

RESIDENTIAL SOLID WASTE FRANCHISE AGREEMENT

BETWEEN

VILLAGE OF LAKE BLUFF, ILLINOIS

AND

DATED: _____

**VILLAGE OF LAKE BLUFF, ILLINOIS
AGREEMENT - RESIDENTIAL WASTE COLLECTION SERVICES**

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This **SOLID WASTE & RECYCLING COLLECTION SERVICES AGREEMENT** ("Agreement") is made and entered into _____, 2020 by and between _____, (the "Contractor") and the Village of Lake Bluff, Illinois (the "Village").

PREAMBLE

WHEREAS, the Village, to protect the public health and welfare of its residents has deemed it necessary to collect, transport and dispose of Residential Materials (as defined below); and

WHEREAS, the Village is authorized pursuant to the provisions of Section 11-19-1 of the Illinois Municipal Code (65 ILCS 5/11-19-1) to provide for the method or methods of collection, transportation and disposal of municipal waste located within its boundaries and to provide that the method chosen may be the exclusive method to be used within its boundaries; and

WHEREAS, the Village desires to enter into this Agreement to provide Residential Materials collection, transportation and disposal services from all residential single-family dwellings with three units or less and Village-owned/public facilities, and to set the rates and charges relating to such services; and

WHEREAS, the Village has determined that it is in the best interests of its residents to contract with a single waste hauler to collect, transport and properly manage Residential Materials at a facility or facilities selected in accordance with the terms of this Agreement; and

WHEREAS, the Contractor, pursuant to the terms of this Agreement and on behalf of the Village, is willing to collect, transport and properly manage Residential Materials at a facility or facilities selected in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained:

ARTICLE I
DEFINITIONS

Section 1.1 Definitions

Whenever used in this Agreement, the following capitalized terms shall have the following meanings unless a different meaning is required by the context:

- a) "Agency" or "SWALCO" means the Solid Waste Agency of Lake County.
- b) "A La Carte Services" mean the optional services set forth in Section 4.5 of this Agreement.
- c) "Breach" means a breach of this Agreement by either the Village or the Contractor, in a manner described in Article X of this Agreement.
- d) "Bulk Items" means household items of such size as to render them unsuitable for deposit in a refuse container but which one person can lift into a refuse truck, such as furniture, mattresses, box springs, toilets, storm doors and windows, metal and lumber products and machine parts.

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- e) "Contractor" means _____, and its successors and assignees.
- f) "Curbside" means no closer than two feet (2') nor farther than five feet (5') from the street pavement edge.
- g) "Designated Recycling Facility" means a materials recovery facility designated by the Village as a facility to which Recyclable Materials are transported for processing.
- h) "Electronics" shall have the meaning attributed to a "covered electronic device" in Section 1-5 of the Consumer Electronics Recycling Act (415 ILCS 151/1-5), which shall survive the scheduled repeal of the Act on December 31, 2026.
- i) "Event of Default" means a declaration of default by either the Village or the Contractor, as described in greater detail in Article X of this Agreement.
- j) "Food Scraps" mean garbage that is capable of being composted and as further defined in 415 ILCS 5/3.197; provided that the definition of "Food Scraps" shall exclude any materials not accepted under the Rules and Regulations of the Village's Landscape Waste/Food Scraps facility.
- k) "Hazardous Waste" shall have the meaning attributed to it in Section 3.220 of the Illinois Environmental Protection Act (415 ILCS 5/3.220).
- l) "Landscape Waste" means all accumulations of grass or shrubbery cuttings, leaves, tree limbs, aquatic weeds, and other material accumulated as the result of the care of lawns, shrubbery, vines and trees, and as otherwise described at 415 ILCS 5/3.270.
- m) "Residential Service" has the meaning set forth in Section 2.1 of this Agreement.
- n) "Municipal Waste" means garbage, refuse, industrial, lunchroom or other waste, and other material described at 415 ILCS 5/3.290 resulting from operation of single-family and multi-family residential properties and from community activities; provided, however, that "Municipal Waste" shall not include Recyclable Materials or Landscape Waste.
- o) "Private Service" means the collection of refuse and waste by the Contractor from Residential Customers, pursuant to separate agreements or arrangements between a Residential Customer and the Contractor.
- p) "Recyclable Materials" means Electronics as defined in this Section; aluminum cans, tin, steel and bi-metal cans; clear, green and brown glass bottles and jars; newspapers, magazines, and mixed papers (junk mail, chipboard, white and colored paper, brown kraft paper bags); corrugated cardboard; #1 PETE plastic containers and #2 HPDE plastic containers; #3 - #5 plastic containers; and any other material or materials which the Village identifies as a "Recyclable Material" subsequent to the execution of this Agreement, pursuant to Section 8.1(f) of this Agreement.
- q) "Residential Customer" means the owner or occupant of any single-family dwelling, townhome, or multi-family dwelling of 3 or less units.

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- r) "Residential Materials" means Municipal Waste, Recyclable Materials, Landscape Waste, Food Scraps, and any other similar materials.
- s) "State" means the State of Illinois.
- t) "Village" means the Village of Lake Bluff, Illinois.
- u) "Village Collection Sites" means those public areas owned or maintained by the Village or other public entity from which the Contractor is required to collect Residential Materials pursuant to this Agreement, as identified in **Exhibit D** to this Agreement.
- v) "Village Code" means "The Lake Bluff Municipal Code" as amended.
- w) "Village Container" means a front-loading, covered, leak-proof container suitable for automated waste and recycling collection by private waste haulers from a Village Collection Site with sufficient volume to contain all materials placed for disposal at a Village Collection Site.
- x) "Village Pedestrian Container" means an approximately 36 gallon capacity container provided by the Village and located in a public place for use as a pedestrian receptacle for Municipal Waste, Recyclable Materials, or both in a combination configuration.
- y) "Wheeled Cart" means a two-wheel durable, plastic, lidded container suitable for curbside automated waste and recycling collection by private waste haulers. A Large Wheeled Cart shall have a capacity of approximately 95 gallons, a Medium Wheeled Cart shall have a capacity of approximately 65 gallons, and a Small Wheeled Cart shall have a capacity of approximately 35 gallons.
- z) "White Goods" means all discarded refrigerators, ranges, water heaters, freezers, air conditioners, humidifiers and other similar domestic and commercial large appliances as defined by section 22.28 of the Illinois Environmental Protection Act.

Section 1.2 Rules of Construction

- a) Grammatical Usage and Construction. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural, in any place in which the context so requires.
- b) Headings. The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.
- c) Calendar Days. Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

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**ARTICLE II
SCOPE OF SERVICES**

Section 2.1 General Services

The Contractor shall provide the following solid waste hauling, collection and disposal services in accordance with the provisions of this Agreement:

- a) Municipal Waste. Collection and transportation and disposal of Municipal Waste as more particularly described in Section 4.1 of this Agreement.
- b) Landscape Waste and Food Scraps. Collection, transportation and disposal of Landscape Waste and Food Scraps as more particularly described in Section 4.2 of this Agreement.
- c) Recyclable Materials. Collection, transportation and disposal of Recyclable Materials as more particularly described in Section 4.3 of this Agreement.
- d) Containers for Residential Customers. The Contractor shall provide refuse carts and containers in new condition at the commencement of this Agreement as follows:
 - (i) For each Residential Customer, the Contractor shall provide one (1) Large Wheeled (95 gallon) Cart for Municipal Waste, at the cost of the Contractor.
 - (ii) For each Residential Customer, the Contractor shall provide one (1) Medium Wheeled (65 gallon) Cart for Recyclable Materials, at the cost of the Contractor.

