

**AGREEMENT BETWEEN THE CITY AND WASTE TECHNOLOGIES LLC
FOR HOUSEHOLD RECYCLING AND
HOUSEHOLD HAZARDOUS WASTE SERVICES**

THIS AGREEMENT is made and entered into this ___ day of May, 2015, by and between the City of Maricopa, Arizona, an Arizona municipal corporation ("City"), and Waste Technologies LLC d/b/a Right Away Disposal, an Arizona Limited Liability Corporation ("Contractor") for recycling and household hazardous waste ("HHW") collection services.

Recitals

WHEREAS, household recycling and the proper disposal of HHW benefits the City by preventing pollution that could endanger human health and the environment and conserving resources and energy that would be expended in the production of more products.

WHEREAS, City desires to retain a contractor for the safe, expeditious, and cost-effective disposition of recycling materials and HHW as set forth in this Agreement, Exhibit A (City's Request for Proposals), Exhibit B (Contractor's Proposal), and Exhibit C (Amendment No. 1), which are incorporated herein by reference;

WHEREAS, in procuring these services, City has complied with the procedures set forth in Section 3-215 of the City of Maricopa's City Code.

NOW, THEREFORE, City agrees to retain and does hereby retain Contractor and Contractor agrees to provide the services required according to the terms and conditions and for the consideration hereinafter set forth:

Agreement

1. EFFECTIVE DATE. The Effective Date of this Agreement shall be the date the Agreement is executed by both parties.
2. TERM. The Term of this Agreement shall be five (5) years from the Effective Date, unless terminated, cancelled or extended as provided herein. City, in its sole discretion, has the option to extend the Term of this Agreement for two (2) additional five (5) year terms by providing Contractor prior written notice, which states the City elects to extend the Term and specifies the length of the extension.
3. SITE: City agrees to designate a site for the purposes of providing the Services under this Agreement. Contractor agrees to accept the Site "as is" and acknowledges that the City is not obligated to construct or install any improvements or facilities of any kind on the Site. During the term of this Agreement, Contractor shall be granted a right to use the Site to provide Services under this Agreement, subject to the conditions and covenants as provided herein. Contractor's right to use the Site shall be non-exclusive, revocable, and limited to the use of the Site and the property as expressly authorized by City. Contractor disclaims any interest that

when coupled with the rights herein granted would render its right to use the Site irrevocable. For purposes of this Agreement, the site shall be _____ or property as otherwise designated by the City ("Site").

4. CONTRACTOR'S DUTIES: Contractor agrees to supply and operate a drop off station within thirty (30) days of this Agreement at the Site for the safe collection and disposal of household recyclables ("Facility") and to hold HHW events ("Events") in accordance with this Agreement, Exhibit A, Exhibit B, and Exhibit C ("Services").

4.1 In accordance with this Agreement, Exhibit A, Exhibit B, and Exhibit C, Contractor shall provide, at its sole cost, any and all labor, infrastructure, materials, equipment, supplies, security, signage, fencing, lighting, staff expertise, vehicles, insurance, transportation, and clean up required to provide said Services.

4.2 Contractor warrants and represents that it is qualified to perform the Services that are the subject of this Agreement. Contractor agrees to obtain and maintain, at its sole expense, any and all licenses, permits, consents, approvals, and agreements as may be required under federal, state or local law for the use of the Site. Contractor shall not engage in or permit any use in or upon the Site, or any part thereof, in violation of any applicable laws, statutes, rules or regulations of any federal, state or local authority, including any environmental laws.

4.3 Throughout the term of this Agreement, Contractor shall be solely responsible for securing the Site from any hazards associated with providing Services under this Agreement, including, but not limited to, keeping unauthorized persons off the Site and keeping the Site free and clear of hazards, trash, debris, and other unauthorized materials.

4.4 Contractor shall maintain all documentation and retention of records as required by City, state, and federal regulatory agencies. Contractor shall also provide quarterly reports to City.

4.5 Contractor shall promote awareness of the Facility and Events at its own cost through various advertising and marketing efforts including, but not limited to, website and social media postings, email announcements, press releases, and at least four (4) newspaper ads per year.

4.6 No later than fifteen (15) days after the expiration or earlier termination of this Agreement, all personal property of Contractor and all repairs, alterations, modifications, or improvement made by Contractor to the Site (collectively, the "Personal Property and Improvements") shall be removed by Contractor and the Site shall be restored as near as practicable to its condition that existed prior to Contractor's use of the Site. Following this fifteen (15) day time period, all Personal Property and Improvements left on the Site shall be considered abandoned. Contractor shall be responsible for all costs incurred by City in removing any Personal Property and

Improvements. This subsection shall survive the expiration or termination of this Agreement.

