

AGREEMENT TO PROVIDE SERVICE PURSUANT TO A COOPERATIVE PURCHASING CONTRACT

This Agreement is made and entered into by and between the City of San Luis, an Arizona municipal corporation, hereinafter designated as the "City" and Allied Waste Transportation Inc., a Delaware corporation, dba Republic Services of Yuma, hereinafter designated as the "Contractor". City and Contractor may hereinafter be referred to individually as a "Party" or collectively as the "Parties."

Recitals

A. Contractor has contracted with City of Yuma pursuant to Contract No. 2020-2000052 (the "Cooperative Purchasing Contract"), attached hereto as **Exhibit "A"** and incorporated herein; and; and

B. Pursuant to A.R.S. § 41-2631 et seq. and City Code § 3.05.909, the City has authority to utilize cooperative purchasing contracts and engage Contractors under the terms thereof.

C. The City and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the Cooperative Purchasing Contract and this Agreement, and (ii) establishing the terms and conditions by which the Contractor may provide the City with the services, materials and/or equipment as more particularly set forth below (the "Services").

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Agreement

1. **Scope of Work.** Contractor shall provide the Services as detailed and described in the Contract with City of Yuma – City of San Luis, attached hereto as **Exhibit A**, which is incorporated herein by reference. As used in this Contract, all references in the Cooperative Purchasing Contract to Sourcewell shall mean the City.

2. **Completion of Work.** The Contractor shall provide the Services as provided for in the Quote.

3. **Payment.** The Contract Price is \$425,310.57. Payment to the Contractor for the Services provided, shall be made in accordance with the price list and terms set forth in the Quote and Cooperative Purchasing Contract.

4. **Terms of Cooperative Purchasing Contract Apply.** All provisions of the Cooperative Purchasing Contract documents are incorporated in and shall apply to this Contract as though fully set forth herein, except as otherwise provided for in this Agreement.

5. **Conflict of Interest.** The Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

6. **Agreement Subject to Appropriation.** The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The Parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

7. **Boycott of Israel.** To the extent A.R.S. § 35-393 through § 35-393.03 are applicable, the Parties hereby certify that they are not currently engaged in, and agree for the duration of this Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S. § 35-393.

8. **Forced Labor Of Ethnic Uyghurs Prohibited.** Pursuant to A.R.S. § 35-394, by entering into this Agreement, Contractor certifies and agrees Contractor does not currently use and will not use for the term of this Agreement: (i) the forced labor of ethnic Uyghurs in the People's Republic of China; or (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

9. **Conflicting Terms.** In the event of any inconsistency, conflict or ambiguity between this Agreement and the Cooperative Purchasing Contract, this Agreement shall govern.

10. **Counterparts.** This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same

instrument, and each of said counterparts shall be deemed original hereof.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this ____ day of August, 2026.

CITY OF SAN LUIS:

CONTRACTOR:

By: _____
Nieves Riedel, Mayor

By: _____
(Signature)

(Printed Name & Title)

ATTEST:

Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

Joseph D. Estes, City Attorney

EXHIBIT A
CONTRACT OF COOPERATIVE PURCHASING ENTITY

Attached:

- City of Yuma Contract - #2020-20000052



**CONTRACT AGREEMENT
FOR**

**SOLID WASTE TRANSFER, DISPOSAL
AND RECYCLING SERVICES**

by and between

**THE CITY OF YUMA
AN ARIZONA MUNICIPAL CORPORATION**

And

**Allied Waste Transportation Inc, a Delaware Corporation, dba
Republic Services of Yuma**



CONTRACT AGREEMENT FOR SOLID WASTE AND RECYCLING TRANSFER AND DISPOSAL SERVICES

This Contract Agreement for Solid Waste and Recycling Transfer and Disposal Services (the "**Agreement**"), is made and entered into as of the Effective Date set forth below between the City of Yuma, an Arizona municipal corporation (hereinafter the "**City**"), and Allied Waste Transportation Inc., a Delaware corporation, dba Republic Services of Yuma (hereinafter the "**Contractor**"). The City and the Contractor may individually be referred to as a "Party" or collectively as the "Parties."

SECTION 1. Recitals and Definitions

1.01. The City issued a Request for Proposals, RFP #2020-20000052 "Solid Waste Transfer, Disposal and Recycling Services" (the "RFP"), a copy of which is on file in the City Clerk's Office and incorporated herein by reference, seeking proposals from Contractors for solid waste and recycling transfer and disposal services (the "Services").

1.02. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

1.03. For purposes of this Agreement, the following words and phrases shall have the meaning given herein unless their use in the text of this Agreement clearly demonstrate a different meaning. The words shall have the following meanings even if not capitalized.

1.03.1 "**Commingled**" means various recyclable materials that are collected or processed together.

1.03.2 "**Contamination**" means any material or substance on or contained in recyclable materials that would cause the recyclable materials to be unsuitable for recycling.

1.03.3 "**Continuously Contaminated**" means when four (4) or more collection truck loads are rejected within a specific route on the same day.

1.03.4 "**Contract Administrator**" means the City Administrator or his designee who represent the CITY in the administration and supervision of this Agreement.

1.03.5 "**Contract Documents**" consist of this Agreement and any amendments thereto, the RFP Specifications, addenda, and other documents attached or referenced therein, and the RFP Response from the Contractor. In the event of a conflict between this Agreement and the RFP Specifications or the RFP Response of Contractor, this Agreement shall prevail.

1.03.6 "**Effective Date**" means the date upon which this Agreement is fully executed by both Parties.

1.03.7 "**Garbage**" means every accumulation of animal, vegetable, and other matter that attends the preparation, handling, consumption, storage, or decay of food, or any plant and animal matter including meats, fish, fowl, birds, fruit, vegetable or dairy products, and the waste wrappers of containers thereof.

