

## **AGREEMENT FOR RESIDENTIAL RECYCLABLES AND ORGANICS COLLECTION AND PROCESSING SERVICES**

This AGREEMENT FOR RESIDENTIAL RECYCLABLES AND ORGANICS COLLECTION AND PROCESSING SERVICES (“Agreement”) is made this 12<sup>th</sup> day of May, 2021 (“Effective Date”), by and between WASTE MANAGEMENT OF WASHINGTON, INC., a Delaware corporation (“WM”) and the CITY OF MOUNT VERNON, a municipal corporation created under the laws of the State of Washington (“City”). The parties shall be collectively referred to herein as the “Parties” and individually as a “Party,” unless specifically identified otherwise.

### **RECITALS**

**WHEREAS** in addition to the collection of garbage performed by the City, the City desires to provide its residents with environmentally sound recyclable materials and organics collection and processing services; and

**WHEREAS** chapter 8.12 Mount Vernon Municipal Code (“MVMC”) encourages recycling and provides that, unless exempted, all residential customers, as defined in MVMC 8.12.020, shall be charged for residential recyclable materials processing and collection services, whether the residential customers choose to utilize such collection services or not; and

**WHEREAS** chapter 8.12 MVMC further provides residential customers with several options for the collection of organic materials, including optional residential curbside collection and processing; and

**WHEREAS** residential curbside collection and processing of recyclable materials is a mandatory service that the City provides for residential customers; and

**WHEREAS** residential curbside collection and processing of organic materials is not a mandatory service that the City provides for residential customers; and

**WHEREAS** WM currently contracts with the City to provide curbside recyclable and organics collection services to residential customers and has extensive experience in processing services for both recyclable and organic materials; and

**WHEREAS** contracting for curbside recycling services for Residential Customers provides a material benefit to the City in that the service helps separate Recyclable Materials from the waste stream and avoids having to charge Residential Customers the cost of landfilling such materials; and

**WHEREAS** the City has determined that it is in the best interests of all residential customers for the City to contract with WM to (1) provide mandatory residential curbside collection and processing of recyclable materials and (2) provide an optional residential curbside collection service for organic materials for residential customers, including providing the related billing and customer services.

### **TERMS AND CONDITIONS**

**NOW THEREFORE**, for and in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the City and WM agree as follows:

## 1. DEFINITIONS.

For the purposes of this Agreement the following terms shall have the following meanings:

1.1. “**Agreement Administrator**” means the City Finance Director or other person designated by the Mayor.

1.2. “**Applicable Law**” means any law, regulation, requirement, or order of any Federal, State or local agency, court or other domestic governmental body, or interpretation thereof by any court or administrative agency of competent jurisdiction, and the requirement for all applicable permits, licenses, and governmental approvals necessary for performance under this Agreement.

1.3. “**Carry-Out Service**” means the servicing of Carts by WM which are not placed Curbside by Residential Customers for collection, but where WM is required to enter onto Residential Customers’ Premises and roll-out or carry-out Cart(s) to WM’s collection vehicle. Residential Customers may request Carry-Out Service for an additional fee, charged pursuant to the Rate Schedule set forth in Exhibit A, and such fee is calculated based upon the distance from WM’s collection vehicle to the Cart(s). Information regarding free-of charge Carry-Out Service for elderly and/or physically challenged persons is set forth in Section 8.1(g).

1.4. “**Cart**” means a WM-provided watertight, heavy plastic receptacle with a rated capacity of thirty-two (32), sixty-four (64) or ninety-six (96) gallons, having a hinged tight-fitting lid and 2 wheels.

1.5. “**Collection Services**” means the process by which Recyclable Materials and Organics are removed from Residential Premises in the Service Area by WM, and transported to a transfer, disposal or Processing facility, for subsequent recycling, disposal, or other form of Processing.

1.6. “**Commencement Date**” means June 1, 2021.

1.7. “**Curb or Curbside**” means the area within five (5) feet of a Public Street where Collection Services from Residential Premises occur. If safe access is difficult or if extraordinary circumstances preclude collection from a particular Premises, Curbside shall be considered a placement suitable for Residential Customers, convenient for WM’s equipment, and mutually agreed to between the Agreement Administrator and WM.

1.8. “**Dwelling Unit**” means a building or portion thereof, or other living space, such as mobile home, other than an RV that contains a kitchen, is designed to be used by one (1) person or family, and is located in the Service Area.

1.9. “**Excluded Materials**” means any waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous, regulated medical or Hazardous Waste, toxic substance or material, as defined by, characterized, or listed under Applicable Law, any materials containing information protected by Applicable Law (unless tendered to WM pursuant to a separate agreement), or any material the acceptance or handling of which would violate Applicable Law, damage WM’s equipment or facilities, or present a substantial endangerment to the health or safety of the public, or WM’s employees. Title to and liability for Excluded Materials shall remain with the generator at all times.

1.10. “**Extra Unit**” means a cardboard box or can containing excess recycling, and/or a Kraft paper bag or can containing excess yard waste, that does not fit inside a

customer's Cart. Any Extra Unit(s) are to be set out for collection in 32-gallon increments. WM shall charge customers for any Extra Units it collects, pursuant to the Rates.

1.11. "**Food Waste**" means animal, fruit or vegetable matter resulting from food preparation or consumption.

1.12. "**Green Waste**" means any vegetative matter resulting from usual yard and landscaping maintenance that is not more than three (3') feet in its longest dimension or four (4") inches in diameter and fits in an Organic Materials Cart utilized by Residential Customers, including, but not limited to, plant debris such as, grass clippings, leaves, prunings, weeds, branches, brush, Christmas trees, and other forms of vegetative waste.

1.13. "**Hazardous Waste**" means any/all wastes that are defined as hazardous wastes under Applicable Law, including the federal *Resource Conservation & Recovery Act, 42 U.S.C. §§ 6901 et seq.*, and comparable state law.

1.14. "**Labor Dispute**" means any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee that has the potential to cause a disruption to the performance of the Collection Services.

1.15. "**Labor Disruption**" means a disruption to the Collection Services due to a Labor Dispute.

1.16. "**Multifamily Premises**" means a lot located in the Service Area having (1) between two (2) and five (5) Dwelling Units, or (2) more than one (1) Single-Family Premises, including, for example, a trailer park, irrespective of whether residence therein is transient, temporary or permanent. Each Dwelling Unit on a Multifamily Premises will be charged as a Single-Family Premises.

1.17. "**Organic Materials**" means Green Waste, Food Waste, compostable paper and other material agreed upon by both Parties. Organic Materials collected pursuant to this Agreement, by way of a subscription elected by Residential Customers, must be generated at Residential Premises. Organic Materials does not include any Excluded Materials.

1.18. "**Overage**" means (i) Recyclable Materials and Organic Materials exceeding the intended capacity of their respective Carts, such that the Cart's lid is lifted by at least six inches (6") (or would be lifted by at least six inches (6") if there was a lid), or (ii) any Recyclable Materials or Organic Materials placed on top of or in the immediate vicinity of a Cart.

1.19. "**Process**", "**Processed**" or "**Processing**" means an operation or series of operations, whether involving equipment, manual labor, and/or mechanical or biological processes, that sorts, enhances, upgrades, concentrates, decontaminates, packages, or otherwise prepares Recyclable Materials and Organic Materials, and returns marketable elements thereof to the economic mainstream in the form of raw material for new, reused or reconstituted products. Processing begins at the time Recyclable Materials and Organic Materials are delivered to the Processing facility and ends when the finished Processed materials are sold or reused, and the residue is properly disposed.

1.20. "**Public Street**" means a public right of way used for public travel,

including public alleys, in the Service Area.

1.21. “**Rates**” means the fees to be charged by WM to Residential Customers, and paid by Residential Customers to WM, for the Collection Services and other services provided by WM and included in the Rate Schedule set forth at Exhibit A, attached hereto, as may be adjusted from time to time pursuant to the terms of this Agreement.

1.22. “**Recyclable Materials**” means the materials specified as such in Exhibit B of this Agreement, as attached hereto.

1.23. “**Residential Customer**” means the owner and/or tenant designated to receive billing statements by the property owner of (1) a Residential Premises, or (2) a single unit in a condominium having five (5) or fewer Dwelling Units.

1.24. “**Residential Premises**” means Single-Family Premises and Multifamily Premises.

1.25. “**Service Area**” means: (1) the entire territory included within the City limits as of the Effective Date; and (2) any such additional area(s) as may thereafter become included within the City limits, from time to time, due to annexation, incorporation or other means, but only from and after such time that WM is able to provide Collection Services in such additional area and except to the extent that providing the Collection Services may be otherwise prohibited by Applicable Law.

1.26. “**Single-Family Premises**” means a lot located in the Service Area that has only one (1) Dwelling Unit on such lot, irrespective of whether the Dwelling Unit is transient, temporary, or permanent.

## **2. TERM.**

The initial term of this Agreement shall be seven (7) years, commencing on the Commencement Date, and unless sooner terminated in accordance with the provisions of this Agreement, expiring on the same day seven (7) years later. Prior to the expiration of the initial term, the Parties may, by mutual consent, agree to extend the term of this Agreement for two (2) additional periods of two (2) years each, upon their written agreement, given at least eighteen (18) months prior to the expiration of the then-existing term. The previous contract between the City and WM, under which WM provides Recyclable Materials collection services, is hereby terminated as of 11:59 p.m. on the day before the Commencement Date.

## **3. EXCLUSIVE RIGHT; EXCEPTIONS; ENFORCEMENT.**

3.1. Grant of Exclusive Right. The City does hereby grant to WM and WM shall have the exclusive duty, right and privilege to perform the Collection Services, including (1) collection and disposal or Processing of all Recyclable Materials that are generated, deposited, accumulated or otherwise coming to exist at Residential Premises in the Service Area, and (2) when requested by a Residential Customer, the curbside collection and Processing of Organic Materials that are generated, deposited, accumulated or otherwise coming to exist at Residential Premises in the Service Area. Subject to Section 3.3 below, all Residential Customers within the Service Area shall be required by the City to utilize the Collection Services for Recyclable Materials, as provided herein.

