accordance with the first-class standards contemplated under this Agreement.

6.10 Holidays: Contractor shall not be required to provide collection services on Christmas day. For those customers whose service was missed, regular waste collection services will resume on the next regularly scheduled pick-up day. Should Christmas day fall on a Saturday or Sunday, the Contractor is expected to work as regularly scheduled, Monday through Friday.

6.11 Storms: In case of a storm, the Manager may, in his/her sole and reasonable judgment and discretion, grant Contractor a temporary variance from the regular collection routes and schedules. Notwithstanding the preceding, Contractor must make all such requests to the City Manager, in writing; and the Manager shall have the sole and exclusive discretion to determine whether a variance will be granted (and whether same is reasonable under the circumstances). If granted the aforesaid variance, the Contractor shall advise the City and customers in the Collection Area of the estimated time before regular collection routes and schedules can be resumed.

The City Manager, in his/her sole and reasonable judgment and discretion, may require Contractor to provide additional services following a storm, which may require additional equipment and/or hiring of extra crews, in order to effectuate the efficient and rapid clean-up of the City. In such cases, Contractor shall be entitled to additional compensation, as set forth in **Exhibit "A"** hereto; provided that the City Manager has authorized Contractor to proceed with such additional services and, accordingly, Contractor has first obtained the prior written authorization of the Manager.

6.12 Collection Equipment: All equipment shall be obtained from nationally known and recognized manufacturers of garbage collection and disposal equipment. Trucks shall be of the enclosed loader/packer type. All equipment shall at all times be maintained in good repair, working order, and appearance; kept in sanitary and clean condition; and be operated in accordance with the highest levels of safety and caution.

Trucks/vehicles are to be uniformly painted with the name of the Contractor, business telephone number, and the number of the truck/vehicle in letters not less than five (5) inches high on each side of the truck/vehicle. All trucks and vehicles shall be numbered and a record kept of the truck/vehicle to which each number is assigned. The City's logo shall be displayed on all trucks/vehicles. No advertising shall be permitted on trucks/vehicles, except as provided in Section 11.3 hereof.

The Contractor shall have available reserve equipment which can be put into service within two (2) hours of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment regularly used by the Contractor to perform the Services.

A list of the Contractor's equipment shall be provided to the Authorized Representative within thirty (30) days following the Commencement Date and, thereafter, an updated list shall be provided each year during the Term, at the time of each annual audit.

As additional consideration for the City to enter into this Agreement, Contractor agrees to provide four (4) new trucks; which trucks shall be provided and deployed within the Collection Area no later than ninety (90) days from the Commencement Date. In the event that any of the aforesaid trucks are replaced during the initial term of the Agreement, Contractor shall replace it with a "Compressed Natural Gas" (CNG) fueled truck.

All Contractor's equipment, including replacement equipment, will be located in the Contractor's facility in Opa Locka.

6.13 Refuse Quantities: Contractor hereby represents and warrants to the City that it has reviewed the City's waste collection and disposal records and understands that, at certain times during the year, the quantity of waste to be disposed of is materially increased by such factors including, without limitation, the influx of visitors, special events, acts of weather due to seasonal changes, etc. Contractor hereby agrees that these fluctuations will not be justification for Contractor to fail to maintain the regular collection schedules and routes; justify a rate increase; or otherwise result in Contractor's failure to provide the Services, in accordance with the first-class standards contemplated under this Agreement.

6.14 Disposal at a Miami-Dade County Solid Waste Disposal Facility: Contractor hereby represents and warrants to the City that all solid waste collected by it pursuant to this Agreement will only be disposed of at an approved Miami-Dade County Department Solid Waste disposal facility. In the event Contractor desires to dispose of and/or relocate solid waste collected hereunder from a Miami Dade County Solid Waste disposal facility to another facility, it must notify the Authorized Representative, in writing, prior to doing so, and, further, must obtain the prior written approval of the Authorized Representative.

7. RESIDENTIAL SOLID WASTE COLLECTION AND DISPOSAL SERVICES

7.1 Services: Contractor shall provide residential solid waste collection and disposal services to all single family residences and multiple dwelling units within the Collection Area.

In the event the Contractor is unable to provide any collection service(s), as required in this Section 7, it shall leave a written notice, in the form of a "door hanger," on the particular single family residence or multiple dwelling unit, explaining why the service(s) could not be provided.

Contractor shall also, during regular pick-ups, clean swale and median areas within the Collection Area, of all accumulated palm fronds and fallen branches.

As the Contractor's trucks make their service routes throughout the City, the Contractor will notify the Authorized Representative of any suspected illegal dumping.

Residential routing shall be conducted at such times so as to not impact traffic flow on major arteries during peak times.

7.2 [Intentionally Omitted]

7.3 Frequency of Collection: Contractor shall collect solid waste from residences (single family and multiple dwelling units) within the Collection Area at least two (2) days per week, with collections at least three (3) days apart.

Contractor shall collect Regular Yard Trash at curbside on every scheduled garbage pick up day of the week.

7.4 Hours of Collection: Collection hours shall begin no earlier than 7:00 A.M., and shall cease no later than 7:00 P.M.

In the case of an emergency, collection may be permitted outside of the collection hours set forth above, subject to the prior written or verbal approval of the Authorized Representative. Verbal approval must be confirmed by written approval (as soon as practicable thereafter). Should the Contractor not obtain (and, in the case of verbal approval, confirm) the required City approval, it shall be conclusively presumed that such approval has not been given.

7.5 Point of Pick-up: Collection shall be at the residence (backyard or side yard), at ground level, or curbside (but, as to the latter, only if placed there by the customer).

7.6 Receptacle: Contractor shall be required to pick up all solid waste which has been properly containerized (or bundled, as the case may be) and placed for collection as follows: All garbage, trash, and other refuse shall be placed in a garbage can or container or plastic disposal bag, and shall be placed in the backyard, side yard, or at curbside. Household trash shall also be placed in containers. Non-containerized trash shall be collected provided that it does not exceed four (4) feet in length, nor be greater than fifty (50) pounds in weight for any piece or segment of materials; is appropriately tied and bundled; and placed at curbside.

7.7 Routes and Schedules: As part of Contractor's pre-start route familiarization, as required pursuant to subsection 6.1 hereof, the City shall provide Contractor with schedules for all collection routes and schedules within the Collection Area. Thereafter, it shall be Contractor's sole responsibility and obligation to maintain such information current at all times during the Term.

As required in subsection 6.2 hereof, Contractor shall provide customers in the Collection Area with written notice of routes and schedules prior to the Commencement Date, and, thereafter, annually on the anniversary date of the Commencement Date. Contractor shall also be required to provide customers with written notice advising of any schedule and/or route changes, prior to the implementation of same.

Notwithstanding the preceding paragraph, prior to any change in collection routes or schedules, Contractor must obtain the Authorized Representative's prior written approval. Any

and all changes (in routes or schedules) that alter a pick-up day are also subject to the prior written approval of the Authorized Representative.

If approved (and in addition to the required individual notice to customers), Contractor shall publish notice of any changes to routes and schedules, at its sole cost, in a newspaper of general circulation in Miami-Dade County, at least seven (7) days prior to the effective date of any such route or schedule change.

8. YARD TRASH (REGULAR AND BULK) COLLECTION SERVICES

8.1 Services: The Contractor shall collect all Regular Yard Trash and Bulk Yard Trash from single family residences and multiple dwelling units within the Collection Area.

8.2 Frequency of Collection/Point of Pick-Up: The Contractor shall collect Regular Yard Trash on the scheduled pick-up day, but at least two (2) days per week.