1.03.8 "**Hazardous Waste**" means waste defined as, or of a character or in sufficient quantity to be defined as, a "Hazardous Waste" by the Resource Conservation and Recovery Act, as amended, or any state or local laws or regulations with respect thereto, or a "toxic



substance" as defined in the Toxic Substance Control Act, as amended, or any regulations with respect thereto, or any reportable quantity of a "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any regulations with respect thereto. The term "Hazardous Waste" also includes any waste whose storage, treatment, incineration or disposal requires a special license or permit from any federal, state or local government entity, body or agency and any substance that, after the Effective Date of this Agreement, is determined to be hazardous or toxic by any judicial or governmental entity, body or agency having jurisdiction to make that determination.

1.03.9 "**Household**" whenever used in this Contract, shall mean any dwelling or dwelling unit used for residential purposes, and shall include all one-family, two-family, three-family, or four-family mobile homes and residences.

1.03.10 "**Industrial Solid Waste**" means solid waste that results from industrial processes and manufacturing.

1.03.11 "**Materials Acceptance List (MAL)**" means the document which identifies the types and standards for the recyclable materials which may be collected and processed under this Agreement. The Materials Acceptance List is attached as Appendix B and made a part of this Agreement.

1.03.12 "**Materials Audit**" means a process to determine the percentage of each recycling commodity within the total residential recycling materials.

1.03.13 "**Processing Facility**" means the Contractor's primary processing facility located at 3040 S Avenue 3 ½ E, Yuma, AZ 85364 and the secondary processing facility located at 702 E. Heil Ave, El Centro, CA 92243 and or. A Processing Facility is where recyclables such as paper, glass, metal, and plastics are sorted before being marketed to industries which use recycled materials.

1.03.14 "**Process, Processed or Processing**" means the separation, sorting, crushing, baling, shredding, flattening or other treatment of program recyclables into recovered materials.

1.03.15 "**Public Recycling Education**" means providing information designed to inform, encourage, and sustain the City's recycling program. The educational materials may include information on materials suitable for recycling, the benefits of recycling, how to participate and other topics relating to the City's recycling program.

1.03.16 "**Recyclables**" whenever used in this Agreement shall mean items included on the MAL for processing.

1.03.17 "**Recycling Drop Off Station**" means a cluster of recycling containers and/or recycling dumpsters at various locations throughout the City for the purpose of encouraging and facilitating community recycling.

1.03.18 "**Rejects**" means non-recyclable materials which are delivered to the Transfer Facility with recyclable materials.

1.03.19 "**Residential Recyclable Material**" means recyclable material that is generated from residential service units, not including construction and demolition waste or Hazardous Waste.



1.03.20 "**Residual**" means the portion of the recyclable or non-recyclable materials accepted by the Contractor that is not recovered after processing.

1.03.21 "**Service**" whenever used in this Agreement, shall mean the furnishing of all vehicles, equipment, materials, labor and other facilities necessary to the performance of this Agreement.

1.03.22 "**Solid Waste**" means all putrescible, non-putrescible, solid and semi-solid wastes, including Garbage, Rubbish, Ashes, Manure, street cleanings, dead animals, and industrial wastes, but not human excreta or Unacceptable Waste.

1.03.23 "**Transfer Facility**" means the Contractor's facility located at 3040 S 3 1/2E, Yuma, AZ that is used by the Contractor for the storage, processing, treatment or disposal of recyclable materials and solid waste.

1.03.24 "**Unacceptable Waste**" means highly flammable substances, Hazardous Waste, liquid wastes, special wastes, certain pathological and biological wastes, explosives, toxic materials, radioactive materials, material that the Transfer Facility is not authorized to receive and/or dispose of, and other materials deemed by state, federal or local law, or in the reasonable discretion of Contractor, to be dangerous or threatening to health or the environment, or which cannot be legally accepted at the applicable Transfer Facility.

SECTION 2. Scope of Work and Contractor Obligations

2.01. The Contractor shall provide all labor, materials, equipment, facilities required for transfer and disposal services for all of the City's Solid Waste and processing of Recyclables of residential origin under the terms and conditions of this Agreement and the Local Processing Facility described in Appendix A. All work must be completed to the City's satisfaction.

2.02. The designated transfer station shall be open to receive materials delivered by the City at a minimum between the hours of 6:00 a.m. and 5:00 p.m. Monday through Friday, and between the hours of 8:00 a.m. and 12:00 noon on the first Saturday of each month except for New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day and Christmas Day. In addition, City may request Contractor to open the Transfer Facility for fewer or additional hours or on holidays, based on its reasonable judgment as to the hours required to receive materials delivered pursuant to this Agreement, upon reasonable notice to Contractor. The hours for acceptance of loads may be adjusted on an annual basis by mutual written agreement of the Parties. As provided in Section 7.07, Contractor will pay liquidated damages in the amount of \$500 for each instance that the Transfer Facility fails to accept materials properly delivered by the City, except where arising from an event of force majeure.

2.03. The Contractor agrees at the City's request to provide all labor, equipment, and service required to operate Recycling Drop Off Stations for a recycling drop off program at five (5) locations within the City of Yuma, at the not to exceed cost to the City of \$31,500 per year, prorated by month. The recycling drop-off program will start within 30 days of commence of this Agreement and terminate when curbside recycling resumes blue bin collections on or before July 1st 2021. The recycling drop off program can be resumed at the approval of the City and the Contractor.

2.04. Residents located within the City shall have the right to deliver household loads of waste material directly to the Transfer Facility, in cars or pickup trucks only, at the rate of \$15 per load. The weight of any load shall not exceed three-fourth of a ton. The hours for acceptance of loads



may be adjusted on an annual basis by mutual written agreement of the Parties. The rate for such services shall be fixed for the term of the Agreement and any extensions. The Contractor may demand proof of residency, the method of which shall be agreed to by the City and the Contractor in writing.

2.05. The Contractor must provide a weight ticket upon each delivery to include the date of delivery, truck number, and a total tonnage delivered.

2.06. The Contractor must obtain prior written approval from the City for any change in the scope of work that materially increases or decreases the cost of performance. In addition, the Contractor must perform all modified work according to the terms of this Agreement.

