

ORDINANCE 2021-39

AN ORDINANCE OF THE CITY OF BURNET, TEXAS, APPROVING A FRANCHISE FOR SOLID WASTE AND RECYCLING COLLECTION SERVICES IN THE CITY OF BURNET, TEXAS TO AL CLAWSON DISPOSAL, INC.; PRESCRIBING GENERALLY FOR THE OPERATION OF SUCH SERVICES; PROVIDING FOR ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, it is in the public interest to ensure solid waste and recycling services are provided to the citizens of the City of Burnet; and

WHEREAS, in accordance with the laws of the State of Texas, Al Clawson Disposal, Inc. ("ACDI") was selected as the best proposal to provide said services; and

WHEREAS, the City Council has determined that granting of a franchise to ACDI will assist in meeting the solid waste and recycling needs of the community; and

WHEREAS, the City Council has determined that granting of a franchise on the terms set forth herein is in the public interest and in the interest of the City of Burnet and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Terms and Conditions. ACDI shall be the exclusive provider of all residential and commercial solid waste, residential single stream recycling and bulky waste collection services, and a non-exclusive provider for commercial single stream recycling, inside the corporate city limits of Burnet, and is bound by all of the obligations as defined in the Franchise Agreement, attached hereto as Exhibit "A" incorporated herein as though fully transcribed herein.

Section 3. Ordinances in Conflict. All ordinances in conflict with the provisions of this ordinance are hereby repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect. All previous franchises providing for solid waste and recycling services in the City are hereby repealed.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for

any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Authorization: The City Manager is hereby authorized to execute the franchise agreement and all documents necessary to authorize the franchise agreement.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.


Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

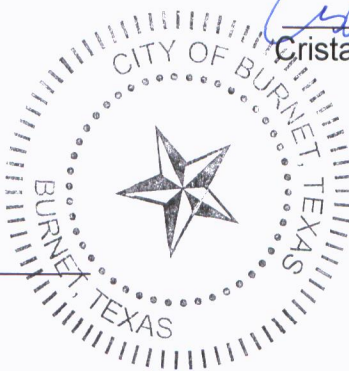
PASSED AND APPROVED on this 28th day of September, 2021.

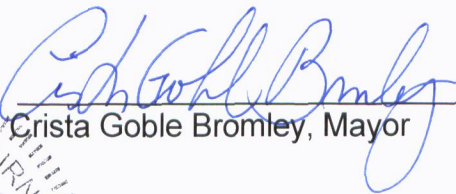
FINALLY PASSED AND APPROVED on this 26th day of October, 2021.

CITY OF BURNET, TEXAS

ATTEST:


Kelly Dix, City Secretary




Crista Goble Bromley, Mayor

**EXCLUSIVE FRANCHISE AGREEMENT
FOR THE COLLECTION, HAULING AND DISPOSAL OF SOLID WASTE AND RECYCLABLE
MATERIALS IN THE CITY OF BURNET, TEXAS**

**STATE OF TEXAS
COUNTY OF BURNET**

THIS EXCLUSIVE FRANCHISE AGREEMENT ("Agreement") is made and entered into as of this 26th day of October, 2021 with an effective date of November 1, 2021 by and between Al Clawson Disposal, Inc., a Texas Corporation (the "Service Provider"), and the City of Burnet, Texas (the "City").

WHEREAS, the City, subject to the terms and conditions set forth herein and the ordinances and regulations of the City, desires to grant to the Service Provider the exclusive franchise, license and privilege to collect, haul and dispose of Residential Solid Waste and Recycling Services, and Commercial Solid Waste Services (as such terms are defined herein) excluding temporary Roll-off services, within the City's corporate limits.

WHEREAS, the Service Provider desires to operate and maintain the service of collection, transportation, and disposal of Residential Solid Waste and Recycling Services, and Commercial Solid Waste Services over, along, and across the present and future streets, alleys, bridges, and public properties of the City, subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth herein, the Service Provider and the City hereby agree as follows:

SECTION 1. DEFINITIONS

The following terms, as used herein, will be defined as follows:

Bulky Waste. Solid Waste not easily containerized in a Cart such as, but not limited to appliances, furniture, and other Solid Waste. Bulky Waste shall not include Excluded Waste.

Bulky Waste Services. Collection of Bulky Waste and Disposal of Bulky Waste at a Disposal Site or Recycling of Bulky Waste at a Recycling Facility.

Brush Bundles. Brush and/or yard trimmings securely tied together forming an easily handled package not exceeding four feet in length or 40 lbs. in weight.

Cart. A receptacle, equipped with wheels and a bar, with a capacity of approximately sixty-five (65) or ninety-five (95) gallons, designed to be mechanically dumped into a loader packer type

truck via a fully-automated truck arm or semi-automated truck tipper, purchased with a minimum ten (10) year manufacturer's warranty and approved in advance by the City Manager.

City. The City of Burnet, Texas and City's officers, elected officials, employees, agents, volunteers, and representatives.

City Council. The governing body of the City.

City Event. An event designated by the City Manager to receive City Services. The City Manager has the sole authority to add or eliminate City Events.

City Manager. The City Manager of the City of Burnet or a person authorized to act on behalf of the City Manager.

City Services. Solid Waste Services and Recycling Services for City Events and City Facilities.

City Staff. Personnel employed by the City of Burnet and authorized by the City Manager to act on behalf of the City in a limited capacity as provided for in this Agreement.

Collect or Collection. The act of removing Solid Waste for transport to a Disposal Site, removing Recyclable Materials for transport to a Recycling Facility, and removing Bulky Waste for transport to a Disposal Site or Recycling Facility.

Corrugated Cardboard. Any packaging material formed by gluing one or more fluted sheets of paperboard (corrugated medium) to one or more flat sheets (facings) of linerboard.

Commercial Unit. An improved property located in the City, other than a Residential Unit.

Commercial Services. Solid Waste Services, Bulky Waste Services, and Recycling Services for Commercial Units.

Compactor. A compaction mechanism, whether stationary or mobile, designed to attach to a Roll-off.

Construction or Demolition Waste. In accordance with 30 Texas Administrative Code § 330.3, defined as "Waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to, paper, cartons, gypsum board, wood, excelsior, rubber, and plastics."

Curbside. The location within three (3) feet of the curb of the street abutting such property that provides primary access to the Residential Unit or Commercial Unit as designated by the City Staff unless such placement interferes with or endangers movement of vehicles and pedestrians.

Customer(s). An occupant of a Residential Unit or a Commercial Unit within the city limits of the City that has a City utility account that is billed for Solid Waste Services and/or Recycling Services on a monthly basis.

Dead Animals. Animals, or portions thereof, including any and all household animals that have expired from any cause.

