

**REGIONAL CONTRACT
FOR
TOWNS OF HAMILTON, HILLSBORO, LOVETTSVILLE, MIDDLEBURG, PURCELLVILLE
& ROUND HILL IN LOUDOUN COUNTY, VIRGINIA AND THE TOWN OF HAYMARKET
IN PRINCE WILLIAM COUNTY, VIRGINIA**

**REQUEST FOR PROPOSAL
REFUSE & RECYCLING SERVICES
Date Issued: January 30, 2020**

Summary

The towns in western Loudoun County, and Haymarket in Prince William County, Virginia have entered into a regional consortium (hereinafter called the “Town Consortium”) in order to solicit proposals from all interested refuse and recycling collection businesses for the purpose of developing contracts with one vendor to provide refuse and recycling services to the Towns of Hamilton, Haymarket, Hillsboro, Lovettsville, Middleburg, Purcellville and Round Hill. Currently, each town has a contract with a different vendor, with each contract expiring on a different date. (See Attachment 1 for details.) If successful, each jurisdiction would enter into a contract with the successful vendor to become effective upon the expiration of their existing contract, with the ultimate goal that the successful vendor will eventually serve all seven towns. The Town of Middleburg is serving as the point of contact for the issuance of the RFP by the Town Consortium; however, the contracts will be negotiated and executed with each individual town.

All interested refuse and recycling collection businesses are invited to submit a proposal in accordance with the enclosed requirements. The submittal, consisting of the original proposal and seven (7) additional copies and an electronic copy in PDF format on a USB flash drive, marked, “**Refuse and Recycling Services Proposal,**” must be received **no later than Friday, March 20, 2020 at 2:00 pm.**

Proposals must be mailed or hand delivered to:

Rhonda S. North, Town Clerk
Town of Middleburg
10 W. Marshall Street
P.O. Box 187
Middleburg, Virginia 20118-0187

This Request for Proposal (RFP) and any addenda are available on the State’s Procurement site, eVA, at <https://eva.virginia.gov/index.html> and on the Town of Middleburg’s website at www.middleburgva.gov. To receive a printed or electronic copy of this document or any technical assistance, please contact Rhonda S. North at (540) 687-5152 or rnorth@middleburgva.gov. **A Mandatory Offerors Conference will be held on Wednesday, February 19, 2020 at 10:00 a.m.** The conference will be held at The Purcellville Town Hall located at 221 South Nursery Ave., Purcellville, VA 20132.

Time is of the essence and any proposal received after 2:00 p.m., March 20, 2020, whether by mail, in person or otherwise, will be returned unopened by the Principal Procurement Contact solely at the Town Consortium’s discretion. Proposals shall be placed in a sealed, opaque envelope, marked in the lower left-hand corner with the RFP title, and date and hour proposals are scheduled to be received. Offerors are responsible for ensuring their proposal is stamped at the Middleburg Town Office by the deadline indicated. Only the time stamp of the Middleburg Town Office shall be dispositive of the time of proposal delivery. Nothing herein is intended to exclude any responsible firm from participating in the procurement

or in any way restrain or restrict competition. On the contrary, all responsible firms are encouraged to submit proposals. The Town Consortium reserves the right to accept or reject any or all proposals submitted.

Section 1.0 Procurement Terms and Conditions

A. Purpose

The Town Consortium is seeking responsible proposals from well-qualified businesses for the provision of municipal refuse and recycling services. The contractor will be selected through a competitive negotiation process in accordance with section 2.2-4302.2 of the Virginia Public Procurement Act (VPPA).

B. Background

The towns in the Town Consortium provide residents and smaller volume businesses whose trash can be placed in individual containers curbside with regular weekly collection of refuse, recyclables, yard waste and special collections of larger, bulky items and appliances. The current regular day for collections in the majority of the towns is Wednesday; although, it is Monday and Thursday in one town. (See Attachment 1 for details). While strong preference will be given to Proposals that maintain the existing collection schedule in each town, proposals will be considered for a different day of the week. The Town of Haymarket may desire to have a second weekly refuse collection. The Proposals shall be based upon one collection per town per week, with an additional fee for a second weekly refuse collection for the Town of Haymarket if desired. In addition, while preference will be given to Proposals that collect and dispose of yard waste separately from refuse collections, proposals will be considered for handling refuse and yard waste as a single collection.

C. Scope of Services

A comprehensive scope of services is located in Section 2.0 of the Contract. Prospective Offerors are strongly advised to carefully read the required scope of services and ensure that the Offeror is fully capable of compliance with all the required provisions and services therein for the entire term of the Contract.

D. Term of Contract

The initial term of the Contract with each town shall commence on the day following the date of expiration of their existing contract and shall run through June 30, 2024. The Contract permits two (2) consecutive two-year renewals thereafter upon agreement by all parties.

E. Procurement Contact

The Principal Procurement Contact for this solicitation is Middleburg Town Clerk Rhonda S. North. Phone: 540-687-5152. Email: north@middleburgva.gov.

All questions concerning this RFP should be directed in writing not later than ten (10) business days prior to the proposal due date to the Principal Procurement Contact, who shall serve as the point of contact for the Town Consortium and who alone is empowered to clarify such inquiries. All questions and answers including any addenda to the RFP or the Contract will be posted on the Virginia Procurement eVA website at <https://eva.virginia.gov/index.html> and on Middleburg’s website www.middleburgva.gov.

F. General Proposal Preparation Information

All Proposals and Contracts with the Town Consortium and its officials, departments and employees are governed by the VPPA, Sections 2.2-4300– 2.2-4343, et seq. of the Code of Virginia, as amended and *as applicable to each Town*. All Offerors are referred to the specific provisions of the Public Procurement Act for guidance in dealing with the Town Consortium solicitation. In the event of an inconsistency between the Provisions of this solicitation, the Contract, or other included document, or Virginia Procurement Law, the inconsistency shall be resolved by giving precedence to the following documents in the following order:

1. The Code of Virginia and the VPPA, as amended and as applicable to each town
2. The RFP
3. The Contract
4. The purchasing policies for each town, which shall be applicable to each town

The following general information is provided to all Offerors to facilitate the preparation of suitable proposals for the services identified in this Request, and the requirements set forth shall be binding on all Offerors.

Where questions and discussions prior to Proposal opening disclose a need for additional information or amendments, appropriate addenda to the RFP will be prepared and distributed so that Qualified Offerors can offer proposals based upon the same information and specifications. A Qualified Offeror is one who attends the Mandatory Offerors Meeting. Prospective and Qualified Offerors must provide a valid current means of communication in writing to the Principal Procurement Contact so that additional information, amendments and addenda may be distributed.

The Town Consortium may extend the date and time for opening of Proposals if it believes it is necessary and in the best interest of the towns.

1. Completeness and Responsiveness

All information required by the RFP must be supplied in order for the Proposal to be considered complete and responsive. Inadequate information may require disqualification of the Proposal at the sole discretion of the Town Consortium. Unless provided for in the RFP, qualified Proposals cannot be modified after they are opened. Any modifications of qualified Proposals not expressly provided for in the RFP may require rejection of the Proposal in whole or in part, solely at the discretion of and in the best interest of the Town Consortium.

2. Only authorized parties to sign:

Each Proposal and resulting Contract must be signed by a person(s) authorized to bind the Offeror to a valid contract with the individual towns. The Town Consortium may require that any Offeror submit powers of attorney or other appropriate documentation showing the authority of the signatory to act on the Offeror's behalf. If, whether such proof of agency has been demanded or not, it later appears that the signatory was not authorized to act, the individual towns may declare their Contracts null and void if it is in the towns best interest to do so.

3. RFP Submission Form Required:

- a. The Offeror **must complete** and file responses to all questions posed in the RFP Submission Form located at the end of this document and demonstrate to the satisfaction of the Town Consortium that the firm has the capability to deliver the entire scope of services and all terms of the contract required under this solicitation.
- b. The Contracts shall only be awarded to the Offeror who, through evidence submitted in the Proposal or information available to the Town Consortium, has shown that the Offeror has the demonstrated capability, capacity, financial resources and skilled personnel to adequately perform all services and fulfill all terms, conditions and provisions detailed herein.

4. Declining to Submit Proposal:

Should a Prospective Offeror be unable to submit a Proposal in response to this RFP, the firm is invited to provide the Principal Procurement Contact with a statement as to why the firm is unable or unwilling to submit a Proposal. The Town Consortium is interested in learning whether any issues with the proposal process may have discouraged responses.

5. Answers and Interpretations to this RFP:

The Principal Procurement Contact shall provide any interpretation made to prospective Offerors in the form of a written addendum to the RFP, which will be posted on the Virginia Procurement (eVA) website and Middleburg's website no later than three (3) days before the proposal due date. Verbal answers or other written material from any other sources whatsoever shall not be authoritative, controlling or binding.

G. Specific Proposal and Submission Instructions

In order to be considered for selection, Offerors must submit a complete response to the RFP. One (1) hard copy original, seven (7) hard copy copies, and an electronic copy in PDF format presented on a USB flash drive, marked, **Refuse and Recycling Services**, must be submitted to the Principal Procurement Contact. No other distribution of the Proposal shall be made by the Offeror. Proposals should be forwarded to:

Rhonda S. North, MMC, Town Clerk/Principal Procurement Contact
c/o Town of Middleburg
10 W. Marshall Street, PO Box 187
Middleburg, Virginia 20118-0187

Proposals are due no later than 2:00 p.m. local time on Friday, March 20, 2020. Late proposals will not be considered and shall be returned or destroyed by the Principal Procurement Contact unopened solely at the Town Consortium's discretion.

1. Specific Proposal Preparation:

Information which the Offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the Proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed. Each copy of the Proposal should be bound or contained in a single volume where practical. All documentation submitted with the Proposal should be contained in that single volume.

An authorized representative of the Offeror with authority to bind the Offeror to a Contract must sign the Proposal. All information requested must be submitted. Failure to submit all information requested may result in the Town Consortium rejecting the Proposal, requiring prompt submission of missing information or the assignment of a lowered evaluation of the Proposal solely at the discretion of the Town Consortium. Proposals that are substantially incomplete or lack key required information will be rejected by the Town Consortium. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.

Ownership of all data, materials and documentation originated and prepared for the Town Consortium pursuant to the RFP shall belong exclusively to the Town Consortium and be subjected to public inspection in accordance with the Virginia Freedom of Information Act (FOIA). Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under FOIA; however, the Offeror must invoke the protections of Section 2.2-4342 (F) of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must identify the data or materials to be protected and state the reason why protection is necessary. Please refer to Section J-Trade Secrets or Proprietary Information in the RFP Submission Form. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secrets or proprietary information. The classification of an entire Proposal document, line item prices and/or total Proposal prices as proprietary or trade secrets is not acceptable and will result in rejection and the destruction of or return of the Proposal.

