

**SOLID WASTE AND RECYCLABLES  
COLLECTION, TRANSPORTATION AND DISPOSAL  
FOR THE TOWN OF EXETER, NEW HAMPSHIRE**

This Agreement made and entered into this 10<sup>th</sup> day of May, 2017 by and between the Town of Exeter, organized under the laws of the State of New Hampshire (hereinafter referred to as the "Town") and Waste Management of New Hampshire, Inc., a corporation organized under the laws of the State of Connecticut and having a place of business at 30 Rochester Neck Road, Rochester, New Hampshire 03839, (hereinafter referred to as the "Contractor").

WITNESSETH:

Whereas, the Town desires to hire the Contractor to provide residential collection and transportation of Municipal Solid Waste ("MSW") and Recyclables, within the boundaries of the Town.

Now, therefore, in consideration contained herein, the Town and the Contractor hereby agree as follows:

Section 1. Definitions

- A Municipal Solid Waste ("MSW"): Non-baled solid waste generated within the Town and normally disposed of by households and small businesses in the State of New Hampshire not including, Bulky Waste, Construction and Demolition Debris, Yard Waste, Cathode Ray Tubes, and White Goods as defined herein, and not containing any Hazardous or Unacceptable Waste as defined herein below.
- B Bulky Waste: Any large objects not capable of being lifted by one-person exceeding the capacity of the Town of Exeter Trash Bag. Items include but are not limited to: mattresses, couches, bureaus, chairs, large children's toys, carpet, etc. Does not include construction and demolition debris or hazardous waste, White Goods, or electronic waste.
- C Recyclable Materials: Mixed paper, to include but not be limited to, newspapers, magazines, paperboard, brown bags, beverage cartons, phone books, junk-mail, corrugated cardboard, co- mingled containers, glass bottles, metal cans (aluminum, bi-metal and tin), spray cans (non-hazardous contents), #1 through #7 rigid plastic containers (no polystyrene, plastics bags) or other such materials as the parties may agree to in writing.
- D Construction and Demolition Debris: Bulky Waste building materials resulting from the process of construction, remodeling, repair, and demolition activities.
- E White Goods: Any large metal items including but not limited to: dishwashers, washing machines, stoves, dryers or any appliance that contains Freon (refrigerators, air conditioners, freezers, dehumidifiers).
- F Cathode Ray Tube (CRT's): Any glass tube used to provide the visual display in televisions and computer monitors as defined by the State of New Hampshire's Hazardous Waste Rules ENV-WM 1101, "Universal Wastes".
- G Yard Waste: Consisting of, but not limited to: leaves, grass, pine needles.
- H Residential Unit: A dwelling unit such as a home, trailer, condominium, or townhouse. For the purposes of this Agreement, Residential Unit shall include only those residential locations identified by the Town that are to be serviced under this Agreement.

- I Small Commercial Business: A business engaged in the sale of goods and merchandise at retail or wholesale or the providing of services to others, including professional services, beauty salons, barbershops or other personal care establishments, but not including businesses engaged in the manufacture of materials or products or industrial uses.
- J Approved User: Any occupant of a Residential Unit, small commercial business; or other location identified by the Town that are to be serviced under this Agreement (for example, Municipal buildings and other locations to be serviced as defined herein)."
- K Cart: A plastic container not exceeding 96 gallons in capacity to be used for the storage and setout of Single Stream Recyclables at Residential Units or small commercial businesses.
- L Disposal Site: *A permitted facility to be designated by the Contractor that will receive and dispose of solid waste and is legally empowered to accept same.*
- M Material Recovery Facility ("MRF"): Location to be designated by the Contractor for the purpose of sorting and preparing Recyclable Materials for market.
- N Hazardous or Unacceptable Waste: See Exhibit A.

## Section 2. Term of Agreement

The term of this Agreement shall be for a period of Five (5) years from June 1, 2017 to and including May 31, 2022. Upon mutual consent, the term of this Agreement shall be extended for a three (3) year period with mutually agreed upon terms and pricing. This Agreement's renewal is subject to funding as appropriated at the Annual Town Meeting.

## Section 3. Scope of Services

### **MSW Collection:**

The Contractor shall furnish and maintain all trucks, labor, tools, machines, material and equipment necessary and required for the collection, transportation and disposal of all non-hazardous MSW. The Contractor shall be responsible for the collection, transportation and disposal of all Approved Users MSW generated at Residential Units and small commercial businesses within the Town. Collection shall be in accordance with customary MSW collection practices. All MSW shall be contained in sealed Town of Exeter Trash Bags. Each bag shall be appropriately tied and shall not exceed a weight of forty-five (45) pounds and placed at curbside by 7:00 am on the designated collection day once per week. At no time shall the Contractor be responsible to collect materials that are not properly prepared for collection or are not a part of the contract, i.e. construction and demolition debris exceeding the weight limit of seventy-five (75) pounds. The Contractor will place a sticker, approved by the Department of Public Works, on any unacceptable materials placed at the curb explaining why the material is unacceptable. The Contractor will not collect the unacceptable items(s) until the deficiency is corrected.

### **Disposal of MSW:**

Contractor shall transport MSW for disposal to the Waste Management Turnkey Recycling and Environmental Enterprises facility located in Rochester, New Hampshire or a fully permitted alternate disposal facility of the Contractor's choice, as outlined in Section 9. Contractor will take title to MSW upon pick-up and will be responsible for the disposition of such MSW to the location specified. Contractor shall not mix MSW generated within any other town or municipality with that of the Town. Town shall pay all tipping fees for disposal of MSW in accordance with this Agreement.

