AGREEMENT FOR COLLECTION OF RESIDENTIAL REFUSE AND RECYCLABLES, AND OTHER RELATED SERVICES WITHIN THE CITY OF DERBY, KANSAS

This Agreement is made and entered into this 30th day of July, 2009, by and between:

THE CITY OF DERBY, KANSAS, a municipal corporation ("City");

and

WASTE CONNECTIONS OF KANSAS, INC., a Delaware corporation authorized to do business in Kansas, with its principal office at 2745 N. Ohio St., Wichita, KS 67219 ("WCI");

WHEREAS, the City is responsible for protection of the health and welfare of its residents, including collection and disposition of solid waste and promotion of recycling within a framework of federal, state and local laws; and

WHEREAS, the City has elected to discharge its responsibilities with respect to collection and disposition of solid waste and recycling by entering into this Agreement with WCI, pursuant to which WCI is required to perform the specified solid waste collection and transportation services and recycling services, and authorized to charge customer service charges approved by the City; and

WHEREAS, following receipt and analysis of multiple proposals, the proposal submitted by WCI was determined to be the most advantageous to the City and its residents;

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

1. Grant of Franchise and Scope of Services.

A. WCI is hereby designated as the exclusive provider of residential refuse and recyclables collection and disposal services within the City. WCI shall commence performing the services provided for herein on the Service Commencement Date. The City hereby grants to WCI the right to utilize rights-of-way for the purpose of allowing WCI to collect solid waste and to place and remove receptacles therefor; provided, that the right granted hereunder and the obligation of WCI to provide such services is applicable only where there is a maintained road, street or alley allowing lawful access to a receptacle placed out for collection. WCI shall have the right, until receipt of written notice revoking permission to pass is delivered to WCI, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting solid waste pursuant to this Agreement. Except as otherwise provided herein, the City shall not, during the term of this Agreement, contract with any other party for the services to be provided under this Agreement.

B. This Agreement shall not apply to collection of any solid waste, self-hauling of which is not prohibited by City ordinance, such as disposal of solid waste by contractors in their

own vehicles as part of their services, including but not limited to roofers, retailers and gardeners that haul away old shingles, yard waste or appliances, or to clean-up and removal of debris resulting from a tornado, wind storm or other catastrophe, whether accomplished by City forces or third parties.

C. Either party hereto may take such legal action as it deems appropriate against any third party to redress an infringement of WCI's exclusive right to collect residential trash and recyclables pursuant to this Agreement.

D. WCI's right to provide solid waste collection transportation services within the scope of this Agreement arises solely from this Agreement and is based upon the mutual promises contained herein, including payment of the compensation provided for herein. City and WCI hereby agree that WCI must cease providing solid waste services in City upon expiration or termination of this Agreement. This agreement and acknowledgment by WCI does not foreclose City from executing one or more new agreements for solid waste management services, including from WCI, after expiration or termination of this Agreement, whether by non-exclusive, partially exclusive, or wholly exclusive franchise, contract, license, permit or otherwise, with or without competition.

E. WCI shall provide the City with current maps and schedules of collection and disposal routes.

F. WCI shall designate the holidays that it will observe and inform both the City and all customers thereof and of changes in the collection schedule resulting from observance of holidays.

G. The City shall use its best efforts to adopt ordinances, rules or regulations that have the effect of requiring third parties, including, without limitation, customers, to comply with the provisions of this Agreement, including, without limitation, the exclusiveness of the franchise granted pursuant to this Agreement.

2. Acceptance of Franchise.

A. WCI accepts this franchise agreement subject to all of the terms, conditions and exclusions contained herein.

B. This franchise agreement is conditioned on WCI being at all times ready, willing, and able to fully and timely meet all of its performance obligations, including full and timely payment of the franchise administration fee.

3. WCI's Representations and Warranties. WCI represents and warrants, as of the date it executes this Agreement:

A. WCI is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and qualified to do business in the State of Kansas.

B. WCI has full legal right, power and authority to execute and deliver this Agreement and satisfy its performance obligations. This Agreement has been duly signed and delivered by WCI and constitutes a legal, valid and binding obligation of WCI enforceable against WCI in accordance with its terms.

C. Neither the execution nor delivery by WCI of this Agreement, the performance by WCI of its performance obligations, nor the fulfillment by WCI of the terms and conditions of this Agreement conflicts or will conflict with, violate or result in a breach of any applicable law; conflicts or will conflict with, violate or result in a breach of any term or condition of any judgment, order or decree of any regulatory authority or any agreement or instrument to which

WCI is a party or by which WCI or any of its properties or assets are bound, or constitute a default thereunder; or results or will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of WCI.

D. No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for valid execution and delivery of this Agreement by WCI, except those that have been duly obtained from its board of directors or other governing body.

E. There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of WCI's knowledge, threatened, by or against WCI wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by WCI of its obligations under this Agreement or in connection with the transactions contemplated by this Agreement, or which would, in any way, adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by WCI in connection with the transactions contemplated by this Agreement.

F. There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or threatened, against City by WCI.

G. WCI has made an independent investigation, examination and research satisfactory to it of the conditions and circumstances surrounding the Agreement and best and proper method of providing services and labor, equipment and materials for the volume of services to be provided. WCI agrees that it will make no claim against City based on any good faith estimates, statements or interpretations made by any officer, employee or agent of City that proves to be in any respect erroneous.

H. WCI further represents and warrants that it has fully complied with all applicable law, including without limitation law relating to conflicts of interest, in the course of procuring this Agreement.

I. The information provided by WCI in its proposal submitted in response to City's Request for Proposals for this Agreement (together with any addendum thereto), including all clarifications to that proposal, is true, accurate and complete.

4. City's Representations and Warranties. City represents and warrants, as of the date it executes this Agreement:

A. City is a political subdivision of the State, duly organized and validly existing under the Constitution and laws of the State of Kansas.

B. City has full legal right, power and authority to execute, deliver, and perform its obligations under this Agreement. This Agreement has been duly signed and delivered by City and constitutes a legal, valid and binding obligation of City enforceable against City in accordance with its terms.

C. City represents that on the date it signs this Agreement it knows of no person who is receiving solid waste handling services from a solid waste enterprise that has a statutory right to continue to provide such services.

D. Neither the execution nor delivery by City of this Agreement, the performance by City of its performance obligations, nor the fulfillment by City of the terms and conditions of this Agreement conflicts or will conflict with, violate or result in a breach of any applicable law;

conflicts or will conflict with, violate or result in a breach of any term or condition of any judgment, order or decree of any regulatory authority or any agreement or instrument to which City is a party or by which City or any of its properties or assets are bound, or constitute a default thereunder; or results or will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of City.

E. No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for valid execution and delivery of this Agreement by City, except those that have been duly obtained from its city council or other governing body.

F. There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of City's knowledge, threatened, by or against City wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by City of its obligations under this Agreement or in connection with the transactions contemplated by this Agreement, or which would, in any way, adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by City in connection with the transactions contemplated by this Agreement.

G. There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or threatened, against WCI by City.

5. WCI Transition and Customer Education and Satisfaction Plan.

A. WCI acknowledges that it is of the utmost importance to City that the transition from solid waste collection services provided before the Agreement execution date to services provided under this Agreement proceed smoothly to the satisfaction of customers, including the following:

(1) Billing;
(2) Distributing carts;
(3) Providing replacement containers;
(4) Changing pickup days;
(5) Changing the scope of services; and
(6) Responding to customer complaints and inquires.

B. WCI will prepare and implement the Transition and Customer Education and Satisfaction Plan as set forth in its "Residential Solid Waste and Recyclables Collection and Transportation Services" Proposal dated March 17, 2009, which Transition Plan is incorporated herein by reference as though fully set out, and as the same has been amended by any subsequent submittals to and tentative agreements with the City, to include:

(1) Key implementation dates, including the service commencement date;
(2) Identification of any equipment purchase commitment and delivery schedule;
(3) Identification of any container purchase and delivery schedule;
(4) Community outreach and community relations plan;
(5) Customer service plan;
(6) Billing services plan;
(7) Materials processing and disposal plan;
(8) Reporting plan;

(9) City coordination plans;

(10) Upon receipt of a request therefor by a customer, a credit of up to thirty dollars ($30) for payment of a service cancellation fee required by a written agreement between such customer and his or her previous refuse collector; provided, that such written agreement must have been executed on or before June 1, 2009. The amount of such credit shall not exceed the amount of the cancellation fee actually paid by such customer; and

(11) Transition staffing and training plans.

C. Customer notice. WCI will fully and timely implement the Transition Plan, including a notice to customers describing services, including the following:

(1) Container type and capacity options;

(2) Instructions on how to set out containers, what refuse can be discarded, and rollout and other service options;

(3) Collection schedules;

(4) Recyclables collection rights and options, including list of recyclables;

(5) Customer service contact information (including toll-free telephone number and e-mail address);

(6) Coupons and procedures for on-call bulky waste pickups and deliveries to transfer station.

D. WCI will timely and fully implement the Transition Plan. In implementing the Transition Plan, WCI will be sensitive to all socio-economic and ethnic groups within City and will treat all groups equitably. WCI will submit to City written status reports in form and content reasonably satisfactory to City on a monthly basis, commencing no later than the Friday of the week following the Agreement execution date. On the first City business day each month and as promptly as practicable upon City request, WCI will meet with City to review implementation of the Transition Plan.

6. Customer Service Agreement.

A. Before commencing new service or changing service levels or frequency, WCI will provide each customer with a written customer service agreement containing terms that are in substantially the form included as Appendix 2 to this Agreement and a rate schedule clearly marked to indicate the customer's rates and whether billed in arrears or in advance.

B. WCI shall accept customers' requests for commencement of or changes in regular or special service by phone, mail, fax or e-mail.

C. WCI shall promptly provide the City with a copy of any customer's service agreement upon request.

7. Standards of Service.

A. Relationship with customers.

(1) WCI shall at all times provide courteous service to its customers and shall promptly and thoroughly investigate and resolve complaints alleging discourteous behavior by its employees or agents. Resolution may include but shall not be limited to adjustment of service charges, disciplinary action or additional customer service training. Where this Agreement does not require resolution within a specified time, resolution shall be achieved within a reasonable time.