Disposal. In accordance with 30 Texas Administrative Code § 330.3, defined as “The discharge, deposit, injection, dumping, spilling, leaking, or placing of any Solid Waste or Hazardous Waste (whether containerized or uncontainerized) into or on any land or water so that such Solid Waste or Hazardous Waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater”.

Disposal Site or Facility. All contiguous land, structures, other appurtenances, and improvements on the land that is licensed and permitted, as required by all governmental bodies having jurisdiction, for disposing of Solid Waste. A Disposal Site may be publicly or privately owned and may consist of several Disposal operational units.

Dumpster. A watertight receptacle, with a capacity of approximately two (2) cubic yards up to approximately ten (10) cubic yards, equipped with tight-fitting lid and designed to be mechanically dumped into a loader-packer type truck.

Dwelling Unit. Any group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

Excluded Waste. Hazardous Waste, Special Waste, and Construction or Demolition Waste.

Garbage. Any and all Dead Animals of less than ten (10) pounds in weight; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not limited to, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents), except (in all cases) any matter included in the definition of Bulky Waste, Construction Debris, Dead Animals over ten pounds in weight, Hazardous Waste, Rubbish and Stable Matter.

Generator. Any person or entity that produces Solid Waste and/or Recyclable Materials.

Hazardous Waste. In accordance with 30 Texas Administrative Code § 330.3, defined as “Any Solid Waste identified or listed as a Hazardous Waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 United States Code, §§6901 *et seq.*, as amended.”

Non-Hazardous Waste. The Texas Commission on Environmental Quality defines Non-Hazardous Waste as waste that does not meet the EPA's definition of hazardous waste. Waste is considered hazardous if it is found on the EPA's list of hazardous waste or it exhibits one or more hazardous characteristics.

Processing or Processed. The Recycling of Program Recyclable Material into Recovered Materials.

Program Recyclable Materials. Loose, bagged, or tied with string or twine, Kraft paper; loose, bagged, or tied with string or twine corrugated containers that have liners of Kraft, jute, or test liner including dry food boxes, beer and soda carriers, shoe boxes; Loose, bagged, or tied with string or twine old newspaper including slick paper inserts; Other recyclable paper including paperboard, chipboard, junk mail, junk mail inserts, Residential mixed paper, bagged shredded paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper including continuous-formed perforated white bond or green bar paper, book paper, cotton fiber content paper, duplicator paper, form bond, manifold business forms, mimeo paper, note pad paper (no backing), loose leaf fillers, stationery, writing paper, paper envelopes without plastic windows, carbonless (NCR) paper, tabulating cards, facsimile paper, manila folders, magazines, paperback books, small catalogs, telephone books and Yellow Pages; Any #1 through #7 rigid plastic bottle, container, jug, or jar; Beverage containers, steel "tin" food cans, bi-metal containers, lids composed primarily of whole iron or steel and other Recyclable Material of a similar nature; and/or any glass bottle, container, bottle, jug, or jar.

Recovered Materials. Metal, paper, glass, plastic, textile, or rubber materials that have known Recycling potential, can be feasibly Recycled, and have been diverted and source separated or have been removed from the Solid Waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent Processing or separation from each other, but does not include materials destined for any use that constitutes Disposal. Recovered Materials as described above are not Solid Waste.

Recyclable Materials. In accordance with 30 Texas Administrative Code § 330.3, defined as "A material that has been recovered or diverted from the Non-Hazardous Waste stream for purposes of reuse, Recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable material is not Solid Waste. However, Recyclable Material may become Solid Waste at such time, if any, as it is abandoned or disposed of rather than Recycled, whereupon it will be Solid Waste with respect only to the party actually abandoning or disposing of the material."

Recyclable Paper: Kraft paper; corrugated containers that have liners of Kraft, jute, or test liner including dry food boxes, beer and soda carriers, shoe boxes; old newspaper including slick paper inserts; magazines; catalog; telephone books and Yellow Pages; paperback books; hard back books with covers removed; chipboard; and other mixed paper including but not limited to junk mail, junk mail inserts, Residential mixed paper, bagged shredded paper, high-grade paper, white and colored ledger, copier paper, office paper, laser printer paper, computer paper including continuous-formed perforated white bond or green bar paper, book paper, cotton fiber content

paper, duplicator paper, form bond, manifold business forms, mimeo paper, note pad paper (no backing), loose leaf fillers, stationery, writing paper, paper envelopes without plastic windows, carbonless (NCR) paper, tabulating cards, facsimile paper, manila folders, and paperback books.

Recycling or Recycle. In accordance with 30 Texas Administrative Code § 330.3, defined as “A process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products. Except for mixed municipal solid waste composting, that is, composting of the typical mixed solid waste stream generated by residential, commercial, and/or institutional sources, recycling includes the composting process if the compost material is put to beneficial use.”

Recycling Cart. A Cart exclusively utilized for Recycling Services.

Recycling Facility. All contiguous land, structures, other appurtenances, and improvements on the land that is licensed and permitted, as required by all governmental bodies having jurisdiction, for Recycling of Recyclable Materials. A Recycling Facility may be publicly or privately owned and may consist of several Disposal operational units.

Recycling Services. Collection of Single Stream Recyclable Materials and Disposal of Recyclable Materials at a Recycling Facility for Processing.

Refuse. A non-putrescible Solid Waste (excluding ashes), consisting of both combustible and noncombustible waste materials, combustible Rubbish, including paper, rags, cardboard, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible Rubbish, including glass, crockery, tin cans, aluminum cans, metal furniture and like materials which will not burn at ordinary incinerator temperatures (1600°F to 1800°F), but not including Construction debris.

Resident. A person whom resides at a Residential Unit within the City of Burnet.

Residential Services. Solid Waste Services, Bulky Waste Services, and Recycling Services for Residential Units.

Residential Unit(s). An improved property, located within the City, which is used, or capable of being used, for domestic use by a single family, including a single-family dwelling, duplex, fourplex, townhouse, apartment or condominium unit. A Residential Unit shall be deemed occupied when either water or electric services are being supplied thereto. A townhouse, fourplex, duplex, or condominium dwelling, whether of single or multi-level construction, consisting of four or less contiguous or separate single family Dwelling Units, shall be treated as a Residential Unit, except that each Dwelling Unit within any such Residential Unit shall be billed separately as a Residential Unit. Those Residential Units designated by the City Staff to be served by a Dumpster or Roll-off Compactor shall not be included in this definition and shall be a Commercial Unit.

Roll-off. A watertight receptacle, with a capacity of approximately ten (10) cubic yards up to approximately forty (40) cubic yards, intended to be loaded onto a motor vehicle.

Roll-off Compactor. A Roll-off with a Compactor.

Rubbish. In accordance with 30 Texas Administrative Code § 330.3, defined as “Non-putrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, brush, or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).”

Service Provider’s Representative. Service Provider’s employee designated in charge of Service Provider’s operations under this Agreement and who is authorized to make decisions and act on Service Provider’s behalf as set forth in this Agreement.

