

1 SCAVENGER SERVICES AGREEMENT

THIS AGREEMENT (the “Agreement”) made and entered into this 1st day of January, 2012, by and between the City of Palos Hills, a municipal corporation, (the “City”), and (the “Contractor”) as follows:

1. Definitions.

a. “Refuse” as herein defined means all household and kitchen wastes placed out for collection, such as discarded food or food residues and paper necessarily used for wrapping same, books, boxes and cartons, providing all such materials are of a size sufficiently small to permit being placed in carts up to ninety-five (95) gallons in size and not left in piles on the ground.

b. Bulk Items

An unlimited number of the items listed below may be placed out for free pick up each week:

- 1) Furniture and large household goods, including but not limited to washing machines, dryers, dishwashers, microwaves, other appliances, hot water heaters, sofas, dressers, lamps, chairs, tables, mattresses and rolls of carpet of no more than four (4) feet in length.
- 2) Small amounts of sod, earth and rocks, provided the items listed are put into a suitable container and do not exceed fifty (50) pounds.
- 3) Household construction material (except new construction), including but not limited to, furnaces, bathtubs, shower stalls, doors, windows and other items that are considered part of a home. It shall also include loose home remodeling and repair materials provided such items are put in a suitable container and not weighing over sixty (60) pounds.
- 4) Organic Christmas trees which shall be collected during the last week of December and during the month of January. Christmas trees shall be collected on certain regularly-scheduled collection days.
- 5) White goods such as refrigerators, air conditioners, dehumidifiers, freezers and other appliances containing chlorofluorocarbons.

c. “Landscape waste” as herein defined shall mean grass, garden clipping, brush, leaves, tree clippings and other materials accumulated as the result of the

maintenance of lawns, shrubbery, vines and trees. All such materials must be placed in 30-gallon two-ply paper bags, or unlined 33-gallon containers with vendor supplied yard waste sticker affixed to outside of container and not commingled with garbage and rubbish or recyclable materials as herein defined.

Bundles of brush or tree clippings shall be collected in bundles which do not exceed sixty (60) pounds, the length of material does not exceed four (4) feet, the diameter of the individual pieces does not exceed four (4) inches, and the bundle itself does not exceed three (3) feet in diameter. Logs over four (4) inches in diameter must be stacked separately at the curb and cut into lengths of twenty-four (24) inches with individual pieces not over eight (8) inches in diameter. This agreement does not include any branches or trees cut by contractors hired by the homeowner.

d. "Recyclable Material" as herein defined shall mean, at minimum, an unlimited amount of:

- 1) Co-mingled Containers:
- Glass bottles and jars (all colors)
 - Aluminum cans
 - Aluminum foil, trays, baking pans
 - Tin and bi-metal food and beverage cans
 - Empty aerosol cans
 - Empty latex paint cans
 - Plastics:
 - #1 PETE (soft drink bottle, shampoo bottles, deodorant containers)
 - #2 HDPE (milk & water jugs, juice bottles, laundry product bottles)
 - #4 LDPE (six pack holders)
 - #6 Polystyrene (Dairy products and miscellaneous "Styrofoam" containers)
 - #3,#5,#7 (Other plastics)

- 2) Paper Products:
- Newspaper (All inserts that are included with newspapers)
 - Paper containers (frozen food containers, beverage carriers, paper grocery bags)
 - Catalogs, magazines, phone books, office paper, junk mail.
 - Corrugated boxes (Cardboard boxes)
 - Chip board (Cereal boxes, shoe boxes, gift boxes)

- 3) Contractor will make available to the City an office white paper and computer paper recycling program. The City shall not incur additional costs as a result of this program. Contractor may negotiate reasonable fees with other program participants.
- 4) Electronics such as: Televisions, Monitors, Printers, Computers (including tablet computers), Electronic Keyboards, Facsimile Machines, Videocassette Recorders, Portable Digital Music Players, Digital Video Disc Players, Video Game Consoles, Small Scale Servers, Scanners, Electronic Mice, Digital Converter Boxes, Cable Receivers, Satellite Receivers, Digital Video Disc Recorders shall be collected at no cost/ without limit at the service address when notified by the customer.
- 5) Other material which may be agreed upon.

The City reserves the right to request additional recyclable items to be collected upon mutual agreement with Contractor. A materials sheet is attached and should be filled out by the Contractor.

e. Dead Animals.