The Contractor on behalf of the Village shall furnish the services described in Sections 2.1(a), (b), (c) and (d) (the "**Residential Services**") and bill the Village for such services under this Agreement. The Contractor shall be the sole and exclusive franchisee of the Village to provide the Residential Services.

e) Village Site Collection. The Contractor shall, without cost to the Village: (i) furnish Village Containers for the collection of Municipal Waste and Recyclable Materials at each Village Collection Site (see **Exhibit D**); and (ii) collect, transport, and dispose of such Municipal Waste and Recyclable Materials, at dates and times mutually agreeable to Village and the Contractor. Should the Village request that the Contractor perform additional collections beyond the frequency provided in **Exhibit D**, the unit cost provided in **Exhibit A** shall apply.

f) Pedestrian Container Collection. The Contractor shall, without cost to the Village, collect, transport, and dispose of Municipal Waste and Recyclable Materials from each Village Pedestrian Container (see **Exhibit D**) at dates and times mutually agreeable to Village and the Contractor. The Village reserves the right to modify the number and type of Village Pedestrian Containers to be serviced upon thirty (30) days prior written notice to the Contractor.

g) Special Event Collection. The Contractor shall, without cost to the Village: (i) furnish Village Containers for the collection of Municipal Waste and Recyclable Materials at each special event identified in **Exhibit D**; and (ii) collect, transport, and dispose of such Municipal Waste and Recyclable Materials, at dates and times mutually agreeable to Village and the Contractor.

h) Emergency Services. The Contractor, upon receipt of a notice from the Village, shall provide any or all Residential Customer(s) in the Village a special emergency pick-up for Municipal Waste and Landscape Waste in circumstances requiring prompt disposition of the waste materials and where a

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delay in pick-up until the next regularly scheduled pick-up day would or might be injurious or detrimental to the health or welfare of the community. Any such special emergency service shall be completed at the direction of the Village. The Contractor shall charge for emergency services as set forth in **Exhibit A**.

i) Books and Records; Audits. Contractor shall permit access to all relevant books, records, accounts and work sites by personnel of the Village. In addition, the Village shall have the right, upon reasonable notice to Contractor, to undertake appropriate audits to ensure compliance by Contractor with the terms of this Agreement.

Section 2.2 Modification of Required Services

The Village reserves the right to adjust or expand the scope of the Residential Services required under this Agreement, upon thirty (30) days prior written notice to the Contractor, to accommodate changes in the definition of “Residential Materials” or changes in the scope of services provided by SWALCO. The Village and the Contractor agree to negotiate an equitable adjustment to the Contractor's compensation under this Agreement required as a result of any adjustment or expansion of the scope of the Residential Services.

Section 2.3 Customer Education; Website

A. Customer Brochure. Upon execution of this Agreement, the Contractor, at its expense, shall be required to develop, print and distribute to all residential customers, and all new customers a brochure, approved by the Village, explaining the Municipal Waste, Recyclable Materials and Landscape Waste/Food Scrap programs covered under this Agreement. The brochure will include a method for customers to change their waste, recycling and/or landscape waste/food scrap services. The brochure shall be updated and distributed only if there is a change in services that warrants distributing a new brochure.

B. Website. During the term of the Agreement, the Contractor will maintain a publicly accessible website with the following components, which content shall be subject to the Village's approval in order to promote consistent information among the Village, SWALCO, and Contractor:

- i. Information on service levels offered by Contractor to the Residential Customers and corresponding rates;
- ii. Contractor regulations and requirements for collection of Municipal Waste, Recyclable Materials, and Landscape Waste;
- iii. On-line bill payment for all A La Carte and Private Services offered by Contractor to Residential Customers;
- iv. Submission of Cart size selection and Cart Change-Out/Replacement requests; and
- v. Scheduling of special collections and other service requests by Customers.

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**ARTICLE III
TERM OF AGREEMENT**

Section 3.1 Term of Agreement

The initial term of this Agreement shall commence on April 1, 2022 ("Commencement Date"), and end on March 31, 2027. Upon the mutual written consent of both parties, this Agreement can be extended for up to five additional one-year renewal periods.

At the end of any contract term, the Village reserves the right to unilaterally extend this Agreement for a period of up to ninety (90) days for the purpose of arranging to place a new contract in effect.

**ARTICLE IV
SOLID WASTE COLLECTION AND DISPOSAL**

Section 4.1 Municipal Waste

The Contractor shall collect, transport, and dispose of Municipal Waste in accordance with the following:

- a) Types of Service. The Village shall pay to the Contractor a flat monthly rate in accordance with the Schedule of Rates and Prices attached as **Exhibit A** of this Agreement for the following classes of service to Residential Customers:
 - i) Unlimited Service. Each Residential Customer shall receive "***Unlimited Service***" from the Contractor by default, which shall consist of once-per-week subscription service which provides for collection by the Contractor of Municipal Waste from one or more Wheeled Carts and an unlimited number of approved containers.
 - ii) Pay-As-You-Throw Service. Each Residential Customer may voluntarily elect to receive "***Pay-As-You-Throw Service***" from the Contractor, which shall be a volume-based, once-per-week subscription service. A customer receiving Pay-As-You-Throw Service shall be provided a Wheeled Cart with a different color lid than other types of Wheeled Carts.

The first Municipal Waste container presented at each collection shall be serviced at no additional charge. A Residential Customer shall be required to pay a fee as provided in **Exhibit A** for each additional container presented. A Residential Customer may affix Contractor's sticker as evidence that they have prepaid the applicable fee or, if no sticker is present, Contractor shall bill the Residential Customer in arrears. Contractor agrees to remove all Municipal Waste containers presented for pickup from Pay-As-You-Throw Residential Customers even if one or more additional containers fail to display a valid pre-paid sticker.

- b) Location of Service. The Contractor shall collect all Municipal Waste placed by Residential Customers curbside in front of the Residential Customer's property.

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c) Time of Collection. Residential Customers are required to place containers curbside no later than 6:00 a.m. on the designated day for collection. All Municipal Waste shall be collected from each Residential Customer no later than 7:00 p.m. on the designated day of collection, except as otherwise agreed between the Village and the Contractor.

d) Transport and Disposal. All Municipal Waste collected pursuant to this Section 4.1 shall be transported and disposed of in accordance with Section 4.6 of this Agreement.

e) Containers.

i) The Contractor shall furnish at no additional cost to the Residential Customer an acceptable container for Municipal Waste, which shall be a Large Wheeled Cart, unless the Residential Customer opts to select a Medium or Small Wheeled Cart.

ii) All Wheeled Carts for Municipal Waste shall be of the same style, color, and configuration and uniform in appearance, which shall be approved by the Village. All Wheeled Carts shall be owned and maintained by the Contractor and furnished in new condition at the start of the Agreement term.

iii) During the entire month of May each year, Residential Customers may elect to change the size of their cart(s) for Municipal Waste at no cost. A Customer may also elect to change their cart size outside of the month of May, and the Contractor may directly charge the Residential Customer a change of service charge as set forth in **Exhibit A** of this Agreement.

iv) If a Residential Customer chooses to use his own container for excess Municipal Waste, it shall be a container of standard waterproof construction of durable metal or plastic material, with a tight-fitting cover and with handles, not exceeding a capacity of approximately thirty-two (32) gallons.

f) Bulk Item Service. Bulk item pick-up at curbside shall be included as part of Municipal Waste collection. Such pick-up shall be made one (1) time each week and shall be on the same day as the Municipal Waste pick-up and shall include one Bulk Item per pick-up.

g) Annual Spring and Fall Clean-Up Program. The Contractor will provide for an annual spring and fall community clean-up to take place during the months of May and October. This service will provide for the curbside collection and disposal of large and bulky items not ordinarily collected throughout the Village. This service will be provided at no additional cost to the Village or any Residential Customer.

Section 4.2 Landscape Waste/Food Scrap Collection

The Contractor shall collect, transport, and dispose of commingled Landscape Waste and Food Scraps year-round in accordance with the following:

a) Location of Collection. The Contractor shall collect all Landscape Waste/Food Scraps that is placed by each Residential Customer curbside in front of the Residential Customer's property.

b) Containers. The Contractor shall have no obligation to collect any Landscape Waste/Food Scraps unless such waste is:

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- i) Placed in biodegradable paper “kraft”-type bags of a capacity not to exceed 32 gallons;
- ii) Placed in metal or plastic cans of a capacity not to exceed 32 gallons;
- iii) If the Landscape Waste cannot reasonably be placed in bags or cans, securely tied with biodegradable string or twine, in bundles not to exceed four feet in length and 24 inches in diameter; or,
- iv) Placed in a Wheeled Cart leased from the Contractor by the Residential Customer as an A La Carte Service as described in Section 4.5. All Wheeled Carts for Landscape Waste/Food Scraps shall be of the same style, color, and configuration and uniform in appearance, which shall be approved by the Village. All Wheeled Carts for Landscape Waste/Food Scraps shall have a different color lid than other types of Wheeled Carts, shall have an informational sticker or permanent stamp on the cart lid showing what items are accepted in the program, and shall be approved by the Village prior to being ordered and used in the Village. Any Wheeled Cart provided for this purpose shall be owned and maintained by the Contractor and furnished in new condition.

c) Christmas Trees. The Contractor shall collect, transport, and dispose of any Christmas tree left curbside by any Residential Customer between December 26 and January 15 (inclusive) each year at no cost.

d) Time of Collection. Residential Customers are required to place Landscape Waste/Food Scrap containers curbside by 6:00 a.m. on the designated day for collection. All Landscape Waste/Food Scrap shall be collected from each Residential Customer by 7:00 p.m. on each designated day of collection, except as otherwise agreed between the Village and the Contractor. The Contractor shall collect Landscape Waste/Food Scrap on the same day(s) as the Contractor collects Municipal Waste from the Residential Customer.

e) Transport and Disposal. All Landscape Waste collected pursuant to this Section 4.2 shall be transported and disposed of in accordance with Section 4.6 of this Agreement.