**Recycling Collection:**

The Contractor shall furnish and maintain all trucks, labor, tools, machines, material and equipment necessary and required for the collection, transportation, processing and marketing of recyclable materials. The Contractor shall perform Recycling Collection Services in the Town on a weekly schedule. Recyclables shall be collected on the same day as trash collection services for each designated Approved User on a weekly basis in accordance with customary recyclable material collection practices. The Contractor shall collect and remove all Recyclables contained in Town approved bins, or equivalent, which are placed curbside for collection. The Contractor will place a sticker, approved by the Town, on any unacceptable materials contained in Town approved bins explaining why the material is unacceptable. The Contractor will not collect the unacceptable item(s) until the deficiency is corrected. The Contractor shall not commingle Recyclables with MSW except in an emergency situation and with the written concurrence of the Director of Public Works. Contractor shall send a monthly Recyclables report to the Director of Public Works by the tenth day of the following month, listing the quantity of Recyclables collected. Under no circumstances shall acceptable recyclable materials be disposed of at a landfill or other solid waste disposal facility, except as provided herein.

**Bulky Waste Collection:**

The Contractor shall furnish and maintain all trucks, labor, tools, machines, material and equipment necessary and required for the collection, transportation and disposal of Bulky Waste at curbside from Approved Users. Collection shall be limited to one (1) item each week from each Approved User and must have an approved Town of Exeter Bulky Waste Tag on each item to be collected.

**Yard Waste Collection:**

The Contractor shall furnish and maintain all trucks, labor, tools, machines, material and equipment necessary and required for the collection, transportation and disposal of Yard Waste at curbside from Approved Residential Unit. Contractor shall provide two times per year, a Town wide curbside collection of yard waste. Each Residential Unit will be allowed up to 12 paper yard waste bags to be placed at the curbside on their normal day of collection. Dates of collection will be mutually agreed upon between the Department of Public Works and the Contractor. Contractor will transport and deliver all yard waste collected in the Town, to Town owned Transfer Station located on Cross Road, Exeter, NH.

**Municipal Facilities:**

In addition, the Contractor shall pick up MSW from containers placed at municipal and public buildings and complexes as follows:

<u>Location</u>	<u>Number</u>	<u>Size</u>	<u>Frequency</u>
Public Works Complex	1	10-yard	One per week
Water Treatment Plant	1	2-yard	One per week
Public Safety Complex	1	6-yard	One per week
Senior Citizen Center	1	8-yard	One per week
Recreation Park	1	10-yard	Three per week(M,W,F)by 9 am
Transfer Station	3	10-yard	Three per week
Transfer Station (cardboard)	1	roll-off	as needed
Transfer Station (CD)	1	roll-off	as needed

Containers must have doors and lids, must have all plugs in place so as not to leak, and must be in good working condition at all times.

**Miscellaneous:**

Town agrees to instruct its Approved Users that all items to be collected shall be placed curbside on approved collection routes by 7:00 am on the collection day.

The Town agrees that with advanced notification to the Approved Users, the Contractor may modify the collection routes so long as each Approved User receives weekly MSW collection service and weekly Recycling collection service.

In emptying solid waste and/or recycling containers, the Contractor and his/her employees shall place, not drop or throw, the containers or bins on sidewalks, within two feet but not blocking, any travel ways or driveways. The Contractor shall be responsible for all damaged solid waste and/or recycling containers, and shall pay for the replacement of damaged containers if, in the opinion of the Director of Public Works, insufficient care by the Contractor's employees caused the damage.

No scavenging shall be performed or permitted along any street or road.

No waste or recycling collection truck shall be routinely emptied, or the load transferred, on any street or road within the Town, or in any other place within Town limits, except at a facility or location approved by the Director of Public Works. If the waste or recycling truck is mechanically disabled on a Town street or road, the Contractor will be authorized to transfer the load to a replacement vehicle. In any such circumstance, the Director of Public Works shall be notified immediately.

This Contract does not include collection of commercial or industrial waste, but nothing in this agreement precludes the Contractor from entering into a separate Agreement with such commercial establishments for the collection and disposal of such waste. Any such agreements shall be provided to the Director of Public Works. Tonnage from any such agreements shall not be included in the tonnage charged to the Town.

**Collection from Public and Private Roads**

The Contractor will be required to collect MSW and recyclable materials from all publicly maintained streets and roads in the Town of Exeter, from any new public roads developed during the contract, and from all privately maintained streets and roads if currently serviced. If there are requests to service additional private roads, the condition of such streets or roads must reasonably allow access for such collection and the following conditions shall apply:

- A. A site visit shall determine that the road and travel conditions are safe;
  - B. A damage disclaimer must be signed by an authorized Approved User or Homeowners Association Board.
- Or
- A. The road conforms to the Town Ordinances and Planning Board Subdivision regulations;
  - B. The road is a minimum of 24 feet wide;
  - C. The road is regularly maintained to permit easy, year round vehicle access;
  - D. The road is less than one-quarter mile in length;
  - E. A damage disclaimer must be signed by an authorized Approved User OR The Director of Public Works is the designated Town official responsible for determining whether a private road satisfies these standards.

Section 4. Compensation

The Town agrees to make payments to the Contractor for the above-referenced services at the rates specified below. Contractor shall submit an invoice to the Town on a monthly basis and Town shall remit payment within 30 days from date of invoice. Late payments shall be subject to a fee of 18% per annum. The Contractor will provide monthly reports for quantities of MSW collected and disposed; and recyclables collected and processed. Such reports will include signed disposal tickets from a state certified scale house showing date, time, vehicle identification and weight of materials. Invoices will not be paid without tickets. Invoices shall be subject to deductions and/or claims for any failure by the Contractor to perform work as specified. Invoices shall be submitted to the Department of Public Works at 13 Newfields Road, Exeter NH 03833.