2. Required Proposal Layout, Content and Information:

Proposals shall be as thorough and detailed as possible so the Town Consortium may properly evaluate the Offeror's capabilities to provide the required refuse and recycling services. Offerors are required to submit the following items as a complete Proposal:

- a. A cover letter with introduction that demonstrates a thorough understanding of the scope of the services and contractual provisions required under this RFP.
- b. A written narrative statement to include:
 - i. Qualifications of the Offeror and the number of years the firm has been in business. In an appendix include a copy of the Offeror's last two financial statements and documentation to confirm that Offeror is licensed under all applicable laws of the Commonwealth of Virginia, the County of Loudoun, Prince William County and the Towns named in this RFP.
 - ii. Resumes of all key management staff to be assigned to this Contract, identifying the principal manager and all key staff members that will be involved in the provision of services. For key personnel include: qualifications, relevant work experience, description of proposed work responsibilities to be performed under the Contracts with the Towns, and estimated number of hours each individual would contribute to work performed under the Contracts. Include the

organizational structure of the team (including subcontractors). Resumes must be included as an appendix, not in the body of the Qualifications.

- iii. Previous relevant experience of the Offeror. Provide detailed information on the Offeror's current provision of similar refuse and recycling services to cities, towns, and communities in the Northern Virginia area. References where such services were provided in the past will be considered but are not preferred.
 - iv. The Offeror must provide a minimum of three (3) references from cities, towns, and communities in the Northern Virginia area where the services required in this RFP are currently being performed or have been performed within the previous two (2) years. Full contact information including name(s), telephone number(s) and email addresses must be provided for each reference.
 - v. Information relevant to meeting the required elements listed immediately below in Section I, Evaluation Criteria.
- c. A detailed Work Plan that demonstrates the Offeror's familiarity with the Towns named in this RFP. This Work Plan must clearly indicate the procedures, equipment, and staff that the Offeror will use to provide the services required by the Proposal and Contracts. The Work Plan must also clearly indicate all facilities the Offeror will use for the disposal of all materials collected under the Contracts including, but not limited to landfills, Material Recovery Facilities, Transfer Stations and Yard Waste Recyclers. The Work Plan must respond specifically to all the requirements and the entire scope of services in the Contract documents and the RFP.
 - d. The cost of services as indicated by the proposed initial per unit fee as required under Section XVIII of the Contracts. Please note that no additional surcharges or fees will be considered responsive.

3. Mandatory Offerors Conference:

A **Mandatory Offerors Conference** will be held at The Purcellville Town Hall, 221 South Nursery Ave., Purcellville, VA 20132 on **Wednesday, February 19, 2020 at 10:00 a.m.** This meeting will provide prospective Offerors an opportunity to ask questions concerning this RFP and to schedule inspections of the Towns where service is to be provided. **No proposal will be considered responsive unless a representative of the Offeror attends the Mandatory Offerors' Conference.** Only those Offerors who clearly and legibly sign the attendance form and complete all information required on the form will be considered qualified to submit a Proposal.

H. Evaluation Criteria

Selection of the successful Offeror will be based upon the evaluation criteria detailed below. The Town Consortium and its members are not obligated to award a contract(s) and may cancel this RFP prior to award at its discretion. **Price shall be considered, but will not be the sole determining factor.** Proposals shall be evaluated on the basis of those requirements which are set forth in the RFP, the Contract, the purchasing policies of the Towns in the Town Consortium and VPPA as applicable to the Towns. The Town Consortium's desired outcome for this process is the selection of the best qualified Offeror that most clearly demonstrates the ability to responsibly and adequately provide all services required under this RFP and Contracts.

Proposals are being solicited for one refuse, recycling and yard waste collection per week. The Town of Haymarket may, however, desire to have a second weekly refuse collection. The Proposal shall be based upon one collection per week, with an optional additional fee for a second weekly refuse collection for the Town of Haymarket if desired.

Proposals will be evaluated by the Town Consortium using the following criteria and a scoring on a 100-point scale.

Technical Requirements

- (1) Experience performing similar work based on qualifications and references. Offeror must clearly demonstrate that it possesses the ability, experience, capacity, skill, and financial resources to fulfill satisfactorily all the requirements of the Contracts. (up to 15 points)
- (2) Evaluation of past performance based on references. The Offeror must have performed satisfactorily in current or previous contracts of similar size and scope; or, if the Offeror has not performed a contract of similar size and scope, the Offeror must demonstrate that it has the necessary capacity, experience and resources to fulfill all requirements of the Contracts. (up to 15 points)
- (3) Evaluation of the Proposed Work Plan. Offeror must demonstrate in its proposal and any subsequent discussions an understanding of the Towns' specific needs, service requirements and expectations. No Proposal will be considered complete without the submission of the Work Plan as described in Section G.2.c above. (up to 15 points)
- (4) Evaluation of quality, resourcefulness, and completeness of proposed approach when addressing the contractually required scope of services. (up to 15 points)

Pricing

- (1) Cost of services; reasonableness of cost proposal. (up to 30 points)

Day of Collection

- (1) Whether the existing day of collection will be maintained (10 points for maintaining the same day; 0 points for any other day of the week)

I. Negotiation and Award of Contract

Pursuant to the VPPA, selection shall be made of two or more Offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the RFP, including price as it is so stated in the RFP. Negotiations shall then be conducted with each of the Offerors selected. After negotiations have been conducted with each Offeror selected, the Town Consortium shall either select the Offeror which, in the Town Consortium's opinion, has made the best proposal, and award the contracts to that Offeror or ask for Best and Final Offers. Should the Town Consortium determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

There is no binding agreement, no contractual relationship, no understanding or mutual assent until the Contracts herein are signed, duly executed and exchanged by and between the successful Offeror and the Towns identified in this RFP. The Town Consortium will not be liable to any Offeror in relation to the negotiation, award, performance, or termination of a Contract between the Offeror and any Town or Towns. Each individual Town will award or refrain from awarding a Contract in accordance with its procurement policies. No Town will be liable to any Offeror in relation to the negotiation, award, performance, or termination of a Contract with any other member of the Town Consortium.

The individual Town's Contract and all terms and conditions therein represent the entire and integrated agreement between the parties and supersede any and all prior negotiations, representations or agreements, either written or oral. Prior to execution, the Contracts may be amended or modified only by a written modification at the sole discretion of each town. Once executed, any modification shall be governed by Section XXV of the Contract.

J. Competency of Offeror

If requested, the Offeror must present within forty-eight (48) hours, evidence satisfactory to the Principal Procurement Contact of performance ability; possession of necessary facilities, equipment, staff, and pecuniary resources; and adequate insurance to comply with the terms of this RFP and Contract documents.

No Proposal will be accepted from or Contracts awarded to any person, firm or business that is in arrears, or is in default to any of the Towns named in this RFP or any other entity upon any debt, obligation, agreement or Contracts, or that is a defaulter as surety or otherwise upon any obligation to the Towns or any other entity.

K. Award of Proposals; Waiver of Irregularities, Informalities or Right to Reject; and One Responsive and Responsible Proposal

Unless otherwise specified, the Town Consortium may award all or part of the RFP to any Offeror whose Proposal is the most responsible and responsive that meets the requirements and criteria set forth in the RFP with respect to the services desired, and that is in the best interest of the Town Consortium to accept.

The Town Consortium and its members reserve the right to waive any irregularity or informality in any Proposal other than the Proposal submission date and time; provided however, that Proposal amendments which are received after the time specified for the opening of Proposals will be neither opened nor considered.

The Town Consortium reserves the right to request an Offeror's best and final offer. The Town Consortium expressly reserves the right to reject any or all Proposals or any part of a Proposal if such action is deemed to be in the best interest of the Town Consortium. The Town Consortium reserves the right not to award the Contract and to withdraw from the RFP at any time if in the best interest of the Town Consortium.

In addition, any Offeror that submits a Proposal agrees that such Proposal shall become the property of the Town Consortium and that all costs incurred for Proposal preparation are the responsibility of the Offeror. The Offeror agrees that the Proposal will not be returned by the Town Consortium following the conclusion of this RFP.

When only one responsive and responsible Proposal is received, the Request for Proposal may be canceled and bid again, unless the Town Consortium determines the Proposal is acceptable and in the best interests of the Town Consortium.

L. Compliance with Section 2.2-4311.2 of the Code of Virginia

All Offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 shall include in the proposal the identification number issued to it by the State Corporation Commission. Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in the proposal a statement describing why the Offeror is not required to be so authorized.

Any Offeror that fails to provide the information required by this Section shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Town Consortium.

See Section F of the mandatory RFP Submission Form and enter all information required by this section.

M. Withdrawal of Proposals, Cooperative Procurement

Withdrawal of Proposals is strictly governed by Section 2.2 – 4330 of the Code of Virginia (1950), as amended, and is hereby incorporated mutatis mutandis herein. If a Proposal may be lawfully withdrawn under said Section, notice of withdrawal must be provided in writing within two (2) business days after the Proposal opening.

Pursuant to Section 2.2-4304 of the Code of Virginia, as amended, Offerors are advised that the resultant Contract may be extended, with the authorization of the Offeror, to other public bodies, or public agencies or institutions of the United States to permit their use of the Contract at the same prices and/or discounts and terms of the resulting Contract. If any other public body decides to use the final Contract, the Contractor must deal directly with that public body concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The Town Consortium acts only as the "Contracting Agent" for these public bodies. Failure to extend a Contract to any public body will have no effect on consideration of your offer.

N. Non-Collusion

All Offerors shall certify that the Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same services, materials, supplies, or equipment, and is in all respects fair and without collusion or fraud.

Section 2.0 Contract

A Contract shall be entered into with each town in the Town’s Consortium. The following terms and conditions comprise the Contract between the successful Offeror and each individual town named in this RFP.

**CONTRACT FOR THE
COLLECTION AND DISPOSAL OF
REFUSE AND RECYCLABLES
WITHIN THE
TOWN OF (INSERT NAME OF TOWN), VIRGINIA**

This Contract, made and entered into this _____ day of _____ 2020 by and between the Town of (insert name of town), Virginia, a municipal corporation, (hereinafter referred to as the “Town”) and _____, (hereinafter referred to as the “Contractor”).

Commented [TC1]: Each town to insert their name into their contract

Commented [TC2]: See previous comment

WITNESSETH:

WHEREAS, pursuant to and in accordance with the provisions of the Code of the Town of (insert name of town), Virginia, the Town does hereby authorize and contract with the Contractor to collect and transport any and all refuse, recyclables, and other materials as specified herein produced, kept and /or accumulated in the Town of (insert name of town); and

Commented [TC3]: See previous comment

Commented [TC4]: See previous comment

WHEREAS, the Council of the Town of (insert name of town) has found and determined that the public health, welfare and safety in the Town will be preserved and promoted by the execution of such Contract, subject to and in accordance with applicable laws and ordinances;

Commented [TC5]: See previous comment

NOW THEREFORE, for and in consideration of the payments set forth, mutual covenants, promises, undertakings and obligations herein granted, made to each other and assumed by the parties herein and the sum of \$10.00 cash in hand paid by Contractor to Town, the sufficiency and receipt of all of which are hereby acknowledged, the parties agree as follows:

I. Term of Contract

This Contract has an initial term beginning on (insert date) and expiring on June 30, 2024. The Contract may be renewed at the expiration of its initial term only with the written mutual consent of both parties for two (2) consecutive two-year periods. Either party wishing to renew this Contract shall notify the other in writing of the intention to renew no later than one hundred twenty (120) days prior to the expiration of the Contract. The renewal notice period may be reduced only with the written consent of the other party.

