

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 17-16

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, GRANTING D.M. DISPOSAL CO., INC., A WASHINGTON CORPORATION, AN EXCLUSIVE RIGHT FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE, RECYCLABLES AND YARD WASTE IN THE CITY OF BUCKLEY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, RCW 35.21.152 grants the City the authority by ordinance, to “provide for the establishment of a system or systems of solid waste handling for the entire city or town or for portions thereof. A city or town may provide for solid waste handling by or under the direction of officials and employees of the city or town or may award contracts for any service related to solid waste handling including contracts entered into under RCW 35.21.152; and

WHEREAS, RCW 35.21.152 grants the City authority to “enter into agreements with public or private parties to: (1) Construct, lease, purchase, acquire, manage, maintain, utilize, or operate publicly or privately owned or operated solid waste handling systems, plants, sites, or other facilities; (2) establish rates and charges for those systems, plants, sites, or other facilities; (3) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites; and (4) sell the materials or products of those systems, plants, or other facilities”; and

WHEREAS, the Council finds that it is in the best interests of the health, safety and welfare of residents of the Buckley community to enter into agreement with D.M. Disposal Co., Inc. granting an exclusive right for the collection and disposal of solid waste, recyclables and yard waste in the City of Buckley;

WHEREAS, as required by RCW 35A.47.040, this ordinance went through two readings on October 11, 2016 and October 25, 2016; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY,
WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. That the attached Comprehensive Garbage, Recyclables, and Yard Debris Collection Contract between the City of Buckley and D.M. Disposal Co., Inc. shall be adopted and by reference incorporated herein.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Introduced, passed, and approved this 25th day of October, 2016


Mayor Pat Johnson

Attest:


Joanne Starr, City Clerk

APPROVED AS TO FORM:


Phil Olbrechts, City Attorney

PUBLISHED: November 2, 2016

EFFECTIVE: November 7, 2016

AGREEMENT BETWEEN CITY OF BUCKLEY AND D.M. DISPOSAL CO., INC. FOR THE
COLLECTION AND DISPOSAL OF SOLID WASTE, RECYCLABLES AND YARD WASTE
IN THE CITY OF BUCKLEY

1. Date and Parties

This Agreement is made as of this 1st day of November 2016, by and between the City of Buckley, a municipal corporation, hereinafter referred to as the “City” and D.M. Disposal Co., Inc. (also known as D.M. Recycling) a Washington corporation, hereinafter referred to as the “Contractor.”

2. Purpose

The purpose of this Agreement is to provide for the collection and proper disposition of solid waste, recyclables, and yard waste throughout the City. The Contractor does hereby agree to provide solid waste, recyclable, and yard waste collection services for the City and its citizens and arrange for disposal of such solid waste, recyclables, and yard waste upon the terms and conditions set forth herein. All references to “recycling” and/or “recycling services” herein shall include the collection of recyclables and yard waste.

3. Term/Implementation of New Term and Conditions

The term of this Agreement shall commence on November 1, 2016 and shall expire on October 31, 2024 (“Agreement Term”). Upon expiration of the Initial Term, this Agreement shall automatically renew for one (1) additional two (2) year period under the same terms and conditions hereof, unless the City determines, in its reasonable discretion, that Franchisee is providing inadequate or insufficient services to customers, in breach of the terms and conditions hereof; provided that Franchisee shall have thirty (30) days to cure said breach after receiving written notice from the City. Additionally, this Franchise may, upon the mutual written consent of the City and Franchisee be extended for a mutually agreed upon term, in order to facilitate changes associated with the implementation of new technology not required by this Franchise, or changes in service level or frequency that improve the efficiencies and levels of service provided herein, or any other improvements desired by the City.