Contractor agrees to pick up and dispose of all dead animals from the City's streets upon call from the City. Any collar or tag must be removed from the animal and delivered to the City Clerk's Office. The animal pick up program shall be approved by the City.

f. Passenger car tires and equally sized or smaller tires shall be collected at no additional charge by the Contractor. Large semi truck tires will not be collected. Tires shall be kept separate from other trash. Tires shall be disposed of and processed in accordance with federal and state regulations.

g. Exclusions from Collection:

No engine blocks, used motor oil, transmissions, axles, heavy metal parts or refuse resulting from building construction by private contractor is included in this contract.

2. Collection Containers: Contractor shall supply one new refuse and one new recycling cart to each customer. Each cart shall be ninety-five (95) gallons in size unless the resident requests carts smaller in size. Contractor shall contact each customer to determine the size of the carts which Contractor shall deliver to each customer. A customer may change cart sizes once a year without charge by contacting the Contractor.

If an additional cart (more than 2) is requested by the customer, the charge for additional carts shall be negotiated directly between the customer and Contractor. Damaged carts not suitable for use shall be replaced free of charge if the damaged cart is returned to the Contractor by the customer for an exchange.

3. Collection.

Collection of waste and recyclables shall be made once every week on weekdays from single family dwellings and two-flat dwellings. Two-flats shall be billed separately as two units. Collections shall be made between the hours of 6:00 a.m. and 7:00 p.m. on weekdays when collection is scheduled for a particular area. All collections shall be made as quietly as possible.

Contractor shall provide containers and shall schedule route pick-ups at public locations designated by the City in item 21 page 12, and without additional cost for pick-up and services.

4. Term.

The term of this Agreement shall be five (5) years commencing on the first (1st) day of January, 2012, and ending at midnight on December 31, 2016. Through the mutual agreement of the parties, this Agreement can be extended for an additional five years by notifying the Contractor of such an election by no later than October 1, 2016. Contractor's rates during the extension period shall be subject to negotiation between the City and Contractor.

5. Senior Citizen Monthly Discount.

A discount of \$1.00 per household per month shall be granted by Contractor if the Contractor is provided proof that at least one of the individuals residing at that location has an ownership interest in the property and is 65 years of age or older.

6. Minimum Service.

Refuse shall be collected once a week. Each "stop" may have an unlimited number of containers of refuse on each collection day of the type and weight defined herein. Additional items as described under Section 1(b) and (c) Definitions "Bulk Refuse" and landscape waste are permitted if set out as specified.

An unlimited amount of recyclables in or adjacent to the recycling bin as outlined herein shall be collected from each stop once a week on the specified collection day.

Collection of refuse, recyclables and landscape waste shall be on the same day once a week. Recyclables shall be collected even if commingled.

7. Contractor's Compensation.

Unless otherwise specified, the total compensation shall be paid to Contractor by each customer during the term of this Agreement in accordance with Attachment A to this Agreement.

8. Billing.

It shall be the obligation of Contractor to issue a bill every four months for services rendered to each and every customer serviced by Contractor under the Agreement. If possible, the City shall assist Contractor in obtaining accurate names and addresses of customers so as to facilitate this billing process.

9. Approved Containers.

a. Refuse shall be collected if it is set out in ninety-six (96) gallon or less carts. Unless this Agreement states to the contrary, contractor will collect all refuse without limit.

b. Recyclables.

Recycling carts will be provided by Contractor for the collection of recyclable materials. The carts will be made available to each household and shall be identified as the City approved container for the recyclables collection program. Collection of recyclables may also be made from recycling bins, rigid containers, Kraft paper or plastic grocery bags, provided that: 1) containers and bags are of sufficient wet strength to retain original shape until contents are placed in Contractor's vehicle, and 2) the approved container is on the parkway.

c. Landscape Waste Containers.

Landscape waste shall be picked up from April 1 through December 1 as long as it is set out in two-ply thirty (30) gallon paper bags or a regular refuse container no larger than thirty-three (33) gallons in size as long as materials are loose.

Landscape waste must be placed in paper bags or containers as set forth in Paragraph 1c. with vendor supplied yard waste sticker affixed to outside of container and not commingled with garbage and rubbish or recyclable materials as herein defined. Brush shall be collected if bundled as set forth in Section 1 above.