2.07. Dead animals shall be delivered directly to the Copper Mountain Landfill. The City or the City's authorized representative shall have the right to deliver one load of dead animals to the Copper Mountain Landfill each week between the hours of 7:00 a.m. and 1:00 p.m. without charge. In order to receive free service, the load of dead animals may not be commingled with other waste and may not exceed two (2) cubic yards in volume.

2.08. The City will not accept any claim for extra work or materials furnished unless the Contractor receives prior written authorization from the City. All work or materials furnished without prior written authorization are at the Contractor's own risk and expense. The City will not accept or pay claims for unauthorized work or materials. If any errors or omissions are disclosed, the Contractor must correct them at its own expense.

2.09. The Contractor may not make any charge or claim for damages that result from delays or hindrances beyond the City's control. The sole form of compensation for delay or hindrance is a reasonable extension of time agreed to by the Parties. An extension is not a waiver of any of the City's legal rights.

2.10. The Contractor shall provide a letter to the City stating that they manage programs, which maintain compliance with State, Local and Federal environmental and safety requirements.

2.11. The Contractors Transfer Facility shall be equipped with adequately sized truck scales and computerized record-keeping systems for weighing and recording all incoming and outgoing delivery vehicles and vehicles transporting recyclable materials. Contractor shall provide to CITY drivers weight tickets for each delivery load. The CITY will reconcile the weight tickets with the scale records. The result will be used as the basis for calculating fees, charges, and credits to the CITY. The Contractor shall provide an annual State scale certification upon City's request.

2.12. The Contractor shall submit copies of all Local, State and Federal licenses applicable to maintaining the landfill and/or the Transfer Facility used to provide services under this Agreement prior to initial Agreement commencement.

2.13. The Contractor agrees that it will comply in all respects with all applicable ordinances, rules, regulations, and laws of the City of Yuma, Yuma County, State of Arizona, and the United States and all amendments thereto and with all of the Contract Documents.

2.14. Compliance with Environmental Protection Regulations: The Contractor must comply with all applicable local, state and federal laws regarding Environmental Protection. All costs and expenses for obtaining regulatory and/or operation permits shall be the responsibility of the Contractor. Contractor shall avoid those practices that create a nuisance or perception of nuisance to citizens such as odor, noise and litter.



2.15. Material Audits: The Contractor shall conduct recyclable Materials Audits in January and July. The audit results will determine the percentage of each commodity in the total City recycling stream. The Contractor shall utilize a Processing Facility to process the materials and conduct the audits. A City representative shall approve of the time, location, date and be afforded the option to be present for all material audits. The Contractor shall be responsible for all cost associated with conducting the recyclable Materials Audit.

SECTION 3. City Obligations

3.01 The City will deliver to the Contractor's Transfer Facility the materials to be disposed of by the Contractor. The City is responsible for waste delivered to the Transfer Facility that is prohibited at a landfill by State or Federal regulations. The Contractor will provide a container at the Transfer Facility in which the Contractor will place the prohibited materials. The City shall receive a credit for all returned materials. The City agrees to remove and dispose of the prohibited materials, at the City's cost, when the container is full. Any Solid Waste delivered to Contractor's Transfer Facility but not placed in the container as a prohibited material shall be deemed "accepted" by the Contractor for purposes of the indemnification set forth in Section 6.

3.02 The City shall deliver waste and recycling material collected by the City and subject to this Agreement to the Transfer Facility.

3.03 The City's obligation under Section 3.02 above shall be subject to the following exceptions:

3.03.1 The City's obligation to require the delivery of waste material to the Transfer Facility shall not apply to the extent the City, in its reasonable judgment, believes such a requirement is contrary to applicable law, as it exists either now or in the future.

3.03.2 The City shall have the right at all times to divert for recycling, converting waste to energy or similar uses, some or all of the waste material collected by the City. All Federal, State or Local grants, subsidies or other monies available to the City as a result of such recycling, conversions or other uses shall be the property of the City.

3.03.3 The City shall have the right at all times to divert for mulching or similar uses, some or all of the organic green waste (i.e. lawn clippings, tree chips, branches, leaves, etc.) collected by the City. In the event federal, state or local grants, subsidies or other monies become available to the City as a result of such uses, those monies shall be the property of the City.

3.04 - Recyclables / Revenue Sharing

3.04.1 **Revenue Sharing:** The Contractor shall pay the City for the recovered recyclable materials, on a quarterly basis the amount of the rebate shall be calculated using the formula below:

3.04.2 When value of the material recovered is within the first \$125,000 in any one-year period from July 1 – June 30. (recycling material sold x 20%) = City's Revenue Share

3.04.2.1 When value of the material recovered exceeds a base amount of \$125,000 in any one-year period from July 1 – June 30. (recycling material sold) – (\$125,000) x 80% = City's Revenue Share



3.04.2.2 Contractor shall make Revenue Sharing payments (when applicable) to the City within 30 days following the end of each quarter.

3.04.2.3 Contractor shall provide to the City each month a report showing the tonnage for that month, the Blended Rate from the sales of material recovered and the cumulative year to date tonnage and Blended Rate.

3.04.3 Residual: The Contractor shall be responsible for disposal of all Residual and any cost associated with the disposal.

3.04.4 Recyclable Material: The City cannot guarantee the quantity or quality of any recyclable materials. Title to and ownership of the Recyclables shall pass to the Contractor upon weighing and tipping of the materials at the Transfer Facility. A Materials Acceptance List (MAL) is attached as Attachment A and can be modified by mutual agreement of the Parties. Title to and liability for any Unacceptable Waste shall at no time pass to Contractor.

3.04.5 Contamination of Load: A Contaminated load occurs when more than 35% of the total weight of a load is rejected. Continuous Contamination occurs when four or more loads within one day are contaminated with Rejects. The City and Contractor agree to work together to design and implement a plan to reduce Contamination identified from a specific neighborhood if deemed necessary.