4. Exclusive Rights to Solid Waste and Recyclables Collection

a) The Contractor shall have the exclusive right and the obligation to collect all solid waste, recyclables, and residential curbside yard waste within the City limits as of the date of this Agreement. The parties agree to cooperate in the enforcement of the provisions of this Agreement and the City’s authority to regulate a system for solid waste handling. The Contractor’s rights under this Agreement may be subject to the rights of third parties in annexed areas and those rights shall not be abridged by this Agreement.

b) The City and Contractor hereby acknowledge, pursuant to section 4(a) of the Agreement above, Contractor's exclusive right to the collection and transportation of construction and demolition debris and other drop box services from solid waste generated in the City. To that end, the parties agree to work towards strengthening enforcement of and amending City codes and ordinances which uphold the City's jurisdiction over solid waste collected and transported within the City of Buckley.

c) Notwithstanding any other term contained herein, Contractor shall have no obligation to collect any waste which is, or which Contractor reasonably believes to be radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state or local laws or regulations ("Excluded Waste"). Title to and liability for any Excluded Waste shall remain with resident/generator of such Excluded Waste, even if Contractor inadvertently collects and disposes of such Excluded Waste. If Contractor finds what reasonably appears to be discarded Excluded Waste, Contractor shall notify the resident/business/generator, if such can be determined, that Contractor may not lawfully collect such Excluded Waste and leave a tag specifying the nearest location available for appropriate disposal.

5. Future Annexations of Territory by the City

If, during the term of this Agreement, additional territory is added to the City through annexation or other means within which the Contractor or its affiliate has an existing WUTC certificate or other franchise for solid waste collection at the time of annexation, the Contractor shall make collection in such annexed area in accordance with the provision of this Agreement at the prices set forth in the Agreement upon written notice by the City.

6. Definitions

The meaning to be given words as used herein shall be their normal definition, except as to those words specifically defined in the Buckley Municipal Code Section 8.12.030, or specifically outlined in Section 12.

7. Billing

The Contractor shall report to the City Administrator the total number of customers serviced during the preceding monthly period, including the type of service and the charges thereof and shall advise the City Administrator of any changes in service, deletions, temporary terminations or requirements for additional service. The City shall immediately advise the Contractor of any change in service request. The City shall enter the information into its billing system and shall send monthly billings to each customer. The City shall be responsible for the collections and payments from individual customers. The City shall remit a single payment to the Contractor within thirty days of receipt of approved invoice from the Contractor.

8. Revision of Rates

The rates for Contractor's services as set forth in Exhibit "A" attached hereto shall remain the same until March 1, 2017.

a) Annual CPI Adjustment. Beginning March 1, 2017 and for every year thereafter, the rates set forth in Exhibit "A" shall be adjusted by eighty percent (80%) of the annual change in the Consumer Price Index as maintained by U.S. Department of Labor, "Seattle-Tacoma-Bremerton Average" for all Urban Consumers or Successors Index, for the period October to October of the previous year.

The rates for Contractor's services as set forth in Exhibit "A" attached hereto shall remain the same until March 1, 2017. In addition to the rate revisions provisions outlined above, the March 1, 2017 change will include a one-time rate adjustment for the introduction of garbage carts.

The Contractor shall provide the City with notice of any proposed rate increase, in any event, not less than forty-five (45) days prior to the requested effective date of the proposed rate adjustment.

The Consumer Price Index adjustment shall not exceed a maximum of five dollars (\$5.00) per month for each residential account and twenty-five (\$25.00) per month for each commercial account.

b) Tipping Fees/Rate Increases. During the term of this Agreement, Contractor is authorized to pass through to its customers all increases in landfill/disposal costs which are set by Pierce County and/or increased costs associated with higher solid waste/recycling duties imposed by local, state or federal laws and regulations.

c) Notice of Rate Increases/Decreases. The Contractor shall provide the City with notice of any such proposed rate increase or decrease upon Contractor being notified of an increase or decrease, but in any event not less than forty-five (45) days prior to the effective date of such increase or decrease. In connection therewith, the Contractor shall provide the City with all reasonable information requested by the City related to such rate adjustments.

d) Rate Increases/Unforeseen Costs. Contractor may apply to the City for rate adjustments to reflect unforeseen costs arising during the term of this Agreement such as fuel, tax charges, governmental fees and surcharges, approval for which adjustments shall not be reasonably withheld by the City.