Tree branches must be bundled. Bundled tree branches and brush may not exceed 60 pounds and shall not exceed 4 feet long. The bundle cannot exceed 3 feet in

diameter. Branches and logs between 4 to 8 inches must be stacked separately and cannot exceed 24 inches in length. Branches and logs in excess of 8 inches in diameter will not be collected.

10. Non-Conforming Containers.

Contractor shall handle carts with reasonable care to avoid damage and shall place them on the parkway or in the alley out of the traveled street right-of-way in an upright position after collection.

The Contractor shall not be required to collect material that has not been placed in approved containers or otherwise deposited in a manner herein provided. If Contractor encounters non-conforming or rejected material, a notice shall be left on resident's container. This notice shall specify reason(s) for not collecting material.

Hazardous or otherwise unsafe containers will be tagged and, unless repaired properly, be discarded on the following collection day.

11. Collection Vehicles.

The Contractor shall provide an adequate number of vehicles for regular refuse, landscape waste and recyclable material collection services. All vehicles shall be kept in good repair, appearance and maintained in a sanitary condition at all times. Each vehicle shall have clearly visible on each side the name, a vehicle identification number and local telephone number of the Contractor.

Vehicles used for the collection of garbage and refuse and landscape waste shall be of a compactor type and shall not leak fluids or oil. If found to do so, they shall be repaired by the Contractor within ten (10) business days of a reported incident or of knowledge by the Contractor.

12. Hauling.

All materials hauled by the Contractor shall be so contained, tied or enclosed so as to prevent leaking, spilling or blowing of litter or fluids. In the event of any spillage on the parkway, street or alley, the Contractor shall immediately clean up litter or fluids. If such litter or fluids are not cleaned up within six (6) hours after such notice (verbal or written) from the City, the City may clean up same and advise and bill the Contractor.

13. Pick Up Days.

Contractor agrees to make pick up collection and removal of refuse, recyclables, landscape waste and bulk items on a designated day of the week with respect to each

residential unit serviced by Contractor. For purposes of this Agreement, Monday shall be the beginning of a week. Pick up schedules will be provided to the City as follows:

- a. One pick up and removal of garbage, refuse and bulk items shall be made by Contractor each week.
- b. One pick up per week of recyclables within four (4) hours of the refuse pick up.
- c. One pick up, collection and removal of landscape waste shall be made each week according to the same schedule as garbage and refuse pick up during the growing season, April 1 through December 1, unless the City and the Contractor mutually agree to start landscape collection a few weeks earlier or extend collection a few weeks later.
- d. One pick up collection and removal of branches, brush and tree pieces to be made each week according to the schedule of garbage and refuse pick up.
- e. One pick up of Christmas trees, wreaths and wrappings shall be made during the last week of December and during each week of January on the regular day of scheduled garbage and refuse pick up. Christmas trees will be taken in their entirety.

14. Routes and Schedules.

The Contractor will adjust routes and schedules, as needed, because of utility repair or road construction so as to provide timely and efficient service. Any modifications to the existing route as of this proposal or any modification to the pick up program in the future shall be agreed to by the City and shall be publicized by the Contractor via direct mailing to all affected residents, as well as a newspaper of general circulation, at least one (1) month prior to the date that modifications become effective.

When a legal holiday falls on a weekday, Contractor shall collect from the residences normally picked up on the day of such holiday on the following day, excluding Sunday, and the normal collection schedule for the rest of the week shall be one day late.

15. Litter.

The Contractor shall not litter while in the process of making collections. Any contents which may be spilled on the parkway or street are to be cleaned up and disposed of immediately by Contractor's employee in a workmanlike manner.

16. Disposal.

All garbage, rubbish, compostable and recyclable material collected shall be removed and shall be disposed of in accordance with all applicable statutes, laws, ordinances, rules and regulations.

All recyclable materials collected in accordance with the terms hereof shall be removed and shall be recycled in accordance with all applicable statutes, laws, ordinances, rules and regulations. Under no circumstances shall said recyclable materials be landfilled or incinerated unless authorization to do so is given by the City. Evidence of appropriate sale or disposition of the recyclables shall be produced by Contractor upon request by the City.

Landscape waste shall be disposed of by agronomic or composting means in strict compliance with all applicable Federal, State and Local Laws, Ordinances and Regulations.