Single Stream. System in which all Program Recyclable Materials are commingled and that does not require the Generator to separate prior to Collection.

Solid Waste. In accordance with 30 Texas Administrative Code § 330.3, defined as “Garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

- A. solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Texas Water Code, Chapter 26; or
- B. soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or
- C. waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or re-pressurizing plants and is Hazardous Waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 United States Code, §§6901 *et seq.*).

Solid Waste Cart. A Cart utilized exclusively for Solid Waste Services.

Solid Waste Services. Collection of Solid Waste and Disposal of Solid Waste at a Disposal Site.

Special Collection. A service provided by the Service Provider under this Agreement for which a fee is not specifically provided for in Exhibit "A", attached hereto as Fee Schedule.

Special Waste. In accordance with 30 Texas Administrative Code § 330.3, defined as "Any Solid Waste or combination of Solid Wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and Disposal to protect the human health or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, it may pose a present or potential danger to the human health or the environment. Special wastes are:

- A. Hazardous Waste from conditionally exempt small-quantity generators that may be exempt from full controls under Chapter 335, Subchapter N of this title (relating to household materials which could be classified as Hazardous Wastes);
- B. Class 1 industrial Non-Hazardous waste;
- C. untreated medical waste;
- D. municipal wastewater treatment plant sludges, other types of domestic sewage treatment plant sludges, and water-supply treatment plant sludges;
- E. septic tank pumping;
- F. grease and grit trap wastes;
- G. wastes from commercial or industrial wastewater treatment plants; air pollution control facilities; and tanks, drums, or containers used for shipping or storing any material that has been listed as a hazardous constituent in 40 Code of Federal Regulations (CFR) Part 261, Appendix VIII but has not been listed as a commercial chemical product in 40 CFR §261.33€ or (f);
- H. slaughterhouse wastes;
- I. Dead Animals over ten (10) pounds in weight, except as otherwise provided for herein;
- J. drugs, contaminated foods, or contaminated beverages, other than those contained in normal household waste;
- K. pesticide (insecticide, herbicide, fungicide, or rodenticide)

- L. discarded materials containing asbestos;
- M. incinerator ash;
- N. soil contaminated by petroleum products, crude oils, or chemicals in concentrations of greater than 1,500 milligrams per kilogram total petroleum hydrocarbons; or contaminated by constituents of concern that exceed the concentrations listed in Table 1 of §335.521(a)(1) of the Texas Administrative Code
- O. used oil;
- P. waste from oil, gas, and geothermal activities subject to regulation by the Railroad Commission of Texas when those wastes are to be processed, treated, or disposed of at a Solid Waste management facility authorized under this chapter;
- Q. waste generated outside the boundaries of Texas that contains:
 - 1) any industrial waste; or
 - 2) any waste associated with oil, gas, and geothermal exploration, production, or development activities; or
 - 3) any item listed as a Special Waste in this paragraph;
- R. lead acid storage batteries;
- S. used oil filters from internal combustion engines;

Unit. Residential and Commercial Units that qualify for services requested in this Agreement.

Work. The furnishing of all labor, materials, equipment, and other incidentals necessary for the successful completion of this Agreement and the carrying out of all duties and obligations imposed on the Service Provider by this Agreement.

SECTION 2. EXCLUSIVE FRANCHISE AND RELATED SERVICES

The City hereby grants to the Service Provider an exclusive franchise for all Residential and Commercial Solid Waste, Residential Single Stream Recycling, and Bulky Waste Collections services inside the corporate City limits of the City. The exclusive franchise shall include permanent Roll-off services for Solid Waste, but shall not include temporary Solid Waste disposal services to a construction project, in accordance with Chapter 364.034(h) of the Texas Health & Safety Code, which shall be provided for under a separate non-exclusive franchise agreement.

The City hereby grants to the Service Provider a non-exclusive franchise for Commercial Single Stream Recycling inside the corporate City limits of the City.

Solid Waste Services and Recycling Services shall be provided as follows:

A. Residential Services

The Service Provider shall provide the following Residential Solid Waste and Recycling Services:

- 1) Residential Curbside Solid Waste Collection, cart only once per week pick up.
- 2) No rocks, dirt, bricks, car batteries, oil, oil filters, ashes, or Hazardous Waste will be collected in Curbside pickup.
- 3) Senior Citizen Residential Curbside Solid Waste Collection, once per week pick up for citizens age sixty-five (65) and over.
- 4) Except as otherwise provided for herein, Curbside Solid Waste Collection shall be limited to the contents of the Cart.
- 5) Service Provider shall provide for the pickup of up to an additional three (3) cubic yards, once per calendar month, of Solid Waste, Bulky Waste and Brush Bundles for each Customer. Solid Waste, Bulky Waste and/or Brush Bundles in excess of three (3) cubic yards per monthly pickup shall be billed at an additional fee as provided for in Exhibit "A".
- 6) Residential Single Stream Curbside Recycling Collection with every other week pick up.
- 7) Senior Citizen Residential Single Stream Curbside Recycling Collection with every other week pick up for Customers age sixty-five (65) and over.
- 8) Service Provider shall provide house side Collections, at no extra cost to citizens who are handicapped or disabled. Determination for citizens requesting this service shall be made between the City and Service Provider.
- 9) All Residential Units shall be required by City ordinance to be billed for Recycling Services and Solid Waste Services.
- 10) Service Provider shall supply each Residential Customer with one (1) 95-gallon Solid Waste Cart for Residential Curbside Solid Waste Collection and one (1) 95-gallon Recycling Cart for Residential Single Stream Curbside Recycling Collection. Customers who are physically unable to use the standard 95-gallon Solid Waste Cart may request a 65-gallon Cart.
- 11) Residents may obtain additional Carts for Residential Curbside Solid Waste Collection and Residential Single Stream Curbside Recycling Collection, at an additional cost as provided for in Exhibit "A".

B. Commercial Services

The Service Provider shall provide the following Commercial Solid Waste and Recycling Services:

- 1) Commercial Curbside Solid Waste Collection, one (1) to five (5) times per week pick up. Commercial Customers utilizing Carts may obtain additional 95-gallon Solid Waste Carts at an additional cost.
- 2) Optional Commercial Single Stream Curbside Recycling Collection with every other week pick up. Service Provider shall provide one (1) 95-gallon Recycling Cart for each Commercial Unit requesting such service. Commercial Customers may obtain additional 95-gallon Recycling Carts at an additional cost. This service is optional and provided upon the request of the Customer.
- 3) Optional Commercial Dumpster Recycling Rates. Service Provider shall provide one (1) eight yard dumpster for each Commercial Unit requesting such service. Commercial Customers may obtain additional eight yard recycling dumpsters at an additional cost. This service is optional and provided upon the request of the Customer. Service Provider requires a minimum of three Commercial Customers to offer this service. The City may elect to guarantee the minimum in order to provide continuity of service to its customers.
- 4) Commercial Solid Waste Collection via Dumpster, closed Roll-off or Compactor Roll-off, Collections between one (1) and five (5) days weekly.
- 5) Service Provider shall bill all Roll-off accounts for all Roll-offs collected in the City for permanent Roll-off services.
- 6) All Commercial Units shall be required by City ordinance to be billed for Solid Waste Services.