Contractor shall pick up all Yard Trash which has been properly prepared and placed for collection as follows:

- a) Regular Yard Trash will be collected two (2) days per week; shall be placed adjacent to the pavement or travel way of the street; in containers or bundles (less than fifty (50) pounds each and with dimension over four (4) feet each; limbs/braches not greater than four (4) inches in diameter).
- b) Bulk Yard Trash will be collected on a scheduled basis, at no additional charge. Such service shall be provided up to four (4) times per year on dates scheduled between the customer and Contractor. In the event of a dispute between Contractor and a customer as to what constitutes Bulk Yard Trash, the dispute will be reviewed and decided by the Authorized Representative, whose decision will be final and binding upon all parties.
- c) The Contractor shall clean swale and median areas adjacent to the Collection Area of all accumulated palm fronds and bulky tree debris.

In the event Contractor is unable to provide any such collection services as required in this Section 8, it shall leave a written notice, in the form of a "door hanger," on the particular single family residence or multiple dwelling unit, explaining why the service(s) could not be provided.

8.3 Within thirty (30) days of the Commencement Date, the Contractor shall establish a public information program that will provide a broad and extensive understanding of the services provided pursuant to this Section 8.

9. BULK WASTE PICK-UP SERVICES

9.1 Services: Contractor shall collect from all single family residences and multiple dwelling units in the Collection Area all household furniture, household trash, remodeling & home repair trash, white goods, and/or other waste which cannot be cut for placement into a can or container or plastic bag, or bundled, due to the material exceeding the weight and size restrictions for regular trash collection (collectively, for purposes of this Section 9, all of the aforesaid shall be referred to as "Bulk Waste").

9.2 Frequency of Collection: The Contractor shall collect Bulk Waste only on dates scheduled by Contractor directly with the customer. Contractor shall have a designated telephone line to allow customers to schedule appointments for Bulk Waste pick-ups.

Notwithstanding the preceding paragraph, Contractor shall collect Bulk Waste a maximum of four (4) times per calendar year, and up to twenty five (25) cubic yards, per pick-up, for each customer. In the event that a customer presents more than 25 cubic yards of Bulk Waste for collection in any scheduled pick-up, it shall be counted as an additional pick-up (for every additional 25 cubic yards of waste material collected), as provided in the preceding paragraph.

In the event that a customer requests more than four (4) Bulk Waste pick-ups during any calendar year, the Contractor shall schedule a special pick-up, and may charge the customer \$20 per cubic yard for this service. Contractor shall charge customers directly. At no time shall the City be responsible for any charge by Contractor to customers for additional Bulk Waste pick-ups.

9.3 Collection Schedule: Contractor shall make the Bulk Waste pick-up within five (5) business days from the date of receipt of an appointment request from the customer. Pick-ups shall be completed on the appointment day; not before or after. Failure on the part of the Contractor to effect a pick-up on the scheduled date shall result in the assessment of a fine against Contractor, as provided in **Exhibit "B"** hereto, unless otherwise excused, in writing, at the sole discretion of the Authorized Representative.

Pick-ups will be scheduled as follows: South Beach on Mondays; Mid-Beach on Tuesdays and Wednesdays; and North Beach on Thursdays and Fridays.

Contractor shall prepare and maintain, in accordance with a format approved by the Authorized Representative, a register of all Bulk Waste pick-ups. The register shall indicate the date and time on which the pick-up request was received; the name and address of the customer requesting the pick-up; the date of the scheduled pick-up; the schedule number assigned to the pick-up; and confirmation of the completion of the pick-up. A copy of Contractor's daily Bulk Waste pick-up register shall be provided (whether by fax or e-mail) to the Authorized Representative at the end of each business day.

In the event of a dispute between Contractor and a customer as to what constitutes Bulk Waste, the dispute will be reviewed and decided by the Authorized Representative, whose decision will be final and binding upon all parties.

10. OPERATION AND MANAGEMENT OF THE CITY'S GREEN WASTE FACILITY

10.1 Location: The City's Green Waste Facility is located at 2800 Meridian Avenue, adjacent to the Miami Beach Golf Course (the "Facility").

10.2 Description of Work: The Contractor shall be responsible for operating and maintaining the Facility, at its sole cost and expense, including, without limitation, providing all necessary manpower and equipment to collect dumping fees and to receive, control, secure, and dispose of all Acceptable Materials (which, for purposes of this Section 10, is defined as only Clean Yard Trash).

10.3 Hours of Operation: The Facility shall be open six (6) days per week, Monday through Saturday, from 7:00 a.m. to 5:00 p.m. The Facility shall be closed on Thanksgiving, Christmas Day, New Years Day, July 4th, and Labor Day. The Contractor will post the preceding days/hours of operation (including days the Facility is closed) in a readily visible place at the entrance of the Facility.

Days/hours of operation shall not otherwise be extended or shortened without the prior written consent of the Authorized Representative. In the event that revised days/hours of operation for the Facility are approved, the Contractor will be responsible for notifying all customers within the Collection Area, in writing, at least two (2) weeks before such revised hours of operation commence.

10.4 Eligible Users: The Facility shall be accessible to residents of the City of Miami Beach, and landscape firms performing work within the city limits of the City of Miami Beach.

10.5 Personnel: At least one (1) designated employee of Contractor shall be on site at all times to oversee the day-to-day operation and maintenance of the Facility. Without limitation, the designated employee's duties shall include collection of dumping fees, and directing traffic to where loads should be dropped, etc.

10.6 Records: The Contractor shall keep records, in such form and manner as shall be mutually agreed upon by Contractor and the Authorized Representative, of all ingoing and outgoing Facility traffic.

10.7 Operations: The Contractor shall containerize all materials delivered to the Facility; shall conduct a neat and orderly operation at all times; and shall be solely responsible for the necessary housekeeping services to properly keep and maintain the Facility, and any equipment and facilities thereon, in good working order and in clean, sanitary, and safe condition.

No signs (other than the entrance sign described herein) shall be placed on the Facility premises unless first approved, in writing, by the Authorized Representative. All signage shall comply with the City's established signage criteria (as same may be amended from time to time).

10.8 The Contractor shall use its best efforts to assure that its operation of the Facility does not interfere with the existing character of the surrounding residential neighborhood.

The Facility shall not be used as a storage for any other equipment or materials other than what is required to operate the Facility.

10.9 Permits: The City has an operating permit from Miami-Dade County, Department of Environmental Resources Management, provided as **Exhibit "C"** hereto. The Contractor shall be responsible for full compliance with all the requirements of the operating permit.

10.10 Fee Schedule: The Contractor shall adhere to the following fee schedule:

Charge to Residents:

Cars (2 or 4 doors)	FREE
Pickups and SUVs	FREE
Van or Trailer	FREE

Charges to Landscape Firms:

Pickups	\$12.00 per cubic yard
Van or Trailer	\$12.00 per cubic yard

10.11 Adjustments: Upon thirty (30) days prior written notice to the City Manager, the fees set forth in subsection 10.10 may be adjusted annually, on the anniversary date of the Commencement Date, according to increases or decreases in the Consumer Price Index, All Urban Areas (CPI-U), but, in the case of an increase, with an annual maximum adjustment not to exceed three percent (3%).

10.12 All disposal shall be in accordance with current City, County, State and Federal laws and regulations.

10.13 Indemnification: Contractor shall indemnify, defend and save the City harmless from and against any and all claims or causes of action (whether groundless or otherwise), damage injury, liability, cost and expense, of whatsoever kind of nature (including, but not by way of limitation, attorney fees and court costs), by or on behalf of any person, firm or corporation, for personal injury (including death) or property damage, or other, occurring on the Facility, or in connection with Contractor's operation, management, maintenance, and/or any other activities on or upon the Facility, occasioned in whole or in part by any of the following:

- a) any act of omission on the part of the Contractor or any of its employees, contractors, agents, invitees, or guests;

- b) any misuse, neglect, or unlawful use of the Facility by the Contractor, or any of its employees, contractors, agents, invitees, or guests; and
- c) any breach, violation, or non-performance of any undertaking by the Contractor, or any of its employees, contractors, or agents, invitees, or guests under this Agreement.