3.2. Accounts. Residential Customers shall establish separate accounts for each Single-Family Premises and each Multifamily Premises receiving Collection Services. Two (2) or more Single-Family Premises shall not be permitted to share Collection Services under a single account; however, Residential Customers may elect to receive

one bill for multiple premises when applicable.

3.3. Exceptions. The categories of materials and/or services listed below are examples of materials and/or services that may be provided to Residential Customers by others, provided that nothing in this Agreement is intended to or shall be construed to excuse any person from obtaining any authorization from the City which is otherwise required by Applicable Law:

(a) Green Waste removed from Residential Premises by a gardening, landscaping or tree trimming company using its own equipment and employees as an incidental part of a total service offered by the company, as opposed to a hauling service.

(b) Recyclable Materials removed or deposited for payment (i.e., receipt of a net payment) to any person lawfully engaged in the recycling business in the Service Area or donated to any bona fide charity, provided that all such Recyclable Materials are source-separated by the generator.

3.4. City Assistance. The City shall use good faith efforts to protect and enforce WM's exclusive rights hereunder through the passing of appropriate ordinances and reasonable enforcement of such ordinances against third party violators. WM may independently enforce the exclusivity provision against third party violators, including but not limited to seeking injunctive relief, and the City shall use good faith efforts to cooperate in any such enforcement actions brought by WM (without obligating the City to join any such action). Such efforts may include, but not be limited to, cease and desist letters, assistance with documenting violations and other activities as City staff time allows.

#### **4. OWNERSHIP OF MATERIALS.**

Title to and responsibility for Recyclable Materials and Organic Materials shall transfer from Residential Customer to WM when collected by WM from a Cart or other approved container that is placed at the collection location or are otherwise set out for collection in an approved manner.

#### **5. CONFIDENTIALITY OF INFORMATION.**

5.1. WM acknowledges that the City is subject to laws regarding the disclosure of public records, as defined under the Washington State Public Records Act (PRA), chapter 42.56 RCW. WM also acknowledges that recent case law has held that records held and maintained by independent contractors, which relates to work performed under contract for a public agency, may be public records subject to disclosure under the PRA unless the documents are exempt from public disclosure by a specific provision of law. Therefore, the application of the PRA may extend to certain records maintained by WM, which are related to this Contract.

5.2. If the City receives a request for the inspection or copying of responsive records that may be held by WM, the City shall promptly notify WM in writing of the request. Whenever possible consistent with the PRA, the City will give WM at least ten (10) business days after such notification within which obtain a court order holding that the requested records are not public records or prohibiting the release of the requested records. If WM fails to seek a court order affecting the disclosure of the requested records or if the requested order is denied, WM shall conduct a reasonable search for responsive

records and produce any responsive records to the City within a reasonable time, usually 30 days unless otherwise agreed between the Parties.

5.3. If it is necessary, during the course of this Agreement, for WM to provide the City with proprietary information, WM shall use its best efforts to clearly mark the proprietary information on each page of the document(s) as "Proprietary and Confidential." In the event the City receives a PRA request that applies to records WM has marked as "Proprietary and Confidential" or to records which may reasonably be considered to be proprietary or confidential even if not so marked, the City will promptly notify WM if the information is not exempt from disclosure. WM may then request withholding disclosure of such records by seeking an injunction in the Skagit County Superior Court prohibiting the City from disclosing the record as provided under the PRA or through other judicial relief as allowed under law. The City agrees to give WM at least ten (10) business days after such notification before disclosure of such documents within which to obtain a court order prohibiting the release of the documents.

5.4. Nothing herein is intended (nor shall be construed) to prohibit the City from complying with chapter 42.56 RCW, Applicable Law, or court order requiring the release of public records.

5.5. The City assumes no contractual obligation to use any exemption under the PRA.

5.6. The Parties understand that a material breach of this section is cause for default and termination under Section 10 Default and Termination, subject to any applicable notice and cure obligations.

## **6. ASSIGNMENT AND SUBCONTRACTING.**

No portion of this Agreement may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the City. Notwithstanding the foregoing, WM may assign this Agreement to a subsidiary or corporate affiliate of WM without the prior consent of the City, and this Agreement shall be binding upon the Parties and their respective successors and assigns.

## **7. INDEPENDENT CONTRACTOR.**

7.1. Independent Contractor. The Collection Services and any other services set forth in this Agreement shall be furnished by WM as an independent contractor and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by WM as an independent contractor.

7.2. Acknowledgement re: Compensation. WM acknowledges that the entire compensation for this Agreement is set forth in Section 7 below and that WM and its employees are not entitled to any City benefits including, but not limited to: vacation, holiday, or sick leave pay; medical, dental, or other insurance benefits; or any other rights or privileges afforded to City employees.

7.3. Agreement to Defend. WM agrees to defend, indemnify and hold harmless the City, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, setoffs, reasonable attorneys' fees or costs incurred by reason of claims of demands because of breach of the provisions of this Section.

7.4. Early Retirement Factors Employees. RCW 41.40.630(3)(b) provides that persons under the age of 65 who retired under Washington's State Retirement System using the Early Retirement Factors are ineligible to perform work required under a contract with any municipality. WM agrees to remove any covered employees from work on this contract.

## **8. SCOPE OF WORK – RESIDENTIAL AND CITY SERVICES.**

### **8.1. Residential Premises Collection Services.**

(a) Carts. WM shall provide each Residential Customer with one (1) 96, 64, or 32-gallon cart (at the option of the Residential Customer) for each Dwelling Unit designated for the collection of Recyclable Materials, and, when requested by a Residential Customer, one (1) 96 gallon Cart designated for the collection of Organic Materials, at the rates set forth in Exhibit A, attached hereto. Additional Carts shall be available to Residential Customers pursuant to the Rate Schedule set forth in Exhibit A, attached hereto. WM may utilize Carts that were distributed to Residential Customers in connection with the prior agreement between the Parties to satisfy its obligations under this Agreement. WM shall procure and maintain enough Recyclable Materials and Organic Materials Carts to service the Service Area. Carts shall be provided to requesting Residential Customers within seven (7) days of their initial request. WM shall maintain all Carts in good condition, to allow storage, handling, and collection of materials. Carts shall contain no jagged edges or holes; be equipped with functional wheels or rollers to enable movement; and shall be labeled with instructions for proper use. All Recyclable Materials Carts will be blue, or grey with a blue lid.

(b) Cart Replacement. WM shall repair or replace (as determined by WM) at no charge to the City or Residential Customers any Cart that becomes damaged or destroyed during the process of emptying the contents into a WM collection vehicle, or that becomes unusable due to ordinary wear and tear. However, if a Cart in the possession of Residential Customers is lost, stolen, damaged (including graffiti), or destroyed through no fault of WM, the Residential Customers may be responsible for compensating WM the fair market value for the necessary repair or replacement (as determined by WM) of any such Cart. Failure to make Carts available when requested by Residential Customers, or failure to repair or replace Carts, when required, shall subject WM to assessment of performance fees and/or liquidated damages, as set forth in Sections 4.5 and 7.

(c) Private Roads and Drives. In the event WM believes that a private road (or private drive) cannot be safely negotiated or that providing drive-in service is impractical due to distance or unsafe conditions, WM and the City will evaluate on-site conditions and make a determination as to the best approach for providing safe and appropriate service.

(d) Damage Waiver re: Private Roads and Drives. If WM believes that there is a probability of private road or driveway damage, WM shall inform any affected Residential Customers and may require a damage waiver agreement, in a form previously approved by the City. If any Residential Customers refuse to sign the waiver, WM may decline to provide service on the private road or driveway

and the Residential Customer will only be serviced from the closest public road access. The determination that damage is probable must be approved in writing by the City prior to any action or refusal of service by WM. The City's review and approval, or denial, of WM's determination shall be final.

(e) Recyclable Materials Collection Frequency and Schedule. Recyclable Materials shall be collected at least once (1x) every two (2) weeks. All collections shall occur on the same day that the City provides garbage collection services for Residential Premises. All Collection Services shall occur during WM's usual business hours, but in no instance earlier than 6:00 a.m.

(f) Organic Materials Collection Subscription Frequency and Schedule. For Residential Customers who subscribe to this service, Organic Materials shall be collected at least once (1x) each week from March – November and at least once (1x) every two (2) weeks from December – February, on a weekday to be agreed by WM and the City. Collections shall occur during WM's usual business hours, but in no instance earlier than 6:00 a.m.

(g) Collection from Senior Citizens and Physically Challenged Persons. WM shall offer no-charge Carry-Out Service for Recyclable Materials and Organic Materials Carts that are located a reasonable distance from WM's collection vehicle to qualifying Residential Customers where there are elderly people and/or physically challenged persons who lack the ability to place Carts at the Curb and there is no other household member who has the ability to place Carts at the Curb. The City will determine if a Customer qualifies for the no-charge Carry-Out Service.

## 8.2. City Collection Services.

(a) Containers. WM shall provide, at no additional cost to the City, each City Facility and City Park, as set forth at Exhibit C, with one (1) or more containers designated for the collection of Recyclable Materials and one (1) or more containers designated for the collection of Organic Materials, the size(s) of such containers shall be determined by WM and the City, such that all materials are properly contained. WM may utilize containers that were distributed to the City in connection with the prior agreement between the Parties to satisfy its obligations under this Agreement. Such free Collection Services shall not apply to materials which (1) are other than Recyclable Materials or Organic Materials generated at such City Facility through its typical business operations (e.g., construction and demolition waste is not acceptable), (2) are not generated by the City, or (3) are collected by third parties from other locations and delivered to a City Facility for Collection Services.