9. Spring Clean-Up Day, Special Events, and Other Special Programs

(a) The Contractor shall provide one annual cleanup program each Spring at no additional cost to the City or ratepayers and up to two special events to be designated by the City. The Spring programs will include curbside collection of extra residential solid waste, yard waste, recyclables and white goods as specified by the City and the Contractor. Customers shall be allowed to set out three extra cans of garbage, three bags or containers of yard waste and one major appliance during the annual cleanup/pickup. The Contractor will coordinate with the City to provide information to residents for Spring cleanup on a mailer which will be paid by the Contractor.

(b) The Contractor shall provide curbside Christmas tree collection to all city residents who are receiving cart service for garbage. Collection for Christmas trees will occur during the first yard waste collection week in each calendar year.

(c) The Contractor, in cooperation with the City, shall provide up to two glass recycling drop stations for City residents to drop off glass recyclables only.

(d) City customers shall also be entitled to drop off all household hazardous waste at the Hidden Valley Transfer and Recycling Station d/b/a LRI at 17925 Meridian Street East, Puyallup, WA 98373, during normal receiving hours at no charge to the customer.

(e) In addition, the contractor shall supply, at no additional cost to the city, pickup, disposal, and recycling of the Public Works waste and City Hall Waste.

10. Taxes

The Contractor shall be responsible for any and all state taxes on invoices paid by the City. The City shall be responsible for any and all state and city taxes on charges collected from customers.

11. Definition of Terms

(a) The term “*cart*” shall mean a Contractor provided receptacle which is made of durable, corrosion-resistant, non-absorbent material with a close-fitting cover and wheels. For the collection and storage of solid waste, Contractor shall provide the following sizes of Carts: ten (10) gallon, twenty (20) gallon, thirty-two (32) gallon, sixty-four (64) gallon, and ninety-five (95) gallon. For the collection and storage of source-separated or commingled recyclables, and yard waste, Contractor shall provide either ninety-five (95) gallon Carts or ninety-six (96) gallon Carts.

(b) The term “*walk-In*” shall mean the charge for carryout of over five (5) feet from the edge of the public road, but not over fifty (50) feet.

(c) The term “*drive-in*” shall mean the charge for leaving the public road to provide service. There shall be no obstruction from overhanging branches and/or wires and adequate room for the collection vehicle to turn around. If the customer requests drive-in service, the road surface shall be of such material as to withstand the weight of the collection vehicle; all maintenance and repairs shall be the customer’s responsibility.

(d) The term “*curbside*” shall mean at the curb or up to five (5) feet from the edge of the public road.

(e) The term “*recyclables*” shall mean those recyclable items defined in RCW 70.95.030(14) designated by the City to be picked up in the curbside recycling program which items are limited to: aluminum, metal containers, mixed paper, cardboard and newspaper. Additional recycling materials included for collection in this Agreement are plastics and yard waste.

(f) The term “*aluminum*” shall mean cans and containers composed solely of aluminum.

(g) The term “*metal containers*” shall mean cans and containers composed of metals, such as tin or steel cans, which are attracted by a magnet.

(h) The term “*mixed paper*” shall mean paper (except newspaper), including magazines, mail, phone books, photocopy or printer paper, and envelopes that are not contaminated by food, plastic wrap or other contaminants.

(i) The term “*cardboard*” shall mean moderately thick paperboard not contaminated by glue, food, waxed coating or other similar contaminants

(j) The term “*newspaper*” shall mean any part of the newspaper that was included when it was delivered or purchased.

(k) The term “*plastic*” shall mean plastic bottles with a neck smaller than the body and plastic jars, tubs, and buckets.

(l) The term “*yard waste*” shall mean any material which occurs naturally and is grown on residential, commercial or industrial property or is included in the landscaping of such property.

(m) The term “*commercial wood waste*” shall mean natural wood or wood bi-products including, but not limited to, pallets, stumps, and shavings, which are not treated with chemicals, paint or other contaminants.