Contractor further agrees to pay and for all damage to the Facility caused by the Contractor or any employees, contractors, agents, guests or invitees.

Contractor shall have no obligation to indemnify, defend and hold harmless the City from claims or causes of action, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorney fees and court costs) arising out of injury to persons (including death), damage to property, or environmental contamination related to operation of the Facility prior to the Commencement Date.

The provisions of this Section 10.13 shall survive the termination and/or expiration of this Agreement.

11. OTHER SERVICES

11.1 Neighborhood Pride Weekend: On the first weekend of every month during the Term, the Contractor will place four (4), twenty (20) yard roll off containers at such location or locations in the City, as designated by the Authorized Representative. These containers shall be provided for residents to bring Bulk Waste to the container placement locations for free disposal. Containers must be delivered prior to 9:00 a.m. on Saturday, and picked up prior to 9:00 a.m. on Monday. The Contractor will partner with the City to advertise the Neighborhood Pride Weekends. There will be no additional cost to the City for this service.

11.2 Promotional Material: Within sixty (60) days from the Commencement Date, the Contractor will provide corporate literature and promotional materials to assist the City with its anti-litter program.

11.3 Public Advertisements: As directed by the City Manager, the Contractor will, at its sole cost and expense, place City-approved, public advertisements on its collection trucks. Contractor shall (also at its sole cost and expense) replace any such public advertisements with new ones, every six (6) months during the Term.

11.4 Educational Contribution: Within thirty (30) days of the Commencement Date, and thereafter in each year of the Term (on the anniversary of the Commencement Date), the Contractor shall remit a \$15,000 cash contribution to the City, to be used by the City for expenses associated with the City's support of the International Baccalaureate Program.

11.5 Citywide Litter Cans: The Contractor will provide funding, in the amount of \$20,000, for the City to purchase litter cans as follows:

\$10,400 by December 1, 2010;
\$4,800 by December 1, 2011; and

\$4,800 by December 1, 2012.

11.6 Sustainability and Green Initiatives: Contractor hereby agrees and acknowledges that the City's consideration of, and reliance upon, Contractor's proposed Sustainability and Green Initiatives, as attached and incorporated as Exhibit "E" hereto, was an important consideration and incentive to City in the award and execution of this Agreement. Accordingly, commencing on the Commencement Date and, thereafter, throughout the Term of this Agreement, Contractor hereby covenants and agrees that it shall implement and provide the Sustainability and Green Initiatives set forth in Exhibit "E" including, in particular, those initiatives and measures set forth in Section II of Exhibit "E," which delineate the "Miami Beach Specific Green Initiatives and Measures," and which Contractor herein represents to City "... are specifically for the City of Miami Beach, not initiatives done in other parts of the State or Nation. These measures will directly affect the quality of life for the residents of Miami Beach. They are sustainable and attainable goals which Choice Environmental can track and report firm results from these efforts." (See Exhibit "E," Section II, paragraph 1).

12. QUALITY OF SERVICES.

12.1 Contractor's Representative: Prior to the Commencement Date, Contractor shall assign a qualified person, who shall be subject to the prior written approval of the City Manager, such approval not to be unreasonably withheld, to serve as Contractor's representative under this Agreement (Contractor's Representative).

Contractor's Representative shall be authorized and responsible to act on behalf of Contractor with respect to directing, coordinating, and administering all aspects of the Services and of Contractor's obligations under this Agreement. Replacement (including re-assignment) of an approved Contractor's Representative shall not be made without the prior written consent of the City Manager.

Notwithstanding the preceding, Contractor also agrees, upon fifteen (15) days of receipt of notice from the City Manager (which notice shall state the cause therefore), to promptly remove and replace a Contractor's Representative. Any replacement shall also be subject to the prior written approval of the City Manager, which approval shall not be unreasonably withheld.

In addition to Contractor's Representative, Contractor's supervisory personnel shall also be available for consultation with the City Manager or Authorized Representative, upon reasonable notice.

Contractor's Representative and supervisor(s) shall operate vehicles which are radio equipped.

12.2 Customer Service Representative: Contractor shall specifically assign a primary and an alternate person (Customer Service Representative) to handle customer service issues under this Agreement including, without limitation, ensuring the prompt and satisfactory resolution of customer complaints; handling customer inquiries and requests for information; and any other

customer service related issues that may arise during the course of providing the Services contemplated in this Agreement.

The Customer Service Representative shall also be responsible for faxing (or e-mailing) the Bulk Waste pick-up and Customer Complaint registers to the Authorized Representative.

All complaints received by the City will also be forwarded to the designated Customer Service Representative.

12.3 Conduct of Employees: Contractor shall keep a record of all employees' names, numbers, and route assignments, so as to readily allow identification of employees at all times. Contractor shall provide its list of current employees to the Authorized Representative, within twenty-four (24) hours of a written request for same.

Contractor shall select, train and employ such number of employees as is necessary or appropriate for Contractor to satisfy its responsibilities hereunder, and as required to perform the Services in accordance with the first class standards contemplated under this Agreement. Contractor shall recruit employees consistent with standards employed by comparable first class operations. Contractor shall have authority to hire, terminate and discipline any and all personnel employed by Contractor.

Contractor shall ensure that its collection employees serve the customers within the Collection Area, and the general public, in a courteous, helpful, and impartial manner. Contractor's collection employees will be required to follow and keep to the regular walkways (or other pedestrian paths) while on private property. No trespassing by employees will be permitted, nor will crossing properties of neighboring premises (unless the occupant of both such properties shall have given Contractor prior written permission). Care shall be taken to prevent damage to private **and** public property within the Collection Area (including, without limitation, cans and containers, carts, racks, structures, fences, gates, trees and landscaping, etc).

12.4 Employee Uniform Regulations: Contractor's collection employees shall wear a uniform or shirt bearing the company's name. Contractor shall furnish to each employee an identifying badge, with uniform type, not less than two and one-half (2 ½) inches in diameter, with numbers and letters at least one (1) inch high. All employees shall be required to wear such badges while on duty. Lettering stitched on, or identifying patches permanently attached to, uniform shirts and jackets is also acceptable.

12.5 Vehicle Operator License: Each vehicle operator shall, at all times, carry a valid driver's license for the type of vehicle that is being driven.

12.6 Safety Training: Contractor shall provide operating and safety training for all personnel so as to ensure that the Services at all times are provided in accordance with the highest standards for safety and caution.

12.7 Residency: Contractor shall make reasonable efforts to, whenever practical in its hiring policies, employ personnel from among residents of the City of Miami Beach.

12.8 Non-Discrimination Contractor agrees that there shall be no discrimination as to race, sex, sexual orientation, color, creed, national origin, familial status, religion or handicap, in its employment practice or in the operations referred to by this Agreement. All facilities and services offered shall be made available to the public.

12.9 Compliance with Federal, State, County, and Municipal Law: Contractor shall comply with all applicable Federal, State, County and City laws, ordinances, rules and regulations including, without limitation, those relating to employment, protection of the environment, and safety; whether now or hereafter in effect.

12.10 City of Miami Beach Living Wage Ordinance Requirements:

This Agreement is subject to, and Contractor shall be required to comply with, the provisions of the City's Living Wage requirements, as codified in Sections 2-407 through 2-410 of the City Code (as same may be amended from time to time).

CONTRACTOR, BY ITS EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES AND AGREES TO BE BOUND BY THE PROVISIONS OF THE CITY'S LIVING WAGE ORDINANCE, AS SAME MAY BE AMENDED FROM TIME TO TIME.