(b) New Facilities. If the City requests Collection Services for City facilities that are not included in the list of City Facilities set forth at Exhibit C, attached hereto, as at the Effective Date; or if the volume of a category of material generated by a City Facility increases by 10% or more, beyond the volume existing at the Commencement Date, then the Parties shall confer in good faith in order to negotiate an appropriate adjustment to the Rates, as set forth in the Rate Schedule at Exhibit A, attached hereto.

(c) Container Replacement. WM shall repair or replace (as determined by WM) at no charge to the City any container that becomes damaged or destroyed during the process of emptying the contents into a WM collection vehicle, or that becomes unusable due to ordinary wear and tear. However, if a WM-owned container in the possession of the City is lost, stolen, damaged (including graffiti), or destroyed through no fault of WM, the City shall compensate WM the fair market value for the repair or replacement (as determined by WM) of any such container.

(d) Collection Frequency and Schedule. Recyclable Materials and Organic Materials shall be collected from containers at locations, and at frequencies, to be agreed upon by WM and the City. Collection Services shall occur during WM's usual business hours, but in no instance earlier than 6:00 am.

(e) Emergency Services. WM shall use good faith efforts to provide emergency services at the City's request in the event of major accidents, disruptions, or natural calamities. Emergency services may include, but are not limited to, assistance with collecting, Processing, and disposing of Recyclable and Organic Materials following a major accident, disruption, or natural calamity. WM shall use good faith efforts to respond and provide emergency services within 24 hours of notification by the City or as soon thereafter as is reasonably practical in light of the circumstances. WM shall be compensated for providing emergency services, pursuant to the Rate Schedule set forth in Exhibit A, attached hereto. If WM cannot provide the requested emergency services, the City shall have the right to procure such emergency services from a third party.

(f) Annual Community Events. Annually, WM shall provide Recyclable Materials and Organic Materials Collection Services for the following City-sponsored events at no additional charge to the City or to Customers: (1) Father/Daughter Valentine Ball, (2) Fabulous 4<sup>th</sup> of July, and (3) Children's Art Festival. WM will provide up to six (6) 6-yard containers for Recyclable Materials at each of the above-referenced City events.

### 8.3. Standards for Collection Services and Operations.

(a) Legal Compliance. WM will perform the Collection Services in accordance with Applicable Law.

(b) Collection Vehicles. WM shall use 2018 or later model collection vehicles in performing the regular Collection Services pursuant to this Agreement. Reserve vehicles are not subject to this age restriction.

(c) Personnel and Equipment. The Collection Services shall be performed by properly trained and licensed personnel in adequate numbers and with adequate collection vehicles and equipment to complete the Collection Services in a professional, safe and timely manner.

(d) Supervision. WM shall provide competent supervision of its working crews at all times while performing the Collection Services pursuant to this Agreement.

(e) Holiday Schedule. At a minimum, New Year's Day, Thanksgiving Day and Christmas Day shall be designated holidays on which the Collection Services shall not occur. Additional holidays may be designated by the City, as observed by the City's Solid Waste Division (i.e. MLK Day, President's Day, Memorial Day, July 4<sup>th</sup>, Labor Day and Veteran's Day). If a designated holiday falls on a regularly scheduled service day, the Collection Services will be performed on the next weekday.

(f) Changes to the Regular Schedule for Collection Services. Any material change to the regularly scheduled day or time of the Collection Services shall be preceded with at least thirty (30) days written notice of any pending changes, to all affected Customers.

(g) Customer Complaints; Missed Pick-Ups; Customer Service. All Customer complaints and billing inquiries related to the Collection Services shall be directed to WM. WM agrees to maintain a written log of all oral and written Customer complaints received by WM (the "Complaint Log"). WM shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer complaints. WM shall respond to all Customer complaints, other than missed pickups, within twenty-four (24) business hours or receipt of such complaint.

(i) In the event that WM misses a pickup (excluding any missed pickups due to inclement weather or force majeure events), WM shall complete the pickup the next business day if the request is received by 12:00 p.m. on the service day or within 48 hours if the request is received after 12:00 p.m. In the event that a missed pickup is due to any Customer actions (i.e., improper set out, contamination), such Customer may request that WM make a return trip, for which the Customer will incur an additional charge, pursuant to the Rate Schedule set forth at Exhibit A, as attached hereto.

(ii) WM (or a WM affiliate) shall maintain a toll-free telephone system during office hours (Monday-Friday 7:00 a.m. to 7:00 p.m. and Saturdays 9:00 a.m. to 1:00 p.m.), which will have English and Spanish-speaking service representatives available in sufficient numbers to handle the volume of calls typically experienced by WM. Customers must be able to reach WM via such toll-free telephone system during WM's office hours.

(iii) WM shall be responsible for providing all customer service functions including, but not limited to:

- Answering Customer telephone calls and e-mails;
- Informing Customers of current and new services and/or charges;
- Handling new Customer subscriptions and cancellations;
- Receiving and resolving Customer complaints;
- Customer billing; and
- Maintaining and updating regularly, as necessary, a user-friendly internet website for Customers.

(h) Public Education and Outreach. The City shall have primary responsibility for developing, designing and executing general waste reduction/recycling public education and outreach programs, with WM's assistance and cooperation. WM shall have primary responsibility for providing an annual service-update to Customers. Such service-updates shall be made available electronically, as well as printed versions available upon Customer request.

(i) Recycling. WM shall use good faith efforts to Process Recyclable Materials which are collected by WM and shall use good faith efforts to avoid disposing of such materials in a landfill, unless WM has considered alternatives and, after its good faith efforts to locate a market, determines that such disposal is the most economical means of handling such Recyclable Materials or is necessary to avoid damage to its equipment. The disposal of contaminants separated during Processing is acceptable to the extent that it is reasonable and consistent with then-current industry standards.

(j) Inclement Weather. WM shall perform the regular Collection Services unless weather conditions, including snow, ice and/or other inclement weather conditions, are such that continued operations would be dangerous to WM's employees, Customers/area residents, and/or property. When determining if it is safe to perform the Collection Services, WM will evaluate the weather and road conditions within the City of Mount Vernon. If the Collection Services are interrupted due to inclement weather, WM shall provide Collection Services to all affected Customers on the next regularly scheduled collection day or as soon as inclement weather conditions allow. When the Collection Services resume, WM shall collect an amount equivalent to a 96-gallon Cart of accumulated volumes of Recyclable Materials and/or Organic Materials that are set out by Customers for collection, at no extra charge to Customers. When inclement weather conditions preclude performance of the Collection Services, WM shall provide daily notice of any areas experiencing service disruption and WM's anticipated recovery service, as follows:

(i) To the City by telephone, text, or email of any areas not to be served by 8:00 a.m. on the same business day; and

(ii) To all affected Customers via automated telephone calls, texts, or email by 6 p.m. on the same business day.

In addition to the above notice requirements, WM shall provide general information and notices about any specific service disruptions in its program information and on its website, as appropriate.

(k) Contamination. WM is not obligated to collect contaminated Recyclable Materials or contaminated Organic Materials. For purposes of this Agreement, materials are contaminated when, based on visual or digital inspection (i) a Recyclable Materials Cart or container contains non-Recyclable Materials or contains any amount of Excluded Materials, or (ii) an Organic Materials Cart or container contains non-Organic Materials or any amount of Excluded Materials.

(l) Notice of Non-Collection. If WM elects to not collect a contaminated Cart or container, WM shall notify the Customer explaining the reason for any such instance of non-collection. WM may provide notice by Cart tag, email or other means of communication.

(m) Contamination Service Charge. If WM elects to collect a contaminated Cart or container, WM may charge the Customer a contamination service charge, pursuant to the Rate Schedule set forth in Exhibit A, attached hereto. Any such contamination service charge may be included on a Customer's regular invoice or may be billed separately. WM may dispose of the contents of any contaminated Cart or container that WM elects to collect, at WM's sole discretion.

(n) Discontinuation of Collection Service.

(i) The City and WM acknowledge that, in rare cases, some Residential Customers may cause disruptions or conflicts that make continued service to that customer unreasonable. Those disruptions or conflicts may include, but not be limited to, repeated damage to WM-provided containers, repeated suspect claims of timely set-out followed by demands for return collection at no charge, repeated unsubstantiated claims of WM damage to a property, repeated contamination of Recyclables or Organics, or other such problems.

(ii) WM shall make every reasonable effort to provide service to problem customers. However, WM may deny or discontinue service to a customer after prior written notice is given to the customer, via first class U.S. Mail to the customer's address, and to the City of the intent to deny or discontinue service, including the name, service address, reason for such action, and describing how reasonable efforts to accommodate the customer and provide services have occurred and failed. If the customer submits a written request that the City review or appeal WM's decision, the City may, at its discretion, intervene in the dispute. In this event, the decision of the City shall be final. The City may also require the denial or discontinuance of service to any customer who is causing disruptions or conflicts or is determined to be ineligible for Collection Services.

(iii) Customers may petition WM for reinstatement of service after service has been suspended for sixty days.

(iv) WM shall retain customers with discontinued service at the lowest service level for that class of customer for billing purposes, unless otherwise instructed in writing by the City.

(v) Charges Waived. The suspension of Collection Services for Organic Materials waives the Residential Customer's charge for that service during the period of suspension or termination.

(vi) Charges not Waived. The suspension or termination of Collection Services for Recyclable Materials does not waive the Residential Customer's charge for the curbside collection of Recyclable

Materials. Fees collected during the term of this Agreement by WM from a Residential Customer whose service for the collection of Recyclable Materials has been suspended may be retained by WM.

(o) Overage. When WM collects Overage from customers, WM may charge the Customer an Overage fee, pursuant to the Rate Schedule, as set forth in Exhibit A; provided, however, WM must have photographic evidence of any alleged Overage and shall provide such evidence to affected Customers upon their request. If any single customer has had more than three (3) occurrences of Overage in any 12-month period for either Recyclable Materials or Organic Materials Collection Service and WM has photographic evidence of each instance, WM may increase the customer's service level (i.e., charge the customer for additional or larger Carts) in order to mitigate its costs related to such repeat Overages, and customers will be charged in accordance with the Rate Schedule set forth at Exhibit A, as attached hereto.