Commented [TC6]: Insert date of term of contract based upon the expiration of each town’s existing contract

II. Definitions

A. REFUSE - The terms “garbage”, “trash”, “refuse”, “municipal solid waste” and “rubbish” shall all be construed to have the same meaning. The term “refuse” shall include, but not be limited to: paper, cartons, boxes, garbage, rubbish, household materials, carpeting tied in bundles not to exceed three square feet cross-sectional per bundle, food wastes, non-recyclable metal, crockery and other mineral waste; furniture, box springs, mattresses, toys, porcelain and other similar household items. All such household waste shall be placed in containers, cans, boxes or bags not to exceed fifty (50) pounds in weight except where due to size and/or weight a special collection is necessary (see Section II.I herein). It shall also include acceptable yard waste including grass clippings, leaves, trimmings and brush as further defined herein under yard waste (Section II.D) if the Town determines that yard waste shall not be collected separately from refuse. The term “refuse” shall not include Hazardous waste or recyclable materials.

- B. **RECYCLABLE MATERIAL** - The term “recyclable material” shall mean those commodities, which are collected by the Contractor pursuant to the Contract requirements. Unless otherwise negotiated and stated in an addendum to this Contract, such materials shall include, but are not limited to, the following:
- i. Newspaper (with inserts), magazines, phonebooks, paperback books, catalogs, mail, mixed paper including office, copy and computer paper, envelopes, cardboard, paperboard (such as cereal, snack and shoe boxes, etc.), milk and drink cartons, frozen food boxes, poster board, cardstock, brown paper bags, non-metallic wrapping paper, shredded paper contained in a sealed or tied bag; and
 - ii. Acceptable Polyethylene Terephthalate (PETE) and High Density Polyethylene (HDPE) plastic containers #1 - #7 including bottles, jars, jugs, wide-mouth tubs and trays (clean of food waste), aluminum, steel, tin and bi-metal cans, foil, glass bottles, jars and containers and acceptable yard waste including grass clippings, leaves, trimmings and brush as further defined herein under yard waste (see Section II. D) if the optional separate collection is selected; and
 - iii. Recyclable material excludes materials contaminated with food or other waste, Styrofoam of any kind, non-container glass such as cookware or window glass, motor oil containers, construction and demolition materials, vinyl siding and other materials not included as yard waste in Section II.D.

The Town realizes that recycling is a constantly changing technology and industry. The definition of recyclable material may change during the term of this Contract to provide a better and more efficient Town recycling program with changes to be agreed upon by both parties in writing.

- C. **SINGLE STREAM COLLECTION MANDATORY** – All recyclables shall be collected on a “Single Stream” basis with all permissible recyclable material commingled in the same recycling container(s) and/or bin(s).
- D. **YARD WASTE** - The term "yard waste" means decomposable organic waste materials generated on site by yard and lawn care and includes dead plants, trees, shrubs, bushes, weeds, leaves, small tree branches, limbs and tree trimmings, stumps, roots, logs and trunks not exceeding three inches in diameter and three feet in length, twigs, grass trimmings, brush, wood chips and whole Christmas trees, unless otherwise negotiated and stated in an addendum to this Contract. Yard waste does not include dirt, soil, rocks, stones, bricks, concrete, rubble, sod, mulch or debris from construction or demolition activities (such as drywall, metal, sheets of glass, asbestos, shingles, floor/ceiling tiles).
- E. **REFUSE CONTAINERS** – Container requirements for refuse in private containers from residences and collected business premises shall be as follows: refuse shall be stored in metal or plastic watertight can(s) equipped with handles and tight-fitting covers. Maximum weight for the containers shall be fifty (50) pounds. Plastic bags placed in carts or cans shall not be filled to such a weight that they will break when handled. One 18- to 96-gallon refuse cart with wheels and attached lid shall be provided by the Contractor to each residence/unit and collected business premise if requested by such residence or business at no cost or recurring fee and of the size requested. All Contractor provided carts will be maintained in good condition with no jagged edges or holes, contain wheels or rollers for movement; and be equipped with an anti-skid device of sufficient surface area on the bottom of the container to prevent unwanted movement. Customers shall have the option of providing their own refuse container(s) provided such container(s) meets the above listed requirements. The Contractor shall be responsible for collecting refuse from each residence/unit and collected business premises in a total volume not to exceed three 96-gallon containers per weekly collection.

- E. RECYCLABLES CONTAINERS – All recycling containers must be clearly marked as containing recyclable material. Recyclable materials such as yard waste may also be placed in bio-degradable paper bags (no plastic bags). The Contractor shall provide one recycling bin or wheeled cart with attached lid of up to 64 gallons to each residence or collected business premise if requested by such residence or business at no cost or recurring fee to the Town. Customers may use their own recycling carts, containers or bins and/or the recycling container provided by the Contractor. Such recycling bins or containers will be clearly marked as containing recyclable material.
- F. UNIT - The terms “unit” and “place or premise” shall mean every residence, house or living unit and business premises designated by the Town for service under this Contract located within the Town.
- G. TOWN - The word “Town” as used in this Contract shall mean both the municipal corporation and also a geographical reference that includes all the territory and land lying within the municipal boundaries of the Town of (insert name of town), Virginia and such other locations of Town facilities as designated by the Town.
- H. CONTRACTOR - Whenever the word “Contractor” is used herein, it shall be and is mutually understood to refer to the party or parties contracting to perform the work under this Contract or the legal representative of such party or parties.
- I. SPECIAL COLLECTION - Special Collection shall mean the curb-side pick-up and collection of large, bulky items such as, but not limited to, furniture, stoves, ovens, ranges, dishwashers, dryers, clothes washers, water heaters, toilets, sinks and similar items as well as appliances such as, but not limited to, refrigerators, freezers, and window or portable air-conditioners (all refrigerant or **Freon must be removed with certification sticker affixed**).
- J. HAZARDOUS WASTE – Hazardous waste is any toxic or dangerous waste, substance, material, contaminant, pollutant or chemical, known or unknown, defined as such in any existing or future local, state, or federal law, statute, code, ordinance, rule, regulation, guideline, decree or order relating to human health or the environment or environmental conditions, including, but not limited to: Alkaline, Lithium, and NiCad batteries, button batteries (used in watches, hearing aids, etc.), ammunition, asbestos, animal/pet care products, automotive fluids such as brake fluid, transmission fluid and fuel additives (no used oil or antifreeze), cleaners such as bleach, ammonia or solvents, commercial, industrial, or medical waste (including biologically active waste), explosives (including fireworks), fertilizers with herbicides, fire extinguishers, Fluorescent bulbs, Compact Fluorescent bulbs, gasoline and other unwanted fuels, herbicides, household batteries, insecticides, mercury thermometers and thermostats, oil-based paint, paint thinners & solvents, pesticides photographic chemicals and swimming pool chemicals. **No hazardous waste shall be collected.**
- K. CURRENT UNIT COUNT – “Current unit count” means the number of units given in paragraph V.Q of this contract until updated per paragraph V.P.

Commented [TC7]: See previous comment

III. Contract Interpretation: Incorporation by Reference and Entire Contract: Contract Modification

Should any discrepancy appear or any misunderstanding arise as to any term, condition or any other clause, paragraph, line or word contained herein, the matter will be decided by (insert the Town official responsible for the contract) and the interpretation of (insert the Town official responsible for the contract) shall be binding on the Contractor.

Commented [TC8]: Insert responsible Town official

Commented [TC9]: Insert responsible Town official

The Contract and all other appendices, exhibits, schedules amendments, the RFP and the Contractor’s Proposal attached or referred to in this Contract are specifically incorporated by reference into the Contract and constitute the final, complete and exclusive statement of the terms of the Contract between the parties pertaining to the subject matter of this Contract and supersede all prior and contemporaneous agreements, contracts or understandings of the parties. Both parties expressly agree that this Contract and all terms and conditions therein may not be contradicted by evidence of any prior or contemporaneous statements, agreements, contracts or understandings. The Contract shall not be modified or amended except in writing signed by the authorized representatives of both parties. The Contract shall be binding upon all parties hereto and their respective heirs, executors, administrators, successor, trustees, and assigns.

IV. Controlling Law and Venue/Administration of Contract

This Contract is made, entered into, and shall be performed in the Town of (insert name of town), Virginia, and shall be governed by the applicable laws of the Commonwealth of Virginia. Any dispute arising out of the Contract, its interpretations, or its performance shall be litigated only in the Circuit Court of the County of Loudoun, Virginia for the Towns of Hamilton, Hillsboro, Lovettsville, Middleburg, Purcellville and Round Hill and the Circuit Court of Prince William County, Virginia for the Town of Haymarket.

Commented [TC10]: Insert name of town

The (insert responsible Town official), shall administer and supervise the Contractor’s operations under the terms of the Contract and in accordance with these specifications.

Commented [TC11]: Insert responsible town official

V. Scope of Services

A. SERVICES - The services to be performed consist of the complete collection once per week of all refuse, recyclables and yard waste from each residential unit (i.e. house, townhouse, and multi-family building) and at all business places designated by the Town within the corporate limits of the Town (hereinafter designated collectively as “UNITS” with the current unit number stated in Section V. Q of this Contract), in accordance with all applicable laws, statutes, regulations and ordinances of the federal government, the Commonwealth of Virginia, the Counties of Loudoun and Prince William (as applicable) and the ordinances of the Town. (Optional: The services for the Town of Haymarket may include a second per week refuse collection if this option is selected.) Recyclable materials as identified in Item II(B) above must be collected and disposed of separately from refuse and yard waste items. The work to be done under this Contract shall consist of furnishing all personnel, labor and equipment for the collection and removal of such refuse, recyclables and yard waste accumulated within the corporate limits of the Town and to the satisfaction of the Town.

B. RECYCLING – All recyclable material shall be collected on a single stream basis with all materials commingled in container(s). The current contractor provides recycling bins for distribution by the Town for free and larger containers for a price. Residents and collected businesses can utilize any adequate container for purposes of storing and placing recyclables for collection.

C. DAY OF COLLECTION – All collection activities shall be performed each Wednesday or on another regular weekday as agreed by both parties in writing, including holidays not specified in Section V.D. (Optional - A second refuse collection shall be performed in the Town of Haymarket if the Town elects to contract for such expanded services.) Collections shall occur between the hours of 7:00 a.m. and 5:00 p.m. No collection shall begin before 7:00 a.m. or continue after 5:00

Commented [TC12]: Change day if needed

p.m. without the prior written approval of the Town.