4.7 In accordance with Exhibit B, the fee for the collection of bulk trash or yard waste charged by Contractor shall be no higher than \$15.00 per yard or \$5.00 per bag.

4.8 Contractor may offer additional waste-related services with prior written notice to the City. Such additional services shall be at no cost to the City.

5. COMPENSATION: In accordance with the terms and conditions of this Agreement, City shall compensate Contractor for the Services provided pursuant to this agreement as follows:

5.1 TEN THOUSAND and 00/100 Dollars (\$10,000.00) each month for providing the Facility and Services required pursuant to this Agreement which includes, but is not limited to, providing one (1) rollaway exclusively for tires.

5.2 Up to THIRTY THOUSAND and 00/100 Dollars (\$30,000.00) for HHW event(s) to be held by the Contractor upon receiving a written request from the City. No more than two (2) events shall be held each year.

5.3 Up to ONE THOUSAND and 00/100 Dollars (\$1,000.00) for each rollaway provided for the collection of tires in additional to the rollaway included in Section 5.1 above. The Contractor shall bill the City at the end of each year for additional rollaways in an amount not to exceed Twelve Thousand and 00/100 Dollars (\$12,000.00) each year.

In no event, shall the total compensation for the Services to be performed under this Agreement exceed the amount of ONE HUNDRED AND NINETY-TWO THOUSAND and 00/100 Dollars (\$192,000.00) each year. Exhausting the total amount payable for activities described herein shall not relieve Contractor of its obligations to perform such Services. Should City request additional Services beyond that specified herein, Contractor shall charge, and City shall pay, a rate as mutually agreed upon in writing prior to Contractor performing the additional Services. Costs caused by delays or by improperly timed activities or improper Services shall be borne by the party responsible thereof.

6. CONTRACTOR BILLING: Contractor shall invoice City on a quarterly basis for three (3) months of charges no later than the 15th day of the month after the third (3rd) month in a total amount not to exceed Section 5 above. City shall pay such billings within thirty (30) days of the date of receipt of the Contractor's invoice.

7. CITY'S STANDARD OF PERFORMANCE: City shall furnish the Contractor with all data, information and other supporting services necessary for Contractor to provide the services provided for herein.

8. CONTRACTOR'S STANDARD OF PERFORMANCE: While performing the services, Contractor shall exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Phoenix Metropolitan Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise. Contractor shall be responsible for all errors and omissions Contractor commits in the performance of this Agreement that are a breach of this standard.

9. CONFIDENTIALITY: Contractor, and any subcontractors or individuals hired by Contractor to perform the services under this Agreement, shall keep any information concerning City matters confidential and agree that they will not make any statement, give an interview or provide any information to any person, corporation or other entity, including without limitation any media source, in relation to the project or the services to be provided under this Agreement without the prior written consent of City. Contractor, and any subcontractors or individuals hired by Contractor, agrees not to disclose to any other person or entity (unless required by law) any confidential information concerning City matters during and after this Agreement.

10. NOTICES: All notices to the other party required under this Agreement shall be in writing and sent by first class certified mail, postage prepaid, return receipt requested, addressed to the following personnel:

If to City:

City of Maricopa
Attn: City Manager
39700 W Civic Center Plaza South
Maricopa, AZ 85138

If to Contractor:

Waste Technologies LLC d/b/a Right Away Disposal
Attn: Bart Powell
3755 S. Royal Palm Rd.
Apache Junction, AZ 85119

11. TERMINATION BY CONTRACTOR: If the City fails to make payment when due or substantially breaches any other obligation of this Agreement, following thirty (30) days written notice to the City, the Contractor may terminate the Agreement and recover from the City payment for Services performed.

12. TERMINATION BY CITY: The City may terminate this Agreement if the Contractor (i) persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials; (ii) fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors; (iii) persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; (iv) is otherwise guilty of substantial breach of a provision of the Agreement; or (v) for any reason upon thirty (30) days written notice. In the event of such termination,

Contractor shall deliver to City all work in any state of completion at the date of effective termination.

When any of the above reasons exist, the City may without prejudice to any other rights or remedies and after giving the Contractor thirty (30) days written notice, terminate this Agreement with the Contractor.

When the City terminates the Agreement for one of the reasons stated above, the Contractor shall not be entitled to receive further payment until the Work is finished. If the unpaid balance of the Agreement exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the City. This obligation for payment shall survive termination of the Agreement.