17. Title to Wastes.

All refuse, rubbish, bulk items, compostable and recyclable material collected in accordance with the terms hereof shall become and be the property of the Contractor as soon as the same is picked up or otherwise placed in the Contractor's vehicle except as otherwise provided. Nothing in this paragraph concerning title to wastes shall be construed to prevent the City from obtaining or collecting any fees or proceeds owed to the City under this contract, nor shall it operate to prevent the City from initiating or maintaining any rights or actions, reserved herein, regardless of titles or ownership of wastes.

18. Approved Landfill Availability.

Contractor warrants and guarantees that the landfill space required to receive the waste from the City customers during the term of this agreement is and will be available. Contractor will utilize only Illinois Environmental Protection Agency and/or U.S. Environmental Protection Agency (as relevant) approved and permitted facilities for incineration, processing, composting, landfilling and other means of end disposal.

The Contractor must show evidence that it has secured an arrangement(s) assuring the availability of landfill, licensed compost facility, and recycled goods markets for each year of the current term. Copies of a contract or letter of agreement /availability shall be provided no later than 60 days prior the start of each new contract year.

19. Complaint Procedure.

Complaints received telephonically by the City's office personnel will be forwarded to the Contractor for necessary action. A second call from the same resident will result in the City placing a call to the Contractor for immediate results.

In the event Contractor is unable for any reason to make a pick up from any single or two family dwelling, Contractor shall notify the Department of Public Works of said inability not later than the end of the pick up day and identify said residence(s). If Contractor fails to make regularly scheduled service, make up service will be provided within 24 hours by Contractor. The cost to the City to provide service shall be paid by Contractor or the surety.

In the event Contractor fails, without just cause, to fulfill any of the provisions of this Agreement, the City may hire such men and equipment as may be necessary to comply with the provisions hereof and to collect any amount due out of the cash and surety bond hereinafter referred to.

20. Other Recycling Provisions.

a. Reporting.

Curbside recycling shall commence on the same date and time as the refuse collection commences. Further, Contractor shall provide the City with a quarterly waste disposal report on the form attached hereto as "Attachment B." The report shall be submitted within twenty-one (21) calendar days after the last working day of each quarter. It shall be signed by the General Manager certifying under oath that the completed report is correct and accurate.

This report shall serve as the official record for showing compliance with existing or future county, state or federal laws or regulations covering solid waste monitoring, recycling programs, proof of diversion records, and Environmental Protection Agency or other agency requirements that are currently in effect or will be in effect. Contractor agrees to promptly notify the City of any change in reporting requirements.

b. Waste Audit.

The City may choose to perform a hand-sort analysis of up to two (2) 25-cubic yard packer truckloads of refuse collected from the City no less frequently than every twelve (12) months.

The Contractor agrees to transport the loaded vehicle to a contractor agreeable to both the City and vendor's legal counsel at no cost to the City, provided that such an outside contractor is located within sixty (60) miles of City Hall.

c. Pilot Programs.

Pilot programs and future recyclable materials may be proposed by the City. Such programs may include but are not limited to, additional recycling materials, source reduction, commercial and industrial solid waste programs.

d. Markets.

The "Recyclable Collection List," which is "Attachment B" to this Agreement, is made a part hereof.

e. Revenues:

In lieu of recycling revenues based on the recyclables collected, the Contractor shall pay a \$25,000.00 annual franchise fee to the City on a quarterly basis. (\$6,250.00 per quarter).

21. City Facilities:

The Contractor will provide pick up services and containers (garbage & recycling) at the following City buildings at no cost:

- City Hall, 10335 S. Roberts Road
- Palos Hills Police Station, 8555 W. 103rd St
- Palos Hills Community Center, 8455 W. 103rd St
- Palos Hills Public Works Dept
- Palos Hills Golf Course, 7301 W. 105th St

Should additional containers be required, the service shall be provided at no additional cost or frequency to the City.

22. Palos Hills Golf Course:

The Contractor will provide the Palos Hills Golf Course with one portable handicapped toilet with add-on hand sanitizer from March 1st to December 1st with servicing once per week.

23. Recycle Dumpster:

To accommodate those residents without a recycling program, Contractor shall maintain and service, as needed, a multi-compartmented recycling dumpster at the North Palos Fire Protection District Firehouse 1, 10629 S. Roberts Road, Palos Hills, Illinois 60465. The dumpster shall be inspected weekly by Contractor and shall be serviced by Contractor as needed.