Curbside MSW & Single Stream Recycling Collection & Disposal	\$45,370.67 per month
MSW Disposal Per Ton	\$70.00 per ton
Bulky one (1) item per week with a Town approved sticker	Included
Recycling Processing	*See Processing Below
Curbside Yard Waste Pickup (Twice annually) (\$7,200.00 billed twice annually)	\$7,200.00 per event
Construction Debris (30-yard Roll off container)	\$190.00 per haul
	\$70.00 per ton
Cardboard (30-yard Roll off container)	\$190.00 per haul

The Town shall pay an additional sum of \$6,729.23 representing the issuance of the performance bond in year one as described in Section 18. The Town shall pay \$7,402.15 for each subsequent contract year for the continued issuance of a performance bond. The first invoice of each year shall include the performance bond premium for that year. The Town will have the option to renew the performance bond on an annual basis.

The annual contract price for all services will increase at three percent (3%) per year beginning June 1, 2018.

**Start-Up Costs and Deferral**

Contractor shall charge an additional startup fee of \$100,000.00 to be invoiced in increments of \$1,666.67 per month beginning June 1, 2017 through and including May 1, 2022.

**Processing of Recyclable Materials**

Town shall also exclusively provide to TREE's materials recovery processing facility located in Rochester, New Hampshire all of the single stream recyclable materials generated within the Town and meeting the specifications as defined in Exhibit B ("Specifications) attached hereto ("Acceptable Recyclable Materials"). The Town shall not allow scavenging of Acceptable Recyclable Material. Title to and liability for Excluded Materials, as defined in Exhibit B, shall remain with Town at all times. Title to Acceptable Recyclable Materials provided by Town to Company is transferred to Company upon Company's receipt or collection unless otherwise provided in this Agreement or applicable law. Company reserves the right upon notice to Town to petition the Town to discontinue collection and processing of any category of Acceptable Recyclable Material as a result of no market existing for such materials and makes no representations as to the recyclability of the materials which are subject to this Agreement.

The value of the Acceptable Recyclable Materials shall be as set forth on Exhibit C. It shall be conclusively presumed that the composition of the Acceptable Recyclable Materials collected by the Company shall be identical to the composition of all single stream recyclable materials processed by Company at the processing facility used, as established from time to time by Company. Notwithstanding the foregoing, Company may perform a composition study of the Acceptable Recyclable Materials to determine the composition percentage of each commodity for the material and may revise the amount payable or chargeable to Town to reflect the actual composition of Town's Acceptable Recyclable Materials. Town acknowledges that the value of the Acceptable Recyclable Materials may be negative. An example of the monthly calculation to determine the charge or rebate is set forth on Exhibit D.

The parties acknowledge that maintenance of the quality of the single stream recyclable materials is a requirement of this Agreement, subject to the provisions contained herein. The Town shall use reasonable efforts to inform its residents of the quality requirements hereunder and enforce its standards for the acceptance of single stream recyclable materials. Company shall provide reasonable assistance to the Town in such efforts.

#### **Fuel Adjustment**

The fees outlined in this contract assume the current cost of diesel fuel. As fuel costs change, a fuel adjustment will be based on the increase or decrease of diesel fuel cost, as measured by the U.S. Department of Energy, Energy Information Administration, (website <http://tonto.eia.doe.gov/oog/info/gdu/gasdiesel.asp>) for the New England region, from the established baseline cost of \$2.50 per gallon (including taxes) of diesel fuel. The increase or decrease, will be applied to the volume of fuel used, which will be a fixed amount of at 1599 gallons per month. Adjustments will be made bi-annually on December 1 and June 1, based on the average cost of diesel for the six months prior to adjustment (6/1/17 to 11/30/17 for 12/1/17 adjustment).

#### **Miscellaneous**

The Town reserves the right to have their agents inspect any rubbish packer used by the Contractor in the Town and perform surveillance to ensure that only Town of Exeter trash is picked up and transported, and disposal/processing is being charged appropriately.

#### **Section 5. Time of Collection**

Curbside collection of MSW and Recyclables and Bulky Waste shall occur Monday through Friday on the same day each week. Scheduled collections must be completed by day's end. Collections shall not begin earlier than 7:00 a.m. but must begin by 8 am, and must commence by 6 pm on the scheduled collection day. Exceptions to collection hours will be affected only upon agreement of the parties, or when Contractor reasonably believes that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

Collections in the downtown area shall begin that day's route.

The Contractor will collect Approved User's MSW and Recyclables placed at the curbside or other specifically detailed location once each collection week. Collections from other municipal locations will be as outlined in Section 3. Collections will not be made on the following observed holidays:

New Year's Day  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving Day  
Christmas Day

The Contractor shall postpone collections that would normally occur on such holidays for one (1) day. Collections will be delayed one day for the remainder of the week.

#### Section 6. Collection Equipment

One collection truck shall be designated for the collection of Approved User's MSW and one collection truck for Approved User's Recyclables. The Contractor shall provide an adequate number of vehicles for regular collection services. The vehicles shall be kept in good repair, appearance, and in a sanitary condition at all times. The Contractor must be capable of providing reliable service and provide back-up collection equipment as needed.