3.04.6 If the Contractor determines that a recyclable load may be rejected for any reason, the Contractor or his designee must:

3.04.6.1 Advise the driver immediately after dropping the load and before the driver leaves the Transfer Facility bay.

3.04.6.2 Segregate and store all rejected loads separately from other Recyclables.

3.04.6.3 Provide written notice by email to the Solid Waste Superintendent within 24 hours of the time on the scale ticket provided to the driver for that load. Contractor shall state the specific reason(s) the load was rejected. The City may inspect rejected loads within 24 hours after notification from the Contractor and make its own determination as to whether such materials are in fact contaminated. In the event the City and Contractor do not agree on whether a load is contaminated, the decision of the City will be final. If the City fails to inspect within 24 hours of notice, the Contractor may dispose of the loads in any manner that does not constitute a violation of any statutes, ordinances, rules, and regulations of any governmental body.

3.04.7 Processing System: The Contractor shall process the City's Curbside Recyclables Material within 120 hours of delivery to the Transfer Facility. The Contractor shall ensure that for the term of this Agreement adequate recyclable material processing capability will be provided at the Transfer Facility for all recyclable materials delivered by the City or City's haulers. The Contractor shall not dispose of or landfill any Residential Recyclable Materials that have not been processed or send Recyclables to markets that the Contractor knows or reasonably should have anticipated will dispose of and/or landfill the Residential Recyclable Materials except when approved in writing by the City. Disposal of Residential Recyclable Materials without written consent of the City may result in termination of this Agreement by the City. Contractor shall have an alternate processing facility available to accept the City's recyclable materials in the event the Contractor's local Transfer Facility is unable to process the materials.



The Contractor shall process all Residential Recyclable Materials delivered to the Transfer Facility by the City. The Contractor shall not bill for the cost of Residual disposal. The Contractor shall be solely responsible for the security, transportation, protection, and disposition of the recyclable materials from the time said materials are delivered to Contractor's Transfer Facility. The Contractor shall describe their local recycling processing system as offered in the proposal as a separate attachment.

3.04.8 Public Recycling Educational Services: The Contractor will provide \$10,000 per year towards the Public Recycling Education as outlined in the Contractor's response to the RFP. Additionally, the Contractor will work directly with the City at community outreach events that promote recycling. The Contractor shall commit up to 4 hours per month for such outreach events when requested by the City. The City shall provide three (3) business days' advance notice of the date, location and time of the required Public Recycling Education. Public Recycling Educational services will be designed to inform, encourage, and sustain the City's recycling program. The educational materials may include information on materials that can be recycled, the benefits of recycling, how to participate and other topics relating to the City's program.

SECTION 4. Fees, Rates and Duration of Agreement

4.01. Rates. The following rates and classifications for rates shall apply through June 30, 2022 and subject to 4.02 thereafter.

- A. Solid Waste per ton \$28.00
- B. Recycling per ton \$28.00

The above stated rates include all charges for the solid waste and recycling transfer, processing services. In the event recycling is canceled, the City shall provide the Contractor sixty (60) days written notice. The City shall have the right to cancel processing of recyclables. The parties agree that the overall pricing of solid waste and recycling services was based on the inclusion of the processing of recyclables and therefore, if City cancels the processing of recyclables Contractor and City will negotiate in good faith a lower rate for solid waste services to begin after the date of cancellation of processing of recyclables.

4.02 Annual Price Adjustments. The rates set forth in Section 4.01 above are valid through June 30, 2022. Thereafter through the end of this Agreement, the rates shall be adjusted once annually on July 1 each year by a fixed 3%.

4.03 Notwithstanding any provision herein to the contrary, the rate for Services charged to the City at any time during the term of this Agreement shall not exceed the rate for similar materials, volumes, and Services charged to any Government customer, of the Contractor delivering waste material to the Transfer Facility, for disposal at the Transfer Facility.

4.04 Duration of Agreement. This Agreement shall commence on the Effective Date and shall have an initial term of ten (10) years.

4.05 The Parties shall have the option to renew this Agreement up to two additional five-year periods, one period at a time at the mutual written consent of the Parties. Such renewals may only be made in five-year increments. Notice of intent to renew are be made at least ninety (90) days prior to normal Agreement expiration.

4.06 In the event the Parties do not opt to renew the Agreement under Section 4.05 above, the City shall have the option to extend this Agreement at the current rates, one month at a time, not to exceed six (6) total.



SECTION 5. Insurance

5.01 General.

5.01.1 **Insurer Qualifications.** Without limiting any obligations or liabilities of the Contractor, the Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to Arizona Revised Statutes ("A.R.S.") § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

5.01.2 **No Representation of Coverage Adequacy.** The City reserves the right to review any and all of the blanket-form policy endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

5.01.3 **Additional Insured.** All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name and endorse, to the fullest extent permitted by law for claims arising out of the performance of this Agreement via blanket-form endorsement as specified under the respective coverage sections of this Agreement, the City of Yuma, its officials, officers, employees, and agents as additional insureds with respect to liability arising out of the activities performed by or on behalf the Contractor.

5.01.4 **Coverage Term.** All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

5.01.5 **Primary Insurance.** The Contractor's insurance required by this Agreement shall be primary, non-contributory insurance with respect to all aspects of the performance of this Agreement. The policies of insurance required under this Agreement are to be primary, non-contributory, insurance policies and any insurance policy maintained by the City is considered excess insurance. The existence of excess insurance policies should in no way be construed to limit the requirements of insurance described herein.

5.01.6 **Claims Made.** In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

5.01.7 **Waiver.** All policies, except for Professional Liability, if applicable, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (waiver of subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of the Contractor. The Contractor shall arrange to have such blanket-form subrogation waivers incorporated into each policy via formal written blanket-form endorsement.



5.01.8 Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. The Contractor shall be solely responsible for any such deductible or self-insured retention amount.

5.01.9 Use of Subcontractors. If any work under this Agreement is subcontracted in any way, the Contractor shall be fully and solely responsible for its subcontractors.