(n) The term “*toter*” shall be the same definition as “*cart*” as the two terms are used interchangeably within this agreement.

12. Recycle Carts, Containers/Cages and Toters.

For residential, single dwelling(s), duplex(s), triplex(s) and four-plex(s), the Contractor shall provide solid-waste receptacles and recycling carts of the same type as specified in the Pierce County Recycling Ordinance and 11(a) above. For larger multi-family complexes and commercial establishments, the Contractor shall provide container/cage(s) and/or toter(s) for collection of recyclable materials guided by space availability and volume of materials generated. The Contractor shall also provide ninety-five (95) or ninety-six (96) gallon, covered toter(s) on wheels for yard waste collection. The recycling carts, container/cage(s) and toter(s) shall be provided, maintained and/or replaced by the Contractor at the Contractor’s expense and shall remain the property of the Contractor.

a) For any account requesting recycling and/or yard waste service(s), the Contractor shall provide a ninety-five (95) or ninety-six (96) gallon recycling and/or yard waste toter. All recycling carts/toters remain the property of the Contractor.

b) All recycling materials and yard waste must be free of contaminants. If any recyclables contain contaminants, such as garbage, the Contractor shall not pick it up. In the event that some recyclables are not collected, the Contractor shall notify the property resident of the reason so that the problem can be corrected.

c) Upon mutual agreement, on terms, conditions and rates satisfactory to the parties, the City and the Contractor may include additional items for recycling under this Agreement.

13. Preparation of Recyclables

All recycling material and yard waste must be tendered for collection free of contaminants. If any recyclables contain contaminants, such as solid waste, the Contractor shall not pick it up. In the event that some recyclables are not collectible, the Contractor shall give the property resident notice in writing of the reason so that the problem can be corrected. The following categories of recyclables shall be readied by the customers as follows:

- (a) Aluminum and Metal Containers – All containers should be rinsed out and if possible flattened.
- (b) Cardboard – All cardboard must be flattened and placed inside the cart.
- (c) Mixed Paper and Newspaper – Material shall be placed in cart loose (not in plastic bags) and be clean, dry and free of food, plastic wrap and other contamination.
- (d) Plastic – Plastic Containers must have lids removed and must be rinsed out.
- (e) Yard Waste – Yard waste must be placed into the ninety-five (95) or ninety-six (96) gallon toter furnished by the Contractor. Branches shall be no larger than four (4) inches in diameter and shall not exceed the length of three (3) feet. In addition, branches must fit in the yard waste toter with the lid closed. Christmas trees that are not flocked and cut into appropriate length are acceptable. Customers who are signed up for the yard waste program and who wish to put out more yard waste than the toter can hold, may set out additional material in Kraft or other approved compostable bags.

14. Collection Related Services

- a) The Contractor becomes the owner of the recyclable materials, including yard waste following collection and can market them in any manner the Contractor deems to be economically feasible. Recyclable materials, which are collected by the Contractor shall not be disposed of in a landfill unless the Contractor has considered other alternatives and, after good faith efforts to locate a market, has determined that such disposal is the most economical way to handle them.
- b) All recyclables collected within the City by the Contractor shall be properly disposed of or marketed by the Contractor in accordance with the laws and regulations of the State of Washington and Pierce County governing such recycling.
- c) Weight Restrictions. The Contractor is responsible for collection of all containers which do not exceed the weight limits, described below:

10-gallon Cart	15 lbs
20-gallon Cart	30 lbs
32-gallon Cart	45 lbs
64-gallon Cart	90 lbs

95-gallon Cart

135 lbs

If a container exceeds these weight limits, the Contractor may refuse service and will tag the overweight container. The Contractor will work with the customer to provide alternatives so that service will not be disrupted in the future.

d) Contractor Planning Assistance. The Contractor shall, upon request and without additional cost, make available either to the City or the property owner, planning assistance on new construction or major remodeling of buildings and structures within city limits with respect to the design and planning of garbage and recycling removal facilities and their location upon the site of the proposed construction or remodeling project.