C. Municipal Services.

The Service Provider shall provide the following Solid Waste and Recycling Services to the City, at no cost to the City, unless otherwise stated:

- 1) All City facilities, shall be served with 95-gallon Carts or the appropriate sized Commercial Dumpster, as requested by the City, at no cost to the City.
- 2) Service Provider shall provide up to sixty (60) roll off boxes per year for monthly City-wide cleanups, for no additional charge. Said clean ups shall be held at a location and date designated by the City (typically the first Saturday of every month). The City shall set-up a manned and supervised citizen drop-off site that accepts Refuse, Construction or Demolition Waste, Bulky Waste, brush and other yard waste. Materials not accepted by the landfill shall not be placed in the roll off boxes. This service shall be for verified City residents only.
- 3) Dead Animal Collection.
Service Provider shall provide a container of the City's choice for Disposal of Dead Animals, to be disposed of daily at no cost to the City.
- 4) Special Event Solid Waste and Recycling Collections.

Service Provider shall provide up to five (5) forty (40) yard Roll-Off containers, including one (1) haul each per year for City Events. The Service Provider shall provide approximately fifty (50) additional Solid Waste Carts to be kept at a location of the City's choice, for use at Special Events. Service Provider shall provide Recycling Carts upon request by the City. These Solid Waste Services and Recycling Services are provided at no cost to the City.

5) Roll-Offs.

Service Provider shall provide one (1) forty (40) yard Roll-off container to be located at the Public Works Warehouse and up to twelve (12) free pulls per contract year, at no cost to the City.

D. General Services.

The Service Provider shall provide the following services:

1) Tire Collection.

Service Provider shall provide (upon request by the City) a container located at the Public Works Warehouse, for disposal of tires and shall be billed to the City in accordance with the rate for tires as specified in Exhibit "A".

2) Special Collections.

Service Provider shall provide Special Collections for Bulky Waste and other Solid Waste Services that have been identified as such by the City and the Service Provider.

Commercial Solid Waste Collection via a Compactor Roll-off shall be considered a Special Collection.

3) Post Tenant Cleanup

Post tenant clean-up resulting in Bulky Waste or Solid Waste that exceeds the permitted volume for Residential services may be considered as Bulky Waste and shall be billed separately in accordance with the rate specified for Bulky Waste in Exhibit "A".

E. Schedules and Routes

The Service Provider shall provide Collection services to Customers on a scheduled Collections day. The Service Provider shall maintain the schedules and the routes on file with the City. Any changes to the schedule and/or routes for Residential Customers are subject to the approval of the City Manager.

F. Minimum Program Recyclable Materials

Service Provider shall, at a minimum, collect the following Program Recyclable Materials:

- 1) Recyclable Paper.
- 2) Recyclable Corrugated Cardboard.
- 3) Recyclable Plastics: #1 through #5 and #7 plastic bottles, containers, jugs and jars.
- 4) Recyclable Glass: Any glass food and beverage bottles, containers, jugs and jars with or without paper labels, rings and lids. Recyclable glass includes all colors, excludes Pyrex.
- 5) Recyclable Aluminum and Steel: Any food and beverage containers, cans, bimetal cans, or lids with or without paper labels, rings and lids, and scrap metal composed primarily of whole iron, tin, aluminum, steel, or
- 6) Other Recyclable Material of similar nature.

G. Disposal Site and Recycling Facility

Service Provider shall dispose of all Solid Waste and Bulky Waste Collected at a permitted Disposal Site. The Disposal Site shall be licensed and permitted as required by all governmental bodies having jurisdiction for disposing of Solid Waste. The charge for Disposal shall be included in the rates. Service Provider shall not be required to Collect liquid or gaseous materials not permitted by the Texas Commission on Environmental Quality (TCEQ) to be disposed of at the Disposal Site.

Service Provider shall process and market all Recyclable Materials Collected at a Recycling Facility. The Recycling Facility shall be licensed and permitted, as required by state law. The charge for Processing and Recycling shall be included in the rates.

Disposal and Recycling Facility sites may change upon written notice to the City prior to such change and upon submittal of verification that the site(s) are in compliance with this Agreement.

H. Personnel

The Service Provider shall insure that all federal and state laws pertaining to salaries, wages, employment and operating requirements are met or exceeded.

During the term of this Agreement and any extension thereof, the Service Provider shall be responsible for the actions of its agents, servants and employees while such agents,

servants and employees are acting within the scope of their employment or agency.

The Service Provider will hire and maintain qualified personnel to provide the scope of services.

The Service Provider shall ensure personnel, who normally or regularly come into direct contact with the public, bear some means of individual identification, such as uniform with name badges, name tags, or identification cards;

The Service Provider shall ensure such personnel operating Collection vehicles have a valid commercial driver's license;

All personnel shall serve the public in a courteous and helpful manner. The City may require that any personnel that is discourteous, belligerent, profane, or in any way intimidating toward Customers, or City personnel, be barred from further Work in connection with this Agreement;

The Service Provider shall not employ any personnel who are registered sex offenders when said personnel would normally or regularly come into direct contact with the public during the execution of the provisions of this Agreement;

For the term of the Agreement, the Service Provider shall maintain the following personnel:

- 1) Service Provider's Representative that is authorized to make decisions and act on its behalf shall be accessible to the City twenty-four (24) hours a day;
- 2) Operations manager qualified to be in charge of the work provided for in connection with this Agreement;
- 3) Any other personnel required to provide the scope of services;

I. Recordkeeping and Reporting

- 1) The Service Provider shall submit electronic reports of the required records, using software and formats approved by the City, on a monthly basis. All records shall be available to City at reasonable times and places throughout the term of this Agreement and for a period of five (5) years after last or final payment.
- 2) The Service Provider shall create, maintain, and deliver to the City the following records:
 - a) Document Solid Waste and Bulky Waste tonnage delivered to Disposal

- facility;
- b) Document Recyclable Materials delivered to recyclable Processing facility;
 - c) Document Commercial Collection activity by container size and frequency of pick up;
 - d) Identify unaccepted loads by date collected, route, and facility;
 - e) Document complaints, on a daily basis, including the address, time and date for each and the reason, and resolution;
 - f) Written reports of documented complaints indicating the date and hour of the complaint, nature of the complaint, and the manner and timing of its resolution;
 - g) Such other documents and reports, as the City may reasonably require, to verify compliance with any Agreement or to meet the City's reporting requirements;
 - h) Other recordkeeping and reporting requirements as agreed upon by City and Service Provider.
- 3) A report accurately reflecting the value of the Service Provider's property used and useful in rendering Service Provider's service to the public and which reflects the Service Provider's expenses, receipts and profits of all kinds shall be provided annually or upon request by the City;
 - 4) Service Provider shall meet, at least quarterly, with the City Manager and/or City Staff to discuss any and all issues related to the Work provided for herein.
 - 5) Service Provider shall present to the City Council on a quarterly basis. Such presentation shall include, but not limited to, current and future service issues, quantities of Solid Waste and Recycling Collections, and public education.
 - 6) The City shall submit a daily log of Customer Requests in the same, or similar, format as provided for in Exhibit "D".