(2) WCI shall use due care in entering and exiting customers' property or enclosures and use paved walks or surfaces where practicable. It will not loiter on customers' property. After making a collection, it will close all gates it opened and will avoid crossing private or public landscaped areas or jumping over hedges and fences. Promptly upon receiving notice of any damage to customer's property, WCI will determine whether the damage to customer's property was caused by the inattention, carelessness or negligence of WCI's employees. If WCI determines that it is responsible for damage, WCI shall reimburse customer for the lesser of the cost of repair or replacement of damaged property within 30 days of making its determination. If WCI determines that it was not responsible for damage, it shall so notify the customer within 3 days after making its determination. If WCI and the customer are unable to agree on the responsibility for damages, the City may resolve the dispute.

(3) WCI personnel shall promptly clean up or otherwise remediate all litter, spills or leaks that occur as a result of its performance pursuant to this Agreement.

(4) WCI shall timely respond to all customer complaints and resolve all such complaints in a commercially reasonable manner.

B. Relationship with City.

(1) Refuse and other solid waste shall at all times be collected and transported separately from recyclables, and shall be delivered to an appropriate disposal facility.

(2) WCI and its personnel shall at all times act in accordance with any City ordinance, code or regulation pertaining to or regulating the collection of refuse, recyclables or other solid waste.

(3) WCI will maintain a local emergency telephone number disclosed to the City for use outside WCI telephone hours. WCI will return any emergency call from a City representative as soon as possible, but in any case within two (2) hours.

(4) Within seven (7) days after receipt of an oral or written direction from City, WCI will meet with a City representative during City business hours at City Hall to discuss any matter of mutual interest.

8. Collections.

A. Manner of collection. WCI shall use automated collection vehicles to collect residential refuse and semi-automated collection vehicles to collect commingled recyclables in separate carts reasonably acceptable to the City and provided by WCI for that purpose.

B. Collection shall commence within one week after receipt of a customer's request for services.

C. Customers shall place residential refuse and recyclable materials, respectively, in the appropriate cart. Additional refuse, appropriately bagged, will be collected along with that placed in the cart; provided, that an additional charge, as provided in Section 12 of this Agreement, may be made for additional bags. Carts and any other containers shall be collected weekly, or biweekly for recyclables, on a designated collection day. Unless WCI has otherwise agreed, customers shall place all carts and other containers for collection at a point within two (2) feet of the traveled portion of the abutting street, affording easy and unobstructed access for collection. Carts and other containers shall be placed for collection no earlier than 2:00 p.m. on the day preceding the collection day and no later than 6:00 a.m. on the collection day. Carts shall be removed from such location no later than 9:00 a.m. on the day following the collection day.

D. WCI shall have no obligation hereunder to collect Hazardous Waste or liquid Hazardous Waste (including, without limitation, paints, pesticides, petroleum derivatives such as motor oil and solvents, and explosive materials). Any such items placed for collection shall be set aside and not taken.

E. Customers with space restrictions at the container storage or setout site may request an alternative to collection. For difficult to service areas, such as cul-de-sacs or hills, where automated collection vehicles cannot safely drive, WCI shall provide manual collection and containers that are of the same capacity at no additional charge, and may provide this service to any other customer upon request and for an additional charge approved by the City.

F. Weight limits for automated cart are:

95-gallon cart	200 lbs.
65-gallon cart	135 lbs.

9. Frequency and Hours of Collection.

A. WCI shall collect all residential refuse discarded in carts or other authorized containers at least once each week, on the regularly scheduled collection day and shall collect all recyclables biweekly on the regularly scheduled collection day.

B. WCI shall perform collections scheduled for a holiday on the weekday or Saturday immediately following the holiday. Following a holiday, WCI will provide collection scheduled for the remaining days in the week one day later than scheduled. WCI will notify all customers of the delay by:

1. Insert in the customers' bill immediately preceding the holiday; and
2. Publication once in a newspaper of local circulation in City in the issue of that publication circulated immediately prior to the holiday.

C. WCI may not change a regularly scheduled collection day for cart customers without City approval. WCI will notify each customer of any change in that customer's regularly scheduled collection day or days by insert in the customer's bill immediately preceding the change.

D. WCI will provide collection at residential premises between 6:00 a.m. and 6:00 p.m., Monday through Friday.

E. WCI will use commercially reasonable efforts to collect abandoned solid waste during daylight hours.

10. Cart Replacement, Removal and Repair. Replacement, repair and removal of damaged or defaced carts will be done on the customer's next schedule collection day. Upon request, a replacement cart shall be delivered once each year at no charge. For a second or subsequent replacement within the same year, WCI may charge a delivery and pick-up fee approved by the City.

11. Route Maps and Sheets

A. No later than twenty (20) days prior to a Service Commencement date, WCI will provide City with route maps and sheets for each collection route, including the following information:

(1) Beginning and ending points for each route, with routes marked on a map;

(2) Aggregate number of customers on each route; type and capacity of collection vehicle; assigned number of workers for each route; and worker's shift hours;

(3) Date of pickups;
(4) Addresses of each customer's premise; and
(5) Name of each customer and level of each customer's service.

B. City may provide written comments on proposed route maps and sheets to WCI no later than 10 City business days thereafter. Within ten (10) City business days after receipt of any reasonable comment from City, WCI shall revise the maps, schedules and route sheets to reflect the comments and return them to City for approval.

C. WCI will provide City with a current collection route map and sheet within ten (10) City business days of any City request.

D. City shall notify WCI within thirty (30) days after construction of a new street or annexation of property into the City. WCI shall promptly update its route maps to reflect service to such areas and provide the City with a copy of such updated maps.

E. City may conduct reasonable audits of WCI's collection routes during normal business hours; provided, however, that City shall not conduct more than one such audit per year. WCI will cooperate with City in connection with route audits, including permitting City employees or other persons designated by City to follow the collection vehicles during the audit. WCI will have no responsibility or liability for the salary, wages, benefits or worker's compensation claims of any person designated by City to conduct audits.

12. Fees for Basic Collection Services. WCI shall perform the following services for the fees specified in this section.

A.	Automated weekly trash service to single and multi-family properties with 95-gallon Cart and semi-automated biweekly RecycleBank Single Stream service with 95-gallon cart. Includes: up to 10 additional bags next to cart at no additional charge; $1/bag charge for bags in excess of 10	$14.75/month
B.	Automated weekly trash Service to single and multi-family properties with 65-gallon Cart and semi-automated biweekly RecycleBank Single Stream service with 95-gallon cart; $1/bag charge for all additional bags next to cart	$12.75/month
C.	Additional carts	
	65 or 90 gallon trash cart	$7.00/month
	95 gallon RecycleBank cart	$3.75/month

D. These rates will apply through the first year of the contract term and may be adjusted thereafter pursuant to the terms of this Agreement.

E. The foregoing rates apply regardless of whether a customer has a RecycleBank cart or participates in the recycling program.

F. During Year 3 of the Agreement, negotiations shall occur for addition of a third size of carts to be made available at the beginning of Year 4 of the Agreement. The new cart size shall be smaller than the 65-gallon cart, and the monthly rate shall be commensurate.

13. Participation in RecycleBank Program.

A. WCI shall offer the RecycleBank program to all customers served pursuant to this Agreement. This program offers incentives, in the form of discounts to local businesses and opportunities to contribute RecycleBank credits to various educational and charitable organizations, to WCI customers in proportion to the quantity of recyclables recycled through

WCI.

B. WCI shall make all reasonable business efforts to continuously offer the RecycleBank program to customers within City. In the event the RecycleBank program becomes unavailable to customers served pursuant to this Agreement, WCI shall make all reasonable business efforts to provide a substitute rewards recycling program satisfactory to City, in City's sole discretion.

C. In the event WCI does not provide a substitute recycling rewards program satisfactory to City, customers' rates for collection of refuse, as established pursuant to section 12 or as adjusted pursuant to section 15 of the Agreement, shall immediately be reduced by seven per cent (7%) and shall not thereafter be adjusted except pursuant to section 15 hereof or by mutual agreement of the parties hereto.

D. Regardless of whether it continues to offer a rewards program pursuant to this section, WCI shall continue single stream biweekly collection of recyclables as required by this Agreement.

14. Other Services and Charges.

A. Rollout service:

(1) This service shall be provided for customers 65 years of age and older, or disabled, at no additional charge. Carts must be visible from the street. WCI's driver will go to the customer's house, bring the cart to the street, empty it and return it to its original location. Eligibility for rollout service must be determined by WCI.

(2) For all other customers, this service will be provided for a charge equal to 1.5 times the basic service rate. Cart must be visible from the street. Driver will go up to the customer's house, bring the cart to the street, empty it and return it to its original location.

B. Two Free Coupons: WCI shall provide each customer with two coupons good for either a Bulky item pick-up or Delivery of a pick-truck load of waste to the WCI transfer station. Each coupon may be used for either service for a total of two free services provided per year. Coupons shall be transferable.

(1) Bulky item (4'x6'x8') pick-up: WCI shall provide each customer with one free curbside pick-up per year pursuant to a coupon issued by WCI for that purpose. Customers must call 1 week ahead of time to schedule pick up. The charge for a pick-up without a coupon in the same year will be $15 per item. On-call pick-up shall be accomplished no later than the customer's next regularly scheduled pickup day that is at least 7 days after customer's request. WCI shall collect electronic devices upon request.

(2) Delivery of a Pick-up Truck Load. Each customer may deliver one free pick-up truckload of waste to the WCI transfer station per year pursuant to a coupon issued for that purpose.

C. Collection of abandoned waste. Unless eligible for collection at no charge pursuant to subsection (B) of this section, WCI may charge $15, plus $5/cubic yard, for collection of bulky items including but not limited to sofa, chairs, and tables.

D. Removal of RecycleBank cart. WCI shall remove recyclables carts at the customer's request and at no charge.

E. Change of cart size. Customers may switch cart size once each year at no charge. For a second or subsequent switch in one year, WCI may charge up to $15 for delivery and pick-up. The service charge for the period during which a switch is made shall be prorated on the

customer's next bill.