15. Breach of Contract

a) If the Contractor shall abandon or breach this Agreement or fail to fully and promptly comply with any or all of its obligations or shall fail to give reasons satisfactory to the City for noncompliance, the City may then declare the Contractor to be in default of the Agreement and notify the Contractor to discontinue any further service hereunder, a copy of said notice to be sent to the Contractor. But when the breach of this Agreement is not of a magnitude to endanger the public health, safety or welfare, the City shall first give the Contractor thirty (30) days' written notice to cure the breach or the failure to comply.

b) Notwithstanding the provision of this section, a delay or interruption in the performance of all or any part of the Agreement, including labor disputes or strikes, resulting from causes beyond the Contractor's control shall not be deemed to be a default of the contract and the rights and remedies of the City provided for herein shall be inapplicable; Provided that the Contractor shall promptly arrange for emergency collections when requested by the City as required by Paragraph 25(e) to the extent necessary to remediate missed collection dates.

16. Hold Harmless

The Contractor shall indemnify/defend and save the City and its officers, agents, servants, and employees harmless from and against any and all loss, damage, action, claims, suits, judgments and liability in connection with loss of life, personal injury and/or to property arising from or out of any negligence or intentional act of or by the Contractor under this Agreement. The City shall indemnify/defend and save the Contractor and its officers, agents, servants and employees harmless from and against any and all loss, damage, action, claims, suits, judgments, and liability in connection with loss of life, personal injury and/or to property arising from or out of any negligence or intentional act of or by the City under this Agreement. The Contractor shall also pay all costs, expenses and reasonable attorney's fees that may be incurred or paid by the City in enforcing any and all terms and covenants of this Agreement.

17. Damage to property

a) If any property is damaged as a result of the Contractor's negligence or intentional act, the Contractor shall repair or replace the same after being notified of the damage. Subject to the foregoing, the City warrants that the City's pavement, curbing or other driving surface or any right of way reasonably necessary for Contractor to provide the services described herein are

sufficient to bear the weight of all of Contractor's equipment and vehicles reasonably required to perform such services. Contractor will not be responsible for damage to any such pavement, curbing, driving surface or right of way, which results from the weight of Contractor's vehicles providing service in the City.

b) The City shall not be liable to the Contractor for any loss or damage other than any loss or damage occurring as a result of the negligence or intentional act of the City, its employees and/or agents.

18. Liability Insurance

a) The Contractor shall be responsible for paying any and all State Industrial insurance on persons collecting solid waste, recyclables and yard waste on its behalf.

b) The Contractor shall provide and maintain in full force and effect during the term of this Agreement, a policy of public liability and automobile liability insurance, naming the City as an additional insured, providing for limits of not less than \$2,000,000 for all damages arising out of bodily injuries or death of one person, and subject to the limit of not less than \$2,000,000 for all damages arising out of bodily injuries or death of two or more persons in any one incident; and regular property damage liability providing for a limit of not less than \$1,000,000 arising out of injury to or destruction of property in any once incident.

c) The Contractor shall furnish the City a current Certificate of Insurance setting forth said insurance policy to be in full force and effect. The Contractor shall give the City thirty (30) days advance written notice of cancellation or lapse of such policy.

19. Performance Bond

No Performance Bond shall be required of the Contractor.

20. Compliance with Laws

The Contractor agrees and covenants to comply with all provisions of Federal, State, County and City laws and ordinances affecting, directly or indirectly, the subject matter of this Agreement.

21. Business Licenses

The Contractor shall obtain, at its own expense, all permits and licenses required by the City or any other governmental authority and maintain the same in full force and effect during the terms of this Agreement.

22. The Contractor's Office

The Contractor shall be required to maintain an office provided with telephones and such attendants as may be necessary to take care of requests, orders for special service or instruction from the City. This office shall be in operation between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays or as otherwise directed by the City in writing.