Section 4.3 Recyclable Materials

The Contractor shall collect, transport, and manage Recyclable Materials in accordance with the following:

a) Location of Collection from Residential Customers. The Contractor shall collect all Recyclable Materials from single-family homes and townhomes that are placed by Residential Customers curbside in front of the Residential Customer’s property.

b) Time of Collection from Residential Customers. Residential Customers are required to place Recyclable Materials containers curbside no later than 6:00 a.m. on the designated collection day. All Recyclable Materials shall be collected from each Residential Customer no later than 7:00 p.m. on each designated collection day, except as otherwise agreed between the Village and the Contractor. The Contractor shall collect Recyclable Materials from each Residential Customer on the same day(s) as the Contractor collects Municipal Waste from the Residential Customer.

c) Containers.

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- i) The Contractor shall furnish at no additional cost to the Residential Customer an acceptable container for Recyclable Materials excluding Electronics, which shall be a Medium Wheeled Cart, unless the Residential Customer opts to select a Large or Small Wheeled Cart.
 - ii) All Wheeled Carts for Recyclable Materials shall be of the same style, color, and configuration and uniform in appearance, which shall be approved by the Village. All Wheeled Carts for Recyclable Materials shall have a different color lid than other types of Wheeled Carts, shall have an informational sticker or permanent stamp on the cart lid showing what items are accepted in the recycling program, and shall be approved by the Village prior to being ordered and used in the Village. Wheeled Carts shall be owned and maintained by the Contractor and furnished in new condition at the start of the Agreement term.
 - iii) During the entire month of May each year, Residential Customers may elect to change the size of their cart(s) for Municipal Waste at no cost. A Customer may also elect to change their cart size outside of the month of May, and the Contractor may directly charge the Residential Customer a change of service charge as set forth in **Exhibit A** of this Agreement.
 - iv) If the Residential Customer chooses to use his own container for Recyclable Materials, it shall be a container of standard waterproof construction of durable metal or plastic material, with a tight-fitting cover and with handles, not exceeding a capacity of approximately thirty-two (32) gallons.
- d) Transport and Disposal. All Recyclable Materials collected pursuant to this Section 4.3 shall be transported and disposed of in accordance with Section 4.6 of this Agreement.
- e) Electronics. Contractor shall, at no cost, collect Electronics placed at the curbside with other Recyclable Materials outside of a Wheeled Cart or other container. Residential Customers must pre-arrange any collection of Electronics with Contractor by telephone no later than 5:00 p.m. the day prior to collection.

Section 4.4 Private Services

- a) In addition to the Residential Services provided by the Contractor under Sections 4.1 through 4.3 of this Agreement, the Contractor shall also make available, to all Residential Customers, Private Service for collection of all types of solid waste not otherwise covered by this Agreement, including, but not limited to: White Goods; auto parts (excluding Hazardous Waste); large amounts of building materials (including lumber, structural steel, concrete, bricks and stones); large volumes of Municipal Waste generated by move-in or move-out activities; heavy appliances; pianos; and such other bulky items that require more than one person to handle.
- b) For services provided pursuant to this Section 4.4, the Contractor agrees to have available tractor loaders, trailers, and other necessary equipment. Upon the request of a Residential Customer, the Contractor shall furnish an estimate for the cost of removal of any materials in connection with Private Services to be provided by the Contractor and shall provide the Private Services within one week of acceptance of the cost estimate.
- c) The Contractor shall charge Residential Customers the rate(s) set forth in **Exhibit A** for Private Services including the collection of White Goods.

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d) Nothing in this Agreement provides for exclusive rights of the Contractor to provide Private Service in the Village.

Section 4.5 A La Carte and Specialized Services

a) A La Carte Services. Each Residential Customer may choose one or more A La Carte services provided in this Section for the Contractor's Residential Services. The Contractor shall charge Residential Customers directly for A La Carte Services at the service rate set forth in **Exhibit A**.

- i) Backdoor Service. Customers may elect to have their Residential Services collection occur at a location on their property other than curbside. The Contractor may require certain or all customers receiving Backdoor Service to use their own containers rather than Wheeled Carts.
- ii) Twice Per Week Service. Customers may elect to receive Residential Services a second time each week.
- iii) Additional Carts. Customers may elect to receive additional Wheeled Carts for the storage of Municipal Waste, Recyclable Materials, and/or Landscape Waste and Food Scraps.

b) Specialized Pick-Ups. The Contractor will provide Backdoor Service to the residences identified in **Exhibit E** at no cost to the Village or to Residential Customers.

Section 4.6 Disposal

a) Municipal Waste.

- i) Municipal Waste shall be removed from the Village at the close of each day of collection and shall be disposed of at one or more SWALCO-designated lawfully operated pollution control facilities at the Contractor's sole cost and expense. The SWALCO-designated facilities in operation as of the effective date of this Agreement are the Countryside Landfill in Grayslake, the Zion Landfill in Zion, the Livingston Landfill in Livingston County, Illinois, the Lee County Landfill in Lee County, IL, and the Newton County Landfill in Newton County, Indiana.
- ii) Notwithstanding the foregoing, the Village reserves the right to direct the location of disposal to another pollution control facility.

b) Landscape Waste/Food Scraps.

- i) All Landscape Waste/Food Scraps shall be disposed of in a lawful manner at the facility operated by DK Organics and located on Illinois State Route 41. Contractor and the Village acknowledge that the Village is billed directly by this facility and that these costs are not included in the rates provided in **Exhibit A**. If an alternative facility must be utilized, the Village and the Contractor will negotiate an equitable adjustment pursuant to subsection (d) of this Section.
- ii) The Contractor shall abide by the Rules and Regulations set forth by DK Organics. The Village may terminate this Agreement if the Contractor fails to abide by the Rules and Regulations set forth by DK Organics.

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- iii) Not less than 30 days prior to the date on which the Contractor commences disposal of Landscape Waste/Food Scraps at a particular location(s) other than the facility described in subsection (i), the Contractor shall notify the Village in writing of the designation of such location. Notwithstanding the foregoing, the Village reserves the right to reject any proposed location, or to direct the location of disposal to an alternate Landscape Waste facility.
- iv) No Landscape Waste/Food Scraps may be disposed of at a landfill or solid waste incinerator, unless otherwise authorized by the Illinois Environmental Protection Act (415 ILCS 5/1 *et seq.*) and approved in advance and in writing by the Village.
- c) Recyclable Materials.
 - i) All Recyclable Materials shall be collected, separated and otherwise treated to facilitate the sale of Recyclable Materials to end-use markets or to Recyclable Material brokers. All collected Recyclable Materials shall be recycled regardless of the income received or the cost to the Contractor resulting from the sale of the Recyclable Materials. No Recyclable Materials may be deposited in a landfill or waste incinerator.
 - ii) The Contractor shall deliver all collected Recyclable Materials to the SWALCO-designated recycling facility (the “*Designated Facility*”), if and when SWALCO enters into an agreement. As of the Commencement Date of this Agreement, SWALCO does not have an agreement in place with a recycling facility, therefore the Contractor shall choose its own facility to take the Village’s Recyclable Materials to and notify the Village within 30 days of such location. Notwithstanding the foregoing, the Village reserves the right to designate an alternate Designated Facility.
 - iii) The Contractor shall abide by the Rules and Regulations set forth by the Designated Facility. The Village may terminate this Agreement if the Contractor fails to abide by the Rules and Regulations set forth by the Designated Facility.
- d) In the event that the Village directs the disposal of any Municipal Waste, Landscape Waste or Recyclable Materials to any alternate facility pursuant to this Section 4.6, the Village and the Contractor agree to negotiate an equitable adjustment to the Contractor’s compensation under this Agreement because of an increase or decrease in realized costs.

Section 4.7 Solid Waste Collection Data

- a) The Contractor shall provide to the Village and SWALCO, on a quarterly basis, a report on the quantity, in tons, of: (i) Municipal Waste collected within the Village, (ii) Recyclable Materials collected within the Village, and (iii) Landscape Waste/Food Scraps collected within the Village. The Contractor shall also provide data to the Village on the amount of Electronics collected from the Village’s drop-off program.
- b) The Contractor shall prepare and deliver to the Village, at least once every 12 calendar months, a breakdown, by number and service type (including any A La Carte Services), of the Residential Customers in the Village.