5.01.10 Evidence of Insurance. Prior to commencing any work or services under this Agreement, the Contractor will provide the City with suitable evidence of insurance in the form of certificates of insurance as required by this Agreement, issued by the Contractor's insurance insurer(s) or their authorized representative as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. The City may reasonably rely upon the certificates of insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, the Contractor shall forward renewal certificates to the City fifteen (15) days prior to the expiration date. If the policy or policies are canceled or not renewed, the insurance company shall provide thirty (30) days written notice to the City prior to the effective date of such cancellation or non-renewal (excluding workers compensation). All certificates of insurance required by this Agreement shall be identified by referencing the RFP number and title of this Agreement. Additionally, certificates of insurance submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance shall specifically include the following provisions:

5.01.10.1 The Contractor's insurance shall be primary, non-contributory insurance with respect to all aspects of the performance of the Agreement.

5.01.10.2 All policies, except for Professional Liability, if applicable including Workers' Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by the Contractor under this Agreement.

5.01.10.3 ACORD certificate of insurance form 25 (2016/03) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

5.01.11 Failure to provide required coverage and failure to comply with the terms and conditions of this Agreement shall not waive the contractual obligations herein. Moreover, failure to provide evidence of required insurance shall delay payment for services rendered.

5.01.12 All certificates are to be emailed to: purchasingweb@yumaaz.gov

5.02 Required Insurance Coverage.

5.02.1. Commercial General Liability. The Contractor shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of the following:



• Each Occurrence	\$5,000,000
• General Aggregate	\$10,000,000
• Products – Completed Operations Aggregate	\$500,000
• Personal and Advertising Injury	\$500,000
• Blanket Contractual Liability –	\$500,000
• Fire Legal Liability	\$50,000
• Each Occurrence	\$1,000,000

The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, bodily injury, personal and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

5.02.2 **Umbrella/Excess Liability.** The Contractor shall maintain umbrella/excess liability insurance with an unimpaired limit of not less than \$10,000,000 per occurrence combined limit bodily injury and property damage, and applies in excess of the Commercial General Liability, Automobile Liability and Workers' Compensation and Employer's Liability, as required herein.

5.02.3 **Pollution Liability.** The Contractor shall maintain pollution liability coverage of \$1,000,000 per loss and a \$2,000,000 annual aggregate for losses caused by pollution conditions that arise from the Contractor's performance of work or service under this Agreement. The coverage must include: (1) bodily injury, illness, death, mental anguish or shock; (2) property damage, including but not limited to physical injury or destruction, loss of use, and cleanup costs; and (3) all defense costs, including charges and expenses for investigation and claims adjustment.

5.02.4 **Business Automobile Liability.** The policy shall include bodily injury and property damage for any owned, hired, leased, borrowed, and/or non-owned vehicles used in the performance of this Agreement with an unimpaired limit of the following:

- Combined Single Limit (CSL) \$1,000,000

If hazardous materials or wastes are transported, CA 9948 endorsement must be included and \$3,000,000.00 per accident, limits for bodily injury and property damage will apply.

5.02.5 **Worker's Compensation and Employers' Liability.** The Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over the Contractor's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit. The Contractor shall require sub-contractors to provide Worker's Compensation and Employer's Liability with at least as much coverage as that provided by the Contractor.

SECTION 6. Indemnification/Audit

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the City and each council member, officer, director, employee or agent thereof (the City and any such person being herein called an “Indemnified Party”), for, from and against any and all losses, claims, damages, liabilities, fines, penalties, judgments, costs and expenses (including, but not



limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever (collectively "Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the willful misconduct, reckless, or negligent acts, misconduct, errors, directives, mistakes or omissions, in connection with the work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor or person for which Contractor may be legally liable in the performance of this Agreement. Contractor is not responsible for Claims that arise out of the City's negligence or willful misconduct. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section 6.

6.1 Accounting and Audit: Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement in accordance with generally accepted accounting principles. Upon request, the City shall be afforded access to Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Agreement, and Contractor shall preserve these for a period of five (5) years after final payment, or for such longer period as may be required by law. The City reserves the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or records relating to this Agreement. All such material shall be maintained by Contractor at a location in Yuma County, Arizona, provided that if any such material is located outside Yuma County, Arizona, then at the City's option, Contractor shall pay for travel, per diem, and other costs incurred by the City to examine, audit, excerpt, copy or transcribe such material at such other location.

SECTION 7. Conditions and Specifications

7.01 Execution, Correlation and Intent of Documents. The Contract Documents are complimentary, and what is called for by any one (1) document shall be as binding as if called for by all. The intention of the Contract Documents is to include all labor, materials, equipment, transportation, and facilities required for the proper performance of the Services required herein. Materials, equipment and other facilities described in words, that so applied, have a well-known technical or trade meaning shall be held to refer to such recognized standards.

7.02 Contractor's Understanding. It is understood and agreed that the Contractor has carefully and completely satisfied itself as to the nature and extent of the Services, the type of equipment and facilities needed for the performance of the Services, the specific and local conditions of the City, the accuracy of all figures and statistics provided in the supportive documents, the applicable laws and ordinances, and all other matters, that can in any way, affect the Services under this Agreement. No verbal agreement or conversation with any officer, agent, or employee of the City, either before or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained.

7.03 Subcontracts. The Contractor shall not, without prior written approval of the City, sublet or assign any portion of the Services to be performed.

7.04.1 Termination.

7.04.1 Right to Suspend or Terminate upon Default. Upon any Contractor Default, the City may terminate this Agreement or suspend it, in whole or in part. Such suspension or termination shall be effective thirty 30 days after the City has given written notice of suspension



or termination to the Contractor, except that such notice may be effective in a shorter period of time, or immediately, if the Contractor Default is one which endangers the health, welfare or safety of the public. The Contractor shall continue to perform the portions of the Agreement, if any, not suspended, in full conformity with its terms. The City may also suspend or terminate this Agreement, upon the same notice provisions, if the Contractor's ability to perform is prevented or materially interfered with by a cause which excuses non-performance despite the fact that non-performance in such a case is neither a breach nor a Contractor Default.

7.04.2 Event of Default. Each of the following shall constitute an event of default by the Contractor ("Contractor Default"):

7.04.2.1 The Contractor fails to perform its obligations under any section of this Agreement and its failure to perform is not cured within five (5) days after notice from City provided that if the nature of the breach is such that it will reasonably require more than five (5) days to cure, Contractor shall not be in default so long as it promptly commences the cure and diligently proceeds to completion of the cure, and provided further that neither notice nor opportunity to cure applies to events described in subsections 7.04.2.2 through 7.04.2.4.