- D. **INCLEMENT WEATHER, HOLIDAYS AND STREET REPAIRS AND CLOSURES** – If inclement weather results in danger to the Contractor’s staff, Town residents and property, the Contractor will notify the Town by email and telephone no later than 7:00 a.m. on the day of collection. The Contractor will provide all collection services required by this Contract no later than the following business day if all roadways and streets are safe and passable or in a timely manner as soon as roadways and streets are safe and passable. No collection activities shall be scheduled for Sunday or for the following holidays: New Year’s Day, Labor Day, Memorial Day, July 4th, Thanksgiving, and Christmas. If a collection day falls on one of the scheduled holidays, then the Contractor shall pick up the waste or recyclables on the following business day. Should street or road closures prohibit the Contractor from providing collection services, the Contractor will make arrangements to make all missed collections within twenty-four (24) hours of the street or road reopening.
- E. **MUNICIPAL COLLECTIONS AND STREETScape RECEPTACLES:** The Contractor shall provide the Town with a minimum of one refuse dumpster of up to 8 yards in size and one recycling dumpster of up to 8 yards in size at no cost to the Town, said dumpsters to be placed in a location at the Town’s discretion and direction, for the collection of municipal refuse and recycling on a single stream basis. In addition, at the Town’s discretion, the Contractor shall provide the Town with one refuse dumpster of up to 8 yards in size and one recycling dumpster of up to 8 yards in size for every two hundred (200) residential/business customers at no cost to the Town, said dumpster(s) to be placed in a location(s) at the Town’s discretion and direction. At the Town’s discretion, the Contractor shall also provide the Town with the equivalent of up to two (2) 96-gallon wheeled carts per municipal facility at no cost or recurring fee to the Town. At the Town’s discretion, on the day of the Town’s municipal trash and recycling collection, the Contractor shall be responsible for weekly collection of refuse and recycling from all streetscape and sidewalk refuse and recycling receptacles that are placed by the Town, not to exceed thirty (30) such receptacles unless a higher number of receptacles is mutually agreed upon by both parties.
- F. **EQUIPMENT AND LEAKS AND SPILLS** - The Contractor shall provide the necessary vehicles, equipment and containers in order to fulfill all Contract obligations stated herein to include adequate reserve and back-up vehicles available within two (2) hours should any primary vehicle become out of service. The collection vehicles shall be no greater than ten (10) years old, all-metal, completely enclosed, packer type refuse bodies and trucks that are designed for the collection of garbage and refuse, recyclables, yard waste and white goods, appliances and bulk items. Each vehicle shall be equipped with GPS tracking. The Town reserves the right to inspect the Contractor’s equipment for issues related to the performance of this Contract upon reasonable notice to the Contractor and also require the equipment to be replaced if said equipment cannot be repaired to the Town’s reasonable satisfaction. All collection equipment shall be of sufficient type, capacity and quality to safely and efficiently perform all work specified herein. All vehicles must be kept in good mechanical order at all times with all systems and parts in proper operational order, with all safety inspections and certifications and maintenance standards required by applicable federal, state and local law kept current. All vehicles must meet any applicable American National Standards Institute (ANSI) standards, and be in a reasonably clean and sanitary state at all times and thoroughly washed at least weekly with any rust treated and repainted.

The Contractor shall operate all vehicles and equipment in a safe manner and in a manner that provides for the least obstruction possible to vehicular and pedestrian traffic. The Contractor’s

vehicles and equipment, and the operation thereof, shall conform at all times to all applicable federal, state and local laws, statutes, standards and regulations. At all times during performance of the services required by the Contract, all Contractor vehicles and equipment must be clearly marked with the name of the Contractor, equipped with and utilizing all legally and statutorily required safety equipment, markings, lighting and warning devices and flashing lights. There shall be no advertising permitted on Contractor vehicles other than the Contractor's name, logo, address, telephone numbers and website.

The Contractor shall provide the Town an inventory of all vehicles and equipment designated to provide services specified in this Contract. The inventory must include, at a minimum, the inventory identification number, make and model, date of purchase, and the age of each vehicle and piece of equipment.

The Contractor agrees to use reasonable efforts to prevent spills of fluids (such as vehicle oil, brake fluid and hydraulic fluid, etc.) on streets, sidewalks, other public right-of-way and private property. Each vehicle shall carry appropriate tools, supplies and equipment to include a spill kit to immediately clean-up refuse, litter and materials from the collection process and any spills and/or leaks from Contractor's vehicles or other sources that may occur during collection. If any spill or leak occurs, the Contractor will notify the Town and all applicable regulatory agencies as required by law within (1) hour of the incident(s). The Contractor agrees that at its sole expense, the Contractor will promptly clean-up and remove all spills and leaks from streets, roadways, sidewalks and/or other public rights-of-way, waterways and or bodies of water and any affected private property in compliance with all applicable regulatory requirements and repair all damage to public and/or private property caused by any spill and/or leak to the Town's satisfaction.

Upon a release or leak of any fluids and/or other material, the driver shall make every reasonable attempt to immediately park the vehicle and the vehicle shall remain parked until the leak is repaired and/or spill cleaned-up and removed. In such event, the Contractor shall not park the leaking vehicle within two hundred (200) feet of a storm drain or other storm water feature or any waterway or body of water. The Contractor shall immediately utilize absorbent, sand bags or other appropriate means to prevent leaking fluids from entering storm drains, storm water features, waterways or bodies of water and private property. In the event of any type of spill or other emergency, the Contractor shall be solely responsible for securing the immediate safety of the vehicle driver, all other employees of the Contractor and all persons and public and private property in the surrounding vicinity.

- G. SPECIAL /BULK COLLECTIONS - Special collection items that are too large, bulky or heavy to be handled in normal curb-side pick-up will be removed on an on-call basis. There shall be no additional fees assessed to the Town or any individual customer for special collections. The resident or business shall contact the Contractor through the toll-free customer service telephone number required in Section V.N herein to notify the Contractor of a special collection request. The Contractor shall arrange to collect the special collection items so long as the notice is received no later than twenty-four (24) hours prior to the regular collection day. Special collection items will include, but not be limited to, refrigerators, dishwashers, stoves, ranges, water heaters, washing machines, freezers, portable and window air conditioners, toilets, sinks, lumber, all types of household debris including toys and play sets, furniture such as couches, beds, mattresses, file cabinets, shelves, tables, chairs and other such large items. Special collections shall exclude construction debris. All refrigerant must be removed by the owner from freezers, refrigerators and air conditioning units prior to requesting a special collection with a sticker or notice affixed stating the refrigerant has been removed by a qualified party.

- H. REFUSE AND RECYCLING COLLECTION – Refuse, recycling, yard waste and special pick-up collection shall be on the same day as regular collections each week unless modified solely at the Town’s discretion. All materials will be picked up on the curb or within five (5) feet of the street.
- I. EXTRAORDINARY CIRCUMSTANCES/COLLECTIONS – The Contractor is expressly advised that periodically during the term of this Contract, larger than normal or typical accumulations of refuse, recyclables, bulky and/or larger items and yard waste may be unexpectedly deposited curbside. As public safety issues often accompany such large accumulations of materials, the Town expects that the Contractor will be prepared to make a reasonable effort to collect these materials despite the lack of prior notice. The Town has no collection capability and therefore depends exclusively on the Contractor to clear the public rights-of-way of such unexpected accumulations.
- J. NARROW STREETS – The Town may have small, narrow streets and right of way where collection activities will occur. Certain streets and locations will require the Contractor to avoid using larger vehicles for collection due to safety and/or access issues. The Contractor expressly acknowledges that they are aware of this transportation and collection situation within the Town and that the Contractor will arrange for the use of smaller vehicles in such areas or alternate methods of collection chosen to maximize the safety of the public and Contractor’s employees while performing all required collections on the small and narrow streets and in those locations as identified by the Town’s designated representative.
- K. HANDLING AND DAMAGE OF REFUSE, RECYCLING AND YARD WASTE CONTAINERS – All containers, cans, bins, carts or other receptacles used by the residents or businesses for refuse, recycling and yard waste collection shall be handled with the utmost care by the Contractor and thoroughly and completely emptied. All containers, cans, bins or other receptacles shall be returned curbside, but not in the street or on the sidewalk, standing upright, either end up with the cover in very close proximity or returned to the top. All carts shall be returned curbside standing upright with the cover on top of the container. The Contractor shall be responsible and ensure that no refuse, recyclables or yard waste is left on private property, on Town streets or sidewalks, or on any public property during collection. The Contractor shall collect and properly dispose of spilled refuse, recyclables or yard waste within a radius of fifteen (15) feet of the container(s). However, the Contractor shall never enter private driveways or private property to collect refuse, recyclable, yard waste or special collection materials.

The Contractor shall be solely responsible for any damage to public or private property (including, but not limited to, cans, carts, bins and containers used for collection) caused by the negligence of the Contractor’s employees during performance under this Contract. The Contractor shall replace or restore to its original condition any property damaged by the Contractor at no cost to the Town or any resident or business. The Contractor agrees that if it fails to repair, restore or replace such damaged property within ten (10) calendar days of receipt of notice from the Town, the Town shall deduct an amount equal to the cost of replacement, restoration or repair of the property from the next payment due to the Contractor from the Town. The Contractor expressly agrees that all such deductions to pay for damage caused by the Contractor, once made by the Town, will not be returned or reimbursed to the Contractor for any reason.

In the event a resident or business repeatedly damages a cart or container due to their negligence or intentional misuse, the Contractor will forward in writing the resident or business name and contact information to the Town. The Town will attempt to resolve the issue. In the event the problem continues or cannot be resolved, the Contractor may charge the resident or business a repair or replacement fee not to exceed the cost of said repair/replacement, said fee subject to the prior approval of the Town in writing.

- L. SUPERVISION – The Contractor shall provide full-time field supervision by a well-qualified supervisor, capable of effective communication, at all times during collection. The supervisor must be available by radio or cellular telephone to respond within one (1) hour to all inquiries and complaints during collection. The Town will notify the Contractor in writing of any issues, special pick-ups (if request is made to the Town), or complaints. The Contractor must notify the Town how the issue, special pick-up or complaint was resolved by the close of business on the day of collection or 10:00 a.m. on the following business day. Pursuant to the requirements of Section VIII. E (iv) the Contractor will provide a monthly report listing all complaints received and their resolution. The Contractor's supervisor shall be responsible for monitoring all work performed by the Contractor and ensure full compliance with the provisions of this Contract and all applicable federal, state and Town laws, statutes, regulations and ordinances.
- M. CONTRACTOR EMPLOYEES – All persons employed by the Contractor shall be competent, skilled and qualified in the performance of work to which they are assigned. The Contractor shall direct its employees to avoid loud, offensive behavior and profane language at all times during the performance of their duties. Any employee of the Contractor who shall use profane or abusive language to any citizen in the performance of their duties, or who is careless or incompetent, shall be removed from the refuse collection crew working in the Town at the request of the Town. At no time shall there be any soliciting, requesting or accepting of gratuities of any type or amount from any source relating to their performance under the Contract, with the exception of a nominal holiday gift valued at \$10 or less that may be offered by a citizen. The Contractor shall remove any employee(s) from their services within the Town if found to be engaged in unsatisfactory collection services within the Town and shall replace them.
- i. Training – All persons involved in the performance of the Contract shall receive adequate training before conducting work or providing service under this Contract. Workers are to be trained on the route layouts and the specifics regarding the routes to which they are assigned to minimize delays and missed collections when actual service commences. The Contractor is responsible for ensuring that all of its employees are familiar with the requirements necessary to complete a total and uniform collection of all specified materials from all units and sites within the Town on each collection day.
 - ii. Uniforms – The Contractor shall furnish each person involved in the performance of the collection services of this Contract with a clean and neat uniform (shirts and full-length pants) identifying that person as an employee of the Contractor. The uniform must be sufficient so as to clearly identify the person as an employee of the Contractor. Each employee of the Contractor shall wear such uniforms at all times while performing their collection duties.
 - iii. Safety – The Contractor shall comply with and ensure that the Contractor's personnel and any subcontracted personnel comply with all applicable federal, state, and local laws, regulations, ordinances, standards and guidelines relating to safety and health. The Contractor shall provide or cause to be provided all necessary technical expertise, qualified personnel, proper equipment, tools and materials to safely accomplish all work specified to be performed under this Contract by the Contractor and any subcontractor(s).

iv. Qualified Work Force – A fully qualified work force with a sufficient number of workers to perform all required services under this Contract shall be maintained throughout the term of this Contract. All drivers of commercial vehicles shall possess appropriate driver’s licenses in accordance with applicable federal, state and/or local law, as well as comply with any other requirements specific to the vehicle being operated.