(p) Overweight Carts or Containers. A Cart shall be considered "overweight" if the total weight (in pounds) of the Cart and its contents exceed two (2) times the volume capacity (in gallons) of said Cart (e.g., 192 pounds for a 96-gallon Cart). WM shall collect the materials left out by customers for collection contained in an overweight Cart and shall charge customers for any such Extra Unit(s), as applicable, in accordance with the Rate Schedule as set forth in Exhibit A, attached hereto.

(q) Cart Removal. Upon a request by any Customer, property manager, property owner, or the City, WM shall remove all Carts due to the cancellation of a Collection Services account within seven (7) days of any such cancellation request.

(r) Safeguarding Public and Private Facilities. During WM's performance of the Collection Services, WM shall be obligated to protect all public and private improvements, facilities, and utilities whether located on public or private property, including street Curbs. If any such improvements, facilities, utilities, or Curbs are damaged beyond reasonable wear and tear as a result of WM's use or operations, WM shall notify the City of any damage caused by WM, and WM shall repair or replace, as applicable, any such damage or pay the City for any necessary repairs. The City shall not be liable for any damage to property or person caused by the sole negligence of WM, and WM shall indemnify and hold the City harmless for any such damage or legal implications resulting from said actions, to the extent that WM is negligent.

(s) Disruption Due to Construction. The City reserves the right to construct any improvement or to permit any such construction in a street or alley in such manner as the City may direct, which may have the effect for a time of preventing WM from traveling WM's usual collection route or routes. However, WM shall, by the most expedient manner possible, continue to provide the Collection Services, to the same extent as if no interference existed upon the streets and alleys normally traversed by WM. Such collection shall be provided at no extra expense to the City or to Customers.

(t) WM Planning and Performance During a Labor Disruption. No later than ninety (90) days prior to the expiration of any labor agreement associated with the Collection Services, WM shall provide the City with its planned response to any Labor Dispute that could compromise WM's performance. WM's *Strike Contingency Plan* shall address, in detail, the following:

- (i) WM's staffing plan to ensure its performance of the Collection Services, including identification of staff resources moved from out-of-area operations and the use of local management staff to provide basic services. The staffing plan shall provide for recovery of full operations within two (2) weeks following the initiation of the Labor Disruption.
- (ii) A recovery plan to address how materials will be collected in the event that a short notice Labor Disruption occurs, that does not allow WM to perform the Collection Services on the regular schedule (e.g. a wildcat strike).
- (iii) WM shall keep the City informed of the status of active labor negotiations. In the event that a Labor Disruption of any kind causes reductions in WM's performance of the Collection Services, WM shall inform the City of the nature and scope of any such Labor Disruption, as well as WM's immediate plans to activate a portion of or its entire *Strike Contingency Plan*. At the close of each service day during a Labor Disruption, WM shall report to the City the counts for all served and un-served Customers.
- (iv) WM shall provide make-up Collection Services on Saturdays for any Residential Customers that were missed during the preceding week.
- (v) In the event that a Labor Disruption lasts longer than one (1) full Collection Services cycle, WM shall collect reasonable quantities of accumulated materials at no additional charge to Residential Customers on the next regular Collection Services cycle for each material.
- (vi) Any *Strike Contingency Plan* or other information communicated by WM to the City pursuant to this Section shall be marked as "Proprietary and Confidential" by WM and maintained in confidence by the City to the maximum extent permissible, pursuant to Applicable Law.

(u) Performance Fees for Labor Disruptions. The City and WM agree that the following special City compensation and performance fees reflect the best estimate of the impacts of a Labor Disruption to Customers and to the City. WM shall pay to the City monthly, by the tenth (10<sup>th</sup>) day of the following month, the following amounts:

(i) A reimbursement amount of one thousand dollars (\$1,000.00) for each day of Labor Disruption to reimburse the City for staffing and other costs related to managing the impacts of the Labor Disruption.

(ii) A performance fee of two thousand dollars (\$2,000.00) for each day of Labor Disruption (from the 1st day to the 14th day of a Labor Disruption).

(iii) A performance fee of five thousand dollars (\$5,000.00) for each day of Labor Disruption (from the 15<sup>th</sup> day and every day after the 15<sup>th</sup> day of a Labor Disruption).

(v) Reduced Performances Fees. The full amount of the performance fees listed above accrue during any complete work stoppage where WM does not provide alternative, but substantially equivalent, curbside collection service by non-striking WM employees or non-striking employees of other divisions of Waste Management, Inc. If WM is able to provide substantially equivalent collection service through the employment of non-striking WM employees or non-striking employees of other divisions of Waste Management, Inc. at any point during the course of the Labor Disruption, WM is entitled to reduce the amount of daily performance fees that otherwise would accrue, on a pro-rata basis, based upon the percentage of Customers receiving equivalent collection service each day. Given the nature of the failure arising from Labor Disruptions, WM shall not be allowed any cure period or rectification process; provided, however, that the City may elect to receive the equivalent value of additional collection services, as negotiated by the Parties, in lieu of these specific performance fees.

(w) Liquidated Damages for Failing to Comply with Strike Contingency Plan. If WM fails to comply materially with its *Strike Contingency Plan*, as detailed in this Section, WM shall be subject to liquidated damages in the amount of ten thousand dollars (\$10,000.00) per day for its non-compliance during a Labor Disruption. Such liquidated damages are separate damages payable to the City due to WM's failure to plan and execute the provisions of this Section. WM shall pay any such liquidated damages to the City within thirty (30) days of WM's receipt of an invoice from the City for the same.

#### 8.4. Customer Billing.

(a) WM shall be responsible for all billing functions related to the Collection Services. All Residential Customers shall be billed at least quarterly. Customers may be billed prior to receiving Collection Services, but the due date for payment shall be no sooner than thirty (30) days from the date of the invoice. WM may bill Customers, as applicable, late payment fees, including any applicable interest, in accordance with Applicable Law, returned payment fees, NSF check charges, reactivation and redelivery fees, as well as any/all costs associated with bad debt collection, pursuant to the Rate Schedule set forth at Exhibit A, attached hereto.

(b) WM may suspend or terminate Collection Services to Customers that become more than sixty (60) days past due on their account, following at least

fifteen (15) days' written notice, mailed via first class U.S. Mail to the Residential Customer with a copy to the City. If a previously terminated account for Collection Service is reactivated, WM may charge a reactivation fee and/or may require a deposit from the Customer. The City will provide reasonable assistance to WM regarding WM's billing and collection of past due amounts from Customers, which assistance may include timely notification to WM of changes in the status of Customers (e.g., evictions, move-ins, and move-outs) and modification of municipal ordinances in order to ensure that Customer's adhere to the terms and conditions of this Agreement. The City may also place a lien upon a customer's property, in accordance with Applicable Law, and shall reimburse WM for all outstanding past due amounts with any proceeds collected under the lien during the Term of this Agreement pursuant to any such lien.

(c) Suspension or termination of Collection Service does not waive the City's fees for residential recycling services set forth in chapter 8.12.120 MVMC.

(d) WM may also request that the Director allow the denial or discontinuance of Collection Services to Residential Customers who are abusing the Collection Services or are determined to be ineligible.

(e) Residential customers aggrieved by a decision to impose a service charge, suspend service, or terminate service may attempt to resolve the matter with WM informally or by submitting a written request for reconsideration to WM, which will be processed by WM's customer service department. WM will endeavor to resolve written complaints within 30 days of receipt. Following the denial of a written complaint or after the passage of 30 days without resolution, residential customers may request that the Director attempt to resolve the complaint by submitting a written request for review of the contractor's action to the Director. The Director may intervene in the dispute and attempt to resolve the matter. WM will provide reasonable assistance to the Director and the Director will issue a decision within 21 days of receipt to the request. The Director's decision on the imposition of service charges will be final and binding on WM. Following the conclusion of attempts to resolve a written grievance with WM and the Director as described above, the residential customer may appeal an adverse decision to the City hearing examiner. WM agrees to provide reasonable assistance to the City should an appeal be filed.

#### 8.5. Recordkeeping and Reporting.

WM shall provide monthly reports to the City, as set forth below. In addition, upon reasonable advance notice, WM shall allow City staff access to pertinent operational information related to WM's performance of its obligations under this Agreement, such as weight slips, vehicle maintenance logs, and Customer charges and payments.

##### (a) Monthly Reports:

(i) Certified weigh scale tickets showing the weight of Recyclable Materials collected in the Service Area during the previous month;

(ii) Tonnage summaries of materials collected, by commodity;

(iii) Participation rates; and

(iv) A summary of weights of non-Recyclable Materials and contaminants.

(b) Ad Hoc Reports. If requested by the City, WM shall provide up to twelve (12) ad hoc reports each year, at no additional cost to the City, provided that such reports do not require WM, in the aggregate, to expend more than fifty (50) staff hours per year preparing the reports. Ad hoc reports may include customer service database tabulations to identify specific service levels, participation patterns, or similar data. Such reports shall be provided in a format with software compatibility as may be reasonably specified by the City. WM report formats may be modified from time to time at City request at no cost to the City.

## 9. RATES AND PAYMENT.

### 9.1. Rates.

(a) The rates for the Service provided hereunder are set forth in Exhibit A attached hereto and as may be revised in accordance with this Agreement. WM shall be responsible for billing and collecting payments from Residential Customers. Under no circumstances will WM issue invoices to Customers for amounts that exceed the Rates, as the same may be adjusted hereunder.

(b) In the event a Residential Customer requests a recycling service that is not covered by this Agreement which WM may lawfully provide while adhering to the service schedules set under this Agreement, WM shall notify the City and, unless the request is denied, may provide the service at such rates to be set by WM. WM will notify the City of any services not included in Exhibit A, that are frequently requested by Customers and the Parties may mutually agree to add any such frequently requested services to the Rate Schedule.

