

**Service Group 1**  
**Best and Final Offer Terms – REVISION #2**

Alternative Contract Terms	Accept	Initial
<u>Term of Contract</u>  1. First extension for 5 years shall be amended to provide notice to contractor allowing contractor to accept or reject extension. If rejected, one year would be automatically added to term.  2. Second extension for 5 years shall be amended to provide notice to contractor allowing contractor to accept or reject extension. If rejected, one year would be automatically added to term.	YES <input type="checkbox"/>  NO <input type="checkbox"/>  YES <input type="checkbox"/>  NO <input type="checkbox"/>	_____  _____
<u>Service Standards</u>  1. In year one of contract, 20% of each cart type shall be replaced with new. Following years of contract replacement shall be up to 3%.  2. To further address potential high levels of contamination in the recycling and organics carts, City and company will meet to discuss and, if necessary, City can direct company to remove organics or recycling containers to abate a nuisance.	YES <input type="checkbox"/>  NO <input type="checkbox"/>  YES <input type="checkbox"/>  NO <input type="checkbox"/>	_____  _____

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<p><u>Charges and Rates</u></p> <p>1. Changes to Refuse Rate Index</p> <ol style="list-style-type: none"> <li>a. The annual RRI ceiling will be 6% and anything less than 8% will carry forward to next year, <u>except in the final year when the RRI ceiling will be 8%</u></li> <li>b. Floor will be -5%</li> <li>c. Franchise and Government Fees will be included in weighted average and not subject to any cap or carry-forward.</li> <li>d. <u>The Bureau of Labor Statistics Index Series ID: ceu6056210008 – Service Producing Industries used to calculate changes in the RRI Labor Category will be replaced with the actual changes in the Labor and Health and Welfare Benefits of a specific employee category in each of the Collective Bargaining Agreements utilized to provide services under the MM&amp;O Contract.</u></li> <li>e. Any rate increase in Local 70 Labor Cost Category that is greater than what would be allowed under current Local 70 CBA will be included equally over three years. Differential increase will be exempt from annual cap and carry-forward.</li> </ol> <p>2. Diversion requirement adjustment impact will be limited to one year.</p> <p>3. In any year when Contractor gross revenues decrease from the prior year, substantiated by billing audit funded by Contractor the City will not increase the Franchise Fee component of RRI.</p> <p>4. First franchise fee payment will be due August 15, 2015. Following payments will be due on 20<sup>th</sup> of the month.</p>	YES <input type="checkbox"/> NO <input type="checkbox"/>	_____       _____       _____       _____       _____
<p><u>Quality of Performance of Contractor</u></p> <p>1. Liquidated damages (per <b>Attachment A to SG1 Best and Final Offer Terms</b>)</p> <p>2. Prior to assessing <u>certain</u> liquidated damages, e.g., for failing to meet public outreach standards, City will give Contractor notice and offer to discuss correcting performance per attached.</p>	YES <input type="checkbox"/> NO <input type="checkbox"/>	   _____   _____   _____   _____

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<p><u>Indemnification</u></p> <p>Contract language requires company to indemnify City across a broad group of items. Indemnification does not extend to maximum service rates. During a pendency of service rate challenge, the City will bear its losses and the company theirs. The company is required to provide service. Contract provides that if service rates are impacted due to court action, contractor and City will meet and confer over requirement to pay Franchise Fees until determination.</p> <p>1. If Contractor demonstrates actual losses due to service rate lawsuit, City will take immediate action to attempt to recover proven losses for the services rendered. This could include: modifications to program requirement; adjustment to maximum service rates.</p> <p>2. Should Contractor not be able to recover their losses in 2 years following a trial court determination affecting its ability to obtain rates set forth in agreement, it could provide 12-month notice to cancel the contract.</p> <p>3. Should the City find it necessary to procure services, it shall procure services from Contractor at commercially reasonable rates.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>_____</p> <p>_____</p> <p>_____</p>
<p><u>Defense of Contractor's Rights</u></p> <p>1. City shall set forth, through municipal regulation, Contractor's rights under franchise, to include impounding violator's equipment, and allowing fees to address such actions.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>_____</p>

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<p><u>Obligation to Provide Service</u></p> <p>1. Force Majeure – Force Majeure only applies if:</p> <p>Contractor provides a labor plan prior to July 1, 2015 for restoring services in the event of a labor disruption, and meets and confers with City within three (3) days of a labor disruption with regard to implementation of the approved labor plan.</p> <p>Within three (3) days of any labor disruption, Contractor provides essential services meaning collection of Mixed Materials and Organics as needed from public facilities, such as hospitals, airports, ports and certain government facilities, where a failure to so collect would impede critical public services.</p> <p>Within three (3) days of a labor disruption initiated by Contractor, Contractor also provides Basic Collection Services including residential and commercial garbage and commercial organics in accordance with normal collection intervals</p> <p>Within ten (10) days of a labor-initiated disruption, Contractor provides Essential Collection Services and Basic Collection Services (residential and commercial garbage and commercial organics) in accordance with the normal collection intervals.</p> <p>Regardless of labor disruption cause, within twelve (12) days CONTRACTOR also provides in addition to essential and basic collection services, provide Residential Organics Services, Bulky Waste Service, and active cleanup of any accumulated waste which has been set out for collection and not properly picked up during the Labor Disruption.</p> <p>Liquidated Damages shall not commence until 5 days after Contractor-initiated lockout or 15 days after a union initiated strike, if Contractor provides the services as outlined above.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<hr style="width: 100%;"/>
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<p><u>Default of Contract</u></p> <p>1. Failure to meet Exhibit 8 annual diversion requirement by more than 5%, City may put Contractor on corrective action plan to achieve compliance. Failure to meet corrective action plan may result in liquidated damages not to exceed \$150 per day.</p> <p>2. <i>Repetitive Compliance Issues</i> will replace the term <i>Habitual Violator</i>. Under the circumstances of repetitive material compliance issues, City and contractor will meet and confer; contractor will implement a remedial action plan with a compliance date. Only after failure during this process lead to default.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>_____</p> <p>_____</p>
<p><u>Contract Modifications and Changes in Law</u></p> <p>1. Should there be a change in the Mixed Materials and/or Organic Materials quantity, composition, or quality that affects the Contractor’s ability to meet the Diversion Requirements, City will negotiate with Contractor, an appropriate modification to the annual Diversion requirement. Should Contractor dispose of material in a landfill, no additional cost will be borne by City rate payers. Should disposal of the material be in conflict with applicable laws, City and contractor shall meet and confer. Should contractor provide demonstrated additional costs, City shall take action to address.</p> <p>2. Should there be a change in the recycling commodities markets that affects the Contractor’s ability to meet the Diversion requirements, City will negotiate with Contractor a reasonable modification to the annual Diversion requirement. Should Contractor dispose of material in a landfill, no additional cost will be borne by City rate payers. Should disposal of the material be in conflict with applicable laws, City and contractor shall meet and confer. Should contractor provide demonstrated additional costs, City shall take action to address.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>_____</p> <p>_____</p>