F. Roll off (all sizes) and portable restroom service within the City, including but not limited to special events:

Delivery charge	$25
Haul charge	$85 per haul
Disposal charge	
Trash	$55/ton
Construction & demolition (household use only)	$33/ton

G. Portable restroom service (available for noncommercial, household use only)

Regular Restroom	$35/month for 1/week service or minimum weekend cost
Handicapped Restrooms	$50/month for 1/week service or minimum weekend cost

H. Small business curbside service. WCI will provide one (1) 95 gallon cart to each business customer. The monthly fee therefor shall be $20. Recycling service is available to business customers for $7.00 per cart per month, but business customers are not eligible for RecycleBank rewards.

15. Adjustment of Customer Service Rates and Charges

A. Annually, on the anniversary of the Agreement execution date, WCI may adjust customer service rates and charges established pursuant to this Agreement for any or all of the following reasons:

(1) Change in CPI. WCI may adjust rates to reflect any percentage increase in the local Consumer Price Index of Urban Wage Earners and Clerical Workers (all items) published by the U.S. Department of Labor, Bureau of Labor Statistics.

(2) Change in Certain Landfill Costs. WCI may adjust rates to reflect any increase in landfill costs, and shall adjust such rates to reflect any decrease in such costs. Any such adjustment shall be limited to changes in regulatory fees as imposed by federal, state or local governmental agencies (see Appendix 6 for adjustment formula).

(3) Change in Fuel Cost. WCI may adjust fees and charges established hereby to reflect changes in the price of diesel fuel, based on an initial price of $3.00 per gallon. For every $0.10 increase or decrease in the price of diesel fuel subsequent to the Agreement execution date, rates may increase by, and shall decrease by, 1% of the rates applicable immediately prior to implementation of such adjustment; provided, that no such adjustment shall be made to reflect (a) an increase in the price of diesel fuel if, after such increase, the price is at or below $3.00 per gallon, or (b) a decline in the price of diesel fuel below $3.00 per gallon. Such fuel cost adjustment shall be independent of any annual adjustments otherwise provided for in this Agreement. Adjustments resulting from a change in the price of diesel fuel shall be based upon the average price of diesel fuel for the Midwest Region of the United States, as published for the first week of July each year by the U.S. Department of Energy.

B. Prior to implementing any adjustment authorized by this section, WCI shall give written notice thereof to City and to all Customers. Such notice shall include the reason or reasons for the adjustment, WCI's calculation of the amount of any such adjustment, and the implementation date thereof.

16. Service to City Facilities. WCI shall provide trash and refuse collection service at no charge to all properties used by the City for governmental or proprietary operations, including but not limited to City Hall, Derby Police & Courts Building, Senior Center, Derby Public Library, all Derby Fire stations, Derby Public Works Department, Wastewater Treatment Facility, Derby Recreation Center, all City parks and the Rock River Rapids Aquatic Park. The frequency and character of such service shall be determined by the City on a reasonable basis.

17. Customer Contact Information. WCI shall provide one or more toll-free telephone lines for receipt of customer service requests or complaints. Customer calls shall be promptly answered between the hours of 7:30 a.m. and 6:00 p.m. Central Time, Monday through Friday except holidays, and 8:00 a.m. to 12:00 p.m. (noon) on Saturday. WCI shall have its office at 2745 N, Ohio St. Wichita, KS 67219, staffed continuously during normal business hours to address walk-in complaints or requests.

18. Customer Service, Missed Pickups and Other Customer Complaints.

A. WCI acknowledges that City procured, awarded and entered into this Agreement with WCI in part to provide high quality customer service, relations and satisfaction. WCI further acknowledges that customers' contact with WCI employees by telephone and e-mail is critical in establishing and maintaining good customer service, relations and satisfaction.

B. Records. WCI will maintain a daily written record of every inquiry and complaint received by WCI, including:

(1) Date and time of inquiry or complaint;

(2) Inquirer's or complainant's name and address (if the individual is willing to give this information);

(3) Description of the inquiry or complaint;

(4) Date and description of response taken or the reason for non-response; and

(5) Answer to inquiry or resolution of complaint.

C. City access to records. In addition to City rights provided in the City Code, WCI will afford City reasonable access to complaint records at the WCI office during its regular office hours.

19. Customer Satisfaction Surveys.

A. City may conduct customer satisfaction surveys at City's expense at the following times:

(1) At least 6 months following commencement of services pursuant to this Agreement; and

(2) Annually, after the first contract year.

B. Biannually, at City request and at WCI's expense, WCI will mail to customers together with customers' bills, a survey in the form of a post card returnable to City. WCI may review and comment upon the form and content of the survey. WCI will cooperate with City and its surveyor in the conduct of the survey, including distributing surveys with bills to customers. WCI may obtain a copy of the results of the survey.

20. Reporting of Violators.

A. If WCI discovers that any person is providing solid waste collection services within the scope of this Agreement within the City, or is otherwise in violation of any City ordinance, WCI, shall report such activity to the City within 5 business days. Such report shall include:

(1) The identity and address of the violator, if known;
(2) The facts and documentation supporting WCI's report; and
(3) Any other information or documentation in connection with the violator that the City may request.

B. The City may, in its sole discretion, enforce the exclusivity provisions of this franchise against third-party violators, taking into account the cost of doing so and other factors, and WCI acknowledges that City is not obligated to prosecute violators. City acknowledges that WCI may seek legal or injunctive relief against any person infringing upon the rights granted WCI hereunder to cease providing solid waste collection services, the City shall use good-faith efforts to cooperate in such enforcement actions brought by WCI. Notwithstanding the foregoing, City is not liable to WCI, and WCI hereby releases City in connection with any act of a violator.

C. WCI will inform the City by telephone or email at the phone number or email address directed by the City, of abandoned solid waste observed during route collection.

D. WCI will use reasonable business efforts to cooperate with City in any investigation and prosecution of illegal dumping.

E. WCI will clean up litter within a 10 foot radius of each abandoned solid waste collection site, upon approval by the City and for a fee agreed upon with the City and billable to the City.

21. Employment of Previous Hauler's Staff. Upon signing this Agreement, WCI will use reasonable business efforts to offer full-time employment, at wages and benefits commensurate with those of WCI's existing employees, to all current drivers or other persons engaged in providing residential refuse collection in the City prior to the date of this Agreement, if WCI has a legitimate business need for additional personnel and such persons:

A. Meet all applicable requirements with respect to immigration;
B. Pass WCI's pre-employment physical, alcohol and drug-screening tests; and
C. Evidence a good driving record commensurate with WCI's existing hiring policy.

22. Nondiscrimination. WCI shall not discriminate in the provision of services hereunder, or in the charges made for such services, based on race, creed, color, sex, gender, national origin, ancestry, religion, age, physical or mental disability, marital status, or political affiliation.

23. Customer Privacy. Except when required by law or a court of competent jurisdiction, or when authorized by a customer, WCI shall not reveal any information identifying a customer or the composition or contents of a customer's refuse or recyclables to any person except the City.

24. Billing and Collection. WCI may bill customers in advance for up to three months of service and may suspend service on any account for which payment is not received

within 45 days following the beginning of the billing period. In the event a cart is picked up for non-payment, WCI may impose a $15 charge for pick up and $15 charge for redelivery. WCI may impose any charge up to the maximum allowed by law for dishonored checks. All overcharges, including advance payments for service subsequently canceled, shall be refunded within 60 days after receipt. The fees levied for service by WCI for collection shall constitute a civil debt and liability owning to WCI from the person using or chargeable for such services and shall be collectible in any manner provided by law, including, without limitation, the commencement of litigation against delinquent payers and the reporting of delinquent payers to collection agencies or bureaus.

25. Term; Termination

A. The term of this Agreement shall be seven (7) years commencing December 1, 2009 ("Effective date") and terminating November 30, 2016. The City may, at its option, extend the term of this Agreement for up to three (3) additional years based on WCI performance, including but not limited to low assessed liquidated damages, satisfactory customer survey and timely payment of any money owed to City.

B. Upon expiration or termination of this Agreement pursuant to this section, WCI shall, unless otherwise agreed by the parties, promptly pick up all carts from customers without charge.

C. In addition to any other remedies provided for in this Agreement, either party may terminate this Agreement upon the breach of a material term of this Agreement by the other party; provided, however, that prior to any such termination, the non-breaching party shall first deliver to the breaching party a written notice describing such material breach, and provide the breaching party with thirty (30) days (five (5) days in the case of nonpayment of monies due and payable) within which to cure such breach. If the nature of the breach is such that it cannot be cured within such thirty (30) day period, the breaching party shall be allowed such longer period as is reasonably necessary to cure the breach, contingent upon the breaching party expeditiously and diligently attempting to cure the same within thirty (30) days and thereafter proceeding in good faith to effect such cure. If at the end of the cure period the breaching party has not cured the material breach of this Agreement, then the non-breaching party may take any one or more of the following actions:

(1) Provide the breaching party with additional time to effect a cure of the breach;

(2) Take such action as it determines are necessary and reasonable to cure the breach with its own resources or through independent contractors, and recover the costs thereof from the breaching party;

(3) Terminate this Agreement, in which case a written notice of termination shall be immediately delivered to the breaching party; or

(4) Exercise any other remedies it may have under this Agreement, at law or in equity.

26. Records of Operations.

A. WCI will keep accurate and complete records of all services provided pursuant to this Agreement, and in particular maintain all of the records required by Appendix 3 hereto.

B. Unless otherwise directed by the City, WCI will accurately preserve and retain customer billing records in accordance with its document retention policy and as required by

law. In accordance with WCI document retention policy, WCI acknowledges City's right to review such records and receive reports in order to:

(1) Enforce customers' rights;

(2) Evaluate WCI's performance under and compliance with this Agreement;

(3) Exercise City's rights to perform, or cause another person to perform, WCI's performance obligations in certain events, such as defaults; and

(4) Determine and corroborate the amount of any WCI payment obligation.

C. Unless otherwise directed by the City, WCI will accurately preserve and retain delivery data:

(1) At least until the end of the first full calendar year following the calendar year in which delivery occurred (for example, until December 31, 2009, for delivery that occurred in August 2008; or

(2) For such longer period as is required by applicable law.