12.11 City of Miami Beach Equal Benefits Ordinance Requirements:

Contractor, by its execution of this Agreement, acknowledges that it is required to comply with all applicable provisions of City Ordinance No. 2005-3494, as same may be amended from time to time, which requires Contractor to provide equal benefits for domestic partners (the Ordinance). This Ordinance applies to all employees of Contractor who work within the City limits of the City of Miami Beach, Florida, and the Contractor's employees located in the United States, but outside of the City of Miami Beach limits, which are directly performing work on a contract within the City of Miami Beach.

CONTRACTOR, BY ITS EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES AND AGREES TO BE BOUND BY THE PROVISIONS OF THE ORDINANCE, AS SAME MAY BE AMENDED FROM TIME TO TIME.

13. CONTRACTOR'S OFFICE

13.1 General Conditions: Contractor shall provide and maintain throughout the Term, at its sole cost and expense, a suitable office located within Miami-Dade County, with adequate staff, to include, at a minimum, Contractor's Representative and the Customer Service Representative, and telephone service (including a telephone number dedicated solely for handling and disposition of Miami Beach customer service issues including, but not limited to, incoming complaints, requests for information, etc). The office shall be the main office for Contractor's Representative and the Customer Service Representative, and shall be open between 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding nationally recognized holidays. Between the

hours of 5:00 P.M. and 8:00 A.M., Monday through Friday, all day on Saturday and Sunday, and on nationally recognized holidays, Contractor shall provide and maintain voice-mail, answering machine, or answering service to receive all incoming calls and complaints. All calls received by voice-mail, answering machine, or service shall be responded to on the following working day.

14. PAYMENT AND BILLING

14.1 Compensation: In consideration of the Services to be provided by Contractor pursuant to this Agreement the City shall pay Contractor, the sum of **\$23.99**, per unit (the Unit Price). The Unit Price is inclusive of all costs for the Services to be provided herein, except where the Agreement expressly provides for the payment of additional fees. Contractor further acknowledges and agrees that the payment of any such additional fees are subject to the prior written authorization and approval of the City Manager.

14.2 Billing Procedures: Contractor shall submit an invoice by the 10th of each month for work/services rendered during the preceding month. Payments will be made to Contractor on or before the 20th day of each calendar month upon verification of the invoice submitted.

Invoices shall be submitted to: City of Miami Beach, Florida
Sanitation Division
140 MacArthur Causeway
Miami Beach, Florida 33139
Attn: Alberto Zamora, Director of Sanitation

On the first day of each month, payment(s) may be adjusted to correspond with the occupancy of existing or new buildings, and the demolition of old buildings. The adjustment shall be for buildings either occupied or demolished during the second month preceding the adjustment (For example, any adjustment which is made on June 1 of a contract year would be for buildings occupied or demolished in April of the subject year). Any existing unit shall be considered unoccupied whenever the City has temporarily terminated water service, at the customer's request. Any new unit shall be considered to be occupied when a Certificate of Occupancy (CO) has been issued by the City, and water service has been provided to the occupant(s). Demolition permits issued by the City's Building Department shall be proof of demolition. The City will notify the Contractor of any existing unit that is considered unoccupied and of any new unit that is considered to be occupied.

14.3 Adjustments in Disposal Costs: The parties acknowledge that the Unit Price is calculated, in part, by taking into consideration the Miami-Dade County tipping fee, in effect as of the Commencement Date. However, it is recognized that, from time to time during the Term, the disposal cost (tipping fee) may change. In the event of such change in the tipping fee, the Contractor may make a request, in writing (accompanied by any substantiating documentation), to the City Manager for an increase in the Unit Price (due to an increase in the tipping fee). The City Manager shall consider the request; may request any additional information as he/she deems necessary; and shall forward his recommendation to the City Commission. Any increase in the Unit Price requested pursuant to this Section 14.3 shall be subject to the prior approval of the

City Commission which approval, if given at all, shall be at the Commission's discretion, but shall not be unreasonably withheld. Any increase granted by the City Commission pursuant to this subsection, at maximum, shall only be in proportion to the actual increase in the tipping fee.

Notwithstanding the preceding, decreases in disposal costs shall entitle the City to receive an automatic decrease in the Unit Price (in proportion to the actual decrease in the fee).

14.4 Unusual Changes or Costs: Contractor may request a rate adjustment, by written request (with supporting documentation) to the City Manager, on the basis of unusual changes in its cost of doing business; change in laws; or changes in location of disposal sites. The City Manager shall then submit the request (and his/her recommendation) to the City Commission for its consideration and approval, which approval, if given at all, shall be at the Commission's sole discretion, but shall not be unreasonably withheld.

Notwithstanding the preceding, any changes or any other conditions which occur that reduce Contractor's costs shall entitle the City to receive an automatic Unit Price decrease (in proportion to the decrease in Contractor's costs).

14.5 Penalties: Any monetary penalties, as listed in Exhibit "B," attached hereto and incorporated herein, assessed against Contractor shall be deducted from the monthly billing to the Contractor (without liability to the City).

15. CONSUMER PRICE INDEX

15.1 Consumer Price Index. All Urban Areas (CPI-U): On September 1, 2013, and on September 1st of each subsequent contract year during the Term, the compensation paid by the City to the Contractor pursuant to this Agreement shall be adjusted, upwards or downwards, as the case may be, according to increases or decreases in the Consumer Price Index, All Urban Areas (CPI-U), for the 12-month average on which the adjustment shall take place, with an annual maximum adjustment not to exceed three percent (3%).

Notwithstanding the preceding, or any other term or condition of this Agreement, there shall be no increase in Contractor's compensation for the period from the Commencement Date, through August 31, 2013.

16. CONTRACTOR'S PERFORMANCE

16.1 Agreement Administration: If at any time during the Term, Contractor's performance of the Services is deemed unsatisfactory, in the reasonable judgment and discretion of the City Manager, Contractor shall immediately take any and all such actions, as may be reasonably required by the City Manager, to satisfactorily correct any such deficiency(ies); including, without limitation, increasing its workforce and equipment, or take such other actions as necessary so that Contractor is able to perform (or continue to perform) the Services in accordance with the first-class standards contemplated in this Agreement.

If the Contractor neglects or fails to correct any deficiency(ies), and/or immediately restore performance to a satisfactory level, the City Manager may, at his/her sole discretion, and after giving Contractor three (3) business days written notice, take such additional steps as he/she deems necessary including, without limitation, undertaking performance, to correct such deficiency. This shall be without prejudice to any other remedy City may have. In the case of bona fide emergencies, as determined by the City Manager in his/her sole and reasonable discretion, involving public health or public safety or to protect against loss or damage or to prevent or minimize serious disruption of the Services, the City may cause such work and/or services as is necessary to be performed without prior notice to Contractor.

The City, at its discretion, may draw down from the Bond or may deduct from the compensation to be made to Contractor, the amount of any and all costs incurred in correcting deficiencies made necessary by such neglect or failure. If the amount of the Bond, or if such payments to be made to Contractor are not sufficient to cover such amount, the Contractor shall be liable in such amount to the City.

Notwithstanding the preceding, the failure of the City Manager to give such notification(s) shall not relieve nor excuse Contractor of its obligation to perform any work and/or services required by this Agreement, in accordance with the first-class standards contemplated herein.

16.2 Agreement Information: Upon reasonable notice from the City Manager or Authorized Representative, Contractor shall furnish any and all information and/or supporting documentation to ascertain whether or not the Services are being performed, in accordance with the requirements of this Agreement, and in accordance with the first class standards contemplated herein.

16.3 Inspections: The City Manager may appoint such person or persons, as the City Manager may deem qualified, in his/her sole judgment and discretion, to inspect Contractor's operations, including its workforce and equipment, at any time during the Term, upon reasonable notice to Contractor.

16.4 Access: The City Manager, and/or his/her authorized representatives, shall, during all reasonable times, and upon reasonable notice, be permitted free and open access to Contractor's facilities (including the Facility), workforce, and equipment, for the purpose of inspecting Contractor's performance of the Services.