All leased equipment shall be identified separately and described as set forth herein. In addition, for each item of leased equipment, the Contractor shall disclose the time remaining on the lease and renewal options, if any. Photocopies of all existing signed lease agreements for any leased equipment identified in the inventory shall be provided.

The Contractor shall use all metal, watertight, completely enclosed "packer type" vehicle bodies, designed and manufactured specifically for the collection of MSW and refuse. The level of compaction shall, at all times, be equal to that published by the vehicle's manufacturer. The compacting mechanism in the body of the vehicle shall be capable of compressing the collected material to one-half or less of its original volume.

Truck hopper plugs shall be in place at all times. Trucks found performing collections without appropriate plugs in place in the drain holes of the hopper shall be precluded from further collections until hopper plugs are replaced and/or installed.

All vehicles shall be inspected prior to commencement of the contract period by an inspection station authorized in New Hampshire, Maine or Massachusetts. The Contractor shall provide the Department of Public Works with a copy of each inspection certificate for each vehicle prior to the start of the contract and annually thereafter.

All Town MSW and recyclable materials shall be collected by vehicles, which shall be emptied and void of all MSW or recyclable materials or other material prior to the commencement of a day's collection route. Contractor vehicles shall not collect any additional solid waste that is not part of this Contract until after the vehicle has been weighed, dumped and ticketed at disposal site.

Equipment failure resulting in the delay of collection must be reported to the Director of Public Works within one-half hour of the occurrence. The Contractor will be required to dispatch his back-up equipment and continue the route within 1 hour of notification of breakdown.

Each vehicle shall have clearly visible on each side, the name and phone number of the Contractor.

### Section 7. Litter

All MSW and Recyclables hauled by the Contractor shall be so contained, tied, or enclosed such that leaking, spilling, or blowing are prevented. In the event of any spillage, the Contractor shall immediately clean up the litter.

### Section 8. Title to Waste

Title to all MSW and acceptable Recyclables, excluding Hazardous or Unacceptable Waste, shall be vested in the Contractor upon being placed in its vehicle. Title to all Hazardous Material remains with the Town or Approved User tendering the Hazardous Material. No Hazardous or Unacceptable Waste will be collected by the Contractor.

### Section 9. Disposal

All MSW and Recyclables shall be hauled to a site or facility designated by the Contractor that is legally empowered to accept the waste for treatment or disposal or recycling in accordance with all applicable federal, state and local regulations. All MSW/Recycling facilities so designated must be licensed and/or authorized by both the State and the municipality within which it is located. The Contractor will provide to the Department of Public Works, copies of contractual access to such facilities for the duration of this contract. The Contractor must inform the Director of Public Works of any facility changes while this contract is in force. If, at any time, the Contractor delivers any MSW/Recyclable Materials to a facility other than those identified at the beginning of the contract, the Director of Public Works must be notified.

### Section 10. Permits and Licenses

The Contractor, at its sole cost and expense, shall maintain throughout the term of this Agreement, all permits, licenses and approvals necessary or required for the Contractor to perform the work and services described herein, including but not limited to the operation of the Material Recovery Facility.

### Section 11. Independent Contractor

The Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Town. The Contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder and all persons performing the same and nothing herein shall be construed as creating a partnership or joint venture between the Town and the Contractor. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant or employee of the Town, and no such person shall be entitled to any of the benefits available or granted to employees of the Town.

### Section 12. Routes and Schedules

The Contractor shall provide the Department of Public Works with schedules of residential collection routes and keep such information current at all times. It shall be the Approved User's responsibility to place the MSW and Recyclables at the appropriate location for collection before the approved starting hour. In the event of changes in routes or schedules that will alter the day of pickup, the Contractor shall so notify each Approved

User by mail or hand delivery not less than two (2) weeks prior to the change, only after approval by the Town. It shall also provide such information to the Town by the 15<sup>th</sup> of the month to be published on the Town's web site.

The Contractor shall collect MSW and Recyclable Materials from all Approved Users on the scheduled collection day. In the event there is a missed pick-up, the Contractor shall collect the MSW or Recyclable Material within twenty-four hours from the time of notice during normal business hours. All calls relating to missed pickups shall be logged by the Contractor and such Log shall be available for inspection by the Town.

The Contractor shall not be responsible to provide the authorized collection services should there be significant delays due to acts of God, unusual weather conditions, highway reconstruction, holidays, weekends, floods, fires, acts of terrorism, Force Majeure, or any other unforeseen circumstance that is not in control of the Contractor. In the event of an authorized collection delay, collection will resume the following day, and collections will be delayed one day for the remainder of the week.

In the event that predicted weather conditions may cause postponement of service, the Contractor will consult with the Director of Public Works a minimum of 12 hours prior to the start time of the scheduled collection, Collections postponed due to weather shall be delayed one day for the remainder of the week. In no case, shall MSW or recyclable materials collection be postponed more than two days.

#### Section 13. Non-Assignment

Neither the Contractor nor the Town shall assign, transfer, convey or otherwise hypothecate this Agreement or their rights, duties or obligations hereunder or any part thereof without the prior written consent of the other party, which consent shall not be unreasonably withheld, provided that, Contractor shall have the right to assign this Agreement, without consent of the Town in the event of a corporate reorganization, merger or transfer of substantially all of Contractor's assets.

#### Section 14. Compliance with Laws and Regulations

Contractor will comply with any and all federal, state, and local laws and regulations now in effect, or hereafter enacted during the term of this Agreement, which are applicable to Contractor, its employees, agents, or subcontractors, if any, with respect to the work and services described herein.