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- c) The Contractor acknowledges and agrees that the Village will provide program data and other public information to each Residential Customer upon request.
- d) Failure to report the data required by this Section 4.5 may result in the Village assessing the Contractor up to \$100, as stipulated liquidated damages and not as a penalty, for each day the required data is not submitted to the Village or SWALCO.

**ARTICLE V
COMPENSATION**

Section 5.1 Residential Service

- a) For providing the services described in this Agreement, the Contractor shall receive as compensation the flat rates and volume rates set forth in **Exhibit A** attached to this Agreement, as adjusted pursuant to Section 5.1(b) of this Agreement. The Contractor shall not impose or assess any fuel surcharges, administrative fees, environmental fees, recycling contamination fees or charge any amounts in excess of the charges derived solely from the rates set forth in **Exhibit A**.
- b) Annual Adjustment. On April 1, 2023 and on each twelve-month anniversary date thereafter (the “*Adjustment Date*”), the charges as identified in **Exhibit A** shall increase in the amount of 100% of the percentage increase of the CPI-U; provided, however, that no such annual increase may exceed three percent (3%) of the amount payable for the previous period.

The percentage increase in the CPI-U on each Adjustment Date shall be determined by comparing the CPI-U from January preceding the Adjustment Date (“*Most Recent CPI-U*”) to the CPI-U reported by the U.S. Department of Labor for January in the year immediately preceding the year of the Most Recent CPI-U. The CPI-U means the Chicago-Naperville-Elgin Consumer Price Index for all Urban Consumers, All Items, Issued by the Bureau of Labor Statistics of the United States Department of Labor (1982-84=100).

- c) The Contractor shall notify the Village in writing at least thirty (30) days prior to the effective date of any proposed increase in charges, and such increase shall not be effective until approved by the Village in writing as complying with the terms of the Agreement. The Village shall not be obligated to approve any proposed increase unless the Contractor is currently in compliance with the reporting requirements provided in Sections 4.7 and 8.1(c).

**ARTICLE VI
REVENUE COLLECTION**

Section 6.1 Village Billing for Basic Service

The Contractor shall bill the Village no less frequently than once every four (4) months for the cost of providing services under Sections 2.1(f), 2.1(h), 4.1, 4.2, and 4.3 except those costs specified as payable by the requesting Residential Customer. Each invoice shall be payable by the Village within thirty (30) days after the date of the invoice.

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Section 6.2 Customer Billing for Private Service and A La Carte Service

The Contractor shall directly bill each Residential Customer the amount payable for all other charges arising from this Agreement, including, without limitation, the cost of any Wheeled Cart changes, Pay-As-You-Throw additional collection fees, Private Service, or A La Carte Service. Recurring charges shall be billed no more frequently than monthly. The Contractor shall retain all amounts collected from each Residential Customer pursuant to this Section 6.2. The Village shall not be liable for any claim arising from a Residential Customer's failure to pay an invoice issued pursuant to this Section 6.2.

**ARTICLE VII
TITLE TO RESIDENTIAL MATERIALS**

Section 7.1 Title to Residential Materials

The Contractor shall retain title to all Residential Materials collected pursuant to this Agreement.

**ARTICLE VIII
RECYCLABLE MATERIALS**

Section 8.1 Recyclable Materials Collection Service

- a) Residential Recycling Service. The Contractor shall collect and manage Recyclable Materials in accordance with Article IV of this Agreement.
- b) Disposition of Recyclable Materials. The Contractor shall retain all income (and fully bear all losses) resulting from the disposition of Recyclable Materials. Contractor acknowledges that the Solid Waste Agency of Lake County may in the future have a rebate program whereby the Agency receives certain funds from the Designated Recycling Facility and distributes a portion of these funds to its members, including the Village, and Contractor waives any claim to any portion of the funds collected by the Agency through this program.
- c) Recyclable Materials Collection Data. The Contractor shall provide to the Village and SWALCO a quarterly report on the weight (in tons) of all Recyclable Materials collected from Residential Customers under this Agreement. The report shall also contain an approximate count of the number of Residential Customers from which Recyclable Materials have been collected, to determine participation and diversion rates. Failure to report the data required by this Section 4.5 may result in the Village assessing the Contractor up to \$100, as stipulated liquidated damages and not as a penalty, for each day the required data is not submitted to the Village or SWALCO.
- d) Recycling Education and Awareness. In addition to the brochure required pursuant to Section 9.1 and the cart sticker or stamp required pursuant to Section 4.3(c), the Contractor and Village agree to disseminate the recycling guidelines provided by SWALCO on their websites and social media in a coordinated manner. At least once per year during the term of this Agreement, the Contractor and Village agree to publicize and/or distribute the recycling guidelines to the Residential Customers to reinforce good recycling practices.
- e) Recycling Wheeled Cart Contamination. To address contamination of a Residential Customer's Wheeled Cart for recycling the Contractor and Contractor agree as follows:

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- i) The Contractor may refuse to service a recycling Wheeled Cart if a Residential Customer does not properly segregate recyclable materials. At the time of refusal to provide service, the Contractor shall issue a notice to the Residential Customer that contains instructions for the proper segregation of Recyclable Materials, and the specific violation(s) made by the Residential Customer. If a Residential Customer receives two such notices within a 30-day period, the Contractor may exercise its right to not provide recycling service for a period of 30 days. This 30-day suspension shall be made in writing to the Residential Customer with a copy to the Village.
 - ii) If the Village and Contractor determine it is necessary to implement a formal recycling Wheeled Cart inspection program or a “tag and educate” program, it shall include a detailed program for educating Residential Customers prior to and during the implementation of the program. Key program elements to be agreed by the Village and Contractor prior to implementing the “tag and educate” program are: 1) what procedures will be followed when a Wheeled Cart is contaminated, and 2) what ultimate steps will be taken for Residential Customers who continue to contaminate the Wheeled Cart.
- f) The Village shall have the right to add materials to the list of Recyclable Materials listed in Section 1.1(o) of this Agreement, pending the availability of disposal or resale markets for the added materials and the prior approval of the Contractor.
- g) The Contractor shall ensure that all Recyclable Materials collected are properly processed and marketed. No collected Recyclable Materials shall be landfilled or incinerated.
- h) The Contractor agrees to meet periodically with representatives from the Village to: (1) review the provision of residential recycling pursuant to this Agreement; and (2) discuss the implementation of alternative approaches, programs and partnerships to improve the quality, quantity, and efficiency of residential recycling and other sustainability initiatives within the Village.

**ARTICLE IX
CUSTOMER SERVICE STANDARDS**

Section 9.1 Office and Telephone

The Contractor shall maintain an office and toll-free telephone, for receipt of service calls or complaints, and shall be available for such calls on all business days from 7:00 a.m. to 5:00 p.m. The Contractor shall retain the services of at least one temporary customer service representative to handle the addition of Residential Customers to the Contractor’s service base during the first ninety days of the term of this Agreement. Additional customer service representatives shall be added as necessary to meet the minimum customer service standards set forth in Section 9.2 of this Agreement.

Section 9.2 Minimum Customer Service Standards

- a) Complaints Generally. The Contractor shall cooperate with the Village in minimizing complaints from the Residential Customers. A consistent pattern of failure to address complaints, or violations of Sections 9.2(a) through 9.2(h) of this Agreement, shall entitle the Village to exercise the remedies provided to it pursuant to Section 9.2(h) and/or Article X of this Agreement.

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- b) Initial Response. The Contractor shall give prompt and courteous attention to all Residential Customer complaints that it may receive. The Contractor shall respond personally to every Residential Customer from whom a complaint is received within twenty-four (24) hours or the next business day after receipt of such complaint; except that if the Contractor receives a complaint about a missed scheduled collection, then the Contractor shall immediately investigate such complaint and, if such scheduled collection was not made in accordance with the terms of this Agreement, then the Contractor shall cause such collection to be made within twenty-four (24) hours or the next business day after receipt of such complaint. Contractor acknowledges the importance, in particular, that it resolves missed scheduled collections without the involvement of the Village.

Where any dispute arises between a Residential Customer and the Contractor as to the manner of placing waste or the nature of the contents or the like, the Contractor shall, and does hereby agree in the specific instance to, remove the waste even though, in its opinion, it is improperly placed or contained. Thereafter, the Contractor shall immediately report the controversy to the Village for settlement before additional collection becomes necessary to avoid further disputes or disagreements between Residential Customers and the Contractor.