16.5 Representative: Contractor shall cooperate with authorized representatives of the City in every way in order to facilitate any City inspections related to Contractor's facilities, equipment, workforce, and/or to the quality, performance and progress of the Services. Contractor shall at all times have a competent and reliable, English speaking representative on duty, who is authorized to receive orders and to act for Contractor on any operational matters related to this Agreement.

16.6 Records and Audits: Contractor shall keep full and accurate accounting records relating to the Services, in accordance with generally accepted accounting principles. Contractor shall

maintain a system of bookkeeping adequate for its operations hereunder. Contractor shall give the City Manager and/or his/her authorized representatives access to such books and records, during reasonable business hours and upon reasonable advance notice. Contractor shall keep and preserve the aforesaid records for at least three (3) years following each contract year during the Term herein, or for as long as such records are required to be retained pursuant to Florida Public Records Law (whichever is longer). In addition and notwithstanding the preceding, the City Manager shall have the right, at any time (and from time to time), to cause nationally recognized independent auditors to audit all of the books of Contractor relating to the Services. The City shall be responsible for the costs incurred by it in conducting such audit.

16.7 Failure to Enforce: The failure of the City at any time to require performance by Contractor of any provision(s) hereof shall in no way affect the right of the City thereafter to enforce same, nor shall such failure be construed as a waiver by the City of the breach of any provision(s) herein; or held to be a waiver of any breach of such provision(s), or as a waiver of the provision(s) itself.

17. [Intentionally Omitted]

18. COMPLAINTS AND COMPLAINT RESOLUTION

18.1 Complaints: Contractor shall prepare and maintain, in accordance with a format approved by the Authorized Representative, a register of all customer (or City) complaints, which shall, at a minimum, indicate the date and time when the complaint was received, and how and when it was resolved. Such records shall be available for City inspection at all times during reasonable hours and upon reasonable notice.

At a minimum, Contractor shall adhere to the following schedule in the handling/resolution of complaints:

- a) any complaints received by the Contractor before 12:00 noon shall be resolved before 4:00 p.m. of the same day;
- b) complaints received after 12:00 noon, but before 12:00 midnight, shall be resolved before 12:00 noon of the following day;
- c) complaints received after 12:00 midnight, but before 8:00 a.m, shall be resolved before 12:00 noon of the same day; and
- d) complaints received after 12:00 noon on the day preceding a holiday, or on a Saturday or Sunday; shall be resolved no later than the next working day.

A daily listing of all complaints filed, and of their disposition, shall be provided to the Authorized Representative at the end of each business day (by fax or e-mail). Legitimacy of challenged complaints shall be determined on the basis of a joint inspection by the Authorized Representative and a representative of the Contractor. Disputes shall be referred to the City Manager, whose decision shall be final and binding on all parties.

The City's auditors may communicate directly with customers, for the purpose of confirming Contractor's compliance with complaint handling/resolution.

18.2 Disputes about Collection of Certain Items: It is recognized that disputes may arise between the City and Contractor, and between Contractor and customers, with regard to the collection of certain waste (disputed waste). The City Manager or Authorized Representative may, from time to time, require Contractor to remove any such disputed waste; irrespective of a pending or actual dispute with regard to whether or not the type of disputed waste which is being requested for removal is within the scope of this Agreement. Should the Contractor fail to remove disputed waste within twenty-four (24) hours from receipt of notification by the City, the City, at its sole option, but not its obligation, may do so, and all costs incurred by the City shall be deducted from the monthly compensation due the Contractor.

18.3 Penalties: Contractor acknowledges that it is the intent of the City to ensure that the Contractor provide the highest quality level of service pursuant to this Agreement. To further ensure Contractor's continuous performance of the Services in accordance with the first-class standards contemplated under this Agreement, Contractor shall use its best efforts to handle and resolve complaints, in a prompt and efficient manner, and to the reasonable satisfaction of the City Manager and the Authorized Representative.

Failure to resolve any and all complaints may result in Contractor being assessed monetary penalties in Exhibit "B" hereto. Any monetary penalties assessed to Contractor (pursuant to Exhibit "B") shall be deducted from the monthly compensation due to Contractor (without liability to the City).

19. [Intentionally Omitted]

20. PERFORMANCE BOND

20.1 Amount of Bond: Contractor shall, upon execution of this Agreement but in any event prior to the Commencement Date, furnish to the City a Performance Bond (the Bond), in the penal sum as stated below, for the payment of which Contractor shall bind itself for the faithful performance of the terms and conditions of this Agreement:

The amount of the Bond will be fifty percent (50%) of the annual compensation to be paid to Contractor, as calculated in Contractor's response to RFP No. 60-08/09.

The Bond shall be maintained in full force and effect throughout the Term.

20.2 City's Rights: The City may "draw down" upon all or any portion of the Bond in the event that Contractor fails to comply with its obligations under the Agreement. Contractor shall pay for any/all outside legal fees that may be incurred by the City in prevailing in any action to collect on the Bond. If payment of any amount claimed against the Bond is not received within thirty (30) days of submission of a claim, the Contractor shall also be responsible for interest, at the greater of the statutory rate in Florida or the prime rate, to be paid on the amount claimed

against the Bond. In the event the City “draws down” against all or any portion of the Bond at any time during the Term, Contractor shall immediately replenish the amount so drawn, so that the Bond is maintained in the full required amount at all times during the Term of this Agreement.

20.3 Form of Bond: The form of the Performance Bond is subject to approval by the City’s Chief Financial Officer, which approval shall not be unreasonably withheld.

20.4 Qualified of Surety: The Performance Bond must be executed by a Surety Company of recognized standing, authorized to do business in the State of Florida and having a resident agent in Miami–Dade County. The Surety Company shall hold a current Certificate of Authority as acceptable surety on Federal Bonds, in accordance with U.S. Department of Treasury Circular 570, in Current Revision.

21. INSURANCE AND INDEMINIFICATION

21.1 Insurance: At all times during the Term, Contractor shall comply with (and, in the case of insurance coverage, maintain in full force and effect) the insurance provisions set forth in RFP No. 48-03/04; and attached and incorporated as **Exhibit “D”** hereto.

All insurance provided for in this subsection 21.1 and Exhibit “C” hereto shall be in such form and shall be issued by such responsible insurance companies licensed to do business in the State of Florida with companies having a rating of B+:VI or better in Best’s Insurance Guide, as published by A.M. Best and Company. Upon execution of this Agreement and, thereafter, not less than thirty (30) days prior to the expiration dates of the policies required pursuant to subsection 21.1 and Exhibit “C,” originals of the policies or certificates, or renewal certificates, as the case may be, bearing notations evidencing the payment of premiums or accompanied by other evidence reasonably satisfactory to the City of such payment, shall be delivered by Contractor to the City’s Risk Manager at 1700 Convention Center Drive, Third Floor, Miami Beach, Florida 33139.

Each policy of insurance required to be carried pursuant to subsection 21.1 and Exhibit “C” hereto shall contain (i) a provision covering the indemnification obligations in subsection 21.2 hereof; (ii) a provision that no act or omission of City or Contractor shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained; (iii) an agreement by the insurer that such policy shall not be cancelled, modified or denied renewal without at least thirty (30) days prior written notice to the City Manager (with copies to the City’s Risk Manager at the address provided in this subsection); (iv) a waiver of subrogation by the insurer; and (v) deductibles which do not exceed deductions for similar operations/work/services. All insurance procured by Contractor in accordance with the requirements of this subsection 21.1 and Exhibit “C” shall be primary over any insurance carried by the City and not require contribution by the City. In addition, if Contractor enters into any agreements during the Term herein with any subcontractors and/or independent contractors for the provision of any work and/or services hereunder, Contractor shall require such contractors to name the City as an additional insured under any insurance required by Contractor thereunder, and to deliver to the City’s Risk

Manager, prior to performance of such work and/or services, a certificate evidencing the existence thereof.

