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STATE OF WASHINGTON
UTILITY AND
CONSTRUCTION

**CITY OF CASHMERE
CONTRACT FOR SOLID WASTE COLLECTION SERVICES
EFFECTIVE OCTOBER 1, 2016**

THIS CONTRACT FOR SOLID WASTE COLLECTION SERVICES ("Contract") is made by and between the City of Cashmere, a Washington municipal corporation ("CITY"), and Waste Management of Washington, Inc., a Delaware corporation ("CONTRACTOR"). Collectively, the CITY and CONTRACTOR may be referred to herein as "Parties," or individually as a "Party."

1. RECITALS

- 1.1 WHEREAS, the CITY has historically provided solid waste collection and recycling services to citizens of the CITY using CITY owned and operated equipment and personnel; and
- 1.2 WHEREAS, the CITY now desires to contract with a qualified solid waste contractor to provide a comprehensive solid waste and recycling program for citizens located in the CITY; and
- 1.3 WHEREAS, the CONTRACTOR operates a garbage, refuse, and recycling collection business with an office in Wenatchee, Washington; and
- 1.4 WHEREAS, it has been determined by the CITY that it will be in the best interests of the CITY to negotiate an exclusive Contract with CONTRACTOR for the collection of garbage and recycling in and throughout the CITY; and
- 1.5 WHEREAS, the CITY, and CONTRACTOR have negotiated mutually agreeable terms for such Contract as set forth herein;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the CITY and CONTRACTOR agree as follows:

2. AGREEMENT

2.1 Recitals. The recitals set forth above herein are made a part of this Contract as though set forth in full.

Management of Wenatchee Certificate G-37 Tariff 13, or subsequent Tariff, shall apply if services are not reflected on the rate sheet. Payment shall be made to CONTRACTOR by each residential and commercial (including industrial and institutional) customer according to CONTRACTOR's billing procedures. CONTRACTOR shall be required to perform all billing and collection activities under this Contract with no recourse against the CITY for nonpayment by commercial and residential customers. The CONTRACTOR acknowledges that qualified low income disabled and low income elderly residents shall be charged discounted residential rates which will be established by ordinance of the CITY. CITY shall determine qualification criteria and shall supply CONTRACTOR a list of qualified customers on a monthly basis or as otherwise requested by CONTRACTOR.

2.7 Rates.

2.7.1 Modifications in Rates. The rates and charges for solid waste collection, as set forth in Exhibit A, shall be effective October 1, 2016. Commencing October 1, 2017, and on each October 1 thereafter, rates shall be increased based upon the increase in the Consumer Price Index, Pacific Cities and U.S. City Average, Urban Wage Earners and Clerical Workers Index (CPI-W), as published by the Department of Labor Statistics, based upon the total Consumer Price Index change for all items as compared from the May to May statistics for the preceding twelve (12) months, subject to a minimum annual increase of 1% and a maximum annual increase of 4%. In the event an annual increase in the CPI exceeds 4% in any year, the CONTRACTOR and the CITY may negotiate an annual increase in excess of 4% at the request of CONTRACTOR. Any increase in excess of 4% of the CPI must be agreed to in writing by the CITY. In the event this CPI is no longer produced, then the next most geographically similar urban wage earners and clerical workers (CPI-W) index shall be used. The annual modification in rates shall only become effective following CONTRACTOR's timely compliance with the provision of notices to the public and to the customers as required by RCW 35A.21.152, as the same exists now or may hereafter be amended.

2.7.2 Other Rate Adjustments.

If Federal, State, or Local Laws, Rules, or Regulations require a change in operation at the Greater Wenatchee Regional Landfill and Recycling Station ("Landfill"), which results in an increase/decrease in the tipping fee being charged by the Landfill, then in such event, CONTRACTOR, shall be allowed to pass through the change in tipping fee to CITY customers upon thirty (30) days prior notice to CITY and after CONTRACTOR has provided the public and the customers the notices

mutually acceptable course of action, including but not limited to eliminating the material from the list of recyclables, changing Customer preparation requirements, modifying contractor rates, reducing the CITY Fee or any other mutually-agreeable solution.