23. The Contractor's Employees

a) The Contractor shall require all employees to be courteous at all times, not to use loud or profane language, and to do their work as quietly as possible. Specific questions as to rates or changes in existing service should be referred to the Contractor's office and not handled by any collection employee. Charges for additional services shall be billed and payment for these services shall not be accepted by Contractor employees.

b) While collecting solid waste, recycling and yard waste, Contractor's employees shall follow the regular walks for pedestrians while on private property, returning to the street after replacing the empty cans, recycling and yard waste containers. They shall also replace all receptacles and covers and close all gates opened by them.

c) Employees shall not trespass, loiter or cross property to adjoining premises.

d) All employees shall be competent and skilled in the performance of the work to which they may be assigned. Failure or delay in the performance of this Agreement due to the Contractor's inability to obtain employees of the number and skill, required shall constitute a default in the Agreement unless the reason for the delay is a labor dispute.

24. Service to New Customers

The Contractor shall provide service to new customers within seven business days after a receipt of a request for service. In the case of container size, if the Contractor is unable to provide the size of container ordered by the customer within one week, then the Contractor may temporarily provide the customer with any size container; provided, however, the service provided to the customer and the rate charged shall be equivalent to the service and rate for the container ordered.

25. Collection

a) Pick-up. The Contractor shall make collections of solid waste one time per week per customer. Residential pickup shall be made Monday through Friday after 7 a.m. to 6:30 p.m., on a regularly scheduled day of the week, unless otherwise approved by the City in writing. Collection shall not be made in alleys, unless the Contractor is directed in writing by the City for a specific location and the Contractor deems there is safe and adequate access for its regular collection vehicles. Commercial establishments may be serviced more than once per week when requested. Billing will be based on the number of pickups. A fee (as described in Exhibit "A") will be assessed if the Contractor must either connect or reconnect any cable/wires from a compactor being serviced.

b) Recycling. The contractor shall provide curbside collection of recycling material on a biweekly schedule year round on the same day as regular garbage collection service. Collection will be provided to all single and multi-family residences. Collection shall not be made in alleys, unless the Contractor is directed in writing by the City for a specific location and the Contractor deems there is safe and adequate access for its regular collection vehicles.

c) Yard Waste Material. The contractor shall provide curbside collection of yard waste material on a biweekly schedule year round on the same day as regular garbage collection service. Collection will be provided to all single family residences and multi-family residences in the City limits who have signed up for the yard waste service through the city and have received carts. Collection shall not be made in alleys, unless the Contractor is directed in writing by the City for a specific location and the Contractor deems there is safe and adequate access for its regular collection vehicles.

d) Holidays. The Contractor shall observe Thanksgiving Day, Christmas Day and New Year's Day as the only holidays in each year of this Agreement. In addition, the contractor may have holidays on days that the transfer station is closed. Service that normally would have been provided on these days will be provided on the first business day following each respective holiday with resulting delay of one day for the balance of the calendar week.

e) Emergency Collections. Adequate provisions shall be made by the Contractor to provide special collections when solid waste or recyclables have not been collected during the regularly scheduled trip as a result of the Contractor's failure to collect at required times. Special pickups for such missed collections shall be coordinated between the City and Contractor at no additional cost to the City or to the resident.

26. Hauling and Disposal

Care shall be taken in the loading and transportation of solid waste, recycling and yard waste so that any leaking or spilling is prevented. The Contractor shall immediately clean up any spills upon notice from the City. The Contractor shall be responsible for disposing of all solid waste collected to an authorized disposal site or transfer station and shall pay any and all disposal fees involved. The Contractor shall abide by all applicable rules and regulations that govern the authorized solid waste disposal facility.

27. Equipment

a) The Contractor shall furnish all vehicles which shall be specifically designed for collection and hauling of solid waste, recycling and yard waste. Each vehicle shall have a tight metal body design so as to prevent the scattering of solid waste when driven over the streets and highways.

b) The Contractor shall furnish solid waste collection containers for one yard or larger containers as requested by the customer.

c) The Contractor shall furnish recycling carts and yard waste toter(s) to all accounts requesting recycling services.