24. Special Events.

Waste hauler equipment and manpower shall be provided to assist the City for special waste collection and disposal projects within the City during the Friendship Festival, other special events and in time of emergency or for storm damage clean up.

The Contractor agrees to provide to the City, free of charge, waste hauler manpower and equipment for the following:

- DRAFT**
1. Friendship Festival (Annual Event - July)
 - Three (3) rolloff containers
 - Seventy five (75) 96 gallon wheeled waste containers
 - Forty (40) total portable & handicapped toilets – Serviced each day Fri., Sat. & Sun.
 - Ten (10) handwashing stations) – serviced as above
 - Street Sweeping of 107th Street and 88th Avenue & Moraine Valley College B/S1 lots
 2. Halloween Hayride (Annual Event October)
 - Two (2) Portable Handicapped Toilets – Serviced Saturday
 - One (1) handwashing station – serviced Saturday
 - Ten (10) 96 gallon Wheeled containers
 3. Fishing Derby (Annual Event – September)
 - One (1) Portable Handicapped Toilet – Serviced Saturday
 - One (1) handwashing station – serviced Saturday
 - Three (3) 96 gallon wheeled containers
 4. Circus (Bi-Annual Event)
 - Two (2) Roll off containers (Animal waste & normal garbage)
 5. Up to five additional events designated by the City as municipal activities. This shall include up to ten portable toilets, five hand washing stations and twenty-five gallon trash receptacles during a calendar year.

Should the need arise to arrange for special pick ups, or collection and removal, or placement of containers for storage and removal of garbage and refuse, compost waste, branches and brush, the schedule and collection arrangements will be requested by and must be coordinated through the Commissioner of Public Works.

25. Procurement of Recycled Products.

Contractor must demonstrate a commitment to the procurement of products with recycled content. At a minimum, this shall include all paper on which will be printed correspondence and other information being sent to residents serviced under this Agreement.

26. Contractor's Personnel.

a. The Contractor shall assign a qualified person or persons to be in charge of its operations in the City and shall give the name or names to the City. Information regarding experience shall also be furnished upon request.

b. Each employee driving a vehicle shall at all times carry a valid Illinois operator's license for the type of vehicle he/she is driving.

c. No person shall be denied employment by the Contractor for reasons of race, creed, sex or national origin.

27. Public Works Dumping: Provisions shall be made to receive the City's non-hazardous debris, in roll off type containers, at various locations and public buildings designated by the City where community events and charitable activities sponsored or endorsed by the City are taking place. This includes, but is not limited to, grass, leaves, ashes from logs, wood, broken concrete and asphalt. Up to forty eight (48) 30 yard roll off containers can be disposed of at no charge to the City. A maximum of ten unused roll off containers can be carried over to the following year. However, the carry over will not be extended beyond one (1) year of each year of the extension.

28. Street Sweeping

Street sweeping shall be provided by Contractor to all City streets, at no cost to the City, twice yearly in the months of May & November.

29. Disaster/Emergency Clean Up:

In time of emergency or storm, free emergency service, clean up, including manpower, shall be provided by the Contractor as requested by the City to alleviate threats to public health, safety and welfare, as such threats are perceived in the sole judgment and

discretion of City. The cost to the City for emergency clean up shall be in accordance with Attachment A.

Should the need arise to arrange for special pick ups, or collection and removal, or placement of containers for storage and removal of garbage and refuse, compost waste, branches and bush, the schedule and collection arrangements will be requested by and must be coordinated through the Commissioner of Public Works.

Regular solid waste and recyclables collection at public locations is to be provided at City facility locations at no cost. Should additional containers be required, the service shall be provided at no additional cost or frequency to the City.

30. Compliance with Laws.

The Contractor shall conduct operations under this Agreement in compliance with all applicable federal, state and local laws, ordinances, rules and regulations.

The Contractor shall obtain, at his own expense, all permits and licenses required by federal, state or local law or ordinance, rule or regulation and maintain same in full force and effect.