N. CUSTOMER SERVICE AND DESIGNATED TOWN CONTACT – The Contractor shall provide a local or toll-free telephone number for the purpose of handling requests for service, complaints or other issues from residents and businesses of the Town served under this Contract during regular business hours of operation. The Contractor shall be courteous and act promptly on all calls, requests for service and complaints. Any complaint called to the Contractor’s office after 5:00 p.m. will be acted upon the following business day. (See Section VIII.E (ii) Reporting Requirements). The Contractor shall also designate a contact person(s) for the Town Staff to contact directly. This person(s) shall provide the Town with a direct voice telephone line (not the general public telephone line), facsimile line and private business email address so that the Town may contact this person(s) to resolve issues and complaints in a timely manner. A designated Contractor contact must be available to Town staff during the entire collection day to resolve any issues or complaints that may arise. A designated Town contact will be available on each collection day. The Contractor shall also provide timely information to the Town on service changes due to weather or similar emergency events and contact information so that residents may contact the Contractor to resolve issues and schedule special collections. The Contractor shall provide the Town with a link to its website.

O. MUNICIPAL DUMPSTERS AND CONTAINERS – In accordance with the requirements of Section V.E, the Contractor shall provide the Town, at no additional cost or recurring fee, with the following refuse and recycling dumpsters and/or 96 gallon wheeled carts with lid at the facilities and locations listed below and provide weekly collection service for each dumpster and/or 96 gallon wheeled cart:

- i. (See Attachment 2 which identifies the locations and container types for all of the Towns)
- ii.

All dumpsters must be new or newly painted. Recycling dumpsters shall be clearly marked for single stream use, and all dumpsters must have functional lids. All dumpsters shall be maintained by the Contractor in good repair and condition, and the Contractor will promptly replace any container with a new or repainted container at the reasonable request of the Town. All refuse and recycling carts provided by the Contractor shall be maintained in good working order. Upon request by the Town, damaged or malfunctioning carts shall be promptly repaired or replaced with a similar cart by the Contractor.

P. UPDATED UNIT COUNT – The number of properties and addresses (units) for which refuse and recycling service shall be provided shall be determined solely by the Town with a new accounting of the number of units serviced to be made annually in the month of July of each Contract year and furnished to the Contractor by the fifteenth (15) day of the month. The first unit accounting due under this Contract shall be on (insert date for first updated count).

Commented [TC13]: Insert date for first updated unit count

Q. CURRENT UNITS COLLECTED – The approximate number of units currently served as of (insert date) is (insert initial unit count) units.

Commented [TC14]: Insert initial unit count and date

R. FAILURE TO PERFORM AND COLLECTION FAILURES/FEES ASSESSED – The Contractor acknowledges that consistent and reliable refuse and recyclable collection, processing and disposal services are of the utmost importance to the Town and the residents therein and that the Town has carefully considered and relied upon the Contractor’s representations in this Contract as to the Contractor’s quality of service and stated ability to meet all requirements and provisions of the Contract. As such, the Contractor and Town agree that the following fees and liquidated damages shall apply, not as a penalty but to offset Town costs and risks created if the Contractor fails to faithfully perform the requirements and provisions of this Contract or for collection or operational failures as specified herein. If the Contractor fails to collect material from a specified residential, business or governmental collection location including dumpsters, containers, yard waste, recyclables, special collections, and refuse cans used by the Town and required by this Contract and this failure is reported to the Contractor verbally, by email, facsimile or in writing by 2:00 p.m., the Town may assess a fee of fifty (\$50.00) dollars payable by the Contractor for each occurrence if the material is not collected by 5:00 p.m. of the same day. If the Contractor fails to collect materials from a specific location required in this Contract and the failure is reported to the Contractor after 2:00 p.m., the Contractor may be assessed a fee of fifty (\$50.00) dollars for each occurrence if the material is not collected by 12:00 p.m. the next day. If a failure to collect is reported by the Town to the Contractor verbally, by email, facsimile or in writing at any time for an address or specific location where collections are made that experience frequent collection problems in the sole discretion of the Town (“a *flagged unit, container or can*”), the Contractor shall immediately be charged fifty (\$50.00) dollars by the Town for each occurrence. A day is defined for this paragraph R, as a weekday, Saturday, Sunday, or a Holiday.

i. If the missed collection of material from a specified residential, business or governmental location is not corrected within twenty-four hours (24) following the assessment of the fees described in Section V.R, in addition to the fees payable by Contractor described, the Contractor shall be liable for liquidated damages of seventy-five (\$75.00) dollars for each occurrence for each day thereafter that the failure is not corrected. The Town, at its sole discretion, may collect missed material following the assessment of the \$50.00 fee and the commencement of liquidated damages. The Town shall notify the Contractor if missed material is collected and further liquidated damage assessments will stop for that miss.

ii. The Contractor hereby expressly consents to the deduction from the current or next monthly invoice(s) for services rendered and due to the Contractor of all fees or liquidated damages assessed by the Town or payment from a claim against the Letter of Credit, at the Town’s sole discretion, for collection failures and failure to faithfully perform the requirements and provisions of the Contract

iii. The Contractor hereby expressly and specifically waives the right to challenge any fees or liquidated damages assessed under this Contract and any and all defenses as to the validity of any liquidated damages stated in this Contract as they may appear on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

iv. Contract cancellation – After three (3) consecutive monthly deductions for failure to perform in which the contractor misses pickups in 5%, but no more than twenty-five (25) total pick-ups, of the Town, the Town may terminate this Contract immediately by sending written notice to the Contractor.

VI. General Safety Conditions

The Contractor is responsible for public and employee safety and accident prevention. In compliance with this provision, the Contractor shall perform, but not be limited to, the following:

- A. Upon notification of award, and before starting work, the Contractor shall submit a copy of its safety program and plan to the Town for review and approval.
- B. Submit the name and qualifications of the employee who will act as safety supervisor under this Contract to perform regular safety inspections of the operations
- C. Plan and execute all work to comply with all applicable federal, state and local laws, regulations, ordinances, and standards.
- D. Hold regularly scheduled activity-specific employee safety meetings. Documentation of meetings, topics discussed, and attendees shall be maintained by the Contractor and available for inspection at the request of the Town.
- E. Ensure that all sub-contractors, if any, are informed of their obligations with regard to safety. (See also Contract Section X Sub-Contractors herein).
- F. Maintain an orientation program for new employees that will include as a minimum a review of (a) hazards present in the performance of their work, (b) the personal protection equipment and apparel they will be required to use or wear, and (c) proper work methods.
- G. Prior to commencing work, provide the Town phone numbers for two representatives who can be reached on a twenty-four (24) hour per day, seven (7) day per week basis in case of an emergency.

VII. Disposal Locations

All refuse, recyclables, yard waste and special pick-up items shall be disposed of at a site or sites acceptable to the Town. All recyclables must be disposed of at an acceptable and approved Material Recovery Facility (MRF). If contracted for separate collection services, all yard waste must be disposed of at sites that recycle or otherwise reuse the collected yard waste. The disposal locations must be provided to the Town within ten (10) business days of the initiation of the Contract. The Contractor must report in writing any changes or modifications to the disposal sites and locations to the Town within ten (10) business days of such site change or modification.

VIII. Reporting Requirements

- A. The Contractor will be required to keep records and submit reports to comply with Town and state requirements, and to comply with the reporting requirements of the County of Loudoun Codified Ordinances, Prince William County Codified Ordinances (as applicable to the Town of Haymarket) and the Loudoun County Solid Waste Management Planning District of which the Town is a member. These reports will serve as a means to apprise the Town of the status of recycling activities and expenditures. The Contractor will also be required to provide certified weight receipts and review receipts from vendors for all materials collected by the Contractor for all refuse, recyclables, yard waste, and special collections.

- B. The Contractor shall maintain any and all ledgers, books of accounts, invoices, vouchers and cancelled checks, as well as all other records or documents evidencing or relating to charges for services, expenditures, or disbursements borne by the Town for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor.
- C. -The Contractor shall maintain all documents and records which demonstrate performance under this Contract for a minimum period of three (3) years, or for a longer period as required by law, from the date of termination of this Contract.
- D. All records or documents required to be maintained pursuant to this Contract or by law shall be made available for inspection or audit by the Town at the Contractor's place of business, at any time, during regular business hours, upon written request by the Town.
- E. Upon the request of the Town, the Contractor will submit a detailed report with each monthly invoice for payment and an annual summary report upon the anniversary date of execution of the Contract. When a monthly and/or annual report has been requested by the Town, no invoice or penalty for nonpayment due under this Contract will be paid by the Town unless the monthly invoice is accompanied by the required report. The fact the Town may not request any monthly or annual summary report from the Contractor if said report was not included with a monthly invoice or offered upon the anniversary date of execution of the Contract in no way relieves the Contractor of the duty to so report upon request of the Town, pursuant to the requirements of this section and any applicable law. The monthly report shall include at a minimum:
 - i. Status of collection routes and schedule, noting any delays, misses or disruption in service;
 - ii. Tonnage summaries of materials collected, by type including refuse, yard waste and special collections. A separate report shall be provided for the curbside recycling program detailing the materials collected by tonnage and type;
 - iii. Recycling participation rates (monthly) and the methods used to determine these rates such as weekly set out counts by collection area and estimated program participation;
 - iv. A discussion of public education activities and their impact on participation and recovered volumes; report listing all complaints received and their resolution.
 - v. Recommendations for program revisions or improvements.
 - vi. Other reports as may be required by the Town during the term of the Contract.
 - vii. Annual reports shall be an aggregate composite of the proceeding Twelve (12) calendar month's reports.

IX. Assignments

The Contractor shall not assign this Contract or any interest therein, or any privilege or right granted therein without the prior written consent of the Council of the Town. Any assignment without such consent of the Council and approval shall be void and shall at the option of the Town immediately terminate this Contract and the privileges granted therein. For the purposes of this Contract, any change of control of the Contractor through sub-contracting shall be considered an assignment subject to the requirements of this section. Nothing herein shall preclude the Town from executing a novation, allowing the new ownership to assume the rights and duties of the Contract and releasing the previous ownership of all obligations and liability

X. Subcontractors

The Contractor shall not subcontract all or any portion of the work or business, which it has contracted to perform without prior written consent of the (insert responsible Town Official). In the event of a sub-contracting of any or all duties, the Contractor shall remain responsible for the full and faithful performance of this Contract and the subcontractor shall also become responsible to the Town for the satisfactory performance of the services to be provided under this Contract.