#### Section 15. Unusual Changes or Costs

The Contractor may petition the Town for rate adjustments at reasonable times on the basis of unusual changes in his cost of doing business, such as revised laws, ordinances or regulations. If the Contractor applies for an increase, the Contractor must provide a 60-day written notice of that increase, to the Town. If the Town does not agree to the proposed rate adjustment, both parties agree to resolve-the issue through an arbitrator.

#### Section 16. Contractor's Personnel

- A. The Contractor shall assign a qualified person or persons to be in charge of operations in the Town and shall give the name or names and 24-hour contact number to the Department of Public Works.

- B. The Contractor shall immediately rectify all complaints of operation received by the Department of Public Works.
- C. The Contractor's collection employees shall wear a clean uniform bearing the Contractor's name and conduct themselves in a professional manner at all times and adhere to the Contractors Rules and Regulations.
- D. Each employee shall, at all times, carry a valid operator's license for the type of vehicle they are driving, copies of which shall be provided to the Department of Public Works.
- E. The Town may request the dismissal of any employee of the Contractor who violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.
- F. The Contractor shall provide operating and safety training for all personnel. Each vehicle shall be equipped with a first aid kit, communication device, a spill kit and an oil spill kit.
- G. The Contractor for reasons of race, creed or religion shall deny no person employment.
- H. The Contractor shall provide a customer service center with a toll-free telephone number. The customer service center shall be staffed with trained customer service representatives. These representatives shall have direct contact with all collection vehicles operating in the Town and with the Department of Public Works. The customer service center shall be open and staffed whenever collection is taking place in the Town.

#### Section 17. Indemnity

To the fullest extent permitted by law, Contractor shall protect, indemnify, save, defend and hold harmless the Town of Exeter, its officials, agents, volunteers and employees ("Indemnified Parties"), from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs, interest and expenses, including but not limited to reasonable attorney and paralegal fees, which Indemnified Parties may become obligated or suffer by reason of any accident, bodily injury, personal injury, death of person, or loss of or damage to property, to the extent arising indirectly or directly under, out of, in connection with, or as a result of this Contract or the activities of Contractor or its agents, employees, contractors or subcontractors, to the extent caused by any negligent or intentional act or omission of Contractor or its agents, employees, contractors or subcontractors. The Contractor's obligations to defend, indemnify and hold harmless the Indemnified Parties hereunder shall survive the term of this Contract. The Town of Exeter shall have the right to approve assignment of counsel, defense strategy and settlement, and its approval shall not be unreasonably withheld. Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance of this Agreement.

#### Collection on Non-Public or not Town-approved Roadways

To the extent the Contractor is performing services on any non-public or not Town Approved Roadway within the Town, any Indemnification from Contractor, as stated above, shall not apply. Contractor shall have no liability for events stemming from performing services on such Roadways.

Section 18. Insurance and Performance Bond

The Contractor shall obtain and maintain Insurance which includes the "Town of Exeter" as additionally insured, except under Workers' Compensation/Employers Liability throughout the term of this Agreement, at the Contractor's sole cost and expense, not less than the insurance coverage set forth below:

<u>Coverages</u>	<u>Limits of Liability</u>
Worker's Compensation	Statutory
Employer's Liability	\$3,000,000
Bodily Injury and Property Damage Liability	\$5,000,000 Combined Single Limit
Automobile Bodily Injury and Property Damage	\$10,000,000 Combined Single Limit

Coverage includes all owned, non-owned, leased and hired automobiles.

The Contractor shall furnish the Town a Performance Bond for the faithful performance of this Agreement. It shall be executed by a surety company licensed to do business in the State of New Hampshire and shall be in the penal sum of 110% of the annual contract price. Said Bond to be renewed annually on the anniversary date of the Agreement. Said Bond shall indemnify the Town against any loss resulting from any failure of performance by the Contractor, not exceeding, however, the penal sum of the bond, unless such failure is a result of force majeure.

The Department of Public Works must be notified 10 days in advance of cancellation to the above policies and/or performance bond.

Section 19. Notices

All notices required or contemplated by this Agreement shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the parties as follows:

To the Town:                      Town of Exeter, NH  
   10 Front Street  
   Exeter, NH 03833  
   Attn: Town Manager

and

Department of Public Works  
13 Newfields Road  
Exeter, NH 03833  
Attn: Director

To the Contractor:              Waste Management of New Hampshire, Inc.  
   4 Liberty Lane West  
   Hampton, NH 03842  
   Attn: Public Sector Services Manager

and:                                      Attn: Senior Group Counsel

or to such other address as the parties may designate in writing.

#### Section 20. Point of Contact

All dealings, contact, etc. between the parties shall be directed by the Contractor to the Director of Public Works, who shall administer the provisions of the Contract for the Town. All work shall be performed in a manner satisfactory to the Director of Public Works and the Town Manager and shall be in compliance with all governmental regulations. Decisions of the Director of Public Works relating to administration of the Contract shall be final and a condition precedent to the right of the Contractor to receive payment under the Contract.

#### Section 21. Waiver

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or any other provision.

#### Section 22. Titles of Sections

Section headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding upon the parties.

#### Section 23. Amendment

This Agreement may be modified or amended only by a written consent duly executed by the parties hereto or their representatives.

#### Section 24. Severability

The invalidity of one or more of the phrases, sentences, clauses or Sections contained in this Agreement, shall not affect the validity of the remaining portion of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

#### Section 25. Number of Copies

This Agreement may be executed in any number of counterparts, all of which shall have full force and effect of an original for all purposes.