9.2. Temporary Suspension of Collection Services. If a Residential Premises will be vacant for a period of at least two (2) months, Residential Customers may request an exemption from receiving, and being billed for, Collection Services by calling WM and advising the details of any such vacancy. Residential Customers may request Collection Services be temporarily suspended for no more than two (2) continuous periods of not less than two (2) months each and not more than six (6) months in the aggregate during any given calendar year. During any such scheduled "vacation hold" periods, Residential Customers will not be billed for Collection Services. When Collection Services resume, cart delivery fees, if applicable, and a resume service fee shall apply, as set forth in Exhibit A attached hereto.

9.3. CPI Adjustments. Commencing on April 1, 2022, and on every April 1<sup>st</sup> annually thereafter (the "Adjustment Date"), the Rates, as adjusted hereunder, shall be automatically increased by a percentage equal to the percent change in the average Consumer Price Index series CUUR0000SEHG CPI-U Water and Sewer and Trash Collection Services, base period December 1997 = 100, US City Average, not seasonally adjusted, as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period November to November ending the prior calendar year. At least thirty (30) days prior to each Adjustment Date, WM shall notify the City of

the CPI adjustment to take effect on the Adjustment Date and shall provide the City with its computations therefor. Adjustments to the Rates shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when calculating Rate adjustments. Annual CPI adjustments shall never be negative. In the event the CPI index series decreases year-on-year, there shall be no CPI adjustment that year.

9.4. Other Rate Adjustments. The Rates will be adjusted annually, as needed, to account for any increased subsidization of the Senior Rate, which will be given to Residential Customers who are 61 years or older and qualify for exemption from all excess property taxes pursuant to the terms of RCW 84.36.381. The number of customers receiving the Senior Rate as of the Effective Date is three hundred-twenty (320).

9.5. Extraordinary Rate Adjustments. In addition to annual CPI adjustments described above in Section 9.3, the Rates shall be, upon written notice by WM, further adjusted to fully capture increased expenses associated with WM's performance of the Collection Services hereunder due to any one (1) or more of the following causes:

(a) Uncontrollable Circumstance, with the exception of labor disturbances (see Section 14);

(b) Change in Applicable Law that becomes effective after the Effective Date of this Agreement;

(c) Increase in costs to Process Organic Materials, if such Organic Materials are Processed at a third-party facility;

(d) Increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities, domestic or foreign, related to the Collection Services;

(e) Increase of at least 10% in the cost of transportation, including fuel and third-party transportation costs;

(f) Decrease of 10% or more in the market prices for Recyclable Materials;

(g) Increase of 10% or more in the cost to collect, handle, store, transport, process, market or sell Recyclable Materials; and/or

(h) Increase of 10% or more in costs due to change(s) in Applicable Law, any changes to the definition of "Recyclable Materials" set forth herein, or an increased need for promotional or educational materials and/or activities pertaining to recycling, provided such materials and/or activities are approved by the City.

When determining extraordinary rate adjustments pertaining to Recyclable Materials, the Rates shall be modified based on the delta of the calculations included in the Recyclable Materials Market Evaluation Example set forth in Exhibit D, attached hereto. Using 2021-dollar amounts, the initial blended commodity value of Recyclable Materials is \$31.58 per ton and the processing cost for Recyclable Materials is \$118.21 per ton.

The City may request any and all documentation and data reasonably necessary to evaluate such request by WM, and may retain, at its own expense, an independent third

party to audit and review such documentation and such request. If such third-party is retained, the City shall take reasonable steps, consistent with Applicable Law, to protect the confidential and/or proprietary nature of any data or information supplied by WM. The City shall review WM's request and provide its determination to WM within sixty (60) days of receipt of WM's request.

Notwithstanding the foregoing, if WM's request for a Rate adjustment is due to any new or increased third-party fees, assessments, taxes, or charges addressed above, provided WM provides the City with notice sufficient to allow compliance with the rate increase notice required under RCW 35A.21.152, the City shall approve WM's proposed Rate adjustment within such time period as is necessary to ensure that WM is able to pass through any such new or increased third-party fees, taxes, assessments and/or charges to Customers by the date the same become effective.

9.6. Changes in Recyclable Materials Markets/Costs. In the event a change in Applicable Law or a material change in market conditions occurs, including but not limited to lack of commercially reasonable market availability for a type of Processed Recyclable Materials, changes in market specifications affecting the salability of a type of Processed Recyclable Materials, or changes affecting the recyclability or marketability of a type of Processed Recyclable Materials (each occurrence being a "Material Change"), and such Material Change has the effect of materially altering the terms of this Agreement, or preventing or precluding compliance with one or more provisions of this Agreement, or preventing, precluding or substantially affecting the benefit(s) bargained for under this Agreement, this Agreement shall be modified or suspended as may be necessary to comply with, ameliorate, or prevent such detrimental effects due to any such Material Change. A Party detrimentally affected by a Material Change may notify the other Party and request amendment of this Agreement accordingly, and the Parties shall engage in good faith negotiations regarding any such necessary amendment of this Agreement, so that it reflects the extent to which the provisions hereof have been, or should be, so modified or suspended. If a Material Change precludes WM from making or reduces WM's reasonably expected revenue levels at the Effective Date, then the Parties shall modify this Agreement in accordance with this Section in order that WM can achieve, on an ongoing basis, the reasonably expected level of revenue that existed as of the Effective Date.

9.7. Notwithstanding Section 9.6 above, if a Material Change, for example, results in an increase of the rates so that the cost to Residential Customers to have Recyclable Materials collected would exceed what the cost would be to have Recyclable Materials collected by the City as garbage, then the Parties shall work together in good faith to reduce the amount of any increased costs to Residential Customers by, for example, redefining "Recyclable Materials" as defined herein, and/or amending collection frequency.

9.8. The City is relying on WM's information to set the Rates for Collection Services. Should a person or persons file a complaint alleging that the Rates are not proportionate or amount to a tax, WM agrees to make a good faith effort to assist the City in its defense of the Rates by providing witnesses, evidence, declarations, etc.

## **10. DEFAULT AND TERMINATION.**

Except as otherwise provided in Section 14 (Force Majeure), the failure of either Party to perform a material obligation under this Agreement shall be considered a breach of this

Agreement and the breaching Party shall be in default. In the event of default, the non-defaulting Party shall give written notice to the other Party of the default, and the defaulting Party shall have: (i) ten (10) days from the receipt of the notice to cure any failure to pay money under this Agreement, or (ii) thirty (30) days from the receipt of the notice to cure any other default under this Agreement. If the defaulting Party fails to cure the breach within the allotted time, the non-defaulting Party may, at its option, immediately terminate this Agreement by written notice to the defaulting Party. In the event of a default and/or termination for default, the non-defaulting Party shall have all legal, equitable, and/or contractual remedies available under Applicable Law, including, without limitation, reasonable attorneys' fees and costs associated with enforcement of this Agreement.

**11. GOOD FAITH COOPERATION DURING TRANSITION.**

In the event of termination or upon the conclusion of the term of this Agreement, WM agrees to work with the City and any successive contractor in good faith to ensure minimal customer disruption during any transition period to a new contractor or City assumption of services under this Agreement. WM shall provide a detailed list of customers in electronic format acceptable to the City that includes customer names, contact information (i.e., telephone number and email address, if available), service address, mailing address, collection service levels and frequencies, and container rental service levels to the City within seven (7) days of the City's written request.

**12. LIQUIDATED DAMAGES.**

Because a breach of WM's performance of the Collection Services could cause serious and substantial damage to the City and its residents, and the nature of this Agreement would render it impractical or extremely difficult to correct any actual damage sustained by the City due to any such breach, the City may elect to collect liquidated damages for any such breach, for which WM shall pay to the City, as liquidated damages and not as a penalty, the amounts set forth below. An election by the City to seek such damages shall not be construed as a waiver of any legal remedies that the City may have in relation to any subsequent breach by WM of its performance of the Collection Services.

Failure to collect missed pickups in accordance with Section 8.4(g).	The greater of (i) \$25.00 each, not to exceed 30 complaints per truck/per day; or (ii) actual collection costs incurred by the City.
Repetition of complaints on a route after notification, including, but not limited to, not replacing Carts in designated locations, spilling, not closing gates, crossing planted areas, or similar violations.	\$50.00 each, not to exceed 30 complaints per truck/per day.
Commencement of Multifamily Premises collection prior to 6:00 a.m.	\$100.00 per incident (each truck on route is a separate incident).
Failure to collect after being notified of a missed collection of an entire block segment. A block segment is a street block, including both sides of the street.	\$150.00 per block segment.

Failure to deliver Carts within seven (7) business days of a request.	\$10.00 per Cart, per day.
Material misrepresentation of records by WM to the City.	\$250.00 per incident.
Failure to replace Carts within seven (7) business days notification from the City.	\$25.00 per Cart, per day.
Failure to maintain clean and sanitary cleaning facilities and collection vehicles.	\$25.00 per collection vehicle; and \$100 per visit.
Knowingly landfilling uncontaminated Recyclable Materials, unless otherwise permissible herein.	\$100 per ton (minimum charge of \$100 per incident; no maximum).

Damages may be imposed if documented in an incident report presented by the City to WM. WM shall be given an opportunity to cure the alleged default before liquidated damages are assessed by the City and invoiced to WM. The City reserves the right to make periodic unscheduled inspection visits to ensure WM's compliance with the terms of this Agreement, so long as the City's inspection does not interfere with WM's usual business operations. WM may appeal any amount of damages assessed against WM by the City to the Mount Vernon Hearing Examiner upon payment of the appropriate filing fee. The Hearing Examiner's decision of any such appeal shall be final. WM shall be entitled to appeal the Hearing Examiner's decision as allowed by Applicable Law.