Commented [TC15]: Insert responsible Town Official

XI. Insurance Requirements

The Contractor and its subcontractors, if any, shall obtain and maintain in full force and effect throughout the entire term of this Contract, insurance coverage to insure against all risks, including, but not limited to, those requirements specified herein. Except as the Town may otherwise agree, any insurance required hereby shall be in accordance with and shall conform to the requirements set forth herein, with the required proof of insurance and policy endorsements delivered *prior to the commencement of service*. Notwithstanding any other provision of this Contract or any other document, acceptance by the Town of such proof of insurance shall satisfy all insurance requirements for so long as this Contract and any extensions shall be in effect. Contractor recognizes that the Town must be satisfied with the proof of insurance and endorsements provided. The Town must be named as “additional insured” on all policies as required herein. Evidence of such status as an additional insured must be provided by an endorsement to the insurance policy and such endorsement provided to the Town with the required proof of insurance.

- A. At all times during the term of this Contract, the Contractor will maintain a comprehensive general liability policy with not less than \$10,000,000 (ten million dollars) combined single limits per occurrence with excess or umbrella liability coverage with a combined minimum limit of \$10,000,000 (ten million dollars). Coverage is to be on an occurrence basis only with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better. The Contractor’s general liability and excess liability policies must be endorsed to list the Town and its officers, elected officials, appointed officials, employees and volunteers as an additional insured. The insurance provided in the additional insured endorsement shall be primary without contribution from such other insurance provided or available to the additional insured. Any additional insured endorsement will be rejected if it includes an exclusion of completed operations coverage, unless a separate endorsement for that coverage is attached. All endorsements must be issued by the Contractor’s insurance company. A notation of additional insured status on a certificate of insurance is not sufficient. Prior to the commencement of any work under the Contract, the Contractor shall provide the Town with proof of insurance and all insurance endorsements evidencing compliance with all insurance requirements in this paragraph.
- B. At all times during the term of the Contract, the Contractor will maintain workers’ compensation coverage in compliance with the laws of the Commonwealth of Virginia. The coverage must have statutory limits and be with an insurer licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A. M. Best rating of A- or better. As an alternative, it is acceptable for the Contractor to be insured by a group self-insurance association that is licensed by the Virginia Bureau of Insurance. The Contractor will also carry employers liability insurance with a limit of at least \$10,000,000 (ten million dollars) bodily injury by accident/\$10,000,000 bodily injury by disease policy limit/\$10,000,000 (ten million dollars) bodily injury by disease for each employee. Prior to the commencement of any work under the Contract, the Contractor shall provide the Town with proof of insurance evidencing compliance with all insurance requirements under this paragraph.

- C. At all times during the term of this Contract, the Contractor will maintain automobile liability insurance in comprehensive form with limits of at least \$10,000,000 (ten million dollars). In addition, all mobile equipment used by the Contractor in connection with the Contract work, will be insured either under a standard Automobile Liability policy, or a Commercial General Liability policy. The coverage is to be written only with a symbol “1” or “any auto” to include owned, hired and non-owned vehicles. The insurer must be licensed to conduct business in the Commonwealth of Virginia. The insurer must have an A.M. Best rating of A- or better. The Town and its officers, elected officials, appointed officials, employees and volunteers must be endorsed as an additional insured on the Contractor’s automobile liability policy. The endorsement must be issued by the Contractor’s insurance company. A notation on a certificate of insurance is insufficient. The insurance provided in the additional insured endorsement shall be primary without contribution from such other insurance provided or available to the additional insured. Prior to the commencement of any work under the Contract, the Contractor shall provide the Town with proof of insurance and all endorsements evidencing compliance with all insurance requirements under this paragraph.
- D. At all times during the term of this Contract, the Contractor will maintain pollution/environmental impairment liability coverage with a \$2 million (two million dollars) per occurrence limit covering claims for on-site, under-site, or off-site bodily injury and property damage and regulatory fines as a result of pollution conditions arising out of the Contractor’s operation under the Contract. The policy will cover third-party injury and property damage, including cleanup costs, as a result of pollution conditions arising from Contractor’s operation and completed operations. The Town and its officers, elected officials, appointed officials, employees, and volunteers must be endorsed as additional insured. The endorsement must be issued by the Contractor’s insurance company. A notation on a certificate of insurance is insufficient. The insurance provided in the additional insured endorsement shall be primary without contribution from such other insurance provided or available to the additional insured. Prior to the commencement of any work under the Contract, the Contractor shall provide the Town with proof of insurance and all endorsements evidencing compliance with all insurance requirements under this paragraph.
- E. Liability Insurance issued on a “Claims Made” Basis. If the liability insurance purchased by the Contractor has been issued on a “claims made” basis, the Contractor must comply with the following additional conditions. The limit of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:
 - i. Agree to provide certificates of insurance evidencing the above coverage for a period of two (2) years after final payment for the Contract. This certificate shall evidence a “retroactive date” no later than the beginning of the Contractor’s or subcontractor’s work under this Contract; or
 - ii. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Contract and evidence the purchase of this extended reporting period endorsement by means of a copy of the endorsement.
- F. All coverages required herein are to be evidenced by proof of insurance issued by the Contractor’s insurer or insurance agent. The Town’s additional insured status on all required policies must be by endorsement to the Contractor’s insurance. A copy of the proof of insurance and the additional insured endorsements must be provided to the Town prior to the

commencement of any work under the Contract. The Contractor's required insurance policies and all endorsements of the Town as an additional insured must remain in force during the entire term of the contract.

- G. -Liability insurance requirements for the General Commercial Liability, Automobile Liability, Employer's Liability and Hauler's Environmental Impairment/Pollution Liability may be arranged for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability Policy.
- H. Waiver of subrogation required. The Contractor's insurer shall waive rights of subrogation against the Town and its officers, officials, employees, agents, assigns and volunteers under the Contractor's general liability, excess/umbrella, automobile liability, pollution/environmental liability, and workers' compensation policies. The waiver of subrogation must be specified on the proof of insurance and also provided as an endorsement to each policy specifically waiving subrogation against the Town.
- I. The Contractor's insurer or insurance agent must provide thirty (30) days' notice of cancellation [ten (10) days for non-payment] to the Town of any insurance or endorsements required herein. Such notice may be provided by one of the following three methods:
 - i. A note on company letterhead that the Town will receive such notice of cancellation. This may be on the letterhead of the agent, the broker, or the insurance company, and not include a disclaimer of liability upon failure to give such notice.
 - ii. A separate endorsement specifying the notice required, or
 - iii. A copy of a policy provision regarding such notice.
- J. The Contractor will not commence any work nor receive any payment due under the Contract until the Town has received all required proof of insurance and endorsements.
- K. Failure to maintain all required insurance, endorsements and proof of insurance constitutes grounds for immediate termination of the Contract by the Town or cessation of all activities by the Contractor until all insurance requirements are met; at the sole discretion of the Town.
- L. The Town and/or the (insert responsible Town official) have no obligation to review any proof of insurance or endorsements provided by the Contractor or any Sub-Contractor or to check or verify the Contractor's or any Sub-Contractor's compliance with any and all requirements regarding insurance imposed by the Contract. The Contractor and any Sub-Contractor are fully liable for the amounts and types of insurance coverage required herein and they acknowledge that they are not excused should any policy, endorsement or Certificate of Insurance provided by the Contractor or any Sub-Contractor not comply with the Contract's insurance requirements.
- M. The Contractor shall require the same insurance coverage from its subcontractors as the Town requires of the Contractor under this Contract. Compliance by the Contractor and any of its subcontractors with the insurance requirements under this Contract shall not relieve the Contractor or any subcontractors of their liabilities and obligations under this Contract.

Commented [TC16]: Insert responsible official for each town

- N. The Contractor will give the Town prompt and timely notice of any claim(s) made or court action initiated arising out of or resulting from the Contractor’s performance under the Contract.
- O. If the Contractor fails to comply with the Contract’s insurance requirements, the Town shall be entitled to recover all amounts payable as a matter of law to the Town or any other parties, including but not limited to the (insert responsible Town official), had the insurance coverage been in effect. Any recovery shall include but is not limited to interest for the loss of the use of such amounts of money, attorneys' fees, costs and expenses incurred in securing such determination and any other consequential damages.
- P. Nothing contained herein shall be construed to create a contractual relationship between the Town and any subcontractor of the Contractor. The Contractor shall be fully responsible to the Town for the acts and omissions of the Contractor’s employees, subcontractors and the employees of any subcontractor.
- R. If the Contractor cannot meet the specifications required by these insurance requirements, alternate insurance coverage maybe presented only at the time of the submission of the Contractor’s original Proposal during the procurement process. The (insert responsible Town official), or their designee, in coordination with the Town Attorney, may consider the alternate insurance proposal and shall accept, deny or modify the Contractor’s proposed alternate insurance coverage, at their sole discretion.
- S. **INSURANCE COVERAGE REQUIRED BY THIS CONTRACT SHALL BE IN FORCE THROUGHOUT THE CONTRACT TERM. SHOULD THE CONTRACTOR FAIL TO PROVIDE ACCEPTABLE EVIDENCE OF CURRENT INSURANCE WITHIN FIVE (5) DAYS OF WRITTEN NOTICE AT ANY TIME DURING THE CONTRACT TERM, THE TOWN SHALL HAVE THE ABSOLUTE RIGHT TO IMMEDIATELY TERMINATE THE CONTRACT WITHOUT ANY FURTHER OBLIGATION TO THE CONTRACTOR, AND THE CONTRACTOR SHALL BE LIABLE TO THE TOWN FOR THE ENTIRE ADDITIONAL COST OF PROCURING THE UNCOMPLETED PORTION OF THE SERVICES UNDER THE CONTRACT AT THE TIME OF TERMINATION.**

Commented [TC17]: Insert responsible Town official for each town

Commented [TC18]: Insert responsible official for the Town

XII. Contractor to Indemnify and Hold Harmless the Town

- i. The Contractor agrees that it shall indemnify, defend, and hold harmless the Town and its officers, agents, employees, volunteers or others working on behalf of the Town from any and all claims, judgments, suits, losses, damages, payments, costs, fines and or fees levied and/or alleged against the Town and expenses of every nature and description, including attorneys’ fees, arising out of, connected or associated with or resulting from the lack of performance or performance of the work described in this Contract and all provisions, conditions and terms herein, any Contract documents or any agreement that results from this Contract. Further, the Contractor expressly agrees that if it contracts a subcontractor for work under this Contract, the Contractor will enter into a contract with the subcontractor(s) which specifically indemnifies, defends, and holds harmless the Town and its officers, agents, employees, and volunteers, from any and all claims and losses arising out of, connected or associated with or resulting from the subcontractor(s) lack of performance or performance of the work described in this Contract and all provisions, conditions and terms herein, any Contract documents or any agreement that results from

this Contract. The Contractor expressly understands and agrees that any letter of credit or insurance protection required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and hold harmless and defend the Town as herein provided.