2.7.3 Notice Requirements. CONTRACTOR agrees it shall provide all notices of rate increases required by RCW 35A.21.152, as the same exists now or may hereafter be amended, including any notices required to be provided by the CITY.

2.8 Utility Tax. Pursuant to Cashmere Municipal Code Section 5.10.030(c), CONTRACTOR shall pay to CITY the tax in an amount equal to ten percent (10) of the gross revenues received by CONTRACTOR on the sale and service of garbage and recycling services provided in the CITY. CONTRACTOR shall remit tax payments to the CITY on or before April 30 (first quarter), July 30 (second quarter), October 30 (third quarter), and January 30 (fourth quarter), the taxes collected in the preceding quarter, until all taxes due the CITY are paid. CITY shall provide CONTRACTOR with at least ninety (90) days prior notice of any increase or decrease in this CITY utility tax. CONTRACTOR rates include revenue to pay this tax to the CITY. If the CITY tax is increased during the term of this Contract, CONTRACTOR may increase its rates by the amount required to generate sufficient additional revenue to cover the CITY tax increase.

2.9 Mandatory Collection. Solid waste collection and removal services shall be mandatory for all premises within the CITY. Yard waste services, if provided, are not part of this mandatory collection requirement. Every person in control of any developed premises in the CITY shall contract with the CONTRACTOR for the removal and disposal of all solid waste, including all garbage, refuse, recycling and rubbish (but not including ashes), generated by or located at the premises. Except as specifically provided pursuant to any ordinances or resolutions of the CITY, no person or entity, other than the CONTRACTOR may engage in the business of solid waste collection within the CITY. The CONTRACTOR may bill to customers a late payment fee, interest, NSF check charges, as well as all costs associated with bad debt collection. Interest shall accrue on delinquent charges at the rate set forth by the CONTRACTOR until paid in full, but shall not exceed usury rates established in Chapter 19.52 RCW. If a customer becomes sixty (60) days delinquent on a CONTRACTOR invoice, CONTRACTOR may reduce their service to the minimum service level within their class of service. The CONTRACTOR may make arrangements for third party collection and/or assert any lawful lien against the customer's property for the debt. The CONTRACTOR may charge customers for the cost of reducing services as outlined in Exhibit "A".

2.10 Collection Schedules. CONTRACTOR shall use reasonable efforts at all times to keep all persons from whom it is collecting solid waste, garbage and refuse advised of the schedules for collection, both day and time of pickup, and shall further use reasonable efforts to maintain actual collection in accordance with written schedules.

2.13.4 CONTRACTOR will not be required to enter a private garage while serving any customer.

2.14 CITY Contact. Unless otherwise specifically set forth herein, the CONTRACTOR shall direct all contact with the CITY through the Mayor or his/her designee.

2.15 Notices. Any Notice required by this Contract shall be sent to the following:

IF TO: CITY

Attn: Mayor and City Clerk
City of Cashmere
101 Woodring
Cashmere, WA 98815

IF TO: CONTRACTOR

Attn: Area Director, Public Sector Solutions
Waste Management of Washington, Inc.
720 4th Avenue, Suite 400
Kirkland, WA 98033

2.16 Collection Schedules. No garbage or recycling collection shall be made except in compliance with the following time schedules:

2.16.1 For commercial, industrial and/or institutional. For commercial, industrial, and/or institutional properties that abut or are located across an alley from residential property, between the hours of 5:00 a.m. and 6:00 p.m. Monday through Friday. For all other commercial, industrial, or institutional properties, between the hours of 4:00 a.m. and 6:00 p.m., Monday through Friday. Where special circumstances or complaints received by the CITY indicates the necessity or desirability of an adjustment in the hours between which pickups may be made, the CITY may require such an adjustment to be made upon written notice to the CONTRACTOR.

2.16.2 For residential dwellings. For residential dwellings, between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.