7.04.2.2 Contractor ceases to provide Services for a period of two (2) business days for any reason within the Contractor's control, including, but not limited to, labor unrest such as strike, work stoppage or slowdown, sickout, picketing, or other concerted job action by the Contractor's employees.

7.04.2.3 The Contractor files a voluntary petition for relief under any bankruptcy insolvency or similar law or an involuntary petition is brought against the Contractor under any bankruptcy, insolvency or similar law, which remains undismissed or unstayed for ninety (90) days.

7.04.2.4 The Contractor fails to provide any additional assurances of performance as required under this Agreement.

7.05 Specific Performance. By virtue of the nature of this Agreement, the urgency of timely, continuous and high quality service, the lead-time required to effect alternative service, and the rights granted by the City to the Contractor, the remedy of damages for a breach hereof by the Contractor is inadequate and the City shall be entitled to injunctive relief.

7.06 City's Remedies Cumulative. City's rights to suspend or terminate the Agreement or to obtain specific performance are not exclusive, and City's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies that City may have, including a legal action for damages or the imposition of liquidated damages.

7.07 Liquidated Damages. The Parties acknowledge that consistent courteous and efficient collection of Solid Waste is of utmost importance and City has considered and relied on Contractor's representations as to its quality of service, commitment in entering into this Agreement. The Parties further recognize that quantified standards of performance are necessary and appropriate to ensure consistent and reliable Services. The Parties further recognize that if Contractor fails to provide the Services required herein, the City and its residents will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of damages that the City will suffer. Therefore, the Parties



agree that the liquidated damage amounts of \$500.00 per violation represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to the City and its residents that reasonably could be anticipated and recognition that proof of actual damages would be costly or inconvenient.

The Contractor agrees to pay as liquidated damages and not as a penalty the amount set forth herein. The City may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or agents and through investigation of customer complaints made directly to the City. Prior to assessing liquidated damages, the City shall give the Contractor notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. The Contractor may review (and make copies at its own expense) all non-confidential information in the possession of the City relating to incident(s)/non-performance. The Contractor may, within ten (10) days after receiving the notice, request a meeting with the City's Representative or his or her designee. The Contractor may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The City's Representative or his or her designee will provide Contractor with a written explanation of his or her determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of the City's Representative or his or her designee shall be final. The City's right to recover liquidated damages for the Contractor's failure to provide the Services shall not preclude the City from obtaining equitable relief for persistent failures to provide such Services nor from terminating the Agreement for such persistent failures.

7.08 City Default. The City shall be in default under this Agreement ("City Default") in the event the City commits a material breach of the Agreement and fails to cure such breach within thirty (30) days after receiving notice from the Contractor specifying the breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, the City shall not be in default so long as City promptly commences the cure and diligently proceeds to completion of the cure. In the event of an asserted and disputed City Default, the Contractor shall continue to perform all of its obligations hereunder until a court of competent jurisdiction has issued a final judgment declaring that City is in default.

7.09 Assurance of Performance. If the Contractor: (i) persistently suffers the imposition of liquidated damages; (ii) is the subject of any labor unrest including work stoppage or slowdown, sickout, picketing or other concerted job action; (iii) appears in the reasonable judgment of the City to be unable to regularly pay its bills as they become due; (iv) is the subject of a civil or criminal proceeding brought by a federal, state, regional or local agency for violation of an Environmental Law in the performance of this Agreement; or (v) performs in a manner that causes the City to be uncertain about the Contractor's ability and intention to comply with this Agreement – then the City may, at its option and in addition to all other remedies it may have, demand from the Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as City may require.

7.10 Force Majeure. Neither Party shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or extremely impracticable for it to perform its obligations due to an "act of God" (including, but not limited to, flood, earthquake or other catastrophic events), war, insurrection, riot, labor unrest of other than the party's employees (including strike, work stoppage, slowdown, sickout, picketing, or other concerted job action) or



other similar cause not the fault of, and beyond the reasonable control of, the party claiming excuse. A Party claiming excuse under this Section must (i) have taken reasonable precautions, if possible, to avoid being affected by the cause, and (ii) notify the other Party in writing as provided herein.

7.10.1 Obligation to Restore Ability to Perform. Any suspension of performance by a Party pursuant to this Section shall be only to the extent, and for a period of no longer duration than, required by the nature of the event, and the party claiming excuse shall use its best efforts to remedy its inability to perform as quickly as possible and to mitigate damages that may occur as result of the event.

7.10.2 Notice. The Party claiming excuse shall deliver to the other Party a written notice of intent to claim excuse from performance under this Agreement by reason of an event of Force Majeure. Notice required by this Section shall be given promptly in light of the circumstances, but in any event not later than five (5) days after the occurrence of the event of Force Majeure. Such notice shall describe in detail the event of Force Majeure claimed, the services impacted by the claimed event of Force Majeure, the expected length of time that the Party expects to be prevented from performing, the steps which the Party intends to take to restore its ability to perform, and such other information as the other Party reasonably requests.

7.11 Assignment. No right or interest in this Agreement shall be assigned or delegated by the Contractor without prior, written permission of the City, signed by the City Administrator. City's permission will not be reasonably withheld, conditioned, or delayed. Any attempted assignment or delegation by the Contractor in violation of this provision shall be a breach of this Agreement by the Contractor. The requirements of this Agreement are binding upon the heirs, executors, administrators, successors, and assigns of both Parties.

7.12 Payment. In order to receive prompt payment for services to the City of Yuma, the Contractor is required to submit an original invoice to City of Yuma Finance Department/Accounting Division, to payables@YumaAz.gov. Invoices must contain the following:

- Contract Number 2020-20000052;
- Delivery date;
- Ticket Number;
- Tons per delivery;
- Cost per ton w/extended cost;
- Applicable taxes; and
- The Contractor's invoice number and contact information.