31. Insurance.

The Contractor shall take out and maintain insurance of such types and in such amounts as are necessary to cover his responsibilities and liabilities under this contract, in amounts and conditions not less than further specified, and he shall require all his subcontractors to carry similar insurance. The Contractor shall not commence work under this contract until he has obtained all insurance required under this Section and such insurance has been approved by the City, nor shall Contractor allow any subcontractor to commence work on his subcontract until the same insurance has been obtained by the subcontractor. The Contractor will provide certificates of insurance evidencing the following types and limits of insurance. The certificates of insurance will specifically address each of the requirements noted below. Each insurance company shall be acceptable to the City. The general liability coverage shall name the City of Palos Hills as an additional named insured. All insurance noted below is primary, and in no event will be considered contributory to any insurance purchased by the City. Unless the insurance company notifies the City and the City agrees, all insurance noted below will not be canceled, reduced or materially changed without providing the appropriate City thirty (30) days advance notice, via certified mail. The Contractor shall secure primary liability in the amounts hereinafter specified. Coverage shall include:

- a. claims under workers' or workmen's compensation disability benefit and other similar employee benefit acts;

- b. claims for damages due to bodily injury, occupational sickness or disease, or death of employees;
- c. claims for damages due to bodily injury, sickness or disease or death of any person other than employees;
- d. claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (2) by any other person;
- e. claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- f. claims for damages because of bodily injury or death of any person or property damage arising out of the partnership, maintenance or use of any motor vehicle.

The insurance required by this section shall be written in the maximum statutory amounts with respect to workers' or workmen's compensation and with limits of liability with respect to injury to persons or death to persons and damage to property as follows: \$3,000,000 each person, \$5,000,000 each occurrence and \$500,000 property damage. Additional coverage in the form of an umbrella policy in the amount of \$10,000,000 for each occurrence. The Contractor shall carry a policy under a comprehensive form to insure the entire automobile liability for his operations with limits as stated above. Said insurance is to be extended to cover leased and non-owned vehicles. Insurance shall be placed with companies acceptable to the City and certificates of insurance and a copy of each policy of insurance shall be deposited with the City. All of the aforesaid insurance policies must contain a provision that they may not be cancelled without at least thirty (30) days prior written notice to the City by the insurance company. The City, as well as its officers, agents and employees, shall be named as additional insureds on all applicable insurance certificates. All insurance policies required by this contract shall be underwritten by insurance companies with a minimum A. M. Best rating of A:VII. A certificate of insurance is required as evidence of coverage with the City of Palos Hills as additional named insured. The amount of said insurance indicated herein in no way shall limit the amount of insurance which the Contractor may carry and in no way limits the liability of the Contractor for any and all liability occurring in the performance of this contract.

32. Indemnifications.

The Contractor shall indemnify, defend and hold harmless the City and its officers, agents, employees representatives and their assigns, from any and all claims, lawsuits or other liabilities directly or indirectly arising out of, from or as a result of the acts or omissions of the Contractor, or its officers, employees or agents. This indemnification includes any and all liabilities, claims, penalties, forfeitures, suits and the costs and

expenses which the City may incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment (including federal and state superfund investigations, fines, assessments and/or remedial actions) or any violation of governmental laws, regulations, or orders, caused in whole or in part by the acts or omissions of Contractor, its employees, or its subcontractors in the performance of this Agreement. In connection with any such claims, lawsuits or liabilities, the City, its officers, agents, employees, representatives and their assigns shall have the right to defense counsel of their choice. The Contractor shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, lawsuits or liabilities.

33. Performance Bond.

For each year this Agreement is in effect, the Contractor shall furnish to the City a performance bond in favor of the City, specified by name, in the amount of five hundred thousand dollars (\$500,000) for service to the City with corporate surety to be approved by the City, guaranteeing the faithful performance of the Agreement. The performance bond guaranteeing performance shall remain in effect for each year of the Agreement, and any renewal thereof, and shall be delivered prior to starting work hereunder. A new performance bond shall be delivered to the City at least one (1) month prior to the expiration date of an existing Bond.

34. Assignment

No assignment in whole or in part of this Agreement shall be made by the Contractor without the express written consent of the City. In the event of any assignment the assignee shall assume the liability of the Contractor and the Contractor shall not be relieved therefrom without the City's consent.