- ii. The Contractor agrees that it shall indemnify, defend, and hold harmless the Town and its officers, agents, employees, volunteers or others working on behalf of the Town from any and all claims, judgments, suits, losses, damages, payments, costs, fines and or fees levied and/or alleged against the Town and expenses of every nature and description, including attorneys' fees, arising from liens encumbering the Town's property filed by subcontractors, sub-subcontractors, material providers, suppliers and any and all other persons and entities acting for, on behalf of or under the Contractor, and the Contractor shall immediately discharge or bond such liens off.

XIII. Employment Discrimination Prohibited

During the performance of this Agreement, Contractor agrees as follows:

- i. Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- ii. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, shall state that such Contractor is an equal opportunity employer.
- iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet the requirements of this section.
- iv. Contractor shall include the provisions of the foregoing paragraphs, A, B, and C in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

XIV. Compliance with federal, state, and local laws to include federal immigration law

The Contractor shall be properly and currently licensed to conduct business in the Commonwealth of Virginia and the Town. The Contractor shall comply with all applicable Town, county, state and federal laws, ordinances, rules and regulations. Any violation of the provisions of this section shall be considered a violation of a material provision of this Contract and shall be grounds for cancellation, termination, or suspension of the Contract by the Town, and may result in ineligibility for further work for the Town.

The Contractor and any subcontractors shall comply with local licensing and tax requirements. This includes but is not limited to obtaining or renewing a valid Business license from the Town and any applicable local taxes. The valid Business license for the Town must include and address all contract amounts awarded by or with the Town. The Contractor shall be solely responsible for all taxes, fees, and charges incurred, including, but not limited to, license fees and all federal, state, regional, county, and local taxes and fees, including income taxes, property taxes, permit fees, operating fees, surcharges of any kind that apply to any and all persons, facilities, property, income, equipment, materials, supplies, or activities related to the Contractor's activities under the Contract, business and occupation taxes, workers' compensation, and unemployment benefits.

The Contractor does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

XV. Drug Free Workplace to be Maintained

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a Contractor in accordance with the VPPA, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

XVI. Contractor Authorized To Transact Business

- i. Pursuant to § 2.2-4311.2 of the Code of Virginia, as amended, any Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.
- ii. Any business entity described in Subsection A. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of this Agreement.
- iii. The Town may void the Contract with the business entity selected as Contractor if the business entity fails to remain in compliance with the provisions of this Section of the Contract and/or § 2.2-4311.2 of the Code of Virginia, as amended.

XVII. Litigation

In the event of any litigation arising out of a breach of said Contract in which the Town is the successful party, the Contractor agrees to pay the Town any and all costs and expenses in connection with such litigation, together with any and all reasonable attorney fees which the Town may be required to pay in connection with such litigation.

XVIII. Payments to the Contractor

- i. **MONTHLY FEE:** The Town shall pay to the Contractor on or before the 30th day of each month the per unit fee of \$ _____ based on the current unit count for the once per week provision of refuse, recycling and yard waste collection services.
- ii. **OPTIONAL - ADDITIONAL REFUSE COLLECTION FEE (applies only to the Town of Haymarket):** In addition to the Monthly Fee described in Section XVII.A above, the Town of Haymarket shall pay the Contractor on or before the 30th day of each month, an additional per unit fee of \$ _____ based on the current unit count for a second weekly refuse collection services.
- iii. **OPTIONAL - YARD WASTE COLLECTION FEE (if Town Consortium opts for separate yard waste collection):** In addition to the Monthly Fee, the Town shall pay to the Contractor on or before the 30th day of each month the per unit fee of \$ _____ based on the current unit count for the separate collection of yard waste. If separate yard waste collections are not desired by the Town, yard waste shall be considered to be refuse and included in said collections.
- iv. **SURCHARGES AND FUEL FEES:** The Contractor will not impose any additional surcharges or fuel fees of any kind or for any reason during this Contract. The Town’s sole payment obligation to the Contractor each month is the payment of the per unit collection fee, and the optional fees identified in Section XVIII.A-C if appropriate, all based on the current unit count.
- v. **BIENNIAL PAYMENT ADJUSTMENTS:** The parties recognize that circumstances beyond their control may affect the cost of performance under this Contract. Therefore, in the event of a contract renewal, thereafter during the term of the renewal, the parties shall have the ability to negotiate an adjustment (increase or decrease) to the monthly per unit collection fee in accordance with the methodology set forth herein. All price adjustments must be reviewed and approved by the Town’s Consortium in writing prior to taking effect.

The Contractor shall request in writing an adjustment of the monthly per unit collection fee(s) at least ninety (90) calendar days in advance of the applicable Contract renewal anniversary date. The Contractor shall provide complete and detailed justification for the requested price adjustment to include only the following factors:

- i. Fuel costs
- ii. Landfill or tipping and transfer fees
- iii. Inflation based on the most recent published twelve-month percentage change of the CPI-U for the Washington-Baltimore, DC-MD-VA-WV area per the U.S. Department of Labor’s Bureau of Labor Statistic website

No renewal increase of the monthly per unit collection fee(s) shall exceed three percent (3%) based on an aggregate of the three adjustment factors listed herein.

NO OTHER FEES, CHARGES OR PAYMENTS OF ANY KIND WHATSOEVER SHALL BE PAYABLE BY THE TOWN TO THE CONTRACTOR UNDER THIS CONTRACT.

XIX. Performance is a Condition

This Contract and privileges herein granted to the Contractor are conditioned upon the faithful performance by the Contractor and by each and every one of its subcontractors, if any, of each and every term and provision herein agreed to be performed by the Contractor or required to be performed by its subcontractors, and the payment of all license fees and other monies herein agreed to be paid by the Contractor. The performance by the Town of this Contract is conditioned upon the budget approval and appropriation each year for payment pursuant to such Contract.

XX. Right of Town to Perform Work

The Contractor agrees that if it fails to collect and dispose of refuse and recyclable materials and/or perform any of the provisions, terms, conditions, requirements and services in this Contract for a period of five (5) calendar days or more from the day of collection as identified in Section V.C during which it is required to do so, the Town shall have authority, without further notice to the Contractor, to arrange for the collection and disposal of refuse and recyclables and all other services required under this Contract and deduct any and all costs incurred from funds that may be due the Contractor and make demand upon the letter of credit required to be posted by the Contractor as a performance guarantee under Section XXIII herein for payment to the Town of all costs incurred.

XXI. Default by Contractor

- i. If the Contractor fails to properly collect and dispose of refuse, yard waste and recyclable materials for a period of five (5) calendar days from the day of collection as identified in Section V.C during which it is required to do so, unless failure is due to strikes, acts of God or other causes beyond the control of the Contractor, the Contractor shall be considered guilty of a substantial violation of the Contract, and shall be in default.
- ii. If the Contractor fails to fulfill any other condition(s) of the Contract, unless the failure is due to strikes, acts of God or other causes beyond the Contractor's control, after having been given written notice of such failure and being allowed a reasonable time, for compliance, not to exceed five (5) calendar days, the Contractor shall be considered guilty of a substantial violation of the Contract, and shall be in default.
- iii. In the event of such default of the Contract by the Contractor, any and all sums retained by the Town or unpaid to the Contractor as of the date of such default, shall be forfeited to the Town as herein provided.
- iv. If the Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, or it persistently or repeatedly refuses or fails to perform or if it fails to make prompt payment to creditors, or persistently disregard laws or ordinances or otherwise default on any provision of the Contract Documents, then the Town, upon certification by the Town that sufficient cause exists to justify such action, may without prejudice to any other right or remedy and after giving the Contractor and the surety, if any, on the performance guarantee given by the Contractor five (5) days written notice, terminate the services of the Contractor and perform the work by whatever method the Town may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment. If the expense of performing the work, including compensation for additional managerial and administrative services exceeds the

balance of the Letter of Credit and Payment Deposit, or the value of any performance guarantee posted by the Contractor, the Contractor shall be liable for the payment of the amount of such excess to the Town. The expense incurred by the Town as herein provided and the damage incurred through the Contractor's default shall be certified by the Town.

XXII. Termination

- A. Subject to the provisions below, the Contract may be terminated by the Town upon thirty (30) days advance written notice to the Contractor; but if any work or service hereunder is in progress, but not completed as of the date of termination, then this Contract may be extended upon written approval of the Town until said work or services are completed and accepted.
 - i. Termination for Convenience – In the event that this Contract is terminated or cancelled upon request or for the convenience of the Town, without the required thirty (30) days advance written notice, then the Town shall pay the Contractor a reasonable, equitable adjustment in the Contract price for completed satisfactory performance only, if applicable. No amount shall be allowed for anticipated profit on unperformed services, including but not limited to, the remainder of the then current Contract term.
 - ii Termination for Cause – The Town may terminate this Contract for cause, default, or negligence on the part of the Contractor at any time. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause. In the event any Termination for Cause is found to be improper or invalid by any court of competent jurisdiction, then such termination shall be deemed to have been a Termination for Convenience.
 - iii. Termination Due to the Unavailability of Funding in Succeeding Fiscal Years – All funds for payments by the Town for services under this Contract are subject to the availability of general or specific annual appropriation for this purpose. In the event of non-appropriation of funds for services provided under this Contract, the Town will terminate this Contract, without any termination charges of any kind or other liability to the Town, on June 30th of the then current fiscal year or when the appropriation made for the then current year for the services covered by the Contract is expended, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the Town shall not be obligated under this Contract beyond the date of termination. Contractor will be reimbursed for the reasonable value of any actual, documented, nonrecurring costs incurred but not amortized in the price of the services delivered under the Contract prior to the date of termination. No amount shall be allowed for anticipated profit on unperformed services, including but not limited to, the remainder of the then current Contract term.

XXIII. Letter of Credit

The Contractor shall immediately provide the Town, upon full execution of this Contract, and shall keep same in full force and effect during the term of the Contract, a letter of credit, in a form acceptable to and approved by the Town Attorney, in the amount of One Hundred Percent (100%) of the total annual Contract price from a financial institution located in the County of Loudoun (located in Prince William County for the Town of Haymarket) duly authorized to do business in the Commonwealth of Virginia and conditioned on the faithful performance of this Contract by the Contractor and its subcontractors, if any, and the indemnification of the Town against all losses

by reason of Contractor's negligence, willful misconduct, nonperformance or breach of any of the provisions of the Contract, or any and all claims, losses and demands of any character whatsoever required to be indemnified and/or insured by the Contract. The letter of credit amount shall be updated annually on the anniversary of the Contract execution with the new letter of credit amount based upon the updated annual contractual cost to the Town and adjusted accordingly.

XXIV. Loudoun County Code (Prince William County for the Town of Haymarket)

The Contractor shall be permitted as a Solid Waste collector in accordance with Loudoun County Codified Ordinances – Solid Waste Collection and Transportation (Prince William County Codified Ordinances for the Town of Haymarket). The Contractor shall retain a valid County permit for the duration of this Contract. The Contractor shall take all refuse, trash, municipal solid waste and solid waste recyclables to a lawfully permitted facility, and the Town specifically reserves the right to review receipts for both trash and recyclables. Within fifteen (15) days of Notice of Award, the Contractor shall submit proof of its compliance with these requirements to the Town.