- c) Referral to Village. If the Contractor is unable to resolve a complaint in a manner satisfactory to both the Contractor and the Residential Customer, then the Contractor, within forty-eight (48) hours after receipt of such complaint, shall deliver notice of such complaint to the Village, which notice shall include the name and address of the Residential Customer, the date and hour the complaint was received, the nature of the complaint, and the Contractor's response to the complaint. The Village shall arbitrate each such complaint, and the Village's decision concerning each such complaint shall be final and binding on the Contractor and the Residential Customer.
- d) Answering Calls. During normal business hours and under normal operating conditions, a customer service representative employed by the Contractor shall answer the telephone access line. Ninety percent (90%) of the calls made to the customer service center shall be answered within thirty (30) seconds. The thirty (30) second maximum includes wait time or time spent 'holding' for a customer service representative.
- e) Busy Signals. Residential Customers placing calls to the customer service center shall receive a busy signal no more than five percent (5%) of the time.
- f) Transferring Calls. During normal business hours, if after initially addressing a Residential Customer's concern, the customer service representative determines that the call should be transferred to another representative of the Contractor, the Residential Customer shall be connected with a customer service representative within thirty (30) seconds thereof.
- g) Hang-ups. Incoming telephone calls from Residential Customers shall not exceed an abandonment rate of five percent (5%).
- h) Compliance Rate. During normal business hours, the minimum standards set forth in this Section 9.2 shall be met no less than ninety percent (90%) of the time, measured on a monthly basis. Upon request, reports shall be provided to the Village providing a log of inquiries received and action taken to address each complaint and call. The Contractor shall also distribute to the Village a log providing data which tracks the customer service

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representatives' adherence to the standards set forth in Section 9.2(a) through 9.2(g) of this Agreement, as the Village may request in its discretion. If the records indicate a clear failure of the Contractor to comply with the minimum standards set forth in Sections 9.2(a) through 9.2(g) of this Agreement, then the Village reserves the right to require the Contractor to implement modifications to its customer service center to bring it into compliance with the requirements of this Section 9.2.

Section 9.3 Cleanliness

- a) Generally. Contractor shall perform the work in a clean and orderly fashion and shall not cause to be deposited, or allow to remain, any Municipal Waste, Landscape Waste, or Recyclable Materials at any pick-up area during performance of the Work. Contractor shall replace all container covers and shall replace all containers to their proper locations. Contractor shall take all reasonable actions to avoid clutter and damage, as a result of its operations, to curbs, streets, alleys, pavement, utilities, adjoining property, and all property of the Village. Contractor shall leave all property affected by its operations in a clean condition.

- b) Cleanup of Spills. Contractor shall immediately clean up any Municipal Waste, Landscape Waste, or Recyclable Materials that it may have caused to spill onto private premises, parkways, streets, alleys or other public places, in a neat and workmanlike manner. If such materials or fluids are not cleaned up within eight hours after being reported to Contractor (verbally or in writing), the Village may perform the cleanup and bill the cost to Contractor. All charges levied against the Contractor under this Section 9.3(b) shall be remitted to the Village within 30 days after receipt of an invoice therefor.

Section 9.4 Liaison

The Contractor shall designate in writing the person to serve as agent for the Contractor and liaison between the Contractor and the Village.

**ARTICLE X
BREACH; EVENTS OF DEFAULT AND REMEDIES**

Section 10.1 Breach by Contractor

Each of the following shall constitute a Breach on the part of the Contractor:

- a) A consistent pattern of failure by the Contractor to respond timely to and address Customer complaints in keeping with the customer service standards in Article IX and as further defined in Section 9.3(a).

- b) Failure of the Contractor to pay, within thirty (30) days after notice from the Village of nonpayment, amounts which are undisputed or which are due to the Village under this Agreement;

- c) Repeated failure of the Contractor to comply with Section 9.2(h) of this Agreement;

- d) Failure of the Contractor to perform in a timely fashion any obligation under this Agreement not referenced within Section 10.1(a) of this Agreement, except that such failure shall constitute a Breach only if such failure remains uncured for seven (7) days

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after notice to the Contractor from the Village of such failure; provided however, that this seven (7) day notice with opportunity to cure shall not be required in the event of persistent and repeated failure to perform; or

- e) Any of the following: (1) The Contractor's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, (2) a bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted by the Contractor under the laws of any jurisdiction, (3) a bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the Contractor under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days, (4) any action or answer by the Contractor approving of, consenting to or acquiescing in any such proceeding, or (5) the levy of any distress, execution or attachment upon the property of the Contractor which shall (or which reasonably might be expected to) substantially interfere with its performance under this Agreement.

Section 10.2 Breach by Village

Each of the following shall constitute a Breach on the part of the Village:

- a) The Village's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property;
- b) A bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted by the Village under the laws of any jurisdiction;
- c) A bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the Village under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days;
- d) Any action or answer by the Village approving of, consenting to or acquiescing in any bankruptcy, reorganization, insolvency, arrangement or similar proceeding; or
- e) The levy of any distress, execution or attachment upon the property of the Village which shall (or which reasonably might be expected to) substantially interfere with the Village's performance hereunder.

Section 10.3 Events of Default and Remedies of Village

- a) If a Breach occurs under Section 10.1 of this Agreement, the Village may declare an Event of Default and may thereafter exercise any one or more of the following remedies:
 - (i) The Village may terminate this Agreement immediately, upon notice to the Contractor. Subject to the provisions of subparagraph (v) below, upon such termination, the Contractor shall cease providing all services under this Agreement.

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- (ii) The Village may seek and recover from the all of its substantiated costs for the failure of the Contractor to perform any obligation under this Agreement, and all damages, whether based upon contract, work stoppage, strike, Contractor negligence (including tort), warranty, delay or otherwise, arising out of the performance or non-performance by the Contractor of its obligations under this Agreement, and whether incidental, consequential, indirect or punitive, resulting from the Breach. In the Event of Default by the Contractor and notwithstanding that Contractor receives payment from Residential Customers, any costs incurred by the Village in obtaining alternative Residential Service shall be deemed damages suffered by the Village.
 - (iii) The Village may (A) call upon the sureties to perform their obligations under the performance bond, or (B) in the alternative, after releasing the sureties from their obligations under the performance bond, take over and perform the required services by its own devices, or may enter into a new agreement for the required services, or any portion thereof, or may use such other methods as shall be required in the opinion of the Village for the performance of the required services.
 - (iv) The Village shall have the power to proceed with any right or remedy granted by federal or State law as it may deem best, including any suit, action or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the Village shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law.
 - (v) Upon any such termination of this Agreement, the Contractor shall, for a period to be determined by the Village in its sole and absolute discretion, but not longer than six (6) months, continue to perform the contractual services during which period the businesses shall pay the Contractor its scheduled compensation.
- b) No Waiver; Remedies Not Exclusive. No remedy by the terms of this Agreement conferred upon or reserved to the Village is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Village. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.
- c) Liquidated Damages for Missed Pickups. If the Contractor misses a collection, the collection must be corrected within 24 hours or the next business day after the complaint is received, or a charge of \$50 per missed collection will be charged to the Contractor as stipulated liquidated damages; provided, however, that the Contractor shall not be charged under this Section 10.3(c) for collections missed due to a labor dispute involving the Contractor's labor force if the missed collection is not rectified within seven (7) days after the missed collection. All charges levied against the Contractor under this Section 10.3(c) shall be remitted to the Village within 30 days after receipt of an invoice therefor.

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- d) Work Stoppage. In the event of a strike or other labor stoppage, Contractor shall notify the Village within 24 hours after commencement of the strike or labor stoppage. If such strike or labor stoppage does not end within seven (7) business days of such notification, the Contractor will provide the Village with refuse collection dumpsters located in at least four (4) geographic locations for Customer drop-offs, which locations shall be mutually acceptable to the parties. In the event of a strike, that does not end within 14 days of notification, the Village and the Contractor agree to negotiate an equitable reduction to the Contractor's compensation under this Agreement.
- e) Damage to Property. Contractor shall promptly, and without charge to the Village, repair or restore, at its own expense and to a condition equal to that existing before the occurrence and satisfactory to the Village, any damage done by Contractor to any property, public or private, as a result of the Work. If Contractor fails to promptly repair or restore any such damage, then the Village may, after 48 hours written notice to Contractor, itself cause such repair or restoration to be made, with its own forces or with forces hired for that purpose, and charge all costs related thereto to Contractor. If the Village determines, in its sole discretion, that such damage has created a dangerous situation requiring immediate response, then the Village may cause such repair or restoration to be made without notice to Contractor and charge all costs related thereto to Contractor. All charges levied against the Contractor under this Section 10.3(d) shall be remitted to the Village within 30 days after receipt of an invoice therefor.
- f) This Section 10.3 shall survive the termination of this Agreement.