J. Performance Standards

Service Provider (and its drivers, employees and agents) shall adhere to the following performance standards:

- 1) Carts shall be replaced upright as close to their original location as possible, without obstructing traffic or damaging landscaping. Lids will be closed after servicing;
- 2) Dumpsters and Roll-off Compactors shall be replaced upright at the Customer's placement, without obstructing traffic or damaging landscape;
- 3) Service Provider shall not leave loose material, which during Collections may fall in the streets or property of Customers, and will Collect any loose material that is generated during the Collection operations;
- 4) Service Provider shall make all reasonable efforts to Collect waste and Refuse regardless of barriers (i.e. blocked streets) except when the safety and health of the Service Provider's employees or the public is placed in danger;
- 5) Drivers are expressly forbidden to use their emergency brake to stop a moving vehicle, except in cases of emergencies;
- 6) Service Provider shall comply with the Customer complaint resolution provisions as provided for herein;

K. Audit

The City shall have the right to examine and audit, at any time during business hours, the accounts and other records of the Service Provider. City and Service Provider shall perform an annual audit to verify service levels and billing.

SECTION 3. TITLE TO EQUIPMENT.

Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that all equipment, including, but not limited to, Containers, provided by the Service Provider in connection with the Services, shall at all times remain the property of the Service Provider.

SECTION 4. RATES AND FEES.

Subject to adjustment, as provided in Section 5 hereof, the rates and fees to be charged and received by the Service Provider are provided for in Exhibit "A".

SECTION 5. RATE ADJUSTMENT.

A. Annual Rate Adjustments shall be as follows:

The fees which may be charged by the Contractor for the years of the term hereof may be adjusted upward to reflect changes in the cost of operations, as reflected by fluctuations in the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, all items [TABLE 24] as published by the U.S. Department of Labor, Bureau of Labor Statistics, with a maximum allowable increase of 3% per annum. Contractor will petition the City, in writing, at least ninety (90) days prior to the anniversary date for any adjustment to the rates charged to the City as established hereunder, by submitting any such request for a rate adjustment to the City.

- B. Factors to be considered in determining whether or not a rate adjustment is justified shall be as follows:
 - 1) Changes in costs for labor, fuel, equipment, insurance, taxes, disposal fees or other operations.
 - 2) Changes in recycle participation and/or volume of recyclables collected.
- C. Contractor shall submit financial and accounting data to the City, which substantiates its request for a rate adjustment.
- D. All rate modifications shall be subject to City Council approval.

SECTION 6. PROCESSING, BILLING AND FEES.

- A. **Billing.** No later than the tenth business day of every month, Service Provider shall invoice the City for Residential Services and Commercial Services rendered in the prior month (the Monthly Invoice"). Thereafter, the City shall remit payment no later than the 25th of the month for the immediately preceding month's service. The Parties shall cooperate in a good faith manner, using Exhibit "D" for guidelines to resolve any disputed amounts within the initial ten (10) day period. Any amounts remaining disputed by the 25th of each month shall be deducted from the Monthly Invoice and resolved in a timely manner. The City shall solely be responsible for billing Residential Services and Commercial Services. Nothing herein shall prohibit the City from collecting sums from Customers in addition to those sums called for herein.
- B. **Taxes.** The City shall also be responsible for paying any and all sales, use and service taxes collected from the City's customers and/or payable in connection with the Services billed by the City.
- C. **Bad Debt; Unpaid Rates/Fees.** The City agrees that payments owing to the Service Provider pursuant to this Agreement shall be based solely on the Services rendered by

the Service Provider. The Service Provider shall not be held responsible for the collection of "bad debt" billed by and owed to City for the Services, nor shall the Service Provider be penalized for Services rendered that remain unpaid by any Residential or Commercial Unit.

- D. Billing for Special Collections and Permanent Roll-offs. Notwithstanding anything to the contrary contained herein, the Service Provider shall bill for all Special Collections and permanent Roll-offs. The Service Provider shall pay a fifteen percent (15%) franchise fee to the City based on the Service Provider's gross receipts Collected from the Service Provider's billings for providing Special Collections and permanent Roll-offs. Gross receipts shall not include; (1) local, state, or federal taxes collected by the Service Provider that have been billed to its customers and separately stated on its customer's bills, or (2) the franchise fee paid under this Agreement, or (3) revenue uncollectible from Service Provider's customers (i.e. bad debts) with billing addresses in the City that were previously included in the gross revenues.

The Service Provider shall pay to the City the franchise fees collected on a quarterly basis, in arrears, on or before the twentieth (20th) calendar day after the end of each calendar quarter. The City may act as the biller and collector for certain Special Collections, upon mutual agreement of the City and the Service Provider.

- E. Pro-Rata Billing: The initial billing for new services, or final billing for discontinued services, shall be pro-rated based on the number of days for which service was received.

SECTION 7. SPILLAGE AND LEAKAGE.

Service Provider shall clean up any materials, including leakage of fluids spilled from Service Provider's vehicles.

During transport, all materials shall be contained, covered and enclosed so that spilling and leakage of materials does not occur.

Service Provider shall be responsible for the cleanup of any spillage or leakage from its vehicles. Service Provider shall perform all clean-ups of any spillage or leakage from its vehicles within two (2) hours of the spillage or leakage. Service Provider shall not leave the spill or leak from its vehicles unattended.

Service Provider will carry absorbent materials to clean up liquid and hydraulic spills or leaks on all trucks.

If a spill or leak leaves a stain on a roadway, building, or other similar surface caused by Service Provider, its vehicles or employees, the Service Provider will use all reasonable means available

to remove the stain and restore the facility to the satisfaction of the City Manager.

SECTION 8. LITTER AND ODOR

Service Provider shall clean up any litter caused by the provision of services.

Service Provider shall clean up any litter larger than three (3) inches within a ten (10) foot radius of Collection areas.

Collection equipment shall be maintained as to prevent odors. The Service Provider shall routinely clean Collection equipment, so as to maintain a standard of cleanliness.