The Contractor may not make any charge or claim for damages that result from delays or hindrances beyond the City's control. The sole form of compensation for delay or hindrance is a reasonable extension of time agreed to by the parties. An extension is not a waiver of any of the City's legal rights.

All documents the Contractor presents to the City under this Agreement are the City's permanent property. The Contractor must deliver all required reports before the City will make payment.

7.13 Permits and Licenses. The Contractor shall obtain, at its expense, all permits and licenses required by law or ordinance and maintain them in full force and effect.

7.14 Contract Person. Contact person for this Agreement is:



Frank Soto (928) 373-4551
Francisco.Soto@YumaAz.gov
Public Works Maintenance Foreman
155 W. 14th Street
Yuma, AZ 85364

7.15 Unforeseen and/or Catastrophic Changes. The Parties recognize the potential for significant changes in regulations or conditions, which may fall outside the bounds of this Agreement. For this reason, a contract review will occur least every two (2) years during the period of the Agreement, calculated from the Effective Date of the Agreement. These changes may include, but are not limited to, EPA or ADEQ regulatory issues, economic factors impacting solid waste disposal, changes in disposal sites, recycling developments, the Contractor's performance, increases in operational costs, and energy options. The Contractor and City will provide each other of written notice of such factors and changes. Either Party may request review of the Agreement by notifying the other in writing in the event significant changes occur prior to the normal review period. Within thirty (30) days of said written notice from either Party, the Parties will attempt to negotiate an amendment to the Agreement to address and cover such changes. If the Parties cannot reach an agreement, either Party may request mediation of the unresolved issue.

7.16 Environmental Conditions. The Contractor must comply with all applicable federal, state, and local environmental laws, regulations and ordinances. The Contractor must defend and indemnify the City for any required remediation and for all liabilities, losses, claims, judgments, fines, or demands arising from injury or death to any person, damage to any real property, or any environmental damage arising out of violations of applicable laws, regulations and ordinances.

7.17 Applicable Law; Venue. Any action to enforce any provision of this Agreement or to obtain any remedy with respect this Agreement shall be brought exclusively in the Superior Court, Yuma County, Arizona (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona or in the United States District Court for the District of Arizona, if, and only if, the Superior Court lacks jurisdiction over such action). The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action.

7.18 Attorneys' Fees and Costs. If either Party brings an action or proceeding for failure to observe any of the terms or provisions of this Agreement, the prevailing party may recover, as part of the action or proceeding, all litigation, mediation, arbitration and collection expenses, including, but not limited to, expert witness fees, court costs, and reasonable attorney fees.

7.19 No Personal Liability. All liabilities of the parties under this Agreement are solely corporate or municipal liabilities of Contractor and the City and to the extent permitted by law the City hereby releases each director, officer, employee or agency of Contractor and Contractor hereby releases each member of the governing body, official, employee or agent of the City of and from any personal individual liability under this Agreement.

7.20 Entire Agreement. This written agreement a final expression of the agreement between the parties hereto and such Agreement may not be contradicted by evidence of any prior oral agreement or of a contemporaneous oral agreement between the parties hereto. No unwritten oral agreement between the parties exists.

7.21 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor. Any waiver of any provision of this Agreement or any right or remedy hereunder must be affirmatively



and expressly made in writing and shall not be implied from inaction, course of dealing or otherwise.

7.22 Agreement for Benefit of Parties. This Agreement shall be for the benefit of and shall insure to and bind the parties hereto. No other person or entity shall have any rights hereunder. Nothing in this Agreement shall create any contractual relationship between a Contractor, Vendor or subcontractor and the City or any obligation on the part of the City to pay or to see to the payment of any monies due any Contractor, Vendor or subcontractor, except as may otherwise be required by law.

7.23 Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if: (A) delivered to the Party at the address set forth below; (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below; or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the City:

Joel Olea
Director of Public Works
155 W. 14th Street
Yuma, AZ 85364

Copies to:

City Attorney
City of Yuma
One City Plaza
Yuma, AZ 85364

If to Contractor:

Peter Sterenberg
General Manager
Republic Services of Yuma
2217 E 13th Street
Yuma, AZ 83565

Legal Department
Republic Services
18500 N. Allied Way
Phoenix, AZ 85054

Or at such other address, and to the attention of such other person or officer, as any Party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received: (A) when delivered to the Party; (B) three (3) business days after being placed in the U.S. Mail, properly addressed, with sufficient postage; or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

7.24 Antidiscrimination. The Contractor, in performing the work furnished by this Contract of furnishing the services provided here, shall not discriminate against any person seeking employment with or employed by it because of race, creed, color, national origin, or disability.

7.25 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of



securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

7.26 Provisions Required by Law. The Contractor must comply with all federal, state, and local laws and ordinances applicable to its performance under this Agreement. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, the Agreement will promptly be physically amended to make such insertion or correction. The Contractor will comply with the Americans with Disabilities Act (ADA) and will indemnify the City for any costs, including but not limited to, damages, attorneys' fees, and staff time in any action or proceeding brought alleging violation of the ADA. The Contractor will not discriminate against any person on the basis of race, religion, color, age, sex, or national origin in the performance of this Agreement, and must comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354 (1964). In addition, the Contractor must include similar requirements of subcontractors in any contracts entered into for performance of the Contractor's obligations under this Agreement. The Contractor agrees not to participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Arizona state law. In addition, the Contractor must include similar requirements of all subcontractors in contracts entered for performance of the Contractor's obligations under this Agreement.

7.27 Conflict of Interest. This Agreement is subject to the Conflict of Interest provisions of the Arizona Revised Statutes §38-511, as amended.

7.28 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

7.29 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The Parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which the Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.