**13. PERFORMANCE BOND.**

WM shall furnish to the City a proper performance bond, conditioned that WM shall faithfully perform all of its obligations under this Agreement shall pay all laborers, mechanics and subcontractors and material persons, and all such persons who provide WM with provisions and/or supplies for the carrying on of such work; such performance bond shall be signed by WM and two (2) or more good and sufficient sureties, or with a surety company as Surety, and shall be in the amount of Two-Hundred-Fifty-Thousand Dollars (\$250,000.00). Said bond shall be kept in full force and effect during the entire term of this Agreement.

**14. FORCE MAJEURE.**

Except for the failure to make any payment when due, neither Party shall be in default for its failure to perform or delay in performance caused by an Uncontrollable Circumstance, and the affected Party shall be excused from performance during the occurrence of any such events. For purposes of this Agreement, "Uncontrollable Circumstances" means any act of terrorism, act of God, landslides, lightning, forest fires, storms, floods, typhoons, hurricanes, severe weather, freezing, earthquakes, volcanic eruptions, other natural disasters or the imminent threat of any such natural disasters, pandemics, quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, labor unrest (e.g., strikes, lockouts, or other labor disturbances), acts of domestic or foreign governments or governmental restraint, or other causes, whether of the kind enumerated or otherwise, and whether foreseeable or unforeseeable, that are not reasonably within the control of a Party and directly impact the Collection Services.

**15. INDEMNIFICATION.**

15.1. WM agrees to indemnify, defend, and hold the City, its elected officials, officers, employees, volunteers, agents and representatives, harmless from and against all

claims and actions, causes of action, suits, debts, damages, liabilities and costs whatsoever, including but not limited to reasonable attorneys' fees and costs of defense, based upon or arising out of WM's breach of its obligations under this Agreement, or based upon or arising out of any injuries (including death) to persons, or damage to property, to the extent caused by the negligent acts or omissions or willful misconduct of WM, or any of its directors, officers, employees, agents, or subcontractors, in its/their performance of this Agreement.

15.2. To the fullest extent permitted by Applicable Law, the City agrees to indemnify, defend, and hold WM harmless from and against all claims and actions, causes of action, suits, debts, damages, liabilities and costs whatsoever, including but not limited to reasonable attorneys' fees and costs of defense, based upon or arising out of the City's breach of its obligations under this Agreement, or based upon or arising out of any injuries (including death) to persons, or damage to property, to the extent caused by the negligent acts or omissions or willful misconduct of the City, or any of its directors, officers, elected or appointed officials, employees, agents, or subcontractors, in its/their performance of this Agreement.

15.3. Notwithstanding any provision in this Agreement to the contrary, WM shall not be responsible for any damage to public driving surfaces that is the result of ordinary wear and tear that occurs during WM's performance of the Collection Services, pursuant to this Agreement.

15.4. The indemnification obligations of this Section shall survive the termination or expiration of this Agreement for any reason.

## **16. INSURANCE.**

16.1. Insurance Required. WM shall procure and maintain, for the duration of this Agreement, insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the services provided under this Agreement by WM, their agents, representatives, employees or subcontractors. The cost of such insurance shall be paid by WM. Failure to make insurance payments and to keep policies current shall be cause for termination for default in accordance with Section 9.

16.2. Liability not Limited to Insurance Amount. WM's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of WM to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

16.3. Minimum Scope of Insurance. WM shall obtain insurance that meets or exceeds the following of the types described below:

(a) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. The policy shall be endorsed to provide contractual liability coverage. The City shall be named as an additional insured under WM's Automobile Liability insurance policy with respect to the services performed for the City pursuant to this Agreement.

(b) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises,

operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under WM's Commercial General Liability insurance policy with respect to the services performed for the City pursuant to this Agreement, using ISO additional insured endorsement CG 20 10 10 01 or a substitute endorsement providing equivalent coverage.

(c) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(d) WM's Pollution Liability/Legal Liability insurance covering losses caused by pollution conditions that arise from WM's operations.

(e) Hazardous Waste Hauling. To the Automobile Liability Minimum Scope of Insurance, add Pollution Liability coverage at least as broad as that provided under ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement CA 99 48 and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

16.4. Minimum Amounts of Insurance. WM shall maintain the following insurance limits:

(a) Automobile Liability insurance shall be written a minimum combined single limit for bodily injury and property damage of \$5,000,000 per accident.

(b) Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.

(c) Workers Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(d) WM's Pollution Liability. The Pollution Legal Liability insurance shall be written in an amount of at least \$3,000,000 per loss, with an annual aggregate of at least \$3,000,000. Coverage may be written on a claims-made basis.

16.5. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. In the event the deductibles or self-insured retentions are not acceptable to the City, the City reserves the right to require WM to provide evidence of other security guaranteeing payment of losses and related investigations, claim administration and defense expenses.

16.6. Additional Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Commercial General Liability, and WM's Pollution Liability coverage:

(a) WM's insurance coverage shall be the primary insurance with respect to the City, its officials, employees and volunteers. Any Insurance, self-insurance,

or insurance pool coverage maintained by the City shall be in excess of WM's insurance and shall not contribute with it.

(b) Coverage shall state that WM's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability.

(c) WM's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice has been given to the City.

16.7. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VIII.

16.8. Verification of Coverage. WM shall furnish the City with original certificates of insurance including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of WM before commencement of services pursuant to this Agreement.

16.9. Subcontractors. Before any subcontractor is approved to provide services under this Agreement, WM shall furnish the City with separate certificates of insurance and endorsements for each subcontractor before commencement of any services pursuant to this Agreement. All coverages for subcontractors shall be subject to all of the same insurance requirements as stated herein for WM except WM shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. WM shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01.

**17. NOTICES.**

Except as otherwise provided herein, whenever either Party is required to give notice to the other Party, pursuant to this Agreement, any such notice must be in writing and sent by registered or certified mail return receipt requested, or by other delivery methods designated for next day delivery with proof of receipt, addressed to the Party to whom notice is intended, at the address last given by either Party to the other for the giving of any such notices. As of the Effective Date, the Parties designate the following addresses for giving of notice:

If to the City:            Director, Public Works  
                                  City of Mount Vernon  
                                  910 Cleveland Avenue  
                                  Mount Vernon, WA 98273

If to WM:                 Area Director, Public Sector Solutions  
                                  Waste Management of Washington, Inc.  
                                  720 4<sup>th</sup> Avenue, Suite 400  
                                  Kirkland, WA 98033

With a copy to:         Waste Management Legal Department  
                                  Waste Management of Washington, Inc.  
                                  720 4<sup>th</sup> Avenue, Suite 400  
                                  Kirkland, WA 98033

Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice from one Party to the other Party, with a courtesy copy sent by email. The original of items that are transmitted by email must also be sent as required by this Section.

## **18. MISCELLANEOUS PROVISIONS.**

18.1. Construction. This Agreement shall be construed in accordance with the laws of the State of Washington.

18.2. Venue. The Parties agree that any litigation between WM and the City concerning or arising out of this Agreement shall be filed and maintained exclusively in the municipal or superior courts of Skagit County, in the State of Washington, to the fullest extent permissible by law.

18.3. Service. Each Party consents to service of process in any manner authorized by Washington State law.

18.4. Costs, Attorneys' Fees, Expenses. In the event any legal action is taken by either Party against the other Party to enforce any of the terms and conditions of this Agreement, it is agreed that the unsuccessful Party to such action shall pay to the prevailing Party therein all court costs, reasonable attorneys' fees and expenses incurred by the prevailing Party.

18.5. Severance. If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the Parties shall amend this Agreement to give effect, to the maximum extent allowed, to the intent and meaning of the severed provision.

18.6. Waiver. The waiver by either Party of any failure on the part of the other Party to perform any of its obligations under this Agreement shall not be construed as a waiver of any future or continuing failure or failures, whether similar or dissimilar thereto. No payment or acceptance of compensation shall be deemed a waiver of any right or acceptance of defective performance.

18.7. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, oral or written, relative to said subject matter, and no course of performance or agreements purporting to amend, supplement or explain this Agreement shall be effective unless in writing and signed by authorized representatives of both Parties.

18.8. Remedies Not Exclusive. The rights and remedies provided in this Agreement shall not be exclusive, but shall be cumulative and in addition to all other rights and remedies available pursuant to Applicable Law, including, but not limited to, statutory or common law indemnity, contribution, or other remedy at law or equity. No modification, amendment, or supplement to this Agreement will be binding on the Parties unless it is made in writing, duly authorized by the City and WM, and signed by both Parties. Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement. Each of the Parties has received the advice of legal counsel prior to signing this Agreement. The Parties agree no provision or provisions may be subject to any rule of construction based upon any Party being considered the Party "drafting" this Agreement. Each Exhibit referred to in this

Agreement forms an essential part of this Agreement. Each such Exhibit is a part of this Agreement, and each is incorporated herein by this reference.