SECTION 9. SAFETY

The Service Provider shall perform the Work in accordance with applicable laws, codes, ordinances, and regulations of the State of Texas and the United States and in compliance with OSHA and other laws, as they apply to its employees. Safety precautions at the site are a part of the construction technique and processes for which Service Provider shall be solely responsible. Service Provider is solely responsible for handling and use of Hazardous Materials or waste, and informing employees of any such Hazardous Materials or waste. The Service Provider shall be responsible for instructing its employees in regard to safe working habits and shall be responsible for compliance with all Occupational Safety and Health Administration regulations. Service Provider shall provide copies of all Hazardous Materials and waste data sheets to the City's Fire Department marked Attn: Fire Marshall.

SECTION 10. HOURS OF OPERATION.

Collections shall be scheduled by route for each day of the week (Monday-Friday). No Collections shall be made on Sundays unless the Service Provider is directed to do so by the City Manager. Residential Collections shall occur between 7:00 a.m. and 7:00 p.m. on the scheduled Collection day(s). No Commercial Collections will be made prior to 7:00 a.m. if such Collection is in a Residential neighborhood, unless otherwise approved by the City Staff. Service Provider shall maintain a consistent route schedule and comply with provisions related to hours of service. Service Provider shall not provide Residential Collection services one-half (1/2) hour before the beginning or one (1) hour after dismissal on a scheduled school date on streets directly adjacent to school campuses.

SECTION 11. HOLIDAYS.

Service Provider may observe New Year's Day, Thanksgiving Day and Christmas Day. Service Provider shall request any additionally proposed holidays to be observed each calendar year prior to October 1st of the prior calendar year for approval by the City Manager. The City Manager may require Service Provider to provide, or not provide, Collections on a holiday. Suspension of service for any holiday shall not relieve Service Provider of its obligation to provide Collection service in frequencies provided for in this Agreement. Should Service Provider observe a holiday, Service Provider shall, for the remainder of the calendar week, provide Collection services to Customers one day after their normal Collection day, including Saturday, as its catch-up day.

SECTION 12. CUSTOMER SERVICE.

A. Service Inquiries.

The City shall manage current and new Customer service requests for all Residential and Commercial Customers, excluding Roll-offs and Special Collections, or as otherwise provided for herein. The City shall notify Service Provider of any additions, deletions or modification in Solid Waste Services and Recycling Services within one (1) business day of the request by the Customer.

The Service Provider and the City agree to cooperate with each other in the response to any such inquiries and the resolution of any such complaints. The Service Provider shall be responsible for maintaining a log of complaints as provided for herein.

B. Customer Service Office.

- 1) The Service Provider's customer service office is located at 8600 North IH 35 Georgetown, Texas 78626.

The Service Provider's customer service office hours of operation are Monday through Friday from 8 a.m. until 5 p.m.

C. Customer Complaints.

- 1) City shall manage Customer complaints, including incoming phone calls, and emails addressing concerns, and resolving issues for Residential Solid Waste and Recycling Services, and Commercial Services billed by the City.
- 2) The Service Provider provides customer service for Special Collections and permanent Roll-off services billed by the Service Provider.
- 3) All Customer complaints about services shall be promptly forwarded to the Service

Provider and shall be given prompt and courteous attention. Service Provider shall resolve all complaints within twenty-four (24) hours of receipt of such complaint.

- 4) In the case of alleged missed Collection, the Service Provider shall make every effort to Collect the material on the same day; but it shall be Collected within one (1) business day after the complaint is received. Unless otherwise specified in this Agreement, should the Service Provider for any reason after being notified fail to make any Collections, then the City, without further notice, may cause the same to be picked up and disposed of and shall deduct or bill to the Service Provider the City's cost as well as bill or deduct the Service Provider's pro-rata charge or rate for providing the service.
- 5) Any complaint from a Customer that is not resolved to Customer's satisfaction shall be addressed by the City and the Service Provider.

SECTION 13. REPEATED NON-COLLECTION.

It is specifically understood and agreed that where the owner or occupant of a Commercial or Residential Unit repeatedly fails to timely place a Container as directed in Section 2 herein, or is otherwise in violation of the City's ordinances and regulations, the Service Provider's reasonable rules adopted hereunder or the provisions of this Agreement relating to the nature, volume or weight of Solid Waste or Recyclable Materials to be removed, the Service Provider may refrain from collecting all or a portion of such Solid Waste or Recyclable Materials and will notify the City within eight (8) hours thereafter of the reason for such non-collection.

The Service Provider will also provide written notice to the Commercial or Residential Unit of the reason for such non-collection, unless such non-collection is the result of the Commercial or Residential Unit's failure to timely place the Containers, Bulky Items or Bundles out for collection. Such written notice shall be attached to the Container or the uncollected Solid Waste or Recyclable Materials, shall indicate the nature of the violation and shall indicate the correction required in order that such Solid Waste or Recyclable Materials may be collected.

SECTION 14. SERVICE PROVIDER'S UNDERSTANDING AND DUTY.

Service Provider acknowledges that this Agreement is subject to all requirements of the City of Burnet Home Rule Charter ("Charter"). The Service Provider, its employees, subcontractors, and agents shall comply with all applicable federal and state laws, the City Charter and ordinances of the City of Burnet, Texas, and all applicable rules and regulations promulgated by all local, state, and national boards, bureaus, and agencies. Service Provider shall further obtain and maintain all permits and licenses required, if any, for the performance of any services required.

Service Provider will be responsible for conducting criminal background checks and verifying employment eligibility on all employees employed in provided the Work required in this Agreement.

The failure or omission of the Service Provider to receive or examine any form, instrument, addendum, or other documents or to acquaint itself with conditions existing within the City shall in no way relieve the Service Provider from any obligations with respect to this Agreement.

The Service Provider acknowledges that Service Provider is an independent contractor of the City and is not an employee of the City.

SECTION 15. COLLECTION VEHICLES AND EQUIPMENT.

The Service Provider shall utilize Collection vehicles, Carts and Dumpsters sufficient to meet the service requirements set forth in this Agreement. Such Collection vehicles and equipment shall be substantially similar to those as provided for in Exhibit "B", attached hereto.

No third-party advertisements are allowed on trucks used for Collections. All Collection vehicles shall be equipped with back-up camera and spill kits for oil and hydraulic fluid. Vehicles shall be in good, clean appearance and operating efficiently. Service Provider shall provide sufficient number of Collection vehicles to provide service in compliance with this Agreement.

Each vehicle shall be clearly marked with the Service Provider's name, telephone number and unit number legible from one-hundred-fifty (150) feet.

SECTION 16. DUE CARE.

The Service Provider shall exercise due care and caution in providing the Services so that the City's public and private property, including streets and parking areas, will be protected and preserved.

SECTION 17. PERFORMANCE STANDARDS.