2.16.3 Complaints. Where special circumstances or complaints received by the CITY indicate the necessity or desirability of an adjustment in the hours

2.21 Collection Equipment.

2.21.1 In collecting solid waste, garbage, refuse, and other waste under this Contract, the CONTRACTOR shall use all metal water-tight, completely enclosed packers and/or container units that are designed and manufactured for the collection of solid waste, garbage and refuse and are capable of servicing residential and commercial (including industrial and institutional) accounts. The number and type of collection vehicles furnished shall be sufficient for the collection of all solid waste, garbage, refuse, and other waste within the area to be served.

2.21.2 All collection vehicles used in the performance of this Contract shall be required to carry regularly-maintained and fully-functional spill kits. At a minimum, spill kits shall include absorbent pads or granules, containment booms, storm drain covers, sweepers and other similar materials sufficient to contain, control and, for minor events, appropriately clean-up any spillage or release of wind-blown materials, litter, or leaks of CONTRACTOR vehicle fluids or leachate. CONTRACTOR shall notify the CITY via e-mail and telephone within two (2) hours of its knowledge of any major spill or any spill that leaves a noticeable stain on CITY roadways, alleys or private property. Spill kits shall also include employee spill containment instructions and procedures as well as a regularly updated list of emergency contacts. CONTRACTOR shall develop spill response procedures for review and approval by the CITY before initiating any work under this Contract. Prior to operating any collection vehicle in the CITY, all CONTRACTOR vehicle drivers shall be provided with hands-on training on the location, maintenance, and use of spill kits and associated containment and containment instructions and procedures as well as a regularly updated list of emergency contacts.

2.22 Method of Disposal. The CONTRACTOR shall deliver at its cost all solid waste, garbage, refuse, and other waste to the Landfill, or the Dryden Transfer Station, or another legally permitted reception site for disposal.

2.23 Equipment Ownership. All vehicles, facilities, equipment, and property used in the performance of this Contract shall be owned or leased by the CONTRACTOR.

2.24 Painting of Vehicles and Equipment. Collection vehicles shall be painted and numbered and shall have the CONTRACTOR'S name and vehicle number printed in letters of a contrasting color at least three (3) inches high, on each side of each vehicle. No advertising shall be permitted other than the name of the CONTRACTOR. All vehicles shall be kept in a

2.27 Special Arrangements.

2.27.1 The CONTRACTOR agrees to remove and dispose of garbage and recycling generated in the normal course of business from CITY Facilities identified in Exhibit C. This Paragraph shall not apply to collection of sludge, waste water, decant or any other substance from waste water treatment plants or to third party activities such as construction projects pertinent to a CITY Facility. Volumes and container sizes used to service the CITY Facilities will vary depending upon the season. CONTRACTOR agrees to provide a similar service level to the service level the CITY provided to the CITY Facilities identified in Exhibit "C" in the year prior to the Effective Date of this Contract. Should service exceed 10% of the annual volumes collected in the year preceding the Effective Date of this Contract, CONTRACTOR may charge CITY for such excess services pursuant to rates set forth in Exhibit A, as it exists at the time the excess volume occurs.

2.27.2 CONTRACTOR agrees to remove and dispose of solid waste and refuse during the following festivals: Founders Day (one day) and Apple Days (two days) without charge to the CITY.

2.28 Liability Insurance. The CONTRACTOR shall provide and maintain in full force and effect during the entire term of this Contract or any renewal thereof, a policy or policies of public liability insurance, commercial general liability insurance, and automobile and vehicle liability insurance with companies and with forms of coverage acceptable to CITY, providing for limits of not less than \$2,000,000.00 per occurrence for bodily injury and property damage and a general aggregate of \$5,000,000.00 for commercial general liability and a limit of not less than \$2,000,000.00 per accident, combined single limit for bodily injury and property damage for automobile liability.