XXV. Entire Contract and Contract Modification: Relationship of the Parties

- i. This Contract, together with the RFP, the Contractor's Proposal, the Letter of Credit, and all other appendices, exhibits, and schedules attached or referred to in this Contract or the RFP or the Contractor's Proposal constitute(s) the final, complete, and exclusive statement of the terms and conditions of the Contract between the parties pertaining to the subject matter of this Contract and supersede all prior and contemporaneous understandings, contracts, inducements, or conditions, expressed or implied, oral or written, of the parties. Both parties agree that this Contract may not be contradicted by evidence of any prior or contemporaneous statements or contracts.
- ii. ~~—~~The Contract shall not be modified or amended except by mutual consent in a writing signed by duly authorized representatives of both parties. Both parties agree that the Contract shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
- iii. The Contractor acknowledges that it is an independent contractor and that none of its employees, agents, or assigns are employees or agents of the Town. The Town shall exercise no supervision over Contractor's employees, but such employees as required to adequately perform all services and meet all requirements of the Contract shall be made available to the Town for consultation and advice during the performance of the services required by the Contract.

XXVI. Severability.

In the event that any term, condition or provision of this Contract is found by a court of competent jurisdiction to be void, invalid or unenforceable, all remaining sections and provisions of this Contract shall remain in full effect and be binding on the parties.

XXVII. Examination of Records.

The Contractor agrees that the Town or any duly authorized representative shall, until the expiration of three (3) years after the final payment hereunder, have access to and the right to examine and copy any pertinent books, records, documents, papers (hardcopy, electronic or otherwise) of the Contractor (or any subcontractor) involving any transaction related to this Contract.

XXVIII. Notice.

All written notices required under this Contract shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, or (c) by a commercial overnight courier that guarantees next day service and provides a receipt. Such notices shall be addressed as follows:

For the Town:

(Insert Town Official)
(Insert Officials Title)
Town of (Insert town)
(Insert street address)
(Insert mailing address)

For the Contractor:

Name _____
Title _____
Company _____
Mailing Address _____

Commented [TC19]: Insert town official contact information

The Notice Address may be changed with written notice of the new address to the other party. Any notice shall be effective only upon delivery.

XXIX. Execution of Contract.

IN WITNESS WHEREOF, Town and Contractor have executed, or caused to be executed by their duly authorized officials, this Contract in two copies, each of which shall be deemed an original on the date first above written.

TOWN OF (INSERT NAME OF TOWN) _____

Commented [TC20]: Insert name of town

By: (Insert Name of Town Official) _____

Its: (Insert Title) _____

Commented [TC21]: Insert name and title of signing authority

CONTRACTOR: _____

_____ By:

Its: _____

Sworn and acknowledged before me by _____ as the _____ of the Town of _____, Virginia, this the _____ day of _____, 2020.

Notary Public

My commission expires: _____.

Sworn and acknowledged before me by _____, of _____, this the _____ day of _____, _____.

Notary Public

My commission expires: _____.

B. MONTHLY FEE

The monthly fee per unit for the first year of the contract term shall be \$_____.

C. OPTIONAL ADDITIONAL REFUSE COLLECTION FEE (applies only to Town of Haymarket)

In addition to the above, the monthly fee per unit for the first year of the contract term shall be \$_____ for a second weekly refuse collect in the Town of Haymarket.

D. OPTIONAL YARD WASTE COLLECTION FEE (applies only if yard waste to be separated from refuse during collection)

In addition to the monthly fee, the yard waste collection fee per unit for the first year of the contract shall be \$_____ if the Town desires that yard waste collection occur separately from the refuse collection.

E. VIRGINIA CONFLICTS OF INTEREST & PUBLIC PROCUREMENT

This solicitation is subject to the provisions of Title 2.2, Chapter 31 et seq., of the Code of Virginia, as amended, see Section 2.2-3100 of the Code of Virginia, as amended, the Virginia State and Local Government Conflict of Interests Act, and Sections 2.2-4300 – 2.2-4343 et seq. of the Code, the VPPA. The Offeror () is () is not aware of any information bearing on the existence of any potential conflicts of interest or violation of ethics in public contracting.

F. GENERAL QUALIFICATIONS AND REFERENCES (attach additional sheets as needed)

1. Describe the general character of work performed by your firm.
2. Has your firm ever failed to complete any work awarded to you?
 YES NO
 If so, detail the dates, work or services to be rendered, and reasons for the Failure to fulfill the work or services (attach additional sheets as needed).
3. Has your firm ever defaulted on a Contract? YES NO
4. List a minimum of three (3) local or municipal government and/or commercial references that have contracted with your firm within the past twelve months for refuse and recycling services of a similar size, scope and contractual requirements as those in this RFP. Please include contact person(s), address, email address and telephone number.

G. CERTIFICATION

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a Proposal for the same services, materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the state and federal law and can result in fines, prison sentences, and civil damage awards. I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I certify that the firm I represent agrees to abide by all conditions of the RFP and Contract and certify that I am duly authorized to sign for and bind the Offeror to the terms, conditions and requirements in the RFP and Contract.

SIGNATURE: _____ **DATE:** _____

NAME: _____ **TITLE:** _____

H. STATE CORPORATION IDENTIFICATION NUMBER

All Offerors organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 shall include in the proposal the identification number issued to it by the State Corporation Commission. Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in the proposal a statement describing why the Offeror is not required to be so authorized. See Section 2.2-4311.2 of the Code of Virginia, as amended. Any Offeror that fails to provide the information required by this Section shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this Section is granted by the chief executive of the Town.

1. Enter State Corporation Identification Number: _____

2. Enter Statement below if required:

I: ADDENDUM ACKNOWLEDGEMENT

The undersigned Offeror acknowledges receipt of the following Addenda, pursuant to the RFP and that any required adjustments have been made to the proposal:

Addendum No. ____, dated _____

Addendum No. ____, dated _____

Addendum No. ____, dated _____

OFFEROR _____ (sign)

OFFEROR _____ (print)

FIRM NAME _____

ADDRESS _____

ADDRESS _____

J. TRADE SECRETS OR PROPRIETARY INFORMATION

Trade secrets or proprietary information submitted by an Offeror in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, Section 2.2-4342 (F) of the Code of Virginia, as amended, states that the Offeror must invoke the protection of this Section prior to or upon submission of the data or materials, and must identify the data or materials to be protected and state the reasons why protection is necessary.

Please mark one:

- No, the proposal submitted does not contain any trade secrets and/or proprietary information.
- Yes, the proposal submitted does contain trade secrets and/or proprietary information.

If Yes is selected above, please clearly identify below the exact data and/or other materials to be protected and list all applicable pages of the proposal document containing such data and/or materials:

The proprietary or trade secret material submitted must be clearly identified by some distinct method such as highlighting or underlining within the body of the proposal document and must indicate only the specific words, paragraphs, pictures of figures that constitute trade secrets or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal. See Section G (1) “Specific Proposal Preparation” of the RFP document. State the reason(s) why protection is necessary:

If the data and/or materials to be protected are not identified above and within the body of the proposal document and the reason(s) for the protection are not provided, the Offeror will not have invoked the protection of Section 2.2-4342 (F) of the Code of Virginia, as amended. Accordingly, effective upon award of the agreement, the proposal will be open and available for public inspection consistent with all applicable law.

ATTACHMENT 1

Summary of Towns’ Existing Services

	MIDDLEBURG	PURCELLVILLE	LOVETTSVILLE	ROUND HILL	HAMILTON	HAYMARKET	HILLSBORO
Current Provider	Bates Trucking	American	American	Patriot	American	Republic Services	American
Contract Expiration	6/30/2020	11/30/2020	11/30/2019	6/30/2020	6/30/2023	6/30/2020	8/31/20
# of Units	502	2594	820	260	229	466	38
Cost/Unit	\$12.48	\$14.59	\$14.59	\$14.64	\$16.50	\$13.77	\$26
Day of Collection	Wednesday	Wednesday	Wednesday	Wednesday	Wednesday	Monday/Thursday	Wednesday
Cost Escalator	3%	Up to 3% based on economic costs		3%	3.5%	2%	
Other	Dumpsters	Town dumpsters & 20+ municipal cans			Dumpster	128 waste hand pickups. 2/week refuse collection & 1/week recycling.	

ATTACHMENT 2

Summary of Towns’ Municipal Dumpster & Container Needs

*Under RFP, towns allowed 1 dumpster for refuse and 1 dumpster for recycling (up to 8 yards), plus up to 1 dumpster for refuse and 1 dumpster for recycling per 200 customers

**Under RFP, towns allowed equivalent of up to two (2) 96-gallon wheeled carts per municipal facility

LOCATION	# OF DUMPSTERS* (refuse & recycling)	# OF TRASH CARTS**	# OF RECYCLING CARTS**
HAMILTON	(2 total allowed/each)	(3 total allowed)	(3 total allowed)
53 E. Colonial Hwy (Town Office)	0	1	1
104 N. Rogers St (Wastewater Treatment Plant)	1		1
31 W. Colonial Hwy (Park)	0	1	1
HAYMARKET	(3 total allowed/each)	(2 total allowed)	(2 total allowed)
15000 Washington Street	2 trash/1 recycling	0	0
14740 Washington Street	0	1	1
HILLSBORO	(1 total allowed/each)		
Special Events	1 Dumpster when needed	1	1
37098 Charles Town Pike (Town Hall)	0	1	1
LOVETTSVILLE	(5 total allowed/each)		
Special Events	1 Dumpster when needed	0	0
6 E. Pennsylvania Ave. (Town Hall)	0	1	1
Treatment Plant	0	1	1

MIDDLEBURG	(3 total allowed/each)	(up to 5 total)	(up to 5 total)
Town Office, 10 W. Marshall	1 refuse/1 recycling (at future new Town Office)	1	1
Stonewall Treatment Plant	0	1	1
Well 4 Treatment Plant, 112 The Plains Road	1 refuse/1 recycling	0	0
Sewer Treatment Plant, 500 E. Washington Street	0	1	1
Town Shop, Madison Street	1 refuse/1 recycling	0	0
PURCELLVILLE	(13 total allowed/each)	(6 total allowed)	(6 total allowed)
221 S. Nursery Avenue (Town Hall)	1 refuse/1 recycling	0	0
250 S. Nursery Avenue (Bush Tabernacle/Fireman’s Field)	1 refuse/1 recycling	0	0
16153 Short Hill Road (Water Treatment Plant)	1 refuse/1 recycling	0	0
1001 S. 20 th Street (Wastewater Treatment Plant)	1 refuse/1 recycling	0	0
1005 S. 20 th Street (Maintenance Facility)	1 refuse/1 recycling	0	0
Police Department (future location to be determined)	1 refuse/1 recycling	0	0
Special Events	1 dumpster when needed		
Parks/Recreation Special Events		1 cart as needed	1 cart as needed
ROUND HILL	(2 total allowed/each)	(2 total allowed)	(2 total allowed)
Wastewater Treatment Plant, Lakefield Road	1 refuse/1 recycling	0	0
Mosby Court Apartments	1 refuse/1 recycling	0	0