13. SUBCONTRACTORS: Contractor shall, before awarding any subcontract, furnish City with a list of proposed subcontractors, if any, and shall not employ any that City may object to for any reason. Contractor agrees that it is as fully responsible to City for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Consultant. Nothing contained in the Agreement shall create any contractual relations between any subcontractor and City.

14. RECORDS: Records of Contractor's labor, payroll, and other costs pertaining to this Agreement shall be kept on a generally recognized accounting basis and made available to City for inspection on request. Contractor shall maintain records for a period of at least two (2) years after termination of this Agreement, and shall make such records available during that retention period for examination or audit by City personnel during regular business hours.

15. INSURANCE:

15.1 General.

a. 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 duly licensed by the State of Arizona 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.

b. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect the Consultant. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but have 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 the 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.

c. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

d. 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.

e. Primary Insurance. The Contractor's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

f. 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.

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

h. 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.

i. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, the Contractor shall execute written agreement with the Subcontractor containing the indemnification provisions and insurance requirements (unless waived by City in City's sole discretion) set forth herein protecting the City and the Consultant. The Contractor shall be responsible for executing the agreement with the Subcontractor and obtaining certificates of insurance verifying the insurance requirements.

j. Evidence of Insurance. Prior to commencing any work or services under this Agreement, the Contractor shall furnish the City with certificate(s) of insurance, or formal endorsements as required by this Agreement, issued by Contractor's insurer(s) 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. If a certificate of insurance is submitted as verification of coverage, the City shall reasonably rely upon the certificate 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 above-cited policies expire during the life of this Agreement, it shall be the Contractor's responsibility to forward renewal certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates of insurance shall specifically include the following provisions:

(1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

- (a) Commercial General Liability - Under Insurance Services Office, Inc., ("ISO") Form CG 20 10 03 97 or equivalent.
- (b) Auto Liability - Under ISO Form CA 2048 or equivalent.
- (c) Excess Liability - Follow Form to underlying insurance

(2) The Contractor's insurance shall be primary insurance as respects performance of the Agreement.

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

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form 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.

15.2 Required Insurance Coverage.

a. Commercial General Liability. The Contractor shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$3,000,000 for each occurrence, \$3,000,000 Products and Completed Operations Annual aggregate and a \$5,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, bodily injury or death, personal injury, advertising injury and property damage. Coverage under the policy will be at least as broad as ISO policy forms CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims

arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials, volunteers and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." 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.

b. Vehicle Liability. The Contractor shall maintain Business Automobile Liability insurance with a limit of \$5,000,000 each occurrence on the Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. 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.

c. Professional Liability (Errors and Omissions Liability). Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claim and \$1,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Agreement is completed.

d. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of 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 \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

15.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the City.

16. TITLE TO WASTE. Title to recyclables and waste shall immediately pass to Contractor once it has been received or accepted by Contractor at the Station site or at an Event. Contractor shall be liable for all recyclables and waste received or accepted at the Station site or

at an Event. City shall not be deemed to own or hold title to any recyclables and waste received or accepted by Contractor.

17. RIGHT OF CITY TO CONTRACT WITH OTHERS: Nothing in this Agreement shall imply City is obligated to obtain the services described herein with only this particular consultant.

18. UNCONTROLLABLE FORCES: City and Contractor shall exert all efforts to perform their respective responsibilities under this Agreement. However, neither party shall hold the other party responsible for inability to render timely performance if such inability is a direct result of a force beyond its control, including but not limited to the following: strikes, lockouts, embargoes, failure of carriers, inability to obtain transportation facilities, acts of God or the public enemy, or other events beyond the control of the other or the other's employees and agents.

19. INDEMNIFICATION: To the extent permitted by law, Contractor shall defend, indemnify, and hold City, its officers and employees harmless from any and all loss, damage, claim for damage, liability, expense, or cost, including reasonable attorneys' fees, which arise out of, or is in any way connected with the performance of work under this Agreement by Contractor, or any of Contractor's employees, agents or subconsultants, and from all claims by Contractor's employees, subconsultants and agents for compensation for services rendered to Contractor in the performance of this Agreement, notwithstanding that City may have benefited from their services. This indemnification provision shall only apply to any and all negligent acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Contractor or Contractor's employees, subconsultants or agents. This section shall survive the expiration or early termination of the Agreement.