#### Section 26. Bankruptcy

It is agreed that if the Contractor is adjudged bankrupt, either voluntarily or involuntarily, then this Agreement shall terminate effective on the day and at the time the bankruptcy petition is filed.

#### Section 27. Arbitration

Any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Such controversy or claim shall be submitted to one

arbitrator selected by the Town, one arbitrator selected by the Contractor. The two arbitrators appointed by the parties may then select a third arbitrator to resolve any claim or controversy.

#### Section 28. Termination

- A. In the event either party materially defaults in the performance of any of the material covenants or Agreements to be kept, done or performed by it under the terms of this Agreement, the non-defaulting party shall notify the defaulting party in writing of the nature of such default. Within thirty (30) days following such notice:
1. The party in default shall correct the default: or
  2. In the event of a default not capable of being corrected within thirty (30) days, the party in default shall commence correcting the default within thirty (30) days of non-defaulting party's notification thereof, and thereafter correct the default with due diligence.
- B. If the party in default fails to correct the default as provided above, the non-defaulting party, without further notice, shall have all of the following rights and remedies which the non-defaulting party:
1. The right to declare that this Agreement together with all rights granted the non-defaulting party hereunder are terminated, effective upon such date and the non-defaulting party shall designate; and
  2. If the Contractor is in default, the Town shall also have the right to license others to perform the services otherwise to be performed by the Contractor, or to perform such services itself. All excess costs for said services to be born by the Contractor.

#### Section 29. Entirety

This Agreement and any Exhibits attached hereto contain the entire Agreement between the parties hereto as to matters contained herein. Any oral representatives or modifications concerning this Agreement shall be of no force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written below.

Town of EXETER, NH, a municipal corporation

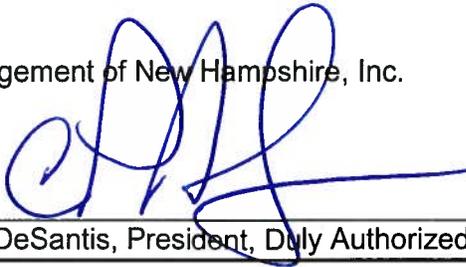
Town Manager



Russell J. Dean

5/22/17  
Date

Waste Management of New Hampshire, Inc.



Christopher DeSantis, President, Duly Authorized

5-23-17  
Date

## EXHIBIT A

**Hazardous Waste** means any material or substance which, by reason of its composition or characteristics is:

- Toxic or hazardous waste or hazardous substance as defined in either the Solid Waste Disposal Act, 42 U.S.C. § 6900 et seq., as replaced, amended, expanded or supplemented, the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, as replaced, amended, expanded or supplemented, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or any federal and/or state laws or similar purpose or effect, and such policies or regulations thereunder, or any laws of similar purpose or effect, and any rules, regulations or policies thereunder, or;
- Special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954;
- Other materials which any governmental agency or unit having appropriate jurisdiction shall determine from time to time is harmful, toxic or dangerous, or otherwise ineligible for disposal in the Landfill.

**Special Waste** shall include, but not limited to, the following:

- Ash from the incineration of MSW, fossil fuels, wood, medical waste
- Asbestos containing materials
- Municipal wastewater treatment sludge
- Catch basin grit, sewer grit, sandblast grit
- Off-specification, outdated or unused commercial chemical products
- Contaminated soils
- Creosote treated wood
- Wood chips, C&D fines
- Drummed wastes
- Industrial process wastes
- Leather wastes
- Pulp and papermill sludges
- Agricultural/organic wastes
- Treated medical waste
- Liquid wastes
- Decharacterized soils

**Unacceptable Waste** means a regulated quantity of any of the following except as authorized by applicable law and regulations approved for disposal pursuant to Contractor's policies and procedures regarding such waste streams:

1. A containerized or any other form of waste (i.e., drum, barrel, portable tank, box, pail, etc.) listed in items 3 through 9 below.
2. A waste transported in a bulk container.
3. A liquid waste.
4. A sludge waste.
5. A waste from an industrial process (i.e. residue).
6. A waste from pollution control process.
7. Residue and debris from the cleanup of a spill or release of chemical substances, commercial products or waste listed in 1-6 or item 8, including without limitation, such materials from a site designated for remediation under federal or state "Superfund" authorities.
8. Contaminated soil, water, residue, debris and articles from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation or disposal of wastes listed in 1-7, including without limitation, such materials from a site designated for remediation under federal or state "Superfund" authorities.
9. An uncharacterized waste, pursuant to federal, state or local regulations.
10. Chemical waste from a laboratory.
11. Articles, equipment and clothing containing or contaminated with polychlorinated biphenyl's (PCBs).
12. PCB drainings and flushings removed from PCB articles and placed directly into transport containers.
13. "Empty" containers of waste commercial products or chemicals (This applies to a portable container which has been emptied, but which may hold residuals of the product or chemical. Examples of containers are: portable tanks, drums, barrels, cans, bags, liners, etc.).
14. Asbestos contained in or from waste from building demolition, renovation or cleaning.
15. Commercial products or chemicals whether off-specification, outdated, contaminated or banned.
16. Residue and debris from cleanup of spills or releases of a single chemical substance or commercial product or a single waste which would otherwise qualify as a miscellaneous special waste.
17. Infectious waste. Any waste from a hospital, medical clinic, nursing home, medical practitioner, mortuary, taxidermist, veterinarian, veterinary hospital, animal testing laboratory, university medical laboratory, etc., that is contaminated with or may be contaminated with an infectious agent that has the potential of inducing infection. These wastes are wastes if they are untreated, autoclaved or otherwise heat-treated.
18. Animal waste and parts from slaughterhouses or rendering plants, including wastes from fur or leather products manufacturers.