\* \* \*

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

**THE CITY OF MOUNT VERNON,  
WASHINGTON**

**WASTE MANAGEMENT OF  
WASHINGTON, INC.**

By:  \_\_\_\_\_

Name: Jill Boudreau

Title: Mayor \_\_\_\_\_

Date: 5/2/2021

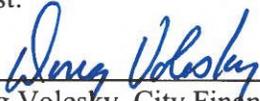
By:  \_\_\_\_\_

Name: Jason Rose

Title: President

Date: May 6, 2021

Attest:

 \_\_\_\_\_  
Doug Volesky, City Finance Director

Approved as to form:

 \_\_\_\_\_  
Kevin Rogerson, City Attorney

**EXHIBIT A  
RATE SCHEDULE**

**Residential Recycling and Organics Rates:**

**June 1, 2021**

	Service Level	Total Service Fee
<b><u>Residential Service</u> (Monthly Rates)</b>	Recycling Cart, per container 64-gallon default Serviced every other week	\$10.62
	Low Income Senior Recycling Cart, per container 64-gallon default Serviced every other week	\$7.97
	Organics Cart, per container 96-gallon default Weekly service (March-November) Every other week (December-February)	\$13.54
All residential cart service levels unless otherwise specified:		
<b><u>Miscellaneous Fees</u></b>	Recycling Extras – 32-gallon increments	\$4.93
	Organics Extras – 32-gallon increments	\$4.93
	Account Setup Charge	\$25.00
	Carry Out Charge (per cart)	\$4.03
	Cart Cleaning (per cart, per cleaning)	\$16.00
	Contamination Charge	\$25.00
	Delivery/Redelivery Fee (per delivery)	\$41.48
	Reactivation Charge (per occurrence)	\$18.38
	Resume Service Fee (per occurrence)	\$18.38
	Return Trip – Service day (per cart)	\$8.31

**EXHIBIT B**  
**RECYCLABLE MATERIALS SPECIFICATIONS**

<b>MATERIAL TYPE</b>	<b>DESCRIPTION</b>	<b>PREPARATION INSTRUCTIONS</b>	<b>EXCLUSIONS</b>
Glass	<ul style="list-style-type: none"> <li>• Food or beverage containers</li> </ul>	Remove lids; empty of all food or liquids; labels do not need to be removed.	Leaded glass: windows, mirrors, baking dishes, storage dishes, ceramic, plates, glassware, storage/canning jars.
Paper	<ul style="list-style-type: none"> <li>• Office paper, copy paper, construction paper</li> <li>• Newspaper and paper inserts</li> <li>• Magazines and paper inserts</li> <li>• Catalogs</li> <li>• Mail and paper inserts</li> <li>• Envelopes</li> <li>• Paper bags</li> <li>• Cereal, cookie and cracker boxes</li> <li>• Paper towel tubes</li> <li>• Toilet paper tubes</li> <li>• Tissue boxes</li> <li>• Non-foil wrapping paper</li> <li>• Kraft paper bags or boxes</li> </ul>	Remove plastic bags (exterior or interior), plastic packaging, metal, electronics, magnets, twine, straws, lids and any food or liquids; materials must be dry; plastic windows in paper envelopes are okay.	Shredded paper; paper envelopes with bubble wrap liners, insulation liners or envelopes made from plastic (Tyvek); laminated paper, stickers, labels, photos, carbon paper, receipts, paper affixed to magnets; wax or poly-coated cups, cartons, or aseptic containers; pet food bags; mixed material bags; wet or soiled paper; paper with large amounts of paint or glue.
Cardboard	<ul style="list-style-type: none"> <li>• Cardboard boxes</li> <li>• Cardboard packaging</li> <li>• Cardboard beverage 'flats' or nursery 'flats'</li> </ul>	Flatten all cardboard; remove all interior packaging, block foam, packing peanuts and exterior plastic wrap; do not bundle with tape or twine, external tape is okay; oversized cardboard can be placed next to Cart/container; materials must be dry.	Waxed cardboard; wet cardboard.

MATERIAL TYPE	DESCRIPTION	PREPARATION INSTRUCTIONS	EXCLUSIONS
Metal	<ul style="list-style-type: none"> <li>• Tin, aluminum and steel food or beverage containers</li> </ul>	Remove all exterior packaging; remove lids; empty of all food or liquids; labels do not need to be removed.	Aluminum foil and trays; sharp or greasy metal; batteries; propane tanks, microwaves; electrical cords; cell phones; car snow chains; empty aerosol cans; metal appliances.
Plastic	<ul style="list-style-type: none"> <li>• PET/PETE bottles (#1 plastic)</li> <li>• HDPE bottles/jugs (#2 plastic)</li> <li>• Dairy tubs, e.g. butter, yogurt, cottage cheese (#5 plastic)</li> </ul>	Plastic bottles with plastic screw-on lids are okay <u>if</u> lids are screwed back on; remove all other lids; remove straws; empty of all food, liquids or other debris; labels do not need to be removed.	#3, #4, #6 & #7 plastics, plastic bags, plastic cups, plastic film; plastic bottles that contained HHW listed materials; deli, bakery and produce clamshell containers; loose lids – any size; plant trays; PVC; large rigid plastic (outdoor furniture, laundry baskets, swimming pools, toys, etc.); hoses; landscaping/sprinkler tubing.

WM reserves the right, upon notice to the City, to reclassify Recyclable Materials as non-Recyclable Materials for such period of time that the cost to Process, transport and market such materials exceeds its then-current value and/or there is no commercially viable market for such material.

**EXHIBIT C  
CITY FACILITIES**

<b>City Facility</b>	<b>Address</b>	<b>Collection Services as of the Effective Date</b>
City Hall	910 Cleveland Ave	4 yard – 1x/week 2 96-gallon carts for transport
Public Works	1020 Cleveland Ave	96-gallon – 1x/week
Hillcrest Park	1717 South 13 <sup>th</sup> St	4 96-gallon – 1x/week
Vaux Retreat Center	3011 E Fir St	96-gallon – 1x/week
Fire Station # 1	320 E Broadway St	4 yard – 1x/week
Fire Station # 2	1901 N LaVenture Rd	2 yard – 1x/week
Fire Station # 3	4701 E Division St	3 96-gallon – 1x/week
Police Campus	1805 Continental Pl	2 96-gallon – 1x/week
Kulshan Police	2520 Kulshan Ave	2 96-gallon – 1x/week
Library	315 Snoqualmie St	4 yard – 1x/week
Wastewater Plant	1401 Britt Rd	2 yard – 1x/week

**EXHIBIT D**  
**RECYCLABLE MATERIALS MARKET EVALUATION EXAMPLE**

**Waste Management MRF: Cascade Recycling Center (CRC)**

**Change in MRF Processing Costs**

**Explanatory Notes**

a	Agreement Implementation processing cost per ton	\$ 118.21	
b	Revised processing cost (example)	\$ 140.00	Based on most recent WUTC tariff filing (example)
c	New Annual Processing Cost per Ton	\$ 21.79	[ b - a ]
d	Annual Residential Recycling Tons	2,325	Residential recycling tons (annualized) - Update each year
e	Change in Processing Cost Total Value	\$ 50,670	[ c x d ]
f	Total Residential Accounts	9,628	update each year
g	<b>New Processing Cost Adjustment per Account</b>	<b><u>\$ 0.44</u></b>	[ e / f / 12 ] (example)
	<b>Monthly Adjustment</b>	<b><u>\$ 0.44</u></b>	

**Change in Commodity Values**

h	Implementation Average commodity value	\$ 31.58	
i	Annual Change in commodity value (example)	\$ 20.00	Based on most recent WUTC tariff filing (example)
j	Revenue Loss per Ton	\$ 11.58	[ h - i ]
k	Annual Residential Recycling Tons	1,973	Residential recycling tons (annualized) - Update each year
l	Change in Total Commodity Revenue	\$ 22,846	[ j x k ]
m	Total Residential Accounts	9,628	update each year
n	<b>New Commodity Adjustment per Account</b>	<b><u>\$ 0.20</u></b>	[ l / m / 12 ] (example)
	<b>Monthly Adjustment</b>	<b><u>\$ 0.20</u></b>	



Waste Management  
720 4th Ave, Suite 400  
Kirkland, WA 98033

#4063

**September 28, 2021**

City of Mount Vernon  
Director, Public Works  
910 Cleveland Ave  
Mount Vernon, WA 98273

RE: Pollution Certificate

Dear Sir or Madam,

Enclosed please find the Pollution Certificate regarding Section 16.4 of the Agreement for Residential Recyclables and Organics Collection and Processing Services between the City of Mount Vernon and Waste Management of Washington, Inc.

Please let me know if you have any questions or concerns.

Sincerely,

**Leila Salsbery**  
**Contract Compliance**  
Public Sector, Pacific Northwest  
lsalsber@wm.com



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
09/23/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Aon Risk Services Southwest, Inc. Dallas TX Office 5005 Lyndon B Johnson Freeway Suite 1500 Dallas TX 75244 USA	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C. No. Ext):</b> (866) 283-7122	<b>FAX (A/C. No.):</b> 800-363-0105
<b>E-MAIL ADDRESS:</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> Waste Management, Inc. 800 Capitol Street Suite 3000 Houston TX 77002 USA	<b>INSURER A:</b> Ironshore Specialty Insurance Company 25445	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:** 570089380715                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS.

							Limits shown are as requested	
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY ( Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	
A	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			IEELPLLCAS2F001	07/01/2021	07/01/2022	EACH OCCURRENCE    \$24,000,000 AGGREGATE    \$24,000,000	
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> <input type="checkbox"/> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT	
A	Env Site Liab			ISPILLSCAS2J001 Claims-Made	07/01/2021	07/01/2022	Each Incident Limit    \$1,000,000 Aggregate Limit    \$2,000,000 SIR    \$5,000,000	

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 Named Insured Site Location:Waste Management of Washington, Inc., Skagit Hauling, 12122 Bay Ridge Dr., Burlington, WA 98223. Certificate Holder is included as Additional Insured in accordance with the policy provisions of the Pollution Liability policy.

<b>CERTIFICATE HOLDER</b>  City of Mount Vernon 320 Broadway Mount Vernon WA 98273 USA	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b>  <i>Aon Risk Services Southwest Inc</i>
--	---

Holder Identifier :

Certificate No : 570089380715



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
07/01/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Aon Risk Services Southwest, Inc. Dallas TX office 5005 Lyndon B Johnson Freeway Suite 1500 Dallas TX 75244 USA	<b>CONTACT NAME:</b> PHONE (A/C. No. Ext): (866) 283-7122      FAX (A/C. No.): 800-363-0105		
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> Waste Management, Inc. 800 Capitol Street Suite 3000 Houston TX 77002 USA	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A:</b> Ironshore Specialty Insurance Company		25445
	<b>INSURER B:</b>		
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		

**COVERAGES**      **CERTIFICATE NUMBER:** 570094350959      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.      **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			IEELPLLCAS2F002	07/01/2022	07/01/2023	EACH OCCURRENCE \$24,000,000 AGGREGATE \$24,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT
A	Env Site Liab			ISPILLSCAS2J002 Claims-Made	07/01/2022	07/01/2023	Each Incident Limit \$1,000,000 Aggregate Limit \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
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 Certificate Holder is included as Additional Insured in accordance with the policy provisions of the Pollution Liability policy.