D. WCI acknowledges that in order to respond to claims under CERCLA with respect to disposal of solid waste, City may need to determine and document the quantity of solid waste that WCI collected and disposed of or processed, or the locations where WCI disposed of or processed solid waste. To facilitate such response, WCI shall preserve and retain disposal records described in this section for a period of 5 years or in accordance with WCI document retention policy, whichever is longer.

E. City Inspection and Audit of WCI records.

(1) Location.

(a) City Office. Upon 7 Service days' advance telephonic or written request by City, WCI will provide copies of records to City and its designees for inspection, review or audit at the City's office.

(b) WCI Office. If WCI cannot provide the City with copies of Records within the notice period provided hereunder, WCI will make those Records available to City or its designees for inspection, review or audit at WCI's administrative office, during WCI office hours.

(2) Scope of inspection or audit. City may inspect and review Records at any reasonable time following notice under this section, or audit Records once each contract year, including verification of any of the following:

(a) Customer service charges charged to and collected from customers;

(b) Franchise administration fees paid;

(c) Solid waste tonnage collected and diverted;

(d) Customer complaint logs; and

(e) Other records to confirm compliance with performance obligations, including but not limited to telephone logs to confirm hold or hang-up times.

(3) Promptly upon request, WCI will provide City or its designees with any additional information, such as primary records supporting reports, that is reasonably relevant to this Agreement.

27. Financial Records and Reports.

A. WCI will maintain in WCI's administrative offices accurate and complete financial records of the following:

(1) Customer receipts (including customer service charges); and

(2) Payments to City (including franchise administration fee);

B. If City receives a request from a third person to review or copy material that WCI has marked "confidential," City will as soon as practicable notify WCI of the request and cooperate with WCI in good faith to oppose such request; provided, however, that City shall in all respects process such requests in accordance with the Kansas Open Records Act.

C. WCI shall promptly give City a notice of all claims or litigation relating to services pursuant to this Agreement.

28. Submission of Required Reports.

Pursuant to and in compliance with Appendix 4 of this Agreement, WCI shall submit all required quarterly and annual reports to the City in a form reasonably satisfactory to the City.

29. Letter of Credit

A. WCI will provide for the issuance of an irrevocable standby letter of credit (the "letter of credit") in the principal amount of $1,470,763.80, issued by a bank approved by the City in its sole discretion (the "Bank") for the benefit of City. The letter of credit must authorize the City to draw, in one or more drawings, not less than $1,400,000. The form of the letter of credit, including the procedures for and place of demand for payment and drawing certificate attached thereto, must be in form reasonably acceptable to City. The letter of credit must be transferable to any successor or assign the City.

B. City may draw on the letter of credit in any of the following events as evidenced to the satisfaction of the City:

(1) WCI fails to timely cure a material default under this Agreement;

(2) WCI is unable to regularly pay its bills as they become due;

(3) WCI fails to timely pay any solid waste management facility for services provided in furtherance of this Agreement; or

(4) WCI fails to pay an insurance deductible or self-insured retention.

C. The letter of credit shall not expire until the issuing Bank receives a certificate from the City that:

(1) This Agreement has expired;

(2) This Agreement has been terminated for a period of 180 days or other preference period provided under applicable bankruptcy or insolvency law; or

(3) WCI has substituted an alternative letter of credit or other security reasonably acceptable to the City in the City's reasonable sole discretion; and WCI does not owe City any money.

D. This section shall survive termination of this Agreement.

30. Inspection of Solid Waste Management Facility. Upon reasonable request by the City, WCI will allow the City to inspect during normal business hours any solid waste management facility that is owned or operated by WCI and that is used to provide services pursuant to this Agreement. WCI will make available a management representative or other authorized person to conduct the City personnel and designees through such facilities.

31. Franchise Administration Fee.

A. In consideration of this Agreement, WCI will pay to City an amount equal to five percent (5%) of its gross revenues actually collected from customers for all services performed pursuant to this Agreement. Such franchise administration fee shall be paid to the City quarterly, not later than the 30th day of the month next following the close of each quarter.

B. In the event WCI fails to fully and timely pay the franchise administration fee together with any late payment charges, or to make any other payment required hereunder, including but not limited to liquidated damages, City may exercise its rights under any performance assurance provision hereof or any financial security instrument executed pursuant to this Agreement.

C. WCI will not separately identify the franchise administration fee in any billing of or correspondence with customers, including but not limited to customer services agreements, bills, or invoices.

32. Damage to Streets.

A. The City represents and warrants that its streets, roads, alleys and other thoroughfares are capable of holding the weight of the trucks specified by WCI in its proposal when such vehicles are operated lawfully and in compliance with weight limitations established by law. Except in the case of driver/operator negligence or when a truck is being operated in violation of applicable weight limitations, WCI shall not be liable to the City for damage to pavement, curbing, or driving surfaces owned or controlled by the City, resulting from WCI trucks providing services in the City.

B. WCI shall not substitute trucks that differ materially in size, design or configuration from those specified in WCI's proposal without the written consent of City, which consent shall not be unreasonably withheld.

33. Hazardous Waste Prohibited. WCI shall neither collect nor dispose of Hazardous Waste hereunder.

34. Assignment. WCI shall not assign any rights or delegate any duties arising under this Agreement, nor sublet any part thereof, without the prior written consent of the City. Any request for permission to assign rights or delegate duties arising hereunder shall be given in the same manner provided for in section 52 hereof. Notwithstanding the foregoing, the requirement to obtain City consent for an assignment shall not apply to a sale or transfer to, or merger of WCI with, an affiliate of WCI which is owned or controlled, directly or indirectly, by the present beneficial owner of WCI.

35. Assurance of Performance. In its sole discretion and in addition to all other remedies it may have, City may demand from WCI reasonable assurances of full satisfaction of performance obligations by a specified date, in any or all of the following events:

A. Labor unrest. WCI is the subject of any labor unrest, including work stoppage or slowdown, sick-out, picketing, lock-out or other concerted job action, in excess of 6 days;

B. Failure to pay bills. WCI appears in the reasonable judgment of City to be unable to regularly pay its bills as they become due, including failure to timely pay:

1. Failure to timely pay any tipping fee at any solid waste management facility;

2. Failure to timely pay any insurance premiums, deductibles or self insured retention; or

3. Failure to timely pay any employee's wages.

36. Indemnification.

A. WCI agrees to indemnify the City and its officers and employees from and hold it harmless against any and all loss, damage, liability, and expense to the extent arising out of any claim for loss of or damage to property and for injury to or death of persons caused in whole or in part by the negligence, willful misconduct or breach of this Agreement by WCI; provided, however, that such indemnification shall not apply to the extent that such claims for loss, damage, injury or death are caused by (i) the negligence, willful misconduct or breach of this Agreement by the City, its agents, employees or other parties, or (ii) the mere presence of household Hazardous Waste in the solid waste that is collected under this Agreement.

B. WCI's obligation to indemnify City pursuant to this section is intended to operate as an agreement under 42 U.S.C. Section 9607(e) to insure, release, protect, hold harmless and indemnify City from liabilities as required by this section.

37. Insurance.

A. Coverage Requirements. Without limiting its indemnities, WCI will secure and maintain insurance coverage meeting the following requirements. WCI may use a combination of primary and excess insurance coverage to satisfy these requirements.

(1) General Liability Insurance written on ISO policy form CG 00 01 (occurrence) or its equivalent with limits of not less than the following:

(a) Per occurrence: $1,000,000

(b) Aggregate: $2,000,000

(2) Pollution Legal Liability Coverage with a limit of not less than $2,000,000 per occurrence covering loss (including cleanup costs) that WCI becomes legally obligated to pay as a result of claims for bodily injury, property damage, and cleanup costs (including expenses required by environmental laws or incurred by federal, state, or local governments or third parties) resulting from pollution conditions caused by transported cargo (including waste). For the purpose of this subsection, "pollution conditions" includes the dispersal, discharge, release, or escape of any solid, liquid, gaseous or thermal irritant or contaminant (such as smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste, and waste materials) into or upon land, any structure on land, the atmosphere, or any watercourse or body of water (including groundwater), provided the conditions are not naturally present in the environment in the amounts or concentrations discovered. The liability coverage for pollution must provide contractual liability coverage, by endorsement or schedule, if necessary, for WCI's indemnities.

(3) Automobile Liability Coverage

(a) With a limit of liability not less than $2,000,000 for each accident;

(b) Endorsed to delete the pollution and/or the asbestos exclusion and include pollution liability for accidental spills and discharges while transporting and/or processing materials; and

(c) Covering all vehicles.

(4) Workers' Compensation and Employers' Liability insurance:

(a) Workers' compensation benefits required by Kansas law; and

(b) Employers' Liability coverage with limits of not less than the following:

(c) Each accident: $500,000

(d) Disease - policy limit: $500,000

(e) Disease - each employee: $500,000

(5) Umbrella Liability with policy limit of not less than $2,000,000 in excess of the underlying General Liability, Auto Liability, and Employer Liability.

(6) If WCI is subject to federal regulations, WCI also will maintain any other coverage necessary to satisfy state or federal financial responsibility requirements.

(7) If WCI fails to secure and maintain any insurance required by this Agreement, at its sole option City may secure and maintain that insurance at its expense, and WCI will pay City the City's costs therefor. This remedy is in addition to City's right to declare a default hereunder and terminate this Agreement.

(8) WCI will secure insurance provided by an insurer that is an admitted company in Kansas having an A.M. Best's rating of no less than A- XI, or otherwise acceptable to the City.

B. Coverage requirements for subcontractors. WCI will insure each subcontractor performing collection by providing evidence that either:

(1) WCI is maintaining Insurance required by this section protecting WCI and City interests against liabilities caused by the acts, errors or omissions of the subcontractor; or

(2) The subcontractor is maintaining that insurance itself.

C. Evidence of coverage. WCI will provide endorsements, schedules and other evidence of coverage with respect to WCI and any subcontractor requested by and reasonably acceptable to the City, on or before the Agreement execution date, promptly upon renewal of policies, and within 10 City business days of City request.