7.30 Agreement Not a Franchise – Independent Contractor. It is the understanding and intention of the Parties that this Agreement shall constitute a contract for the collection, transfer, disposal and recycling services; that it shall not constitute a franchise; nor shall it be deemed or considered as such. The Parties intend that the Contractor shall perform the services required by this Agreement as an independent contractor engaged by the City and not as an officer or employee of the City nor as a partner of or joint-venture with the City. No employee or agent of the Contractor shall be deemed to be an employee or agent of the City. Except as expressly provided herein, the Contractor shall have the exclusive control over the manner and means of conducting the Services performed under this Agreement, and over all persons performing such services. The Contractor shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither the Contractor nor its officers, employees, subcontractors and agents shall obtain any rights to retirement benefits, workers compensation benefits, or any other benefits which accrue to the City's employees by virtue of their employment with the City.

7.31 E-verify Requirements. To the extent applicable under Arizona Revised Statutes ("A.R.S.") § 41- 4401, the Contractor and its subcontractors warrant compliance, and are contractually obligated to comply, with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under A.R.S. § 23-214(A) ("Immigration Warranty"). The Contractor's or its subcontractor's failure to comply with Immigration Warranty shall be deemed a material breach of this Agreement and may subject the Contractor to penalties up to and including termination of this Agreement at the sole discretion of the City.

The City retains the legal right to inspect the papers of all the Contractor personnel who provide services under this Agreement to ensure that the Contractor or its subcontractors are complying with the Immigration Warranty. The Contractor agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractor to ensure compliance with the Immigration Warranty. The Contractor shall assist the City in regard to any random verification performed.

Neither the Contractor nor any subcontractor will be deemed to have materially breached the Immigration Warranty if the Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by Sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214 (A).

7.32 Time of the Essence. Time is of the essence in this Agreement. Unless otherwise specifically provided, any consent to delay in Contractor's performance of its obligation is applicable only to the particular transaction to which it relates and is not applicable to any other obligation or transaction.

7.33 Signatory Authority. Each person signing this Agreement represents that such person has the requisite authority to execute this Agreement on behalf of the entity the person represents and that all necessary formalities have been met.

7.34 Boycott of Israel. Pursuant to A.R.S. § 35-393.01 as amended, Contractor certifies that Contractor is not engaged in a boycott of Israel as of the Effective Date of this Agreement, and agrees for the duration of this Agreement to not engage in a boycott of Israel.



7.35 Survival. The obligations of Contractor under this Section shall survive the termination of this Agreement.

7.36 Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, and counterparts may be exchanged by electronic transmission (including by email), each of which will be deemed an original, but all of which together constitute one and the same instrument.

7.37 Cooperative Use of Agreement. In addition to the City of Yuma and with approval of the contracted Contractor, the terms and conditions of this Agreement may be extended for use by other municipalities, school districts and governmental agencies of the state. Any such usage by other entities must be in accordance with the City Code, Charter and/or procurement rules and regulations of the respective governmental entity. Pricing for these additional engagements will be determined at the mutual agreement of the municipalities, school district, or governmental agency of the state and the Contractor.

(Signatures on following page)



Allied Waste Transportation Inc., dba Republic Services of Yuma

By: [Signature]
(Signature Required)

Name: Javara Perralliat
Please Print

Title: Vice President

ACKNOWLEDGMENT

STATE OF ARIZONA
COUNTY OF MARICOPA

On October 12, 2020, Javara Perrilliat as the
Vice President of Republic Services, a Delaware
company, personally appeared before me whose identity was proven to me on the basis of
satisfactory evidence to be the person who he/she claims to be, and acknowledged that he
signed the above document on behalf of Allied Waste Transportation Inc., dba Republic
Services of Yuma.

Notary Public [Signature]



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this 23rd day
of OCTOBER, 2020 (the "Effective Date").

CITY OF YUMA

By: [Signature]
Philip Rodriguez, City Administrator

ATTEST:

[Signature]
Lynda L. Bushong, City Clerk

APPROVED AS TO FORM:

[Signature]
Richard W. Files, City Attorney



Appendix A

Proposal Option – Local Processing Facility

Republic Services will construct a new building for the processing of recycling materials at 3040 S Avenue 3 ½ E, Yuma, AZ 85364. This building will be a 50' x 100' structure and will have a 5000 SF apron to receive and store recycling material on or before July 1, 2021.

Republic Services will process recycling material over the entire workweek. Once the material is tipped, Republic employees will sort material to recover recycling material with positive market value. Republic will employ a wheel loader operator and two laborers for the recovery of material. All recyclable material received from the City will be processed. The City will have the opportunity at any time to audit the processing methods used.

Recovered material will be stored in covered roll-off containers until sold to processors. Additionally, Republic Services may install a baler for recovered material in the future. All residual material will be loaded onto transfer trailers and taken to Copper Mountain Landfill for disposal. Republic will operate this facility as described herein, for the term of the contract and any extensions. As a back up to this facility, Republic also operates the Valley Environmental Material Recover Facility located at 702 E Heil Avenue, El Centro CA. Republic may use this facility for processing at no additional cost to the City.

Within 10 days from the end of the month, Republic will provide the City of Yuma a report with the following information:

- Total tons of recycling material received for processing in the calendar month
- Total tons of material sold by commodity for the month
- Total revenue from the sale of material for the month
- YTD tons of material sold by commodity and YTD revenue from the sale of material
- Quarterly revenue sharing (when applicable)



Appendix B

Materials Acceptance List (MAL)

The Provider at a minimum will accept the following Recyclable Materials:

1. Clear or Colored High Density Polyethylene (CHDPE) – Opaque plastic materials commonly labeled with the #2 recycling symbol.
2. Natural High Density Polyethylene (NHDPE) – Translucent plastic materials commonly labeled with the #2 recycling symbol.
3. Polyethylene Terephthalate (PETE) – Clear or colored plastic materials commonly labeled with the #1 recycling symbol.
4. Plastics – All plastics such as plastic buckets, tubs, toys, pots. Items labeled #3, #4, #5, #6, #7.
5. Paper – Old newspaper, old magazines, office paper, telephone directories, junk mail, old corrugated cardboard, bags, mixed paper and paperboard packaging.
6. Metal – Aluminum, tin or steel beverage or food cans, empty aerosol cans and small appliances.
7. Bottleneck and Container Glass – clear, brown, blue and green glass containers.