28. Maintenance

- a) Collection vehicles shall be kept in good repair, appearance and sanitary condition at all times. Each vehicle shall have the Contractor's name and phone number and an identifying number clearly visible on the truck. No advertising shall be permitted other than the name and phone number of the Contractor. The Contractor shall not use a firm name containing the words "Buckley", "City" or any other words implying municipal ownership.
- b) Any equipment found not to comply with the above standards shall be taken out of service and brought to standards before being placed back into service for the City.

29. Mandatory Participation by Citizens/City's Obligation to Enforce

- a) The City shall maintain in full force and effect an ordinance requiring all residential, multi-family, commercial, government and institutional entities and establishments within the City to utilize the solid waste collection service. The City has provided for exemptions to solid waste service under specific limited circumstances. These circumstances are stated and each request for an exemption must be approved by the City. If an exemption to mandatory solid waste service is approved, the Customer must dispose of all solid waste in an appropriate manner.
- b) The contractor shall offer commercial recycling within the City to commercial customers. The collection of commercial recycling is not regulated by the City. The contractor shall mandatorily offer commercial recycling within the City and incorporates by reference WAC 480-70-030 (13 & 14).
- c) Commercial businesses handling fresh/frozen foods and/or produce shall have a minimum of weekly solid waste service.

30. Reporting Records and Service Complaints

- a) Reporting. The Contractor shall furnish to the city quarterly reports within thirty (30) days of the end of each quarter showing the number of tons of solid waste transported by the Contractor to the disposal site during the previous three (3) months. Separate records reflecting the tonnage of recyclable materials and yard waste transported to recyclable and yard waste processors shall be reported to the City monthly upon request.
- b) Complaint Records. A weekly log of complaints on service shall be maintained by the Contractor, and a copy of the complaint log for complaints of the previous quarter shall be submitted to the City along with the required quarterly reports.
- c) Disposal Receipts. The Contractor shall keep records of solid waste collected and charges therefore. Copies of dump receipts, recyclable receipts and yard waste receipts shall be maintained by the Contractor and provided to the City upon request. The original receipts shall remain in the contractor's office as part of its records for five (5) years after the termination of any Agreement between the city and the Contractor.

d) Schedules and Routes. Contractor shall, at all times, maintain current documentation of schedules and routes for the areas served pursuant to this Agreement, and shall make available for city review current copies of such schedules and routes, along with a map that details the routes of service.

f) City Access to Contractor Records. The Contractor agrees and covenants to comply with all provisions of Federal, State, County and City laws and ordinances affecting, directly or indirectly, the subject matter of this Agreement. The Contractor agrees to maintain records with respect to hauling routes, tonnage recycled or disposed of, and related documentation and any books, documents, papers and records that are directly pertinent to performance of work under this Agreement. The Contractor shall allow the City or any of its duly authorized representative's access to all such records during the term of the Agreement and for three years thereafter for inspection and copying.

31. Severability

Should any term, provision, condition or other portion of this Agreement or its application be held to be inoperative, invalid or unenforceable, and the remainder of this Agreement still fulfills its purposes, the balance of this Agreement or its application or other circumstances shall not be affected thereby and shall continue in full force and effect.

32. Notices

Any Notice required or permitted to be given under this Agreement shall be deemed sufficient if given in writing and deposited into any post office as first-class, postage prepaid, certified mail, return receipt requested, and addressed to D.M. Disposal Company, Inc., to the attention of Division Vice President at PO Box 532, Puyallup, Washington, 98371, and to the City to the attention of the City Administrator, Buckley City Hall, PO Box 1960, 933 Main Street, Buckley, WA 98321. Either party shall give written notice of change of address.

33. Entirety

This Agreement and exhibits attached hereto and incorporated herein by this reference represent the entire Agreement between the City and the Contractor. Any prior written or oral statement or proposal or representation, not incorporated herein, shall be excluded, and shall not alter any term or provision of this Agreement. This Agreement may be modified or amended only in writing by any authorized representatives of the Contractor and the City.