**CERTIFICATE HOLDER****CANCELLATION**

City of Mount Vernon 320 Broadway Mount Vernon WA 98273 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Aon Risk Services Southwest, Inc.</i>



4063  
Waste Management  
720 4th Ave, Suite 400  
Kirkland, WA 98033

January 27, 2023

Andy Hanson  
Solid Waste Manager  
City of Mount Vernon  
910 Cleveland Avenue  
Mount Vernon, WA 98273  
[andyh@mountvernonwa.gov](mailto:andyh@mountvernonwa.gov)

Re: 2023 Inflation Adjustment

Please find the enclosed 2023 rate schedule for recycling and yard waste collection services provided by WM to the residents of the City of Mount Vernon.

These rates are based upon the published Consumer Price Index, in the U.S. city average area for All Urban Consumers, Water and sewer and trash collection services, as prepared by The United States Department of Labor, Bureau of Labor Statistics for the annual period ending November 2022. This year's index changes are described on the attached page. The annual change is an increase of 5.006%. Per our contract, WM is allowed 100% of this annual change which results in a 5.006% increase.

Please review this schedule and let me know of any discrepancies as WM will adjust our billing system to reflect these changes effective April 1, 2023.

WM looks forward to providing quality recycling and yard waste services to the City of Mount Vernon in the years ahead.

Sincerely,

A handwritten signature in black ink that reads "Kelly Emerson".

**KELLY EMERSON**  
Contract Compliance Administrator  
Public Sector, Pacific Northwest  
[kemerson@wm.com](mailto:kemerson@wm.com)

9.3. CPI Adjustments. Commencing on April 1, 2022, and on every April 1<sup>st</sup> annually thereafter (the "Adjustment Date"), the Rates, as adjusted hereunder, shall be automatically increased by a percentage equal to the percent change in the average Consumer Price Index series CUUR0000SEHG CPI-U Water and Sewer and Trash Collection Services, base period December 1997 = 100, US City Average, not seasonally adjusted, as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period November to November ending the prior calendar year. At least thirty (60) days prior to each Adjustment Date, WM shall notify the City of the CPI adjustment to take effect on the Adjustment Date and shall provide the City with its computations therefor. Adjustments to the Rates shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when calculating Rate adjustments. Annual CPI adjustments shall never be negative. In the event the CPI index series decreases year-on-year, there shall be no CPI adjustment that year.

9.4. Other Rate Adjustments. The Rates will be adjusted annually, as needed, to account for any increased subsidization of the Senior Rate, which will be given to Residential Customers who are 61 years or older and qualify for exemption from all excess property taxes pursuant to the terms of RCW 84.36.381. The number of customers receiving the Senior Rate as of the Effective Date is three hundred-twenty (320).

9.5. Extraordinary Rate Adjustments. In addition to annual CPI adjustments described above in Section 9.3, the Rates shall be, upon written notice by WM, further adjusted to fully capture increased expenses associated with WM's performance of the Collection Services hereunder due to any one (1) or more of the following causes:

(a) Uncontrollable Circumstance, with the exception of labor disturbances (see Section 14);

(b) Change in Applicable Law that becomes effective after the Effective Date of this Agreement;

(c) Increase in costs to Process Organic Materials, if such Organic Materials are Processed at a third-party facility;

(d) Increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities, domestic or foreign, related to the Collection Services;

(e) Increase of at least 10% in the cost of transportation, including fuel and third-party transportation costs;

(f) Decrease of 10% or more in the market prices for Recyclable Materials;

(g) Increase of 10% or more in the cost to collect, handle, store, transport, process, market or sell Recyclable Materials; and/or

(h) Increase of 10% or more in costs due to change(s) in Applicable Law, any changes to the definition of "Recyclable Materials" set forth herein, or an increased need for promotional or educational materials and/or activities pertaining to recycling, provided such materials and/or activities are approved by the City.

When determining extraordinary rate adjustments pertaining to Recyclable Materials, the Rates shall be modified based on the delta of the calculations included in the Recyclable Materials Market Evaluation Example set forth in Exhibit D, attached hereto. Using 2021-dollar amounts, the initial blended commodity value of Recyclable Materials is \$31.58 per ton and the processing cost for Recyclable Materials is \$118.21 per ton.

The City may request any and all documentation and data reasonably necessary to evaluate such request by WM, and may retain, at its own expense, an independent third

party to audit and review such documentation and such request. If such third-party is retained, the City shall take reasonable steps, consistent with Applicable Law, to protect the confidential and/or proprietary nature of any data or information supplied by WM. The City shall review WM's request and provide its determination to WM within sixty (60) days of receipt of WM's request.

Notwithstanding the foregoing, if WM's request for a Rate adjustment is due to any new or increased third-party fees, assessments, taxes, or charges addressed above, provided WM provides the City with notice sufficient to allow compliance with the rate increase notice required under RCW 35A.21.152, the City shall approve WM's proposed Rate adjustment within such time period as is necessary to ensure that WM is able to pass through any such new or increased third-party fees, taxes, assessments and/or charges to Customers by the date the same become effective.

9.6. Changes in Recyclable Materials Markets/Costs. In the event a change in Applicable Law or a material change in market conditions occurs, including but not limited to lack of commercially reasonable market availability for a type of Processed Recyclable Materials, changes in market specifications affecting the salability of a type of Processed Recyclable Materials, or changes affecting the recyclability or marketability of a type of Processed Recyclable Materials (each occurrence being a "Material Change"), and such Material Change has the effect of materially altering the terms of this Agreement, or preventing or precluding compliance with one or more provisions of this Agreement, or preventing, precluding or substantially affecting the benefit(s) bargained for under this Agreement, this Agreement shall be modified or suspended as may be necessary to comply with, ameliorate, or prevent such detrimental effects due to any such Material Change. A Party detrimentally affected by a Material Change may notify the other Party and request amendment of this Agreement accordingly, and the Parties shall engage in good faith negotiations regarding any such necessary amendment of this Agreement, so that it reflects the extent to which the provisions hereof have been, or should be, so modified or suspended. If a Material Change precludes WM from making or reduces WM's reasonably expected revenue levels at the Effective Date, then the Parties shall modify this Agreement in accordance with this Section in order that WM can achieve, on an ongoing basis, the reasonably expected level of revenue that existed as of the Effective Date.

9.7. Notwithstanding Section 9.6 above, if a Material Change, for example, results in an increase of the rates so that the cost to Residential Customers to have Recyclable Materials collected would exceed what the cost would be to have Recyclable Materials collected by the City as garbage, then the Parties shall work together in good faith to reduce the amount of any increased costs to Residential Customers by, for example, redefining "Recyclable Materials" as defined herein, and/or amending collection frequency.

9.8. The City is relying on WM's information to set the Rates for Collection Services. Should a person or persons file a complaint alleging that the Rates are not proportionate or amount to a tax, WM agrees to make a good faith effort to assist the City in its defense of the Rates by providing witnesses, evidence, declarations, etc.

**CPI for All Urban Consumers (CPI-U)  
Original Data Value**

Series Id: CUUR0000SEHG  
 Not Seasonally Adjusted  
 Series Title: Water and sewer and trash collection services in U.S. city average, all urban consumers, not seasonally adjusted  
 Area: U.S. city average  
 Item: Water and sewer and trash collection services  
 Base Period: DECEMBER 1997=100  
 Years: 2011 to 2021

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2	% of Change	0% floor
2011	175.754	177.194	177.694	178.033	178.521	178.640	179.820	180.762	181.569	181.916	182.254	182.758				
2012	183.984	185.499	186.280	187.473	187.788	188.489	189.750	191.927	191.833	192.370	192.921	193.237				
2013	194.553	195.505	195.981	196.319	196.727	196.989	198.173	198.736	198.804	199.759	200.004	200.203				
2014	201.169	202.149	202.657	203.084	203.124	203.396	205.022	206.171	206.363	207.633	208.562	209.414				
2015	210.243	211.397	211.738	212.153	212.542	212.863	213.873	215.844	216.173	216.380	217.004	217.386				
2016	218.370	219.036	219.649	220.506	221.360	221.396	221.358	222.554	223.111	223.420	224.399	224.745				
2017	226.411	227.277	227.553	228.133	228.396	228.599	229.008	229.772	230.142	230.614	231.522	231.842				
2018	232.977	233.858	234.215	235.141	235.878	236.493	237.186	238.439	238.512	238.936	241.774	242.204	234.760	239.509		
2019	241.606	242.011	242.611	243.490	243.774	244.322	244.943	245.549	245.903	246.741	247.364	247.567	242.969	246.345		
2020	248.846	249.751	250.359	250.673	250.921	251.435	252.401	253.974	254.266	254.781	255.650	256.456	250.331	254.588		
2021	257.722	258.763	259.204	259.581	259.542	260.400	261.706	262.810	263.747	264.278	264.580	265.365	259.202	263.748	3.493%	3.493%
2022	268.128	269.521	269.621	270.419	270.844	271.925	273.097	274.984	276.759	276.892	277.824	278.464	270.076	276.337	5.006%	5.006%



Certificate No: 570100185193



City of Mount Vernon  
320 Broadway  
Mount Vernon WA 98273 USA

Thursday, June 22, 2023

**To whom it may concern:**

Following a concentrated effort to reduce our environmental footprint and provide timely certificate delivery, Aon will begin delivering our Certificates of Insurance electronically in PDF format.

Please utilize one of the following methods to ensure you will receive the electronic copy of your Certificate (Certificate No: **570100185193**) for future renewals:

- Visit [aon.com/e-cert](https://aon.com/e-cert); or
- Utilize the QR Code below to enter/validate your information.

If your email address has changed or will be changing in the future, or you no longer require this certificate, please let us know using one of the methods above.

Thank you for your cooperation and willingness to help us reduce our impact to the environment.

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Lincolnshire, IL 60069