(1) Certificates of insurance. WCI will provide certificates (or other evidence of coverage) containing at a minimum, the following information with respect to WCI and any subcontractor:

(a) Explicitly identify this Agreement and, if necessary to secure contractual liability coverage as an "insured contract" or otherwise, include a schedule or endorsement that specifically identifies this Agreement;

(b) Types, policy numbers, policy effective/expiration dates and limits: explicitly reference each type and corresponding limit of coverage required under this Agreement, together with the following:

i. Policy numbers;

ii. Effective/expiration dates; and

iii. Identification of each required ISO policy form or confirmation of its equivalency to ISO policy forms required under this Agreement (such as "auto liability ISO form CA 00 12"). Where the Agreement does not require a specific ISO policy form, the certificate of insurance must specifically reference the required type of coverage (such as "pollution liability" under TYPE OF INSURANCE – OTHER) together with a summary description of its coverage (such as "pollution conditions caused by transported cargo" under SPECIAL PROVISIONS).

(c) Include a provision requiring 30 days' cancellation notice to the City in advance of cancellation for all policies evidenced on the certificate of insurance. Endorsements cannot contain mere "best effort" modifiers or relieve the insurer from its responsibility to give that notice and the cancellation information on the certificate of insurance but must delete language such as "failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives";

(d) If any insurance coverage is written on a claims-made form (such as pollution liability), evidence that the "retro date" is before the Agreement execution date. WCI must maintain that coverage for at least 5 years after the termination date. Promptly upon City request, WCI must provide City with evidence of that coverage. This provision shall survive the termination of this Agreement.

(e) WCI and subcontractor must agree to maintain the General Liability Products and Completed Operations coverage, as well as the excess coverage for General Liability for at least two years after the completion date of their services hereunder.

(2) Endorsements: WCI must provide copies of the following endorsements or other documentation with respect to WCI and any subcontractor satisfactory to the City:

(a) Additional insured endorsement to each liability policy, explicitly adding City and its officers, agents, and employees as additional insured;

(b) Waiver of subrogation; and

(c) Insurance is primary and not contributing with any other insurance or self-insurance programs maintained by City and its officers and employees.

(3) Schedules: WCI shall provide schedules or other evidence that liability policies of WCI and any subcontractor provide contractual liability coverage for indemnities, such as listing this Agreement as an "insured contract."

(4) Signature verification. At the City's request, WCI shall provide documentation verifying that the individual signing or countersigning the certificates, policies, endorsements, or other evidence of coverage of WCI and any subcontractor is authorized to do so and identifies his or her company affiliation and title. The City may require complete, certified copies of WCI's insurance policies at any time.

D. WCI shall institute a comprehensive accounting system reasonably satisfactory to the City to monitor all insurance requirements under this Agreement, including those of each of its subcontractors.

E. WCI Compliance. WCI will comply in all material respects with all requirements of its insurance policies and insurers.

38. Breach, Liquidated Damages and Compensatory Damages

A. WCI acknowledges that City may enforce this Agreement and exercise its remedies under this Agreement in its sole discretion.

B. If City reasonably determines that WCI is in breach, City may assess compensatory damages or liquidated damages pursuant to Appendix 5 to this Agreement, after giving notice to WCI identifying and describing the breach. WCI will pay the damages assessed within 20 days of receiving the notice of assessment, whether or not WCI has cured the breach.

C. WCI may dispute the assessment of compensatory damages or liquidated damages by notice to City within 20 days of receiving the notice of assessment, but will pay assessed compensatory damages or liquidated damages pending resolution of its dispute. In that notice of dispute, WCI must describe the basis for its dispute and include relevant documentation. The City Manager or a designee will review the notice of dispute and make a determination as soon as practicable. This determination will be final. If he or she determines that the City should not have assessed all or a portion of the compensatory damages or liquidated damages, the City will refund all or a portion of the compensatory damages or liquidated damages to WCI.

D. The parties make the following acknowledgments as to liquidated damages:

(1) City incurred considerable time and expense negotiating this Agreement to secure an improved level of collection service quality and increased customer satisfaction, and consistent and reliable services are of utmost importance to City and customers.

(2) In awarding this Agreement to WCI, City considered and relied on WCI's municipal references, experience, qualifications, and reputation as to service quality, and WCI's breach represents a loss of the benefit of the bargain to City.

(3) Quantified standards of performance are necessary and appropriate to ensure consistent and reliable service, and if WCI fails to meet performance obligations, City will suffer damages, including:

(a) Customers' inconvenience;
(b) Anxiety, frustration and potential political pressure;
(c) Criticism and complaint by customers;
(d) Loss of time by the City Council members and staff; and
(e) Deprivation of the benefits of this Agreement and loss of bargain;

(4) in subjective ways and in varying degrees of intensity that are incapable of precise measurement in monetary terms. It is and will be impracticable and extremely difficult to ascertain and determine the value of those damages.

(5) In the event of breach or default by WCI, urgency of protecting public health, safety and welfare may necessitate that City enter into emergency or shorter arrangements for services without competitive procurement at prices substantially greater than under this Agreement, and the monetary loss resulting therefrom is impossible to precisely quantify.

(6) Termination of the Agreement for default and other remedies provided in this Agreement are, at best, a means of future correction and not remedies that make City whole for past breaches.

E. Based on the foregoing considerations, the parties agree that liquidated damages represent a reasonable estimate of the amount of damages, considering all of the circumstances existing on the Agreement execution date, including the relationship of the sums to the range of

harm to City that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient.

F. Each party expressly confirms the accuracy of the acknowledgements and agreements made in this section and confirms their respective opportunity to consult with legal counsel for explanation of this liquidated damage provision.

39. Remedies.

A. Either party may exercise any and all remedies available hereunder, at law or in equity for the other party's breach of this Agreement. A party's exercise of any one remedy, including City's assessing liquidated damages, is not an election of remedies but is cumulative with any other available remedies.

B. In addition to exercising any remedy available under law or equity, upon occurrence of a default, City in its sole discretion may exercise any or all of the following additional remedies:

(1) Terminate this Agreement or any portion of performance obligations provided herein;

(2) Suspend this Agreement or any portion of performance obligations as provided herein;

(3) Perform WCI's operational duties as provided herein;

(4) Seek injunctive relief and/or damages;

(5) Assess liquidated damages, compensatory damages and any other damages under law; and

(6) Draw on the letter of credit or submit claims under insurance.

C. WCI acknowledges that City's remedy of damages for breach or default may be inadequate for reasons including the following:

(1) The urgency of timely, continuous and high quality services, including collection, transportation and/or transfer and disposal of putrescible solid waste that constitutes a threat to public health;

(2) The long time and significant investment of money and personnel (including City's staff, elected officials and City counsel, as well as procurement counsel and consultants) required to:

(a) Develop performance specifications and performance standards reasonably acceptable to City;

(b) Draft this Agreement and related procurement documents;

(c) Solicit comments on this Agreement and procurement documents from City, City's counsel, and persons interested in providing services;

(d) Meet with those potential proposers to discuss their comments and answer their questions about this Agreement and the procurement;

(e) Finalize this Agreement and procurement documents;

(f) Solicit proposals for services;

(g) Review and evaluate those proposals and seek clarifications of those proposals;

(h) Award this Agreement as required by applicable law;

(i) Finalize execution of the Agreement, including reviewing, commenting on and approving WCI documentation; and

(j) Conform to the City Code and to the new solid waste and recycling programs.

(3) City's reliance on WCI's meeting the following criteria on which award of this Agreement was based, including the following:

(a) Solid waste management experience;

(b) Local government references;

(c) Qualifications of key personnel;

(d) Environmental programs and proposed unauthorized waste screening protocol;

(e) Litigation history;

(f) WCI's proposed Transition and Customer Education and Satisfaction Plan other plans; and

(g) Acceptance of terms of this Agreement.

(4) The length and significant investment of time and money described in item (2) to develop alternative refuse and recyclables collection services comparable to services for the price provided under this Agreement, and to negotiate new agreements therefor.

D. City is entitled to all available equitable remedies, including injunctive relief.

E. WCI payment obligations. City may collect WCI payment obligations due and owing by WCI to City by any or all of the following means:

(1) Demanding payment from WCI;

(2) Drawing on the letter of credit;

(3) Submitting claims as an additional insured under insurance policies or under contractual liability provisions of insurance policies; and

(4) Directing WCI to offset WCI payment obligation from customer service charges that WCI received from customers as provided herein.

40. Jurisdiction; Venue, Costs

A. Parties will bring any lawsuit arising out of this Agreement in the District Court for the 18th Judicial District of Kansas, which will have exclusive jurisdiction over those lawsuits. Each party consents to jurisdiction over its person and over the subject matter of any litigation in the said Court and to service of process issued by said court.

B. Venue is made in and will be performed in courts sitting in Sedgwick County, to the extent permitted by applicable law. Parties further agree that the site of any other hearing or action, whether arbitration or non-judicial, of whatever nature or kind regarding this Agreement, will be conducted in Sedgwick County, Kansas.

C. The non-prevailing party in any dispute involving this Agreement will pay the prevailing party's costs.

41. Permits. WCI will meet all City, county, state and federal licensing requirements applicable to residential waste collections and any other services performed pursuant to this Agreement.

42. Amendments. This Agreement may be amended by mutual consent of the parties by the parties without affecting its validity. If either party desires to amend the Agreement, such party shall give written notice thereof to the other as provided in section 52 of this Agreement.

Thereafter, the parties may meet and confer as they deem appropriate for the purpose of reviewing any proposed amendment. No amendment to this Agreement shall be effective unless reduced to writing and signed by both parties hereto.

43. Transfer of Franchise Agreement

A. WCI acknowledges that WCI submitted evidence to City with respect to WCI's experience, expertise and qualifications to provide services, and that WCI's experience, expertise and qualifications were material considerations of City in entering into this Agreement with WCI.

B. Without City consent, given in City's sole discretion, WCI shall not transfer this Agreement in whole or in part, voluntarily or involuntarily.

C. Any transfer made without the consent of City is void.

D. Notwithstanding the foregoing, the requirement to obtain City consent for an assignment shall not apply to a sale or transfer to, or merger of WCI with, an affiliate of WCI which is owned or controlled, directly or indirectly, by the present beneficial owner of WCI; provided, however, that such affiliate shall (i) agree in writing to be bound by the terms and conditions of this Agreement, (ii) have expertise in the solid waste industry comparable or superior to that of WCI, and (iii) have financial resources comparable or superior to that of WCI, evidence of which, at WCI's option, may be provided for review by the City but not submitted into the public record if WCI legitimately believes the material is confidential or proprietary.