19. Waste produced by the mechanical processing of fruit, vegetables or grain, rinds, hulls, pods, shells, and chaff, food processing wastes which are aqueous or sludges, or which have been contaminated with dyes, additives or preservatives.
20. Pumpings from septic tanks of any size used exclusively by dwelling units.
21. Sludge from a publicly owned-sewerage treatment plant serving primarily domestic users.
22. Regulated quantities of grease trap wastes from any source.
23. Washwater wastes from commercial laundries or Laundromats including waste from a dry-cleaning facility or waste from a commercial laundry used by an industry to wash chemical-contaminated clothing from its workers.
24. Washwater wastes from commercial car washes.
25. Chemical-containing equipment removed from service such as cathode ray tubes, batteries, fluorescent light tubes, etc.
  
26. Waste produced from the demolition or dismantle of industrial process equipment or facilities contaminated with chemicals from the process or chemicals or wastes removed or drained from such equipment.
27. Closed Cartridge filters from dry cleaning establishments.
28. Explosives, white goods (specifically such goods containing regulated refrigerants or coolants) as solid wastes, human or animal, motor vehicle parts, automobile transmissions, springs and fenders, agricultural and farm machinery, other large machinery or equipment, etc.
29. Materials subject to waste "bans" as defined by law applicable to the material, the Transfer Station or the Disposal Facility, including without limitation, all waste subject to disposal restrictions under DEP solid waste management regulations.
30. Materials or "White Goods" that contain or have contained CFC's as regulated under the Clean Air Act Amendment of 1990 (CAAA), Title VI, "Stratospheric Ozone Protection." Title 40 (CFR) Part 82.
31. Universal Wastes as listed by the State of New Hampshire Hazardous Waste Management Regulations, Chapters Env-WM 1100 through 1114. Universal Wastes are: cathode ray tubes, fluorescent lamps, mercury containing devices, batteries, pesticides, and antifreeze.

**EXHIBIT B**

**RECYCLABLES - SPECIFICATIONS**

RECYCLABLES shall be dry, loose, not bagged, and include only the following:

Aluminum food and beverage containers - empty	Glass food and beverage containers – brown, clear, or green - empty
Ferrous (Iron) cans – empty	PET plastic containers with the symbol #1 – with screw tops only - empty
HDPE natural plastic containers with the symbol #2 (milk and water bottles) – empty	HDPE pigmented plastic containers with the symbol #2 (detergent, shampoo bottles, etc.) - empty
Plastics with symbols #3, #4, #5, #6, #7 – empty	Newsprint
Old corrugated containers	Magazines, glossy inserts and pamphlets
Catalogs	Cereal boxes; detergent, gift and snack boxes
Telephone books	Printer paper
Copier paper	Mai
All other office paper without wax liners	

RECYCLABLES do not include the following:

Bagged materials (even if containing Recyclables)	Microwave trays
Mirrors	Window or auto glass
Light Bulbs	Ceramics
Porcelain	Plastics unnumbered
Plastic bags, expanded polystyrene	Coat hangers
Glass cookware/bakeware	Household items such as cooking pots, toasters, etc.
Flexible packaging and multi-laminated materials	Wet fiber
Excluded Materials	Fiber containing, or that has been in contact with, food debris
Any recyclable materials, or pieces of recyclable materials, less than 2' in size in any dimension	Any other item not listed above as a Recyclable

**DELIVERY SPECIFICATIONS:**

Recyclables delivered by or on behalf of Customer may not contain more than 10% non-Recyclables and may contain no Excluded Materials. Customer shall not discontinue collection of any material listed as a Recyclable, nor divert, retract, or withdraw from the delivered Materials any Recyclables listed in this Exhibit B.

Excluded Materials' means waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state, or local laws or regulations, or chemical or other properties that are deleterious or capable of causing material damage to any part of Recycling Facility, its personnel or the public or materially impair the strength or the durability of the Recycling Facility's structures or equipment. Title to Recyclables provided by the Town to Contractor is transferred to Contractor upon Contractor's receipt or collection unless otherwise provided in this Agreement or applicable law.

**EXHIBIT C**  
**ACCEPTABLE RECYCLABLE MATERIAL VALUE**

**1. VALUE SHARE**

Where the Blended Value is greater than the sum of the Processing Fee and Transportation Fee, Town's Value Share is 50% of the difference between the Blended Value and the sum of the Processing Fee and Transportation Fee. When the Blended Value is less than the Processing Fee and Transportation Fee, Town shall pay Company the difference between the sum of the Processing Fee and Transportation Fee and the Blended Value.

**2. BLENDED VALUE**

To calculate the Blended Value per ton of the Acceptable Recyclable Materials,

- (a) The percentage of each Recyclable and Non-Recyclable component set forth below contained in the Town's recyclables as established and revised from time-to-time by audit, is multiplied by the current value of each commodity set forth below; and
- (b) Each commodity value per ton is added together to obtain the Blended Value per ton.
- (c) Town acknowledges that the value of a commodity may be negative.

Blended Value is calculated monthly.