The Service Provider, its agents, servants and employees shall perform the Services in a courteous, competent and professional manner. During the term of this Agreement and any extension thereof, the Service Provider shall be responsible for the actions of its agents, servants

and employees while such agents, servants and employees are acting within the scope of their employment or agency.

SECTION 18. INSURANCE REQUIREMENTS.

- 1) Insurance: Service Provider shall at all times during the Agreement maintain in full force and effect Employer's Liability, Worker's Compensation, Public Liability and Property Damage Insurance as provided for herein. All insurance shall be by insurers and for policy limits reasonably acceptable to the City and before commencement of work hereunder Service Provider agrees to furnish the City certificates of insurance satisfactory to the City to the effect that such insurance has been procured and is in force. The City shall be shown as additional insured during the initial term and any renewals. Proof of insurance shall be included in the form of Exhibit "C". The certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for which this certificate is executed and are in force at this time. In the event of cancellation of a coverage required below affecting the certificate holder, thirty (30) days prior written notice will be given to the certificate holder and the City."

- 2) All policies shall be written on a "per occurrence" and not "claims made" basis.
- 3) For this purpose of the Agreement, the Service Provider shall carry the following types of insurance in at least the limits specified below:

Minimum Limits of Insurance:

Type of Coverage	Per Occurrence Minimum	Aggregate Minimum
Workers Compensation	As required by law and shall cover all employees including drivers.	As required by law
Comprehensive And General Public Liability	\$1,000,000	\$2,000,000
Property Damage	\$1,000,000	\$2,000,000
Comprehensive Auto Liability Bodily Injury	\$1,000,000	\$2,000,000
Comprehensive Auto Liability-Property Damage	\$500,000	\$1,000,000

Umbrella Liability/ Each Occurrence		\$5,000,000.00
Excess Liability Aggregate		\$5,000,000.00

SECTION 19. RELEASE AND INDEMNIFICATION

TO THE MAXIMUM EXTENT PERMITTED BY LAW, SERVICE PROVIDER HEREBY AGREES AND CONSENTS FOR ITSELF, INDIVIDUALLY, AND ON BEHALF OF THE BUSINESS ENTITY REPRESENTED, TO FULLY AND UNCONDITIONALLY RELEASE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF BURNET, TEXAS, INCLUDING ITS OFFICERS, AGENTS AND EMPLOYEES, AND TO DEFEND AND HOLD IT HARMLESS FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, ATTORNEY FEES, CLAIMS, SUITS, DEMANDS, LOSSES, OR LIABILITY FOR INJURIES TO REAL OR PERSONAL PROPERTY AND INJURIES TO PERSONS INCLUDING DEATH, INCLUDING SERVICE PROVIDER’S EMPLOYEES, AFFILIATES, REPRESENTATIVES, PARTNERS, AGENTS, OR THOSE WORKING ON SERVICE PROVIDER’S BEHALF, FROM ANY AND ALL OTHER COSTS, EXPENSES, ATTORNEY FEES, CLAIMS, SUITS, DEMANDS, LOSSES OR LIABILITIES OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND IN THE PERFORMANCE THEREOF, REGARDLESS OF CAUSE OR OF THE SOLE, JOINT, COMPARATIVE OR CONCURRENT NEGLIGENCE OR GROSS NEGLIGENCE OF SERVICE PROVIDER, ITS OFFICERS, AGENTS OR EMPLOYEES, SAVE AND EXCEPT THE SOLE AND EXCLUSIVE NEGLIGENCE OF THE CITY. THIS PROVISION SHALL APPLY TO ALL IMPUTED OR ACTUAL JOINT ENTERPRISE AND JOINT VENTURE LIABILITY, IF ANY.

SECTION 20. SEVERABILITY.

In the event that any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall, to the extent reasonably possible, remain in force as to the balance of its terms and provisions as if such invalid term or provision were not a part hereof.

SECTION 21. TERMINATION.

In the event of a failure by Service Provider to perform any material provision of this Agreement, City shall give written notice of such breach to Service Provider along with at least thirty (30) days to correct such breach (the "Cure Period"). In the event the Service Provider has not adequately corrected such breach in accordance with this Agreement, a hearing shall be held before the City Council. Upon completion of the Cure Period and the public hearing, the City may terminate this Agreement and shall notify the Service Provider in writing of such

termination action. At such time, City shall pay Service Provider only all charges and fees for the services performed on or before such termination date. Following any such termination and the final payment from the City to Service Provider, neither party shall have any further obligation under this Agreement other than for claims for personal injuries or property damage as expressly provided in this Agreement and arising prior to such termination date.

SECTION 22. TERM OF AGREEMENT.

The Service Provider shall provide services for the term of the Agreement, with an initial term of five (5) years, commencing on November 1, 2021 at 12:00 AM, CST and ending on October 31, 2026. The City and the Service Provider, by written mutual agreement prior to the expiration of the Agreement, may extend the Agreement for additional terms; provided that upon the absence of written notice this Agreement shall continue on a month to month basis.

SECTION 23. ASSIGNMENT.

This Agreement shall not be assignable or otherwise transferable by the Service Provider without the prior written consent of the City.

SECTION 24. FORCE MAJEURE.

The performance of this Agreement may be suspended and the obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond reasonable control of such party. The performance of this Agreement will be suspended and the obligations hereunder excused only until the condition preventing performance is remedied. Such conditions shall include, but not be limited to, acts of God, acts of war, accident, explosion, fire, flood, riot, sabotage, acts of terrorists, unusually severe weather, lack of adequate fuel, or judicial or governmental laws or regulations.

SECTION 25. JURISDICTION AND VENUE.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and is fully performable in Burnet, Texas, and venue for any action related to this Agreement will be Burnet County, Texas.

SECTION 26. WARRANTIES AND SERVICE.

The implied warranties of merchantability and fitness for a particular purpose shall not be waived under this Agreement except as expressly authorized, in writing by the City.

SECTION 27. SECURITY FOR FAITHFUL PERFORMANCE

Prior to commencement of the Work, the Service Provider will be required to furnish a Two Hundred Thousand Dollar (\$200,000.00) performance bond as security for the faithful performance of this Agreement.

Premium for the bonds described above shall be paid by the Service Provider. A certificate from the surety showing that the bond premiums are paid in full shall accompany the bond.

The surety on the bond shall be a duly authorized corporate surety with a minimum A.M. Best rating of A+ and fully authorized to do business in the State of Texas.

The performance bond shall remain in place throughout the term of this Agreement.

SECTION 28. INCORPORATION BY REFERENCE

All of the exhibits attached to this Agreement or referred to herein and all documents in the nature of such exhibits, when executed, are by this reference incorporated in and made a part of this Agreement, including the following:

Exhibit "A"	Fee Schedule
Exhibit "B"	Collection Vehicle and Equipment List
Exhibit "C"	Proof of Insurance
Exhibit "D"	Customer Request

SECTION 29. ATTORNEYS' FEES.