21.2 Indemnification:

21.2.1 In consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Contractor shall indemnify, hold harmless and defend the City, its officers, employees, contractors, agents or servants, from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission, or negligent act of Contractor, its officers, employees, contractors, agents or servants, in connection with its operations and/or the performance of the Services contemplated under this Agreement.

21.2.2 In addition, and in consideration of a separate and specific consideration of Ten (\$10.00) Dollars and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Contractor shall indemnify, hold harmless and defend the City, its officers, employees, contractors, agents or servants, from and against any claim, demand or cause of action of whatever kind or nature arising out of any misconduct of Contractor, its officers, employees, contractors, agents or servants, not included in subsection 21.2.1 herein and for which the City, its officers, employees, contractors, agents or servants are alleged to be liable.

21.2.3 The indemnifications in subsections 21.2.1 and 21.2.2 shall not be limited in any way by the type or amount of insurance carried by the Contractor.

21.2.4 Subsections 21.2.1, 21.2.2, and 21.2.3 shall survive the termination or expiration of this Agreement. Subsections 21.2.1 and 21.2.2 shall not apply, however, to any such liability, that arises as a result of the willful misconduct or gross negligence of the City, its officers, employees, contractors, agents or servants.

22. DAMAGE TO OR DESTRUCTION OF EQUIPMENT

If any of Contractor's equipment is damaged, destroyed, or stolen by an event which is covered by Contractor's insurance, Contractor must utilize the insurance proceeds to immediately repair or replace the equipment with similar equipment of at least equal (or, where possible, better) quality. If the insurance proceeds are insufficient, or the equipment has been damaged or destroyed by an uninsured casualty, Contractor shall be solely responsible for providing the additional funds, as needed to immediately repair or replace the equipment in accordance with the standard required by this Section 22.

23. EVENTS OF DEFAULT BY CONTRACTOR

Each of the following events or conditions shall constitute an even of default by Contractor:

- a) any failure by Contractor to perform or comply with the terms and conditions of this Agreement, and said failure continues for fifteen (15) days after written notice to Contractor demanding that such failure be cured;

- b) filing by or against Contractor (or the Performance Bond Surety) of a bankruptcy, receivership, assignment for the benefit of creditors, liquidation, dissolution, composition or reorganization petition, or other insolvency proceeding;
- c) if any work or services required under the Agreement shall be vacated or abandoned by Contractor during the Term for a consecutive period of seven (7) days or more;
- d) any representation or warranty furnished by Contractor under this Agreement is found to be false or misleading in any material respect when made;
- e) failure to comply with the complaint handling/resolution procedures set forth in Section 18 hereof ;
- f) in excess of twenty (20) complaints in any calendar month during the Term; and
- g) not resolving complaints of missed service (within twenty four (24) hours) in excess of five (5) times in any calendar month during the Term.

24. REMEDIES UPON DEFAULT BY CONTRACTOR

24.1 In the event of default by Contractor, the City may, through the City Manager and without election of remedies:

- a) immediately terminate the Agreement (without any legal action required) by delivery of a written notice to Contractor, in which use, the termination shall become effective as of the date set forth in the City's notice. Contractor shall, at its sole cost, remove any and all personnel and equipment from the Collection Area, and relinquish the Facility, and the City may immediately contract with another firm or firms to provide the work/services contemplated hereunder to the City;
- b) withhold all or any part of Contractor's compensation hereunder;
- c) seek recovery on the Performance Bond; and/or
- c) exercise any and all remedies available, at law or in equity, including bringing an action or actions against Contractor for recovery of amounts due and owing to the City, and/or for damages (which shall include all costs and expenses reasonably incurred by the City in exercise of its remedy), and/or for specific performance, injunctive relief or any other appropriate equitable remedy.

If City considers it to be in its best interests, it may elect not to declare default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of City and that if City permits Contractor to continue to perform the Services (or any portion thereof) despite one or more events of default, Contractor shall in no way be relieved of any of

its responsibilities, duties, or obligations under this Agreement, nor shall the City waive or relinquish any or its rights.

The remedies available to the City under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or omission by the City to exercise any right or power accruing upon an event of default by Contractor shall impair such right to power, nor shall it be construed as a waiver of any event of default or acquiescence therein, and every such right and power may be exercised by the City from time to time and as often as may be deemed appropriate and/or expedient.

24.2 Right to Offset: Any additional costs incurred by the City in the event of termination of this Agreement for default, or otherwise resulting from Contractor's performance or non-performance under this Agreement, including (without limitation) the exercise by the City of any of the remedies available to it under subsection 24.1 hereof, and any credits due to or overpayments made by the City, may be offset by use of any payment due for the Services completed before the termination for default or before the exercise of any remedies. If such amount offset is insufficient to cover such excess costs, the Contractor shall be liable for and promptly remit to City the difference upon written demand therefore. This right to offset is in addition to and not a limitation of any other remedies available to City.

25. TERMINATION FOR CONVENIENCE BY THE CITY

The City Commission, in addition to the City's rights and options to terminate set forth in Section 24 hereof, or any other provisions set forth in this Agreement, retains the right to terminate this Agreement at its sole option, at any time, for convenience, without cause and without penalty, when in its sole discretion it deems such termination is in the best interest of the City. Said termination for convenience shall become effective thirty (30) days following receipt by Contractor of the written termination notice. In that event, the City shall only be required to compensate Contractor for all work/services satisfactorily performed by Contractor up to the termination date, and such payment shall be the total extent of the City's liability to Contractor under the Agreement.

26. VENUE

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The exclusive venue for any litigation arising out of this Agreement shall be in Miami-Dade County, Florida, if in state court, and the U.S. District Court, Southern District of Florida, if in federal court. BY ENTERING INTO THIS AGREEMENT, CITY AND CONTRACTOR, EXPRESSLY WAIVE ANY RIGHTS IETHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITGATION RELATED TO, OR ARISIN OUT OF, THIS AGREEMENT.

27. LIMITATION OF LIABILITY

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's maximum liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds a maximum of one hundred thousand (\$100,000.00) dollars. Contractor hereby expresses its willingness to enter into this Agreement with recovery from the City for any damage action for breach of Agreement to be its actual damages but in not event to exceed a maximum one hundred thousand (\$100,000.00) dollars. Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to Contractor for damages in an amount in excess of one hundred thousand (\$100,000.00) dollars pursuant to this Agreement, for any action or claim for breach of Agreement arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this subparagraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Florida Statutes, Section 768.28.

28. REPRESENTATION AND WARRANTIES OF CONTRACTOR

Contractor warrants and represents to the City, as an inducement to City to execute this Agreement, which representation and warranties shall survive this Agreement, that:

- a) That it is authorized to do business in the State of Florida and is properly licensed by, and has all necessary permits from, all necessary and required governmental and public and quasi-public authorities having jurisdiction over it and over the Services;
- b) Its execution, delivery, and performance of this Agreement has been duly authorized by, or is in accordance with, its organic instruments; this Agreement has been duly executed and delivered for it by the signatories so authorized; and it constitutes its legal, valid and binding obligations;
- c) Its execution, delivery, and performance of this Agreement will not result in a breach of, violation of, or constitute a default under, any agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected;
- d) It has not received any notice, nor to the best of its knowledge is there pending or threatened any notice, or any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially, adversely affect its ability to perform hereunder; and
- e) It has, or will have under its control on the Commencement Date, all equipment, machinery, manpower, as necessary and required to perform its obligations under this Agreement, and has sufficient experience and competence to do so;
- f) It is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to perform its obligations under this Agreement;

g) It and each of its employees, agents, and subcontractors of any tier is competent to perform its obligations under this Agreement; and

h) Its duly authorized representative has visited the Collection Area, familiarized itself with the local conditions under which the Services are to be performed, and correlated its observations with the required work and services under this Agreement.