Section 10.4 Events of Default and Remedies of Contractor

- a) If a Breach occurs under Section 10.2 of Agreement, the Contractor may declare an Event of Default and terminate this Agreement immediately, upon notice to the Village. In such event, the Contractor's sole remedy shall be to seek and recover from the Village any unpaid amounts due the Contractor and any damages, whether incidental, consequential, indirect, or punitive, resulting from the Breach. The Contractor shall not be entitled to specific performance or any other equitable remedies.
- b) This Section 10.4 shall survive termination of this Agreement.

Section 10.5 Force Majeure

Neither the Contractor nor Village shall be liable for failure to perform their duties or for any resulting damage or loss if such failure is caused by a catastrophe, terrorism, riot, war, fire, accident, pandemic or epidemic, act of God, or other similar contingency that is beyond the reasonable control of the Contractor or the Village including without limitation: extraordinary inclement weather; explosion; widespread lack of adequate fuel, power, raw materials, labor or transportation facilities; material changes in governmental laws, regulations, requirements, orders, or actions, the impact of which is unrelated to Contractor, the Village, or Contractor's or the Village's performance, or failure to perform; national defense requirements; injunctions or restraining orders; and labor trouble and strike. In the event the Contractor asserts a right to suspend performance under this Section, the Contractor shall (i) within twenty-four (24) hours after it has knowledge of the effective cause, notify the Village of the cause for suspension, the performance suspended and the anticipated duration of suspension and (ii) advise the Village when the suspending event has ended and when performance will be resumed. Once the suspending event ends, the Contractor shall promptly resume performance. Changes in recycling

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markets or market prices are specifically excluded from the above force majeure contingencies contemplated in this section.

**ARTICLE XI
INSURANCE AND INDEMNIFICATION**

Section 11.1 Insurance

- a) The Contractor shall maintain for the duration of this Agreement, and any extensions thereof, insurance issued by a company or companies qualified to do business in the State of Illinois and that meet the requirements set forth in **Exhibit B**. The Contractor shall provide the Village with a certificate and policies of insurance indicating that such insurance coverage meets the requirements contained in **Exhibit B**.
- b) Insurance premiums shall be paid by the Contractor and shall be without cost to the Village.

Section 11.2 Indemnification

Contractor agrees, at its sole cost and expense, to unconditionally indemnify and hold harmless and defend the Village and the Village's former, current and future elected and appointed officials, trustees, agents, contractors, employees, representatives, attorneys and insurers and/or successors in interest of any kind (the "**Village Indemnitees**") for and from any and all claims, actions, omissions, losses, injuries, lawsuits, counterparts, debts, dues, obligations, judgments, awards, demands, liens, costs, expenses, attorneys' fees and liability for damages of any kind and causes of action of any kind and nature (including but not limited to all liabilities, claims, suits, costs and expenses which the Village or Village Indemnitees may hereafter 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), whether known or unknown at this time, whether present or future or contingent, that are brought or filed against the Village, and/or the Village Indemnitees, by any person or entity arising out of, relating to, connected with, or in any way associated with the following: (a) Contractor's breach of any term or provision of this contract; (b) any negligent or willful act or omission of Contractor, its employees, agents, or subcontractors in the performance of this Agreement; (c) the violation or alleged violation by Contractor, its employees, agents, or subcontractors of any federal, state or local law, regulation, statute, ordinance, license, or permit and (d) the release, threatened release or presence of contaminants (which shall include but not limited to hazardous waste, hazardous substances and any material which any governmental agency or unit having appropriate jurisdiction shall determine from time to time is harmful, toxic, or dangerous) which occurs during the performance (or failure to perform) of this Agreement, including transportation and/or disposal of the Residential Materials and/or from or on the site(s) or facility(ies) utilized for disposal of the Residential Materials. In the event that any such claim, action, cause of action or lawsuit is brought or filed, the Village and Village Indemnitees shall have the right to determine the attorney(s) of its choice to represent and defend their interests in any legal or administrative action in the event that a conflict exists which prevents the same defense counsel from representing the Contractor and the Village or Village Indemnitees, all at the Contractor's expense pursuant to this Agreement. Notwithstanding any other provision in this Agreement to the contrary, the duration of the indemnification hereunder shall be indefinite and survive the expiration of this Agreement.

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**ARTICLE XII
MISCELLANEOUS**

Section 12.1 Non-Assignability

The Contractor shall not assign this Agreement or any part thereof or subcontract this Agreement or the work hereunder, or any part thereof, in either case to any other person, firm, or corporation without the prior written consent of the corporate authorities of the Village, who shall withhold or grant such approval at a regular meeting of the Village's Board of Trustees. Nothing in this Agreement shall prevent the Contractor from performing its obligations hereunder through its subsidiaries or divisions but the performance by any such subsidiary or division shall not relieve the Contractor from its obligations or change the terms of Agreement.

Section 12.2 Equal Employment Opportunity

- a) In the event of the Contractor's noncompliance with the provisions of this Section 12.2, the Illinois Human Rights Act or the Illinois Department of Human Rights Rules and Regulations, the Contractor may be declared ineligible for future contracts or subcontracts with the State or any of its political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
- b) During the performance of this Agreement, the Contractor agrees as follows:
 - (i) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further, that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such under-utilization.
 - (ii) That, if it hires additional employees in order to perform this Agreement or any portion hereof, it will determine the availability (in accordance with the Illinois Department of Human Rights Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not under-utilized.
 - (iii) That, in all solicitations or advertisements for employees placed by the Contractor or on the Contractor's behalf, the Contractor will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
 - (iv) That the Contractor will send to each labor organization or representative thereof with which it is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Illinois Human Rights Act and the Illinois Department of Human Rights Rules and Regulations. If any such labor

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organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with such Act and Rules and Regulations, the Contractor will promptly notify the Illinois Department of Human Rights and the Village and will recruit employees from other sources when necessary to fulfill the Contractor's obligations thereunder.

- (v) That the Contractor shall submit reports as required by the Illinois Department of Human Rights Rules and Regulations, furnish all relevant information as may from time to time be requested by the Illinois Department of Human Rights or the Village, and in all respects comply with the Illinois Human Rights Act and the Illinois Department of Human Rights Rules and Regulations.
 - (vi) That the Contractor shall permit access to all relevant books, records, accounts and work sites by personnel of the Village and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Illinois Department of Human Rights Rules and Regulations.
 - (vii) That the Contractor shall include, verbatim or by reference, the provisions of this Section 12.2 in every subcontract it awards under which any portion of the Agreement obligations are undertaken or assumed, so that such provisions will be binding upon each subcontractor. The Contractor will promptly notify the Village and the Illinois Department of Human Rights in the event any subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor ineligible for contracts or subcontracts with the State or any of its political subdivisions or municipal corporations.
- c) During the term of this Agreement, the Contractor shall comply in all respects with the Equal Employment Opportunity Act. The Contractor shall have a written equal employment opportunity policy statement declaring that it does not discriminate on the basis of race, color, religion, sex, national origin, disability, or age. Findings of non-compliance with applicable State or federal equal employment opportunity laws and regulations may be sufficient reason for revocation or cancellation of this Agreement.

Section 12.3 Performance Bond

The Contractor shall furnish a performance bond for the faithful performance of this Agreement, in substantially the form provided as *Exhibit C*, to be executed by a responsible surety company and to be in the penal sum of Five Hundred Thousand Dollars (\$250,000). Such performance bond shall be furnished annually by the Contractor for the following year of this Agreement and shall indemnify the Village against any loss resulting from any failure of performance by the Contractor. The initial bond shall be posted on or before the Commencement Date, and each successive bond shall be posted not later than January 1 of each successive calendar year. In lieu of furnishing a performance bond, the Proposer may demonstrate its ability to furnish an unconditional letter of credit to be delivered at Closing in favor of the Village, in the amount of Five Hundred Thousand Dollars (\$250,000) drawn on a national or state-chartered bank acceptable to the Village. Any performance security required under this Section shall be in such form and with such provisions as are acceptable to the Village, in the Village's sole discretion.