The prevailing party in any dispute between the parties arising out of the interpretation, application or enforcement of any provision hereof shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not, including without limitation costs and attorneys' fees related to or arising out of any trial or appellate proceedings.

SECTION 30. CONFLICTS BETWEEN AGREEMENT AND RFP

AL CLAWSON DISPOSAL, INC.
P.O. Box 416
Jarrell, TX 76537

By: Tanya Clawson

Name: Tanya Clawson

Title: Corporate secretary

CITY OF BURNET
P. O. Box 1369
Burnet, TX 78611

By: David Vaughn

Name: David Vaughn

Title: City Manager

AL CLAWSON DISPOSAL, INC.
P.O. Box 416
Jarrell, TX 76537

By: _____

Name: _____

Title: _____

CITY OF BURNET
P. O. Box 1369
Burnet, TX 78611

By:  _____

Name: David Vaughn

Title: City Manager

EXHIBIT "A"

FEE SCHEDULE

STANDARD RESIDENTIAL SOLID WASTE AND RECYCLING RATES:	
One 95-gallon Solid Waste Cart and one 95-gallon Recycling Cart (Every Other Week "EOW" recycling)	19.64
Each additional 95-gallon Solid Waste Cart	3.97
Each additional 95-gallon Recycling Cart	2.05
SENIOR CITIZEN SOLID WASTE AND RECYCLING RATES:	
One 95-gallon Solid Waste Cart and one 95-gallon Recycling Cart (includes EOW recycling)	15.73
Each additional 95-gallon Senior Citizen Solid Waste Cart	3.38
Each additional 95-gallon Senior Citizen Recycling Cart	2.05
COMMERCIAL CURBSIDE RECYCLING RATES:	
Every Other Week (EOW) - One 95-gallon Cart	4.46
Additional 95 gallon Recycling Cart	2.41
COMMERCIAL 8 YARD DUMPSTER RECYCLING RATES:	
One Time per week	137.40
COMMERCIAL SOLID WASTE COLLECTION RATES:	
CARTS:	
Each Additional 95-gallon Commercial Cart	4.60
One Time per week - One 95 gallon Cart	18.39

Two Times per week - One 95 gallon Cart	34.04
Three Times per week - One 95 gallon Cart	51.06
Four Times per week - One 95 gallon Cart	68.09
Five Times per week - One 95 gallon Cart	85.12
One Time per week - Two 95 gallon Carts	22.99
Two Times per week - Two 95 gallon Carts	42.56
Three Times per week - Two 95 gallon Carts	63.82
Four Times per week - Two 95 gallon Carts	85.12
Five Times per week - Two 95 gallon Carts	105.36
TWO YARD DUMPSTER:	
One Time per week	60.79
Two Times per week	93.52
Three Times per week	133.61
Four Times per week	178.15
Five Times per week	222.68
THREE YARD DUMPSTER:	
One Time per week	63.41
Two Times per week	115.18
Three Times per week	164.55
Four Times per week	219.41
Five Times per week	274.27
FOUR YARD DUMPSTER:	

One Time per week	81.62
Two Times per week	136.20
Three Times per week	194.57
Four Times per week	259.43
Five Times per week	324.27
SIX YARD DUMPSTER:	
One Time per week	104.58
Two Times per week	178.78
Three Times per week	255.40
Four Times per week	324.27
Five Times per week	425.68
EIGHT YARD DUMPSTER:	
One Time per week	137.40
Two Times per week	221.71
Three Times per week	316.73
Four Times per week	422.30
Five Times per week	527.88
TEN YARD DUMPSTER:	
One Time per week	168.82
Two Times per week	259.71
Three Times per week	371.04

Four Times per week	494.71
Five Times per week	618.38
DUMPSTER EXTRA LIFTS:	
Two Yard Dumpster	43.95
Three Yard Dumpster	52.26
Four Yard Dumpster	60.58
Six Yard Dumpster	71.74
Eight Yard Dumpster	88.36
Ten Yard Dumpster	105.00
ROLL-OFF RATES:	
Delivery Fee	240.40
Daily Rental Fee	3.88
20 Yard per Haul	503.30
30 Yard per Haul	597.79
40 Yard per Haul	692.27
Double Handle Fee	68.30
Overload Fee / Per Ton	Gate Rate
TIRE DISPOSAL FEE (Per Tire)	6.83
BRUSH/BULKY COLLECTION FEE OVER 3 CY (per yard):	3.82

Exhibit “B”

Collection Vehicle and Equipment List

Solid Waste ACDI Truck #1151 2017 Peterbilt

Residential Recycle ACDI Truck #825 2012 Freightliner

Front Load ACDI Truck #711 2020 Mack

(List is subject to change)

Exhibit "C"

REQUIREMENTS FOR ALL INSURANCE DOCUMENTS

The Service Provider shall comply with each and every condition contained herein. The Service Provider shall provide and maintain the minimum insurance coverage set forth below during the term of its agreement with the City.

INSTRUCTIONS FOR COMPLETION OF INSURANCE DOCUMENT

With reference to the foregoing insurance requirements, Service Provider shall specifically endorse applicable insurance policies as follows:

1. All insurance policies shall be endorsed to the effect that The City of Burnet will receive at least thirty (30) days written notice prior to cancellation or non-renewal of the insurance.
2. All insurance policies, which name The City of Burnet as an additional insured, must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
3. **Chapter 1811 of the Texas Insurance Code, Senate Bill 425 82(R) of 2011, states that the above endorsements cannot be on the certificate of insurance. Separate endorsements must be provided for each of the above.**
4. All insurance policies shall be endorsed to require the insurer to immediately notify The City of Burnet of any material change in the insurance coverage.
5. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
6. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
7. Service Provider may maintain deductibles in the amount of \$3,000.00.
8. Insurance must be purchased from insurers having a minimum AmBest rating of B+.
9. All insurance must be written on forms filed with and approved by the Texas Department of Insurance. (ACORD 25 2010/05). Coverage must be written on an occurrence form.
10. Contractual Liability must be maintained covering Service Provider's obligations contained in the Agreement. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting all endorsements and insurance coverages according to requirements and instructions contained herein.
11. Upon request, Service Provider shall furnish The City of Burnet with certified copies of all insurance policies.
12. A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Burnet within ten (10) business days after the execution of the Agreement and prior to starting any work by Service Provider's insurance agent of record or insurance company. Also, prior to the start of any work and at the same time that the Certificate of Insurance is issued and sent to the City of Burnet, all required endorsements shall be sent to the City of Burnet. The certificate of insurance and endorsements shall be sent to:

City of Burnet

City Manager

P.O. Box 1369

Burnet, Texas 78611

Emailed to: _____

Faxed to: _____