29. GOVERNING LAW

This Agreement and the construction and enforceability thereof shall be interpreted under the laws of the State of Florida.

30. COMPLIANCE WITH APPLICABLE LAWS

Contractor shall perform its obligations hereunder in compliance with any and all applicable Federal, State, and local (City and County) laws, rules, regulations and codes; in accordance with sound engineering and safety practices; and in compliance with any and all administrative rules, regulations, and policies of the City relative to the Services. Prior to the Commencement Date, Contractor shall be solely responsible for obtaining any and all licenses, permits, approvals, and authorizations as may be required to perform its obligations hereunder, and shall thereafter be required to maintain same in full force and effect and in good standing, at all times throughout the Term. Except where expressly required by applicable laws and regulations, the City shall not be responsible for monitoring Contractor's compliance with any laws or regulations. When the Contractor observes conflicting regulatory requirements, it shall notify the City Manager, in writing, immediately. If the Contractor performs any of the work or services required by the Agreement knowing, or having reason to know, that such work and/or services are in violation of such laws, rules and/or regulations, Contractor shall be solely responsible for all costs arising directly therefrom.

31. TAXES, LIENS AND FEES

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

32. NOTICES AND CHANGES OF ADDRESSES

All "Notices" to be given by either party to the other shall be in writing and must be either delivered or mailed by registered or certified mail, return receipt requested, addresses as follows:

To City: CITY OF MIAMI BEACH, FLORIDA
OFFICE OF THE CITY MANAGER
1700 CONVENTION CENTER DRIVE, 4th FLOOR
MIAMI BEACH, FLORIDA 33139

With copies to: CITY OF MIAMI BEACH, FLORIDA
PUBLIC WORKS DIRECTOR
PUBLIC WORKS DEPARTMENT
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA 33139
ATTN: FRED H. BECKMANN, P.E.

and

DIRECTOR OF SANITATION
CITY OF MIAMI BEACH, FLORIDA
SANITATION DIVISION
140 MACARTHUR CAUSEWAY
MIAMI BEACH, FLORIDA 33139
ATTN: ALBERTO ZAMORA, DIRECTOR OF SANITATION

To Contractor: CHOICE ENVIRONMENTAL SERVICES OF MIAMI, INC.
13300 NW 38TH COURT,
OPA LOCKA, FL 33054
ATTN: NEAL W. RODRIGUE, PRESIDENT

Or such other addresses as either party may hereinafter designated by a Notice to the other. Notices are deemed delivered or given and become effective upon mailing if mailed as aforesaid and upon actual receipt if otherwise delivered.

33. NO WAIVER

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

34. SEVERABILITY

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

35. ASSIGNMENT/SUBCONTRACTING

The selection of Contractor as the service provider under this Agreement is based upon its experience, capability and financial ability to perform the work. Contractor shall not assign, delegate or subcontract any of the rights or obligations under this Agreement without the prior written consent of the City Commission, which consent shall not be unreasonably withheld.

36. BINDING UPON SUCCESSORS AND ASSIGNS; NO THIRD-PARTY BENEFICIARIES.

36.1 This Agreement and the rights and obligations set forth herein shall inure to the benefit of, and be binding upon, the parties hereto and each of their respective successors and permitted assigns.

36.2 This Agreement shall not be construed as giving any person, other than the parties hereto and their successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any of the provisions herein contained, this Agreement and all provisions and conditions hereof being intended to be, and being, for the sole and exclusive benefit of such parties and their successors and permitted assigns and for the benefit of no other person or entity.

37. RFP AND AGREEMENT INCORPORATED BY REFERENCE

The Proposal Documents are hereby incorporated by reference into this Agreement. In construing the rights and obligations between the parties, the order of priority in case of conflict between the documents shall be as follows:

- This Agreement, together with any exhibits and amendments thereto
- RFP No. 60-08/09, together with and exhibits and amendments thereto.
- Contractor's proposal in response to RFP NO. 60-08/09, together with any exhibits and amendments thereto.

38. FURTHER DOCUMENTS

The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Agreement.

39. INDEPENDENT PARTIES

Nothing contained in this Agreement is intended or shall be construed in any way to create or establish the relationship of partners or a joint venture between the City and Contractor. None of the officers, agents or employees of Contractor shall be or be deemed to be employees of the City for any purpose whatsoever. Contractor shall be solely responsible for the acts or omissions of its officers, employees, contractors, and agents. No person performing any of the work or services described hereunder shall be considered an officer, servant or employee of the City, nor shall any such person be entitled to any benefits available or granted to employees of the City.

40. TIME OF THE ESSENCE.

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

41. FORCE MAJEURE.

The performance of any act by the City or Contractor hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts, or any other cause beyond the reasonable control of the parties; provided, however, that if the hindrance of prevention of performance exceeds a period of thirty (30) days, the City may, through the City Manager, and at his/her sole option and discretion, terminate, or renegotiate the terms of, this Agreement without liability to the City.

42. ENTIRE AGREEMENT

This Agreement, when executed, together with all exhibits attached hereto, shall constitute the entire agreement between both parties. This Agreement may not be amended, modified or terminated except in writing signed by the parties hereto and, where required, as approved by the City Commission.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

FOR CITY:

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By:

Robert Sanchez
City Clerk

Mattie H. Brewer
Mayor

FOR CONTRACTOR:

CHOICE ENVIRONMENTAL SERVICES OF MIAMI, INC.

ATTEST:

By:

Neal W. Rodriguez
Secretary

Neal W. Rodriguez
President

NEAL W. RODRIGUEZ
Print Name / Title

Corporate Seal

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

[Signature] 7/19/00
City Attorney Date

EXHIBIT "A" – EMERGENCY SERVICE RATES

Labor Position or Equipment Type	Hourly Rate
Rearload Packer Truck w/ 3 man crew	\$275.00
210 Prentice Loader or equivalent	\$165.00
Self Loading Prentice Truck 25-40 yard dump body or equivalent	\$165.00
Wheel Loader – 2 ½ to 3 cu. Yd.	\$135.00
Tandem Dump Truck	\$95.00
Roll-off Truck with container	\$95.00
Tractor Trailer type Dump Truck 60-80 Yards	\$155.00
Skid Steer Loading Bobcat or Equivalent	\$135.00
D6 Dozer or equivalent	\$135.00
Cat 330 Excavator with debris loading grapple or equivalent	\$155.00
950 Wheel Loader or equivalent	\$135.00
Chainsaw Operator with gear	\$50.00
Supervisor with pick truck	\$60.00
Safety Manager with pickup truck	\$60.00
Mechanic's truck with tools	\$65.00
Flagmen for traffic control	\$30.00
12-foot Morbark Tub Grinder or equivalent	\$420.00
13-foot Morbark Tub Grinder or equivalent	\$470.00
Trash Transfer Trailers 110 yard with Tractor	\$130.00
Mechanic's truck with tools	\$145.00
Clerical	\$37.50
Mobilization & Demobilization	A Pass Thru

Notes:

1. Equipment includes operator, but not disposal fees
2. Above rates were FEMA approved in past storms

EXHIBIT "B" – FINE SCHEDULE

It is the intent of the City to ensure that the Contractor provides a quality of level of service, in accordance with the first-class standards contemplated under this Agreement. Failure to comply may result in the following fines to Contractor (which shall be deducted from monies due to the Contractor, or which may otherwise become due and payable by the Contractor).