44. Force Majeure. WCI shall not be liable for delays in its performance hereunder due to Uncontrollable Circumstances to the extent such occurrence is beyond the reasonable control of WCI and WCI makes prompt, diligent and continuous efforts to resume performance; provided, that this section shall not apply payment of amounts due hereunder to the City or to any default or other occurrence with respect to which the City is authorized to make demand against the letter of credit issued pursuant to section 29 hereof.

45. WCI's Obligations that Survive Expiration or Termination of Agreement. If WCI is not awarded an agreement to continue to provide solid waste or recyclables services substantially similar to the services provided for herein after the expiration or termination of this Agreement, WCI will cooperate with City and the succeeding franchisee in a reasonable manner to assure a smooth, efficient, orderly, timely and effective transition and delivery of services to WCI's former customers, including:

A. Providing City with records promptly upon reasonable request, in the format specified by City; and

B. Removing WCI's containers from customer's premises on the date or dates directed by City.

46. Binding Contract. This Agreement shall be binding upon and inure to the benefit of WCI and the City and their respective heirs, successors and assigns in accordance with the terms and conditions set forth herein.

47. Governing Law. This Agreement shall be construed and interpreted according to the laws of the State of Kansas, without regard to its conflicts of law provisions.

48. Severability. Should any provision of this Agreement become unenforceable because of any change in statute, law, regulation, legal process or decision, or any other reason, the elimination of that provision shall not affect the operation of the balance of this Agreement, which shall continue in force unabated except in accordance with other termination provisions contained herein.

49. Entire Agreement. This Agreement contains the entire understanding of the parties hereto and may be amended or changed only by an agreement in writing signed by both parties as hereinabove provided.

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

51. Definitions. Where used in this Agreement, words and phrases defined in Appendix 1 hereto shall have the meaning ascribed to them therein.

52. Notices. All notices, requests demands and other communications hereunder shall be deemed to have been duly given if in writing and either delivered personally, sent by facsimile transmission (with proof of delivery) or by overnight courier, or mailed by postage prepaid registered or certified U.S. mail, return receipt requested, to the addresses designated below or such other addresses as may be designated in writing by notice given hereunder and shall be effective upon personal delivery or facsimile transmission thereof or upon delivery by registered or certified U.S. mail or one (1) business day following deposit with an overnight courier service:

To City: City of Derby, Kansas
Attn: City Manager
611 Mulberry
Derby, KS 67037
Phone: 316-788-3132
Fax: 316-788-6067

To WCI: Waste Connections of Kansas, Inc.
Attn: Division Vice President
2745 North Ohio
Wichita, KS 67219
Phone: 316-838-4920
Fax: 316-838-5323

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties have executed this Service Agreement for Residential services as of the date first set forth above.

WASTE CONNECTIONS OF KANSAS, INC

By: _____
Jim Spencer, Division Vice President
States of Kansas and Oklahoma

CITY OF DERBY, KANSAS

_____
Kathleen B. Sexton, City Manager

Attest:

_____
Jean Epperson, City Clerk

Approved as to form:

_____
Philip H. Alexander, City Attorney

UNANIMOUS WRITTEN CONSENT
OF THE SOLE DIRECTOR OF
WASTE CONNECTIONS OF KANSAS, INC.

The undersigned, being the sole director of Waste Connections of Kansas, Inc., a Delaware corporation, hereby consents to the following actions and adopts the following resolution pursuant to the Bylaws of this corporation:

> BE IT RESOLVED that Jim Spencer be, and he hereby is, authorized to execute on behalf of Waste Connections of Kansas, Inc. that certain "Agreement for Collection of Residential Refuse and Recyclables, and Other Related Services within the City of Derby, Kansas"; any and all agreements, instruments, documents or papers, as he may deem appropriate or necessary, pertaining to or relating to the foregoing document; and that any such action taken to date is hereby ratified and approved.

IN WITNESS WHEREOF, the undersigned sole director of Waste Connections of Kansas, Inc. has duly executed this Unanimous Written Consent on the date set forth opposite his name.

June 2, 2009

Ronald J. Mittelstaedt
Director

Appendix 1

Definitions

(1) **Abandoned solid waste** means solid waste other than scattered litter such as paper, plastic bags and food packaging, consisting of boxes, bags or bundles; and bulky wastes.

(2) **Agreement** means this Agreement, including all appendices, attachments, schedules and forms.

(3) **Agreement execution date** means the later of the dates this Agreement is signed by WCI and City.

(4) **Annual report** means any report that WCI is required to file annually with the City pursuant to Appendix 4 of this Agreement.

(5) **Applicable law** means all ordinances, laws, statutes, rules, regulations, guidelines, permits, actions, determinations, orders, or requirements of the City; Sedgwick County, Kansas; the State of Kansas; or any other agency having jurisdiction over either party, and includes amendments and supplements to and any amendment, replacement, restatement or recodification occurring after the Agreement execution date.

(6) **Automated collection vehicle** means a vehicle that WCI uses to lift, empty and set down containers and to transport the discarded contents from collection point to the solid waste management facility.

(7) **Biweekly** means every other week.

(8) **Breach** means WCI's failure to fully and timely meet any material performance obligation under this Agreement.

(9) **Bulky waste** means any large item of solid waste than cannot be safely lifted by two persons without using a dolly, including discarded furniture, appliances, and landscaping debris.

(10) **Calendar year** means a period of 12 months of 365 or 366 consecutive days beginning January 1 and ending December 31.

(11) **Cart** means a wheeled receptacle that can be emptied by either semi- or fully-automated vehicles.

(12) **CERCLA** means the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601 et seq.).

(13) **City** means the City of Derby, Kansas.

(14) **Collection day** means the day on which WCI must provide collection services to a customer as required by the customer's Customer Service Agreement.

(15) **Collection hours** means hours described in section 8 of this Agreement, as applicable to any type of collection.

(16) **Commercial** describes persons or premises that are neither residential nor multifamily.

(17) **Commercial customer** means a customer who owns or occupies a commercial Premises.

(18) **Complaint** means an expression of dissatisfaction or discontent, such as a customer complaint of a missed pickup or discourteous behavior.

(19) **Container** means any container authorized for collection of residential refuse or recyclables pursuant to this Agreement.

(20) **Contract year** means a period of one year commencing on the agreement execution date or any anniversary thereof.

(21) **Transition and Customer Education and Satisfaction Plan** and **Transition Plan** means the plan provided for in section 5 of the Agreement.

(22) **Contract year** means each 12-month period commencing September 1 and ending August 31.

(23) **City business day** means any day on which City offices are open to do business with the public.

(24) **City Code** means the Derby City Code.

(25) **City office hours** means the hours during which City offices are open to do business with the public.

(26) **City Representative** means the Person designated as such by the City.

(27) **Customer service charges** means WCI's gross receipts from customers for services provided hereunder.

(28) **Customer Service Agreement** means the agreement attached as Appendix 2 to this Agreement.

(29) **Day** means a calendar day.

(30) **Disposal, dispose** or any other form thereof means disposal of refuse or recyclables collected by WCI at a solid waste management facility.

(31) **Disposal facility** means any legally permitted disposal facility.

(32) **Electronic devices** means cathode ray tube (CRT) devices including televisions and computer monitors; LCD devices including desktop monitors, laptop computers and televisions; and plasma televisions.

(33) **Franchise administration fee** means the fee described in section 31 of this Agreement.

(34) **Goods or services** means goods, services or Service Assets used to provide services required by the Agreement, including but not limited to labor, leases and subleases, equipment, supplies, capital, insurance, bonds and other instruments of financial security, and legal, risk management and administrative services.

(35) **Hazardous Waste** means shall mean any and all of the following:

(1) Wastes, materials or substances defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act, as amended, including the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.) (RCRA), as amended from time to time, or regulations promulgated thereunder;

(2) Waste, materials or substances defined or characterized from time to time as hazardous waste by the principal agencies of the State of Kansas, including, without limitation, the Kansas Department of Health and Environment, having jurisdiction over hazardous waste generated by facilities within the State, and pursuant to any other applicable government regulations;

(3) Wastes, materials or substances, the storage, treatment, transportation or disposal of which is subject to regulation under the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2654, as amended from time to time, or regulations promulgated thereunder;

(4) Radioactive wastes, materials, substances or items, the storage, treatment, transportation or disposal of which is subject to government regulations;

(5) Wastes, materials, substances or items which that contain polychlorinated biphenyls; and

(6) Any other waste, regardless of quantity, listed or characterized as hazardous by any other applicable federal, state or local laws.

The term **Hazardous Waste** will be construed to have the broader, more encompassing definition where a conflict exists in the definitions employed by two or more governmental entities having concurrent or overlapping jurisdiction over Hazardous Waste.

(36) **Holiday** means New Year's Day, Thanksgiving Day and Christmas Day.

(37) **Indemnities**, **indemnity** or **indemnification** or variations thereof means defenses, indemnities and releases under this Agreement.

(38) **Insurance** means the insurance coverage described in section 37 of this Agreement.

(39) **Key personnel** means individuals identified by name in WCI's proposal to City to provide services; route supervisors, recycling administrators, general managers and safety supervisors; and any contractor representative.

(40) **Letter of credit** means the letter of credit described in section 29 of this Agreement.

(41) **Liabilities** means all liabilities; lawsuits; claims; complaints; causes of action; citations; investigations; demands; or clean-up orders; damages (including actual, special, consequential and punitive) whether in contract or in tort, such as natural resource; property and personal injury damages, costs and expenses, including (1) all costs and expenses of litigation; mediation or arbitration; reasonable attorneys fees (whether City's or WCI's staff attorneys or outside attorneys); expert witness fees; and court costs; and (2) response remediation and removal costs; losses; debts; liens; mediation; arbitration; legal or administrative proceedings; interest; fines; charges; penalties; and other detriments of every nature and description, whether under state or federal law.

(42) **Liquidated damages** are described in section 38 and Appendix 5 of this Agreement.