- "PPI" means the higher of the prices issued by RISI PPI Pulp & Paper Week for the New England Region, Domestic Price, 1st issue of the month retroactive to the first of the month.
- "SMP" means the higher of the price published at [www.SecondaryMaterialsPricing.com](http://www.SecondaryMaterialsPricing.com), for the New York Region, first dated price each month, retroactive to the first of the month.
- "Actual Value" means the average price paid to or charged to the processing facility during the month of delivery of the recyclables less any freight, customs charges, duties, or other charges paid to third parties for the sale of such Recyclables.
- If PPI or SMP (or both) is no longer reflective of prevailing market conditions or if an alternative publication more accurately reflects such market conditions, then Company may propose to use any such alternative publication(s) or alternate method to determine the value of each commodity set forth below. Town's consent, which shall not be unreasonably withheld, conditioned or delayed, to the use of such alternate publication or method shall be required.

Material Component	Commodity Value
Newspapers, magazines and inserts	PPI Sorted Residential Paper #56
Cardboard	PPW OCC #11
All other paper	PPI Mixed Paper #54
Aluminum / beverage cans	SMP for Aluminum Cans (Sorted, Baled, ¢/lb, delivered minus \$.08 per pound)
Steel/Tin	SMP for Steel Cans (Sorted, densified, \$/ton, and delivered)
Plastic #1	SMP for PET (baled, ¢/lb. picked up)
Plastic #2 Natural	SMP for Natural HDPE (baled, ¢/lb. picked up)
Plastic #2 Colored	SMP for Colored HDPE (baled, ¢/lb. picked up)
Mixed Plastics #3 - #7	SMP for Commingled (baled, ¢/lb. picked up)
Glass	Actual Value
Residue	Fixed Value \$65.00/ton

**3. CHARGES**

(a) The initial Processing Fee is \$78.00 per delivered ton subject to change in accordance with this Agreement. The initial Transportation Fee is \$40.00 per delivered ton subject to changes in accordance with this Agreement.

(b) The Processing Fee and Transportation Fee may be increased as calculated below on the anniversary of the Effective Date ("Anniversary Date") and such increase shall be effective on such Anniversary Date and shall be recalculated and effective each Anniversary Date thereafter. Increases to the Processing Fee shall begin on June 1, 2018 and shall be fixed at 3%

**Exhibit D**  
**Revenue Share Calculation - Single Stream**

Commodity	Index *	Current Composition %	Market Value/Ton	Values
OCC (Cardboard)	PPI OCC #11	19.11%	\$ 160.00	\$ 30.57
ONP (Newspapers, magazines and inserts)	PPI Sorted Residential Paper #56	38.21%	\$ 85.00	\$ 32.48
Mixed Paper (All other paper)	PPI Mixed Paper #54	1.64%	\$ 65.00	\$ 1.06
Aluminum Beverage Cans	SMP for Aluminum Cans (Sorted, Baled cents/lb, delivered minus 5.08 per pound)	1.14%	\$ 1,220.00	\$ 13.89
Steel/Tin Cans	SMP for Steel Cans (Sorted, densified, \$/ton and delivered)	2.40%	\$ 40.00	\$ 0.96
PET (Plastic #1)	SMP for PET (baled, cents/lb, picked up)	3.08%	\$ 260.00	\$ 8.02
Natural HDPE (Plastic #2)	SMP for Natural HDPE (baled, cents/lb, picked up)	0.94%	\$ 710.00	\$ 6.65
Colored HDPE (Plastic #2)	SMP for Colored HDPE (baled, cents/lb, picked up)	0.94%	\$ 490.00	\$ 4.59
Mixed Plastics (Plastic #3-7)	SMP for Commingled (baled, c/lb, picked up)	3.41%	\$ 60.00	\$ 2.04
Glass	Actual Value	19.15%	\$ (28.00)	\$ (5.36)
Residue	Fixed Rate	10.00%	\$ (65.00)	\$ (6.50)
	<b>Total/Blended Value</b>	100.00%		\$ 88.40
	MRF Processing Fee	\$ 78.00		
	Transportation Fee	\$ 40.00		\$ (79.60)
	50% share above Fees (\$138)			

price/lb or ton \$160.00  
 price/ton (if lbs) \$ 160.00  
 price/lb or ton \$ 85.00  
 price/ton (if lbs) \$ 85.00  
 price/lb or ton \$ 65.00  
 price/ton (if lbs) \$ 65.00  
 price/lb or ton \$ 0.69  
 price/ton (if lbs) 2.000  
 price/lb or ton \$ 40.00  
 price/ton (if lbs) \$ 40.00  
 price/lb or ton \$ 0.130  
 price/ton (if lbs) 2.000  
 price/lb or ton \$ 0.355  
 price/ton (if lbs) 2.000  
 price/lb or ton \$ 0.245  
 price/ton (if lbs) 2.000  
 price/lb or ton \$ 0.030  
 price/ton (if lbs) 2.000  
 Actual \$ (28.00)  
 Fixed \$ (65.00)

less delivery \$ 0.08  
 lbs/ton delivery \$ 2000  
 net \$ 160.00  
 net \$ 85.00  
 net \$ 65.00  
 net #####  
 net \$ 40.00  
 net \$ 260.00  
 net \$ 710.00  
 net \$ 490.00  
 net \$ 60.00  
 net \$ (28.00)  
 net \$ (65.00)

Blended Value is Calculated Monthly.  
 PPI means the higher of the prices issues by RISI Pulp & Paper Index for the New England Region, Domestic Price, 1st issue of the month retroactive to the first of the month.  
 SMP means the higher of the price published at www.SecondaryMaterialsPricing.com for the New York Region, first dated price each month, retroactive to the first of the month.  
 Actual Value means the average price paid to or charged to the processing facility during the month of delivery, less any freight or other charges paid to third parties.