The CITY shall be named as an additional insured under all policies required by this Contract but only as respects the services provided by CONTRACTOR under this Contract. The CONTRACTOR's insurance shall be primary over any insurance or self insurance that the CITY may have but only as respects the services provided by CONTRACTOR under this Contract. All policies shall provide for thirty (30) days notice to the CITY of cancellation of such insurance coverage. The CONTRACTOR shall further agree to hold harmless and indemnify the CITY, including its elected officials, officers, employees, agents, and volunteers from any and all loss, damage, claims, suits, judgments, or recoveries (including attorneys' fees incurred by CITY) which may be asserted, made, or may arise or be had, brought, or recovered against the CITY arising and/or alleged to arise out of this Contract including but not limited to, any claims or allegations alleging anti-trust violations and/or any negligent or intentional acts or omissions of the CONTRACTOR, its agents and/or employees; and that the CONTRACTOR shall immediately appear and defend the same at its own cost and expense, provided that nothing in this Paragraph shall be construed as requiring an indemnification for the sole negligence of the

except as set forth elsewhere in this Contract and except a CITY business license, without authorizing a commensurate increase in the compensation to be paid the CONTRACTOR.

2.33 CONTRACTOR Planning Assistance. CONTRACTOR shall, upon request and without cost, make available to the CITY and/or a property owner, planning assistance with respect to all new construction or major remodeling of buildings and structures within the corporate limits of the CITY with respect to design and planning of solid waste, garbage, and/or refuse removal facilities and their location upon the site of the proposed construction or remodeling project.

2.34 Workers. All workers employed by CONTRACTOR shall be competent and skilled in the performance of the work to which they may be assigned.

2.35 Company Name. CONTRACTOR shall not use a firm name containing the words Cashmere, city, town, or any words implying municipal ownership.

2.36 Solid Waste Collection, Disposal and/or Recycling Innovations. CONTRACTOR shall keep abreast of all alternatives regarding the collection, disposal, and recycling of solid waste and shall advise the CITY and cooperate with the CITY with respect to any possible innovations, changes or improvements that could be accomplished with respect to the performance of this Contract.

2.37 Affirmative Action Plan. CONTRACTOR shall at all times during the term of this Contract engage in employment practices in a manner whereby equal employment opportunity is observed and practiced without regard to age, race, color, creed, religion, national origin, military or veteran status, marital status, sex, sexual orientation, or any sensory, mental, or physical disability (including use of a trained service animal), except to the extent of bona fide occupational qualifications. CONTRACTOR shall post its Equal Employment Opportunity Policy and Affirmative Action Plan in conspicuous places throughout its facilities. Such policy and plan shall be implemented and followed in all respects during the entire term of this Contract.

2.38 Liquidated Damages. As a breach of the service provided by this Contract would cause serious and substantial damage to CITY, the nature of the Contract would render it impracticable or extremely difficult to fix the actual damage sustained by the CITY by such breach, it is agreed that in case of breach of service, the CITY may, in addition to any other remedy the CITY may have, elect to collect liquidated damages for each such breach and the CONTRACTOR shall pay to the CITY as liquidated damages and not as penalty, the amount(s) set forth below, such sums being agreed upon as what the CITY will be damaged by the breach of such service. An election not to seek such remedies shall not be construed as a waiver of any legal remedies available to the CITY for present and future breaches of this Contract. Liquidated damages may be assessed only when the CITY first notifies the CONTRACTOR of the breach in a written incident report.

all containers 1 cubic yard in size or greater may be provided with a locking mechanism or bar that is capable of being locked by the customer, if such locking capability is requested by and paid for by the customer.

2.41.3 CONTRACTOR shall retain ownership of all CONTRACTOR provided collection containers under this Contract.

2.41.4 CONTRACTOR shall at all times maintain an inventory of all varieties of carts or containers identified in Exhibit A to this Contract. To the extent available inventory will allow, CONTRACTOR shall deliver any cans, carts, or containers within seven (7) days of the request or order. In the event CONTRACTOR does not have a can, cart, or container available or in stock at the time an order or request for the same is placed, the CONTRACTOR shall obtain the requested can, cart, and/or container and supply it to the customer within thirty (30) days from the date of the order or request. CONTRACTOR shall make arrangements to provide a similar can, cart, or container in the interim, and the applicable charge to the customer shall be the lesser of the charge for the can, cart, or container ordered and not in stock or the can, cart, or container provided in the interim. CONTRACTOR shall steam clean or pressure-wash each collection container prior to placing it into service. Cleaning of existing carts that are in service now in the CITY and that are kept in service upon the commencement of this Contract will not be required.