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Section 12.4 Equipment to be Used by Contractor

- a) Contractor shall furnish, and maintain in a neat, clean, and sanitary condition, enclosed modern collection equipment approved by the Village for use in performing the Work. Contractor may use replacement, open trucks on a temporary basis in case of emergency, but only with the prior express written approval of the Village. No vehicle used in the performance of this contract shall have a gross vehicle weight rating (GVWR) of greater than 55,000 pounds. All vehicles shall be maintained in good working order and appearance, free of rust, and shall be clean at the start of each collection day. In the event that any vehicle is not properly operable, a substitute vehicle shall immediately be provided that complies with the terms herein. All vehicles shall display the name of the Contractor, a local phone number, and a vehicle identification number that is clearly visible on both sides. No vehicle shall be operated on a Village street that leaks any fluids from the engine or compaction mechanism. All vehicles shall be fully enclosed and operated in such a way that no waste leak, spill or blow off the vehicles. Should any waste leak, spill or blow off a vehicle due to the vehicle operator's failure to properly monitor the load or to close opening, or due to failure of any mechanism, the Contractor shall be responsible for collecting or cleaning up such litter or fluids. If such litter or fluids are not cleaned up after notice (verbal or written) from the Village, the Village may clean up same, and the Village may bill the cost to the Contractor for services rendered. Drain plugs, if available, shall be kept closed except during collections in rainy weather. All vehicles shall be made available for inspection during regular business hours at the request. Contractor may use replacement, open trucks on a temporary basis in case of emergency, but only with the prior express written approval of the Village.
- b) Contractor acknowledges the desire of the Village to promote the use of alternative fuels and agrees to give priority to the Village in deploying its vehicles that use fuels other than conventional gasoline and diesel.
- c) Containers used in connection with the provision of Residential Services by the Contractor pursuant to this Agreement shall be operable, safe and free of graffiti. Contractor shall replace any container in disrepair of this sort within three (3) days of notification by the Village or the customer. Containers with plastic lids that are ill-fitted or warping shall be replaced within three (3) days of notification by the Village, in order to maintain a tight-fitting seal to prevent access by pests. All containers shall clearly show Contractor's logo; a unique inventory control number that is cross-referenced to the service matrix; and, for Recyclable Materials containers, the recycling sticker or stamp specified in Section 4.3. Contractor is encouraged to install RFID tags on carts and containers to assist with collection tracking.
- d) All equipment used by Contractor for the provision of Residential Services and Private Services pursuant to this Agreement shall be properly licensed by the State and shall conform to all federal and State equipment safety standards.

Section 12.5 Compliance with Laws

- a) The Contractor shall comply at all times with all applicable federal, State and municipal laws, ordinances and regulations at any time applicable to the Contractor's operations under this Agreement, with no increase to the Contractor's compensation as set forth in this Agreement. Specifically, but without limitation of the foregoing, the Contractor shall

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comply with any amended Village ordinances or regulations imposed in the discretion of the Village to protect the public health, safety, and welfare.

- b) The Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect.

Section 12.6 Care and Performance

- a) The Contractor shall undertake to perform all services rendered hereunder in a neat, thorough and competent manner, without supervision by the Village, and to use care and diligence in the performance of all specified services and to provide neat, orderly, uniformed and courteous employees and personnel on its crews.
- b) The Contractor shall be liable to the Village for damage to Village rights-of-way caused in connection with the provision of the Residential Services or Private Services, ordinary wear and tear excepted.
- c) To the extent that the Contractor or its employees or agents violate any provisions on the Village Code, the Contractor shall be liable for fines due under the Village Code arising in the course of its provision of services under this Agreement.

Section 12.7 No Alcohol or Drugs

The Contractor shall prohibit and use its best efforts to enforce the prohibition of any drinking of alcoholic beverages or use of illegal drugs by its drivers and employees while on duty or during performing their duties under this Agreement.

Section 12.8 Governing Law

This Agreement and the rights of the Village and the Contractor under this Agreement shall be interpreted according to the internal laws, but not the conflict of laws, rules, of the State of Illinois.

Section 12.9 Severability

The provisions of this Agreement shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Agreement, shall be in any way affected thereby. The unenforceability of any provision of this Agreement in a specific situation shall not affect the enforceability of that provision in any other situation.

Section 12.10 Entire Agreement

This Agreement sets forth the entire agreement of the Village and the Contractor with respect to the provision of the Residential Services and compensation therefor, and there are no other understandings or agreements, oral or written, between the Village and the Contractor with respect to the Residential Services and the compensation therefor, nor was the making and execution of this Agreement induced by any representation, statement, warranty, agreement, or action other than those expressed or explicitly referenced herein.

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Section 12.11 Notices

All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier or (iii) by certified mail, return receipt requested, and deposited in the U.S. mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section, each party shall have the right to change the address or addressee, or both, for all future notices and communications to the other party but no notice of a change of address or addressee shall be effective until received.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village of Lake Bluff
40 E. Center Avenue
Lake Bluff IL 60044
Attention: Village Administrator

Notices and communications to the Contractor shall be addressed to, and delivered at, the following address:

Section 12.12 Publicity

The Village's name or insignia, photographs of the Village, or any other publicity pertaining to the provision of the Residential Services shall not be used in any magazine, trade paper, newspaper, or other medium without the express written consent of the Village.

Section 12.13 No Interpretation against Drafter

This Agreement has been negotiated by all Parties and shall not be construed against any Party as the drafter of this Agreement.

Section 12.14 Independent Contractor

Contractor acknowledges and agrees that the relationship of the parties hereunder shall be that of independent contractor and that neither Contractor nor its employees shall be deemed to be an employee of the Village for any reason whatsoever. Neither Contractor nor Contractor's employees shall be entitled to any Village employment rights or benefits whatsoever. Contractor is only authorized to operate pursuant to this Agreement and shall not be deemed an Agent of the Village when engaging in the activities authorized hereunder.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives, all on the day and year first above written.

CONTRACTOR

VILLAGE OF LAKE BLUFF

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

ATTEST:

By: _____

By: _____

Its: _____

Its: _____

**VILLAGE OF LAKE BLUFF, ILLINOIS
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EXHIBIT A

SCHEDULE OF INITIAL RATES AND PRICES

<To follow>

**VILLAGE OF LAKE BLUFF, ILLINOIS
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EXHIBIT B

MINIMUM INSURANCE PROVISIONS

A. Commercial General Liability Insurance

Commercial general liability insurance with the following limits:

<u>Coverage</u>	<u>Limits of Liability</u>
General Aggregate	\$5,000,000
Products and Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$2,000,000

The policy shall be endorsed so that the general aggregate limit applies separately to each project and each location. The products and completed operations aggregate shall be maintained for one year after the final payment.

B. Workers Compensation & Employer's Liability

Workers Compensation Coverage **IL statutory requirements**

Employer's Liability Insurance Coverage **Limits of Liability**

Bodily Injury by Accident (Each Accident)	\$1,000,000
Bodily Injury by Disease (Each Employee)	\$1,000,000
Bodily Injury by Disease (Policy Limit)	\$1,000,000

All employees who are to provide labor or service under the contract must be insured; no exclusions shall be allowed for any officer or employee.

C. Business Auto Insurance:

<u>Coverage</u>	<u>Limit of Liability</u>
All Owned, Hired, and Non-Owned Autos	\$1,000,000

D. Pollution Liability Insurance

<u>Coverage</u>	<u>Limit of Liability</u>
Each Occurrence/General Aggregate	\$5,000,000

Pollution liability insurance limits may be modified by the Village, if deemed necessary.

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E. Umbrella Liability Insurance

<u>Coverage</u>	<u>Limit of Liability</u>
Excess over all primary policies	\$5,000,000

With respect to each of the policies required in this Exhibit B, Contractor shall not have a deductible higher than \$5,000,000 without the express written consent of the Village.

All insurers writing policies pursuant to this Exhibit B shall be licensed by the State of Illinois and rated A-VII or better by A.M. Best or comparable rating service.

The comprehensive general liability, property damage, auto liability and umbrella insurance policy shall name the Village and the Village Indemniteses as an additional insured on a primary noncontributory basis with a waiver of subrogation in favor of the Village (the waiver of subrogation shall also apply to the workers' compensation insurance). The Contractor shall provide the Village with certificates of insurance and policy endorsements acceptable to the Village evidencing the existence of the coverage described above, including form and deductibles, during the duration of this Agreement. The failure to provide acceptable insurance shall be deemed a breach of this Agreement entitling the Village to terminate this Agreement immediately. All policies of insurance shall provide the endorsement that no coverage may be canceled, terminated or reduced by the insuring company without the insuring company having first given 30 days prior written notice to the Village by certified mail, return receipt requested.