34. Alternative Dispute Resolution

Any dispute, controversy or claim arising out of or relating to this agreement, including any question regarding breach, termination or invalidity thereof, shall be resolved by arbitration in Tacoma or Seattle, Washington in accordance with the American Arbitration Association, or Judicial Dispute Resolution rules which are deemed to be incorporated by reference into this clause. The maximum number of arbitrators shall be one in any claim, suit, action or other proceeding relating in any way to this agreement or any claims arising out of this agreement, except as otherwise ordered or agreed by the parties. All arbitration fees shall be borne equally by the parties and the parties shall pay their own attorney's fees and costs.

35. Applicable Law and Jurisdiction

This Agreement shall be governed by the laws of the State of Washington. Although the agreed to and designated primary dispute resolution method is arbitration as set forth above, in the event any claim, dispute or action arising from or relating to this agreement cannot be submitted to arbitration, then it shall be commenced exclusively in the Pierce County Superior Court or the United States District Court, Western District of Washington as appropriate. The prevailing party in any such action before the courts shall be entitled to recover its costs of suit and reasonable attorneys' fees.

36. Assignment and Control

- a) Contractor shall not assign or subcontract any of the work or delegate any of its duties under this Agreement without the prior written approval of the City.
- b) When requested, approval by the City of a subcontract or assignment of this Agreement or a part thereof shall not be unreasonably withheld.
- c) In the event of an assignment, subcontracting or delegation of duties, the Contractor shall remain responsible for the full and faithful performance of this Agreement and the assignee, subcontractor, other obligor shall also become responsible to the City for the satisfactory performance of the work assumed. The City may condition approval upon the delivery by the assignee, subcontractor or other obligor of its covenant to the City to complete fully and faithfully the work or responsibility undertaken or other security acceptable to the City.

DATED this 26th day of October, 2016.

D.M. DISPOSAL COMPANY, INC.



By: Dan Schooler
Division Vice President

CITY OF BUCKLEY, WASHINGTON



By: Mayor Pat Johnson

ATTEST:



By: Joanne Starr, City Clerk

Approved as to form:



Phil Olbrechts, City Attorney

Exhibit "A" Rates

Exhibit A

Effective 3/1/16

Type of Service:

Can Service:	Rate
Micro Can	12.71 per month
Mini Can	16.53 per month
One can curb collection	19.13 per month
Two cans curb collection	27.10 per month
Three cans curb collection	34.87 per month
Four cans curb collection	44.69 per month
One can oversize can curb collection	24.13 per month
Two can oversize can curb collection	38.59 per month
Each additional can curb collection	12.63 per month
One can 50' maximum walk-in	23.07 per month
Two cans 50' maximum walk-in	33.35 per month
Each additional 50' max walk-in	15.27 per unit
Occasional extra	3.66 per unit
Container Service:	
1 yard once a week	85.67 per month
1 yard twice a week	183.45 per month
1-1/2 yard once a week	118.81 per month
1-1/2 yard twice a week	237.63 per month
2 yard once a week	158.94 per month
2 yard twice a week	308.20 per month
2 yard three times a week	457.46 per month
4 yard once a week	316.12 per month
4 yard twice a week	682.05 per month
4 yard three times a week	1,023.07 per month
6 yard once a week	484.12 per month
6 yard twice a week	968.25 per month
6 yard three times a week	1,452.37 per month
4 yard compactor, customer owned	1,352.46 per pickup
1 yard extra pickup on regular route	24.22 per pickup
1-1/2 yard extra pickup on regular route	31.49 per pickup
2 yard extra pickup on regular route	38.30 per pickup
4 yard extra pickup on regular route	75.58 per pickup
6 yard extra pickup on regular route	108.69 per pickup
Special Services:	
Special pickups (minimum 1 hr) plus dump fee of \$145.84 per ton	73.34 per hour
Bulk Pickup (minimum 1 yard)	23.74 per pickup
Connect/Reconnect fee on customer owned compactor per pickup	12.10 per pickup
Yard Waste 90-gal toter	6.34 per unit
Re-delivery fee - toter	16.28 per unit
Multi-Family Recycling:	
90-gallon cart	9.49 per month
2 yard once a week	42.10 per month