2.41.5 CONTRACTOR provided carts or containers for recycling shall all be one color and for yard waste (if provided) shall all be another color. The colors of the recycling and yard waste carts or containers shall be different than the colors of the solid waste (garbage) carts or containers.

2.42 Records. CONTRACTOR shall maintain in its main office full and complete operations, customer, financial and service records that at any reasonable time shall be open for inspection and copying for any reasonable purpose by the CITY. In addition, CONTRACTOR shall, during the Contract term, and at least five (5) years thereafter, maintain reporting records and billing records pertaining to the Contract that are prepared in accordance with Generally Accepted Accounting Principles, reflecting the CONTRACTOR's services provided under this Contract. Those CONTRACTOR's accounts shall include but shall not be limited to all records, invoices and payments under the Contract, as adjusted for additional and deleted services provided under this Contract. The CITY shall be allowed access to these records for audit, review, and public record response related purposes.

2.43 Reporting. CONTRACTOR shall, with cooperation and assistance by the CITY, provide an annual report to the CITY showing yearly totals, in pounds and by material type, for

after the CITY sends notification to the CONTRACTOR. If the CONTRACTOR does not timely obtain and serve an injunction, the CONTRACTOR is deemed to have authorized releasing the record.

2.46 Laws, Licenses and Taxes.

2.46.1 CONTRACTOR shall comply with all applicable federal, state, county, and city laws, regulations, and ordinances pertaining to the collection, handling, transportation, disposal, and monitoring of solid waste, garbage, refuse, yard debris, and recyclables and shall maintain all required licenses, if any.

2.46.2 The CONTRACTOR shall collect any applicable state refuse collection tax and remit it to the State of Washington.

2.47 Independent CONTRACTOR. It is understood and agreed between the Parties that the relation between them created by this Contract is that of an independent CONTRACTOR. No employee, servant, or agent of CONTRACTOR shall be deemed to be an employee, agent, or servant of the CITY. None of the benefits provided by the CITY to its employees are available to the employees, agents, or servants of the CONTRACTOR. It is understood and agreed between the Parties that CONTRACTOR is an independent CONTRACTOR in the performance of each and every part of this Contract, and is solely and personally liable for all labor and expenses in connection therewith, including any employee benefits and employee taxes.

2.48 Waiver. No consent, expressed or implied, by the CITY to any breach of CONTRACTOR'S covenants or agreements set forth herein shall be deemed to be a waiver of any future breach of the same or other covenant or agreement contained herein.

2.49 Modification. This Contract constitutes the entire agreement between the Parties. Except as expressly provided in this Contract, no alteration or modification of this Contract shall be effective unless such modification shall be in writing and signed by the Parties.

2.50 Assignment. This Contract or any interest in part thereof shall not be assigned, set over, or transferred whether by operation of law or otherwise, nor shall any part thereof be subcontracted without the prior written consent of the CITY having been obtained.

2.51 Termination. The CITY reserves the right, after notice and reasonable and appropriate time to cure, to cancel or terminate this Contract at any time in case CONTRACTOR fails or neglects to perform or adhere to any material provisions, terms, or regulations of this Contract, or fails to abide by any of the conditions or covenants herein contained. In addition, the CITY reserves the right to terminate this Contract immediately if a court of competent jurisdiction orders the CITY to contract for the same or similar services with a third party. In the

the CITY, and any amendments thereto, unless the terms of this Contract clearly provide otherwise. To the extent existing codes, ordinances, or other applicable policies of the CITY are in conflict with the terms of this Contract, the CITY agrees to amend its codes, ordinances, and/or any other applicable policies to conform to the terms of this Contract.

2.57 Entire Agreement. This Contract and Exhibits A (“Rates”), B (“Recyclables List”), and C (“City Facilities”) to this Contract contain the entire agreement between the Parties with respect to solid waste and recycling services to be provided by CONTRACTOR to CITY.