**VILLAGE OF LAKE BLUFF, ILLINOIS
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EXHIBIT C

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Here insert full name and address of the CONTRACTOR)

as Principal, hereinafter called the CONTRACTOR, and

(Here insert full name and address of Surety)

as Surety, a corporation organized and existing under the laws of the State of _____, hereinafter called Surety, are held and firmly bound unto the Village of Lake Bluff, Illinois as Obligee, hereinafter called the Village, in the full and just sum of TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000), for the payment of which sum of money well and truly to be made, the CONTRACTOR and Surety bind themselves, and their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents, said amount to include payment of actual costs and damages and for attorneys' fees, engineering fees, accounting fees, consulting fees, court costs, interest, and any other fees and expenses resulting from or incurred by reason of the Contractor's failure to promptly and faithfully perform its contract with the Village, said contract being more fully described below, and to include attorneys' fees, court costs, and other expenses necessarily paid or incurred in successfully enforcing performance of the obligation of Surety under this bond.

WHEREAS, the CONTRACTOR has entered into a written agreement dated _____, 2021, with the Village entitled "RESIDENTIAL SOLID WASTE FRANCHISE AGREEMENT" (the "*Contract*"), the terms and conditions of which are by this reference incorporated herein as though fully set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the CONTRACTOR shall well, truly, and promptly perform all the undertakings, covenants, terms, conditions, and agreements of the said CONTRACTOR under the Contract, including, but not limited to, the Contractor's obligations under the Contract: (1) to provide and perform, in the manner specified in the Contract, all necessary work, labor, services, transportation, materials, equipment, apparatus, machinery, tools, fuels, information, data, and other means and items necessary for the collection of all solid waste, landscape waste, and recyclables from all customers, as that term is defined in the Contract; (2) to procure and furnish all permits, licenses, and other governmental authorizations necessary in connection therewith and to comply with the laws of the State of Illinois and ordinances and regulations of the Village in connection therewith; (3) to procure and furnish the Performance Bond and all certificates and policies of insurance specified in the Contract; (4) to pay all applicable federal, state, and local taxes; (5) to indemnify the Village against any loss resulting from any breach or failure of performance by the CONTRACTOR under the Contract; (6) to do all other things required of the CONTRACTOR by the Contract; and (7) to provide, perform, and complete all of the foregoing in a proper and workmanlike manner and in full accordance and compliance with, and as required by, the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no changes, modifications, alterations, omissions, deletions, additions, extensions of time, or forbearance on the part of either the Village or the CONTRACTOR to the other in or to the terms of said Contract; in or to the schedules, plans, drawings, or

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specifications; in or to the method or manner of performance of the Work; or in or to the mode or manner of payment therefor shall in any way release the CONTRACTOR and Surety or either or any of them, or any of their heirs, executors, administrators, successors, or assigns, or affect the obligations of Surety on this bond, all notice of any and all of the foregoing changes, modifications, alterations, omissions, deletions, additions, extensions of time, or forbearance, and notice of any and all defaults by the CONTRACTOR or of the Village's termination of the CONTRACTOR, being hereby waived by Surety.

Notwithstanding anything to the contrary in the foregoing paragraph, in no event shall the obligations of Surety under this bond in the event of the Contractor's default be greater than the obligations of the CONTRACTOR under the Franchise Agreement in the absence of such CONTRACTOR default.

In the event of a default or defaults by the CONTRACTOR, the Village shall have the right to reimburse itself from the proceeds of this bond for any and all costs, expenses, losses, damages, liquidated damages, liabilities, suits, judgments, awards, attorneys' fees, and administrative expenses incurred, suffered, or sustained by the Village and/or chargeable to the CONTRACTOR under the Contract. In addition, the Village shall have the right to take over and complete the Franchise Agreement upon 30 calendar days' written notice to Surety, in which event Surety shall pay the Village all costs incurred by the Village in taking over and completing the Franchise Agreement or, at its option, the Village may instead request that Surety take over and complete the Contract, in which event Surety shall take reasonable steps to proceed promptly with completion no later than 30 calendar days from the date on which the Village notifies Surety that the Village wants Surety to take over and complete the Contract.

The Village shall have no obligation to incur any expense or correct any deficient performance of the CONTRACTOR to be entitled to receive the proceeds of this bond.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Village or the heirs, executors, administrators, or successors of the Village.

Signed and sealed this _____ day of _____, 20____.

Attest/Witness:

CONTRACTOR

By: _____

By: _____

Title: _____

Title: _____

Attest/Witness:

SURETY

By: _____

By: _____

Title: _____

Title: _____

**VILLAGE OF LAKE BLUFF, ILLINOIS
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EXHIBIT D

VILLAGE COLLECTION SITES

Location, size and number of Village Containers to be furnished and serviced at the indicated frequency:

Village Collection Site – 640 Rockland Rd. Recycling Facility

6 Cubic Yard	Municipal Waste	Mon, Wed, Fri
6 Cubic Yard	Municipal Waste	Mon, Wed, Fri
6 Cubic Yard	Landscape Waste and Food Scraps	Mon, Wed, Fri
6 Cubic Yard	Recyclable Materials excl. Electronics	Mon, Wed, Fri
30 Cubic Yard	Paper Recycling	Mon, Fri
30 Cubic Yard	Construction Debris	Mon, Fri
<i>TBD By Contractor</i>	Electronics	Fri & As Needed

Other Village Collection Sites

40 E. Center Ave.	Large Wheeled Cart	Municipal Waste	Weekly
40 E. Center Ave.	Large Wheeled Cart	Recyclable Materials	Weekly
45 E. Center Ave.	2 Cubic Yard	Municipal Waste	Weekly
45 E. Center Ave.	2 Cubic Yard	Recyclable Materials	Weekly
127 E. Scranton Ave.	Large Wheeled Cart	Municipal Waste	Weekly
127 E. Scranton Ave.	Large Wheeled Cart	Recyclable Materials	Weekly
640 Rockland Road	2 Cubic Yard	Municipal Waste	Weekly

Public Pedestrian Containers

Central Business District	18 Municipal Waste, 3 Recycling	Mon, Wed, Fri, Sat
Tangley Oaks	6 Municipal Waste	Weekly
Train Station	4 Municipal Waste	Mon, Wed, Fri
McClory Bike Path	5 Municipal Waste	Mon, Fri
North Shore Bike Path	3 Municipal Waste	Mon, Fri
Skokie Land and Water Preserve	3 Municipal Waste	Mon, Fri
Washington Park	2 Municipal Waste	Mon, Fri

Special Events

Farmers Market (Fridays, Jun – Oct.)	Service all Central Business District Public Pedestrian Containers after noon each Friday.
Fourth of July Parade (July 4)	20 Cubic Yard Container – Municipal Waste
Bicycle Race and Block Party (July)	20 Cubic Yard Container – Municipal Waste 20 Cubic Yard Container – Municipal Waste
Four Special Events (TBD Annually)	20 Cubic Yard Container – Municipal Waste
Rib Fest (October)	20 Cubic Yard Container – Municipal Waste

**VILLAGE OF LAKE BLUFF, ILLINOIS
AGREEMENT - RESIDENTIAL WASTE COLLECTION SERVICES**

EXHIBIT E

SPECIALIZED PICKUP LOCATIONS

Route / Street	Addresses	Number of Stops
Alley: Simpson Ave.	Simpson Ave. – 420 Ravine Ave. – 600, 602, 604 E. Prospect Ave. – 615, 617	6
Alley: Foss Court & Newman Court	E. Sheridan Pl. – 249, 303 Foss Ct. – 348, 355, 359, 363, 367 Newman Ct. – 350, 354, 356, 362	11
Alley: Hirst Court & Vincent Court	Vincent Ct. – 321, 353, 357, 363, 367 Hirst Ct. – 350, 354, 360, 362, 370	10
Arbor Court	1150	1
Arbor Drive	400, 475, 500, 600, 650, 675, 700	7
Arden Shore Road	270, 280, 670	3
Bluff Road	699, 701, 771, 777	4
Cambridge Lane	1 Moffett Road	1
Crab Tree Lane	100, 700	2
E. Witchwood Lane	337, 349	2
Forest Cove Road	700, 760	2
Green Bay Road	50, 800, 1010, 1050, 1600, 1650	6
Lakeland Drive	550, 575, 600	3
Moffett Road	101, 107, 109, 111, 113, 115, 131	7
Ravine Avenue	733	1
Sheridan Road	925, 962, 975, 982 (x2)	5
Shore Acres Circle	240, 249, 260	3
Shore Acres Road	420, 455, 555, 1700, 1750, 1760, 1765, 1776, 1780, 1799, 1800, 1801, 1810, 1815, 1825, 1850, 1875, 1921, 1945, 1955, 1995	21
TOTAL		95