(43) **Multi-family** describes persons or things related to a single premises occupied by three or more dwelling units.

(44) **Multi-family premise** means a Premise containing Multi-family dwelling units.

(45) **Notice** or **notify** or other variation thereof means a notice required or authorized pursuant to section 52 or any other any provision of this Agreement.

(46) **Office** means WCI's office identified in contract documentation.

(47) **Office hours** means 7:30 a.m. to 6:00 p.m., Central Time, Monday through Friday except holidays; and 8:00 a.m. to 12:00 p.m. (noon) on Saturday.

(48) **Party** and **parties** means the City and WCI, individually or collectively.

(49) **Payment obligations** means amounts due and payable by WCI to City, including but not limited to the franchise administration fee due and payable at the time and in the manner provided by the Agreement; liquidated damages and compensatory damages, due and payable as provided in the Agreement; and reimbursements due the City as provided in the Agreement; and any other amounts due the City pursuant to the Agreement, such as costs of applying to courts for judicial construction of Agreement provisions.

(50) **Performance Assurances** means financial security instruments set forth in the Agreement, including but not limited to indemnities, insurance, and letters of credit.

(51) **Performance obligations** means each and every obligation and liability of WCI under this Agreement.

(52) **Permit** means any permit, registration, order, license (including business license), approval, authorization, consent and entitlement of whatever kind and however described that WCI is required to obtain or possess as a condition precedent to performance under the Agreement.

(53) **Person** means any individual, sole proprietorship, firm, association, organization, general or limited partnership, corporation, limited liability company, political subdivision, government agency, municipality, industry, public or private corporation, trust, joint venture, regulatory authority, or any other entity.

(54) **Premises** means a tract of land with habitable buildings located in the City, that is safely and physically accessible by collection vehicles.

(55) **Quarter** means a three month period ending March 31, June 30, September 30 or December 31.

(56) **Quarterly Report** means any report that WCI is required to file quarterly with the City pursuant to Appendix 4 of this Agreement.

(57) **Rates** means the service charges established by the Agreement, as they may be from time to time adjusted pursuant to the Agreement.

(58) **Reasonable business efforts** means those efforts a reasonably prudent business Person would expend under the same or similar circumstances in the exercise of that Person's business judgment, intending in good faith to take steps calculated to satisfy the obligation which that Person has undertaken to satisfy.

(59) **Records** means information relating to services and other performance obligations, including documentation enumerated in Appendix 3 of this Agreement and any ledgers, books of account, invoices, vouchers, canceled checks, logs, correspondence, computations, files, plans, reports, data, and photographs.

(60) **Recyclables** means corrugated cardboard, chip board, newspapers, magazines, junk mail, telephone books, light colored paper, plastics nos. 1-7, steel cans, aluminum cans, clean aluminum foil and clear, brown and green glass, and any other materials subsequently agreed upon by the parties for inclusion in the recycling program provided for in the Agreement.

(61) **Recyclables processing facility** means a legally permitted facility procured by WCI.

(62) **Recycle, recycling** or **recyclable** means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products that meet the quality standards necessary to be used in the market place.

(63) **Refuse** means rubbish, trash and garbage, but does not include recyclables or bulky waste.

(64) **Regulatory Authority** means the United States; the State of Kansas; Sedgwick County; the City or any agencies or instrumentalities of any of them.

(65) **Report** means any report that WCI is obligated to provide pursuant to Appendix 4 and any other provision this Agreement.

(66) **Residential** describes persons, things or premises related to dwelling units in single family homes and multi-family Premises

(67) **Residential customer** means a customer who owns or occupies residential premises.

(68) **Residential Premises** means premises containing a residential dwelling unit.

(69) **Rollout Service** means refuse and recyclables collection service effected by dismounting from the collection vehicle, moving a Container from its storage location to the collection vehicle for emptying, and returning the Container to its storage location.

(70) **Service** means any obligation of WCI under this Agreement, whether to the City or a customer.

(71) **Service commencement date** means December 1, 2009, or such other date as the City may direct.

(72) **Set-out Site** means the location agreed to by WCI and the customer and indicated on the Customer Service Agreement, where customers must place its containers for collection.

(73) **Solid waste** means materials discarded by customers, including but not limited to refuse, recyclables, green waste and bulky waste, but excluding Hazardous Waste.

(74) **Solid waste management facility** means any processing facility, disposal facility, transfer facility; transformation facility, and conversion facility, as the context demands.

(75) **State** means the State of Kansas.

(76) **Subcontract** means any arrangement, formal or informal, written or merely in actual practice, between WCI and a subcontractor, including but not limited to a contract, agreement, letter or memorandum of understanding or intent, subscription, or purchase order.

(77) **Telephone hours** means 7:30 a.m. to 6:00 p.m., Central Time, Monday through Friday except holidays; and 8:00 a.m. to 12:00 p.m. (noon) on Saturday.

(78) **Term** means the period beginning on the Agreement execution date and ending on the Termination date.

(79) **Termination date** means the date this Agreement expires or is earlier terminated.

(80) **Timely**, unless another period or date is specified in this Agreement, means an action shall be taken within seven (7) days.

(81) **Ton** (or **Tonnage**) means 2,000 pounds avoirdupois.

(82) **Transition period** means the time interval between the execution of the Agreement and the commencement of Service on September 1, 2009.

(83) **Transition plan** means the transition implementation plan and schedule defined in section 5 of this Agreement.

(84) **Uncontrollable Circumstances** means any act, event or condition that has prevented, or which may be reasonably expected to prevent, a party from performing or complying with one of its obligations under the Agreement, including, without limitation, such acts, events or conditions as:

a) A change in law, including (i) the adoption, promulgation, amendment, modification, rescission, revision or revocation of any applicable law or change in judicial or administrative interpretation thereof occurring after the date hereof, and/or (b) any order or judgment of any federal, State or local court, administrative agency or governmental body issued after the date hereof, so long as such order or judgment is not the result of WCI's negligent or willful misconduct or criminal violation;

b) Earthquake, explosions, epidemic, quarantine, landslide, lightning, fire, flood and weather, including, without limitation, consecutive or numerous non-consecutive days of rain, snow or other inclement weather during the construction period; or other Acts of God; or

c) Sabotage, acts of public enemy or terrorism, war, riot, insurrection or civil disturbance, expropriation, confiscation; or

d) Failure of any permitted subcontractor or supplier of goods, materials, services or other items required for performance of the Agreement (other than an affiliate of WCI) to furnish such goods, services, materials or other items on the dates agreed to, but only to the extent such failure is caused by an uncontrollable circumstance itself, which materially and adversely affects WCI's ability to perform its obligations and WCI is not able to reasonably obtain substitute goods, services, materials or items on the agreed upon dates; or

e) The condemnation, taking, seizure, involuntary conversion or requisition of title to or use of WCI's facilities or any material portion or part thereof by the action of any federal, state, county, city or local governmental agency or authority.

In no event shall any act, event or condition that has occurred as a result of poor management practices or negligence of WCI, or an employee or agent thereof, be an Uncontrollable Circumstance.

(85) **Violation** or **violate** means any material noncompliance with applicable law as evidenced by written notice, assessment or determination of any regulatory authority to WCI, whether or not a fine or penalty is included, assessed, levied or attached.

Appendix 2

Terms of Customer Service Agreement

What we will collect. We will collect residential refuse and commingled recyclables in carts we provide, within one week of your requesting services. You must place refuse and recyclable materials in the appropriate carts. There can only be extra bags with the 95-gallon service. If the resident has a 65-gallon cart, they will be charged $1 for each bag. Please remember that the City requires you to put out carts for collection no earlier than 5:00 p.m. on the day before scheduled collection and retrieve them no later than 8:00 p.m. on the day of collection or 2 hours after collection, whichever is later.

We will not collect Hazardous Waste, including liquid Hazardous Waste, including, without limitation, paints, pesticides, petroleum derivatives such as motor oil and solvents. Explosive items also will not be accepted. If these items are identified in your trash, the unaccepted items will be set aside and not taken. For additional safe and legal disposal options, visit http://www.sedgwickcounty.org/environment/recycling.html. The Sedgwick County Department of Environmental Resources may also be contacted at 660-7200.

Recyclables include . . .

- Corrugated cardboard
- Chip board – cereal, pop, shoe boxes, etc.
- Newspapers/magazines/junk mail/phone books
- Other light colored paper
- Plastics #1-#7
- Steel cans
- Aluminum cans
- Clean aluminum foil
- Glass (glass food containers) brown, clear, green & etc.

When we will Collect. We will make collections once a week between the hours of 6:00 a.m. to 6:00 a.m. on the same day of the week indicated on your invoice (Monday through Friday) each week. If your scheduled collection day falls on or after a holiday, collection will be delayed by one day (Friday customers will have heir collection on Saturday). The holidays we observe are New Year's Day, Thanksgiving, and Christmas. Should there be a permanent change in your scheduled collection day, we will notify you in advance. If we miss your collection, please call us and we will return to pick it up, without charge, on the same day if the driver is still in the City of Derby. If driver has already left the City of Derby WCI will pick up the missed stop the following day. We will resolve any other complaints within the same time period.

Where we will pick up. You must set your carts at the curb unless you have roll-out service. If we agree to collect on private driveways or pavement, we will ask you to sign a waiver of damage liability and/or indemnification.

We can bring your carts out to the pick-up point (Roll-Out Service). At no additional charge for residential customers who certify they are not able-bodied or are elderly (over the age of 65)

and have no able-bodied person residing in their household, we will provide roll-out services (on-premise collection) of all weekly refuse collection services, and every other week of all recyclable materials, as well as one free-of-charge on-call curbside bulky item pickup per year. Roll-out Services are also available to any other customer upon request at the charge listed on your subscription order.

Alternatives to fully-automated carts. If you have space restrictions at your container storage or setout site, you may request alternatives to carts free of charge. For difficult to service areas, such as cul-de-sacs or hills, where automated collection vehicles cannot safely drive, we will provide manual collection and containers that are of the same capacity at the charge listed on your subscription order. We will also provide this service to any other customer upon request.

Weight limitations of carts. The weight limit for each automated cart is as follows: 95-gallon cart = 200 lbs, 65-gallon cart = 135 lbs.