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Approved by the City Council of the City of
Cashmere, at an Open Public Meeting on
the 23rd day of May, 2016.

By:



Mayor Jeff Gomes

ATTEST:

By:



Kay Jones, City Clerk

**EXHIBIT A
RATES
FOR CITY OF CASHMERE/WASTE MANAGEMENT CONTRACT**

Garbage & Recycling Services:

Rates

Cubic Yard Container (compacted):

4 Cubic Yard Garbage Container	\$ 577.71
6 Cubic Yard Garbage Container	\$ 840.64

(Customers requesting multiple collections per week will be charged the rate above times the number of additional collections per week)

Drop Box Container/Compactor:

(Includes temporary and permanent services. Temporary services shall not exceed ninety (90) days of service. All services subject to a once per month minimum haul charge regardless of actual service provided.)

<u>Size of Container</u>	<u>Haul</u>	<u>Dump Fee (c)</u>	<u>Dump Fee (d)</u>	<u>Rent/Month</u>
20 Cubic Yard	\$ 139.55	\$ 69.67	\$ 96.38	\$ 49.00
25 Cubic Yard	\$ 139.55	\$ 69.67	\$ 96.38	\$ 53.00
30 Cubic Yard	\$ 139.55	\$ 69.67	\$ 96.38	\$ 53.00
40 Cubic Yard	\$ 139.55	\$ 69.67	\$ 96.38	\$ 60.55

(c) Hauled to Greater Wenatchee Regional Landfill - per ton

(d) Hauled to Dryden Transfer Station - per ton

Delivery Rate (on temporary customers only)	\$ 56.89 /placement
Mileage Rate	\$ 2.78 /mile

(when hauled to landfill; calculated from customer location to landfill)

B. Additional Commercial Charges:

Special Pickups

Collection Vehicle	\$ 111.67 /hour
Extra Personnel	\$ 27.61 /hour

Container Cleaning Charges

Steam Cleaning Container	\$ 6.50 /yard
Pickup/Redelivery Charge (0-8cy)	\$ 20.28 /pick-up
Pickup/Redelivery Charge (greater than 8cy)	\$ 31.11 /pick-up

Extra Garbage

Extra Garbage Collection Charge (per 32-gallon equivalent)	\$ 4.78 /equivalent
Extra Garbage Charge (per loose yard)	\$ 15.22 /yard

Other

Unlocking and locking containers	\$ 13.33 /pick-up
Gate or obstruction charge	\$ 13.33 /pick-up
Container rollout (each container)	\$ 3.89 /pick-up
Connect and Disconnect charge on compactors	\$ 31.00 /pick-up
Reactivation from Bad Debt	\$ 27.78 /occurrence

* All rates include the CITY 10% utility tax on the gross revenues received by the CONTRACTOR. The above rates exclude the State Solid Waste Tax of 3.6% which will be shown as a separate line item on the customers' invoice.

Cardboard	<ul style="list-style-type: none"> • Cardboard boxes • Cardboard packaging • Cardboard beverage 'flats' or nursery 'flats' 	<p>Flatten all cardboard. Remove all interior packaging, block foam, packing peanuts and exterior plastic wrap. Do not bundle with tape or twine. External tape okay. Oversized cardboard can be placed next to card/container. Must be dry.</p>	Waxed cardboard.
Metal	<ul style="list-style-type: none"> • Tin, aluminum and steel food or beverage containers • Empty aerosol cans • Scrap metal (limit: 2'x2'x2', 35 lbs.) • Metal appliances, cord removed 	<p>Remove all exterior packaging; remove lids; empty of all food or liquids. Labels do not need to be removed.</p>	Aluminum foil and trays; sharp or greasy metal; batteries; microwaves; electrical cords; cell phones; car snow chains.
Plastic	<ul style="list-style-type: none"> • Food and beverage containers • PET/PETE bottles • HDPE bottles/jugs • Dairy tubs, e.g. butter, yogurt, cottage cheese • Cups • Rigid plant pots • 5-gallon buckets 	<p>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.</p>	Plastic bags, 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.