Any written consent of the City to a partial or total assignment shall be conditioned upon delivery by the Contractor to the City of a Labor and Material Payment Bond in favor of the City, specified by name, in the amount of five hundred thousand dollars (\$500,000.00) with corporate surety to be approved by the City. The Labor and Material Payment Bond shall guarantee the completion of this Agreement, the payment of material used in completing all work, and for all labor performed in such work, whether by assignee(s), subcontractor(s) or otherwise. The Labor and Material Payment Bond shall remain in effect for the term of this Agreement, and shall be delivered prior to any work hereunder. A new Labor and Material Payment Bond shall be delivered to the City at least one (1) month prior to the expiration date of an existing bond.

35. Collection Fee:

It shall be the obligation of the Contractor to issue a bill every four months for services rendered to each and every customer during that period based upon the monthly collection fee. If possible, the City shall assist the Contractor in obtaining accurate names and addresses of those being serviced by the Contractor, which shall be predicted upon the records on file in the City's Water Department, which records shall be made available to the Contractor upon its request. A delinquency notice of residents who are more than 60 days past due on payment will be sent to the City on a monthly basis.

36. Bankruptcy.

It is agreed that if the Contractor is adjudged bankrupt, either voluntarily or involuntarily, then this Agreement shall terminate effective on the date and at the time the bankruptcy petition is filed, subject, however, to the City's rights to recover for any breach under such contract. It is further agreed that nothing in this paragraph or Contractor's bankruptcy shall prevent the City from collecting any amount owed, including but not limited to costs, expenses, and attorney's fees from the Contractor's Performance Bond. The Contractor guarantees to list the City as a creditor in any bankruptcy filing.

37. Standard of Performance:

- a. If the Contractor fails to collect materials herein specified for a period of two (2) or more consecutive scheduled pick up days or fails to operate the system in a satisfactory manner as determined by the City, the City may, but shall not be required, to take the following action:
- 1) Notify the Contractor in writing of its default under the Agreement and that this Agreement will be terminated unless the Contractor shall perform to the satisfaction of the City within five (5) days of the date the aforesaid notice was mailed by the City. In the event the default is not cured, the City may terminate this Agreement and the City's obligation and Contractor's rights hereunder shall cease and be no further in force and effect.
 - 2) The City shall have the right to contract with another party to collect garbage and refuse materials should the Contractor not perform as specified in this Agreement and any expenses incurred by the City, which are not satisfied by the revenues generated from the existing rates herein or the obligations set forth in this Agreement, shall be charged to the Contractor.
- b. Contractor agrees that in the event Contractor fails to fulfill any of the provisions stipulated in the Agreement, the City may, at its option, without waiving any of its other rights, hire such persons and equipment and enter such contracts as it may deem necessary to perform the work described herein. In addition, the City shall

be entitled to all losses, including all costs, expenses and attorney's fees arising out of or in conjunction with, or otherwise resulting from, such failure of performance on the part of Contractor.

- c. The City may collect any costs, expenses and attorney's fees incurred as the result of the Contractor's default from the Contractor or from Contractor's Performance Bond provided hereunder.
- d. Any and all of the City's rights shall be cumulative.

38. Termination.

The Agreement shall continue in full force and effect for a period of five years from its commencement. In the event of default in the performance of this Agreement, in addition to other remedies available, the party not in default may terminate this Agreement upon thirty (30) days written notice.

39. Point of Contact.

Contact between the Contractor and the City shall be between the Contractor and the designated contact person within the City. The designated contact person for the City is the Office of the Mayor. The Mayor may designate a contact person other than the person listed above.

40. Notices.

All notices shall be directed to:

To City: City of Palos Hills
10335 South Roberts Road
Palos Hills, Illinois 60465
ATTN: Public Works Commissioner

To Contractor: _____

Its: _____

41. Construction.

This Agreement shall be construed and governed by the laws of the State of Illinois and shall be binding upon and inure to the benefit of the parties, successor and assigns.

42. Miscellaneous Provisions.

- a. 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 of any other provision.
- b. Section headings inserted herein are for convenience only and not intended to be used as aids to interpretation and are not binding on the parties.
- c. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto.
- d. 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 the Agreement so long as the material purposes of this Agreement can be determined and effectuated.

e. This Agreement contains the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

DRAFT

CITY OF PALOS HILLS: _____ CONTRACTOR: _____

BY: _____ BY: _____

Mayor Its:

Attest: _____
Clerk

Attest: _____
Its:

DRAFT