1. Failure or neglect to address collection complaints.
\$100.00 per incident
2. Failure to clean up spillage caused by the Contractor.
\$100.00 per incident per location
3. Failure to repair damage to customer property caused by the Contractor or its personnel.
\$100.00 per incident per location
4. Failure to maintain equipment in good working order and in a clean, safe and sanitary manner.
\$100.00 per incident per day
5. Failure to have a vehicle(s) operator properly licensed.
\$100.00 per incident per day
6. Failure to maintain office hours as required by this Agreement.
\$100.00 per incident per day
7. Failure to properly cover materials in collection vehicles.
\$100.00 per incident per day
8. Failure to display Contractor's name and phone number on collection vehicles.
\$100.00 per day
9. Failure to comply with the hours of operation as required by this Agreement.
\$100.00 per incident per day
10. Failure to provide collection services within the time of day limits provided in the Agreement.
\$100.00 per incident per day
11. Failure or neglect to complete less than ninety (90) percent of each route on the regularly scheduled collection day not completed.
\$100.00 per incident
12. Co-mingling Solid Waste with Recyclable materials.
\$100.00 for each incident
13. Failure to provide replacement equipment within 2 hours after receipt of notification by the Authorized Representative.
\$200.00/hour

[NOTE: The above One Hundred dollar (\$100.00) amounts (per incident) will be raised to Two Hundred dollars (\$200.00) (per incident) after receiving more than twenty (20) complaints.]

EXHIBIT "C" – OPERATING PERMIT

EXHIBIT "D" – INSURANCE REQUIREMENTS

INSURANCE CHECK LIST

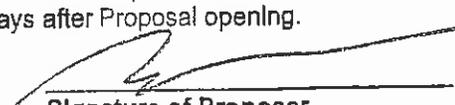
- XXX 1. Workers' Compensation and Employer's Liability per the statutory limits of the state of Florida.
- XXX 2. Comprehensive General Liability (occurrence form), limits of liability \$ 1,000,000.00 per occurrence for bodily injury property damage to include Premises/ Operations; Products, Completed Operations and Contractual Liability. **Contractual Liability** and Contractual Indemnity (Hold harmless endorsement exactly as written in "insurance requirements" of specifications).
- XXX 3. Automobile Liability - \$1,000,000 each occurrence - owned/non-owned/hired automobiles included.
- ___ 4. Excess Liability - \$_____.00 per occurrence to follow the primary coverages.
- XXX 5. The City must be named as and additional insured on the liability policies; and it must be stated on the certificate.
- XXX 6. Other Insurance as indicated:

___ Builders Risk completed value	\$ _____ .00
___ Liquor Liability	\$ _____ .00
___ Fire Legal Liability	\$ _____ .00
___ Protection and Indemnity	\$ _____ .00
___ Professional Liability	\$ _____ .00
<u>XXX</u> Employee Dishonesty Bond	<u>\$1,000,000.00</u>
<u>XXX</u> Theft Covering Money and/or Property Of Others	<u>\$ 100,000.00</u>
- XXX 7. Thirty (30) days written cancellation notice required.
- XXX 8. Best's guide rating B+:VI or better, latest edition.
- XXX 9. The certificate must state the RFP number and title

PROPOSER AND INSURANCE AGENT STATEMENT:

We understand the Insurance Requirements of these specifications and that evidence of this insurance may be required within five (5) days after Proposal opening.

Michael Savino
Proposer


Signature of Proposer

Choice ENVIRONMENTAL SERVICES, INC.

EXHIBIT "E" – CHOICE ENVIRONMENTAL'S SUSTAINABILITY AND GREEN INITIATIVES

**CHOICE ENVIRONMENTAL'S
SUSTAINABILITY AND GREEN
INITIATIVES**

I. Choice Environmental Systems Sustainability/Green Business Model

"Materials Recycle Facilities"

Choice owns 2 Materials Recycle Facilities (MRF) in Miami-Dade and Broward Counties. The Miami-Dade facility is able to sort paper, cardboard, plastics, wood, and metals and reduce the quantity of the materials sent to the landfill by 90%. The permits and licenses for the facility and the operators are included in this presentation.

"Compressed Natural Gas Fuel"

Choice Environmental operates the only "CNG" fueled refuse trucks in South Florida. The fuel station is located in Pompano Beach and provides clean natural gas as fuel for the truck fleet that services the City of Ft. Lauderdale. Press releases and news articles associated with this one of a kind facility are attached, along with a testament letter from the City of Ft. Lauderdale.

"Miami-Dade County Public Schools"

Choice Environmental has been a leader in providing comprehensive recycling programs in the State of Florida. This program has allowed 360 schools and 300,000 students to participate and innovate in the recycling effort. A letter of appreciation from the School District is attached.

II. Miami Beach Specific Green Initiatives and Measures

These "Green Initiatives and Measures" are specifically for the City of Miami Beach, not initiatives done in other parts of the State or Nation. These measures will directly affect the quality of life for the residents of Miami Beach. They are sustainable and attainable goals which Choice Environmental can track and report firm results from these efforts.

"Compressed Natural Gas powered vehicles"

Choice Environmental Services, Inc. has applied through the American Recovery and Reinvestment Act a Grant in the amount of \$360,000. Issued by the Executive Office of the Governor and Florida Energy and Climate Commission, Choice will use the grant to build its second compressed natural gas ("CNG") plant in the state of Florida. The proposed CNG plant will be located in Choice's Opa-Locka, Florida facility, and will be available for public and private use. The proposed CNG plant will cost approximately \$2.5 Million dollars.

The contractor for the project will be Clean Energy (Nasdaq: CLNE), the leading provider of CNG for transportation in North America. It has a broad customer base in the refuse, transit, ports, shuttle, taxi,

trucking, airport and municipal fleet markets. Clean Energy fuels more than 17,200 vehicles at 184 strategic locations throughout the United States and Canada.

"Recycling of Green Waste"

Choice will undertake a project to sort the green waste "landscape debris" from the transfer site on Miami Beach, as well as the green waste picked up in the curbside bulk pickups. Once sorted, the acceptable vegetation will be turned into mulch and provided to landscape companies in the metro-South Florida area.

"Recycling of the Bulk pickup Items"

As the green waste is sorted from the bulk pickup stream, other items will be sorted as well, and recycled at the highest level of reuse as possible. Useable furniture items will be donated to local charities or disaster stricken areas, as the need should arise. Metal items will be taken to specific metal recycling specialists, and then shipped to mills for reuse in the manufacturing process. Electronics will be separated and sent to facilities that will "demanufacture" the items and keep harmful components out of the local landfills and Waste to Energy burn facilities.

"Recycling of engine oil"

The fleet of refuse vehicles in the Miami-Dade Division is equipped with the "O P S" system. This system extends the useful life of the oil used to lubricate the engines of these vehicles, thereby reducing the waste oil that need disposal need disposal on an annual basis. The 75 refuse vehicles in the Miami-Dade Division have reduced their oil consumption by 24,300 quarts per year, lowering the need for new oil and keeping waste oil out of the environment.

"Coastal Cleanup"

This annual event chose Choice Environmental as its only provider of pickup and disposal services for Miami - Dade County in 2009. This is a worldwide volunteer effort to clean the beaches and waterways of trash and debris that is hazardous to the environment and coastal wildlife. Choice was proud to provide not only waste services to this effort, but for the first time in South Florida, to provide recycling containers as well. Any materials that had the potential for recycling were placed by the volunteers in special containers and taken back to one of our two "Materials Recycle Facilities" for sorting and reuse. Choice Environmental was proud to provide all these services to "Coastal Cleanup" at no charge and we look forward to doing the same in 2010.

"Rewards for Recycling"

A program designed to increase participation in the curbside recycling by single family homes on Miami Beach. This program will be coordinated with Miami-Dade County to bring emphasis to the residents of the Miami Beach and connect them with merchants on Miami Beach who will offer discounts and promotions to those residents who increase the level of their participation. Tracking features will be added to the recycle containers, with the County's approval, to allow the resident and the City of Miami Beach to see the progress of this program. This program will need the administrative approval of the Miami-Dade County Solid Waste Department. The first presentation of this program has been made to the senior management at that department.