Replacement/removal/repair. All replacements, repairs and removals will take place on the resident's next scheduled collection day. At no charge, we will deliver or exchange containers one time a year. The 2nd time within the same year there will be a cost of a Delivery and Pick-Up Fee. Please see charge listed on your subscription order. The same service pertains with carts with graffiti.

On-Call Pickups of Bulky Items, excess Refuse and certain electronic devices. You may request one on-call pickup of bulky items and certain electronic devices each year at no charge on your next regularly scheduled pickup day if you call us at least one week in advance. Examples of bulky items include discarded furniture (such as chairs, sofas, mattresses, box springs, and rugs); appliances (such as refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing and other similar items). Waste Connections agrees to pick up miscellaneous items of a serviceable character, size and weight placed at the curb by customers, including but not limited to appliances that have been certified free of CFC's and HCFC's Refrigerants by a certified refrigeration technician. We will accept the following electronic devices: cathode ray tub (CRT) devices (including televisions and computer monitors); LCD devices (desktop monitors, laptop computers and televisions); and plasma televisions.

When you must pay. Waste Connections of Kansas, Inc., bills for residential services three months in advance. We mail you your bill on or before the first day of your billing period, for example, by April 1 for the billing period of April, May, and June. Your bill is due no later than the 15th day of the first month, for example, on April 15. If we do not receive payment by the 15th day of the second month, for example, on May 15, your bill will become delinquent and service will be suspended until payment is received. If the cart is picked up for a non-payment there is a $15 charge for pick up and a $15 charge for redelivery. There will be a charge and a $30.00 fee on returned checks. We will refund any overcharges (including advance payments for services that you subsequently cancel) within 60 days after we receive them.

Where you can contact us. You may call us regarding service or complaints toll free at 1-800-388-5902 or 316-838-4920, prompt "4" for residential customer service. Between 7:30 a.m. and 6:00 p.m. weekdays, except holidays and from 8:00 a.m. to 12:00 p.m. (noon) on Saturdays.

You may come to our office located at 2745 North Ohio Street North, Wichita, KS 67219, or you may mail correspondence to our office address.

We do not discriminate. If you are entitled to service, we will not discriminate against you on account of race, creed, color, sex, gender, national origin, ancestry, religion, age, physical or mental disability, marital status, or political affiliation.

Rights of Privacy. We will observe and protect your rights of privacy and trade secrets. Unless you give us permission, we will not reveal any information identifying you or the composition or contents of your solid waste to any person except the City, or if required by law.

Appendix 3

Records WCI is Required to Maintain and Make Available to City Periodically or Upon Request

(A) WCI will collect, record and maintain, at a minimum, information:

(1) that WCI must include in quarterly or annual reports;

(2) listed in this appendix; and

(3) required by applicable law.

(B) WCI will promptly provide City with any additional information requested by City relevant to this Agreement or performance obligations.

(C) WCI shall maintain and provide the following records in electronic format reasonably acceptable to City (such as Microsoft Excel spreadsheet or Access database files), as specified in this appendix.

(1) Tons of refuse, recyclables collected and delivered to the applicable solid waste management facility, including route number(s), truck number and WCI's weight ticket number for each load;

(2) List of customers with addresses and service subscription levels sufficient to allow city to corroborate amounts payable under this Agreement, including the original billing data from which WCI prepared customers' invoices, rate; the total number of customers per route number; promotional materials distributed (number of copies distributed, description, and route number(s)); customer service subscriptions. WCI WILL EXPLICITLY REFER TO SERVICE DESCRIPTIONS SET FORTH IN THE RATE SCHEDULE IN ALL DOCUMENTATION AND DESCRIPTIONS OF SERVICES PROVIDED TO CUSTOMERS.

(3) Number of containers per route by size of containers and number distributed per day (with size, and customer's address and frequency of collection per week); requests received from customers to change frequency of services or size of containers

(4) Subscription and billing records as required by this Agreement;

(5) Ledgers, books of account, , and other records or documents evidencing or relating to the amounts paid under this Agreement (including rates, franchise administration fees, and compensatory and liquidated damages paid) or performance under this Agreement, including the routing, level of each customer's services, customer complaints, employee training, inventory, and maintenance logs;

(6) Records of individual account requests for bulky item collection;

(7) A list of premises to which City has notified WCI that it is not obligated to provide collection;

(8) Customers who or which receive non-collection notices;

(9) Vehicle safety compliance reports issued pursuant to applicable law;

(10) Vehicle registration certificates;

(11) Vehicle maintenance logs; and

(12) Number of customer calls and customer hang-ups for all customers serviced by WCI, but not split out for City of Derby.

Appendix 4

Required Reports

(A) Quarterly Reports (due the 30th of the month following close of quarter)
- (1) Copy of notices distributed to customers and list of public awareness activities performed
- (2) Tonnage collected for recycling and trash programs
- (3) Revenues/gross receipts and calculation of franchise administration fee, including number of customers at each service level.
- (4) Status of transition plan implementation (during year 1 and year 7)
- (5) Report of non-franchised hauling (date, location of violation, facts involved, action taken by WCI)
- (6) Report of mandatory service notices (date of written notice to resident, address, date service started or exemption issued)
- (7) Report of service exemptions processed (date received, name, address, date exemption approved/denied)
- (8) Any other pertinent information directed by the City of Derby
- (9) WCI shall represent and warrant to City that it has met its Service obligations during the quarter, or identify and explain any exceptions.

(B) Annual Reports (due on March 1st for the preceding contract year)
- (1) School or other public presentations, including the date, location, contact person, grade in school (if applicable), number of students/audience members, topic, comments/strategies for improvement (e.g. changes to curricula)
- (2) Inquiries and complaints received, including:
  - (a) Date & time received, name, address, account number, nature of inquiry/complaint, resolution
  - (b) Damage to customer property
  - (c) Date, name, address, account number, nature of claim, resolution
- (3) Service provided at special events, including date, location, event name, contact person, services provided, tonnage, charges billed or waived
- (4) Updated collection route maps
- (5) Vehicle inspection reports
- (6) Report on all litter spilled or leaks (date, location, type and quantity of material spilled/leaked, proximity to any waterway or storm drain, remedial action including reporting to appropriate authorities)
- (7) Employee training provided, including:
  - (a) Customer complaint & billing dispute protocol
  - (b) Driver training (operational and safety)
- (8) Update of key personnel
- (9) Abandoned waste, including date, location, yardage, charges billed, contact person

(C) Each required report shall be executed by an authorized WCI representative. The district controller of WCI (or other person reasonably satisfactory to City) shall certify financial reports in substantially the following form:

"I declare, under penalty of perjury of the laws of the State of Kansas, that I am familiar with the financial transaction of WCI and am responsible for keeping and maintaining its financial records, including gross receipts thereof; that I have reviewed the [insert date and description of accompanying financial statement]; and that to the best of my knowledge and belief, the information contained therein is true, correct, and complete."

Appendix 5
Liquidated Damages

"SECTION" column describes performance obligations (including timeliness) to which the liquidated damages apply.

"BREACH" column summarizes obligations for ease of Agreement administration and enforcement, but breach is determined by noncompliance with the referenced Section.

"LIQUIDATED DAMAGES" column lists the liquidated damages applicable to each type of breach and is a "per day" amount. For example, failure to correct a missed pickup would result in liquidated damages on the day of the scheduled pickup and each following day until corrected.

SECTION	BREACH	LIQUIDATED DAMAGES
9	failure to correct a missed refuse pickup for any Customer within 48 hours	$10 per Customer per day
9	failure to correct a missed recyclables pickup for any Customer within 48 hours	$10/Customer/day
9	failure to observe collection hours	$250 per failure
10	failure to timely exchange, remove, deliver, repair or replace container, (within 48 hours)	$10 per failure
18	failure to provide City access to records of complaints	$25 if not provided within 7 days of request; $100 for each week thereafter
7	failure to timely return a City call in event of emergency	$500
7	failure to record or timely respond to and resolve a Customer complaint	$25 per failure/per Customer
17	failure to observe WCI office hours	$250/failure
5; App 2	failure to timely distribute required Recycling program promotional materials or inform Customer of Recycling Services (such as through Customer service agreement)	$250/failure
11	failure to timely provide updated routs and map sheets	$500/failure
7	failure to clean up litter spilled by WCI employees	$10/failure/spill location
7	failure to timely compensate Customer, or to repair or replace damaged pavements, utilities or Customer property	$300/failure/Customer
7	failure to return City calls	$100/breach after 1 in month
7	failure to timely meet with City	$500/breach over 1 each contract year
7	failure to deliver Solid Waste to a legally permitted disposal facility	$1,000/first load; $5,000/2nd or subsequent load
7	failure to timely remedy any Violation of the City Code committed by WCI	$250/failure
7	conviction of Violation under the City Code	$250/case
App 4, App 5	failure to complete and timely submit a required report to City	$500/failure/day until complete report delivered
App 3	failure to timely submit or properly format any required documentation to City	$100/failure

Appendix 6
Worksheet for Calculating Effect of Increased Landfill Regulatory Fees on Customer Rates

Line	Description	Quantity	Quantity Determination
1	Number of Customers	0	Variable value in formula; determined by customer census at time of adjustment
2	Average Pounds/Customer/Week	50	Fixed value in formula; subject to change based on data current at time of adjustment
3	Average Pounds/Customer/Month	216.5	Product of line 2 multiplied 4.33 (weeks per month)
4	Total Pounds Citywide/Month	0	Product of line 1 multiplied by line 3
5	Tons per Month Citywide	0	Quotient of line 4 divided by 2,000 (pounds per ton)
6	Increase in Tipping Fee/Ton*	$0	Variable value in formula; limited to contractually authorized reasons for adjustment
7	**Increase/Customer/Month**	**$0.00**	**Product of line 6 multiplied by line 3 divided by 2,000 (pounds per ton)**
8	Increase Citywide/Month	$0	Product of line 6 multiplied by line 5 (for information only; calculation does not affect customer rates)

*Section 15(A)(2) of the Agreement limits adjustment of customer rates based in changes in tipping fees to "changes in regulatory fees as imposed by federal, state or local governmental agencies".