20. WAIVER OF TERMS AND CONDITIONS: The failure of City or Contractor to insist in any one or more instances on performance of any of the terms or conditions of this Agreement or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

21. INDEPENDENT CONTRACTOR: Contractor and City shall at all times during performance of the services retain their status as independent contractor. Contractor's employees shall under no circumstances be considered or held to be employees or agents of City and City shall have no obligation to pay or withhold state or federal taxes or provide workers' compensation or unemployment insurance for or on behalf of them or Consultant.

22. ARBITRATION. In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree to attempt to settle the dispute by nonbinding arbitration before commencement of litigation. The arbitration shall be held under the rules of the American Arbitration Association. The matter in dispute shall be submitted to an arbitrator mutually selected by Contractor and the City. In the event that the parties cannot agree upon the selection of an arbitrator within seven (7) days, then within three (3) days thereafter, the City and Contractor shall request the presiding judge of the Superior Court in and for the County

of Pinal, State of Arizona, to appoint an independent arbitrator. The cost of any such arbitration shall be divided equally between the City and Consultant. The results of the arbitration shall be nonbinding on the parties, and any party shall be free to initiate litigation subsequent to the final decision of the arbitrator.

23. GOVERNING LAW AND VENUE: The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event either party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

24. OWNERSHIP OF RECORDS AND REPORTS: All of the files, reports, documents, information and data prepared or assembled by Contractor under this Agreement shall be and remain the property of City and shall be forwarded to City at any time City requires such papers.

25. LICENSE: Contractor represents and warrants that any license or permit necessary to perform the work under this Agreement is current and valid. Contractor understands that the activity described herein may constitute "doing business in the "City of Maricopa" and Contractor agrees to obtain any necessary business tax license pursuant to Article 8-1 of the City of Maricopa's City Code and keep such license current during the term of this Agreement. Any activity by subconsultants within the corporate city limits, will invoke the same business tax regulations on any subcontractors, and Contractor ensures its subcontractors will obtain any required business tax license.

26. NON-ASSIGNMENT: This Agreement has been entered into based upon the personal reputation, expertise and qualifications of Consultant. Neither party to this Agreement shall assign its interest in the Agreement, either in whole or in part. Contractor shall not assign any monies due or to become due to it hereunder without the prior written consent of City.

27. ENTIRE AGREEMENT: This Agreement and any attachments represent the entire agreement between City and Contractor and supersede all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto. Written and signed amendments shall automatically become part of the Supporting Documents, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

28. SEVERABILITY: If any part, term or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law, the validity of the remaining portions and provisions hereof shall not be affected.

29. CONFLICTS OF INTEREST: The provisions of A.R.S. §38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this contract.

30. AMERICANS WITH DISABILITIES ACT: This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFF Parts 35 and 36. (Non-Discrimination: The Contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.)

31. FEDERAL REGULATIONS: Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Contractor acknowledges, by signature to this agreement, that: Contractor is not currently suspended or debarred from contracting with the federal government or any of its agencies or the State of Arizona or any of its political subdivisions; Contractor's principals are not currently suspended or debarred from contracting with the federal government or any of its agencies or the State of Arizona or any of its political subdivisions.

32. UNDOCUMENTED WORKERS: Contractor understands and acknowledges the applicability to it of the Immigration Reform and Control Act of 1986. Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors (“Subcontractor”) will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23- 214(A) (hereinafter “Immigration Warranty”). A breach of the Immigration Warranty shall constitute a material breach of this Agreement and shall 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 any Contractor or Subcontractor employee who works on this Agreement to ensure that the Contractor or Subcontractor is complying with the Immigration Warranty. 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 of subcontractors to ensure compliance with Immigration Warranty. Contractor agrees to assist the City in regard to any random verification(s) performed. Neither the Contractor nor any subcontractor shall be deemed to have materially breached the Immigration Warranty if they establish 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, Subsection A.

The provisions of this paragraph must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor.

33. NO KICK-BACK CERTIFICATION: Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the City has an interest, financially or otherwise, in the Contractor's firm. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability, or at its discretion to deduct from the compensation to be paid Contractor hereunder, the full amount of such commission, percentage, brokerage or contingent fee.

34. TIME OF ESSENCE. Time is and shall be of the essence of this Agreement and of each and every provision contained in this License.

35. NO THIRD PARTY BENEFICIARIES. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the day and year first above written.

CONTRACTOR:
Waste Technologies LLC d/b/a Right Away Disposal

Bart Powell, Manager

CITY OF MARICOPA
an Arizona municipal corporation

Christian Price
Mayor

ATTEST:

APPROVED AS TO FORM:

Vanessa Bueras
City Clerk

Denis Fitzgibbons
City Attorney

EXHIBIT A

EXHIBIT B

EXHIBIT C