

RESOLUTION NO. 18-R-62

**A RESOLUTION AUTHORIZING A CONTRACT FOR SINGLE-FAMILY
RESIDENTIAL CURBSIDE RECYCLING COLLECTION FOR A
THREE (3) YEAR PERIOD OF AUGUST 1, 2018 – JUNE 30, 2021**

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rolling Meadows, Illinois that the proposal submitted by Flood Brothers Disposal Co., located at 17W609 14th Street, Oakbrook Terrace, Illinois 60181, dated May 23, 2018 for a curbside recycling collection services in Fiscal Year 2018 – 2021, beginning August 1, 2018 and continuing to June 30, 2021 for a per home cost of \$3.91 per month be awarded. The per home monthly cost in the third year of the proposed contract is to be \$4.00. In addition, the contract is to be able to be extended twice for an additional one (1) year, to June 30, 2022, and June 30, 2023, per mutual agreement by the City and the contractor, at per home monthly costs as within the May 23, 2018 proposal.

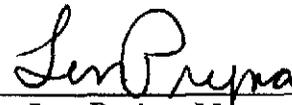
Said funds shall be derived from the Refuse Fund (Account #16.07.5600.54615).

YEAS: Cannon, Budmats, Majikes, Gallo, Banger, D'Astice

NAYS: 0

ABSENT: 0

Passed and approved this 26th day of June, 2018.



Len Prejna, Mayor

Attest:



Ginny Cotugno, Deputy City Clerk

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

THIS AGREEMENT, made and entered into this 25th day of July, 2018, between the CITY OF ROLLING MEADOWS, ILLINOIS, a municipal corporation, hereafter referred to as "CITY," and Flood Brothers Disposal Company, hereafter referred to as "the Contractor", to provide residential, curbside recycling collection services as defined herein;

NOW, THEREFORE, City and The Contractor do hereby agree as follows:

SECTION ONE: Definitions. For purposes of this Agreement, the following terms shall apply:

1. Processing Center: Location to be determined by the Contractor for the purpose of sorting and preparing recyclable materials (as defined herein) for sale.
2. Public Awareness Program: Program developed and provided by The Contractor and the City to inform and encourage residents (as defined herein) to use the collection services.
3. Recyclable Materials: Newspaper, magazines, brown kraft paper bags, telephone books, catalogs, office paper, junk mail, envelopes (any type), corrugated cardboard, chipboard, wet strength carrier stock (chip board), frozen food paper packages, juice boxes; all #1 PET plastic containers, all #2 HDPE plastic containers, all #3 (V-vinyl polyvinyl Chloride-PVC) plastic containers, all #4 LDPE plastic containers, all #5 (PP-polypropylene) plastic containers, all #6 (PS-polystyrene) plastic containers, all #7 - other plastic; glass (amber, clear, green); formed steel containers, aluminum cans, tin/steel/bi-metal cans, aerosol cans, and paint cans.
4. Recycling Collection Services: Those services to be performed by The Contractor as follows:
 5. The collection of recyclable materials from locations specifically designated by the City;
 6. Processing of recyclable materials, which include the sorting and preparation of recyclable materials for marketing at the processing center;
 7. Marketing of the recycling materials.
8. Recycling Containers: Recycling containers shall be 65 and 35 gallon carts.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION TWO: Contract Representative

1. The City's Public Works Director or designee shall be the Contract Representative and will coordinate this program on the City's behalf.
2. The City's Contract Representative may adopt reasonable rules and regulations governing the performance of The Contractor under this Agreement, provided such rules and regulations are not inconsistent with the terms and provisions of this Agreement.
3. The Contractor will designate a Contract Representative and include their contact information below:

Contract Representative's Name: Michael J Flood

Representative's 24 Hour Phone #: 847.721.3412

SECTION THREE: Term of Agreement.

1. Unless terminated in accordance with Section Number 22 of this Contract or extended in accordance with this Section 2.2, the term of this Agreement shall be for a period of thirty-five consecutive months commencing on August 1, 2018 at 12:01 A.M., CDT and expiring on June 30, 2021 at 11:59 PM, CDT.
2. Upon mutual consent of both parties, the term of this Contract may be extended for up to twenty-four (24) months, at the City's discretion.
3. To exercise its option, the City shall provide written notice to Contractor of its intent to extend this Contract within 180 calendar days preceding the scheduled Expiration Date, and at the cost terms provided within the proposal submitted by the Contractor, dated May 23, 2018.
4. If no notice is provided, the contract expires at the end of the term.
5. This provision in no way limits the City's right to terminate this Agreement at any time during the initial term or any extension thereof pursuant to the provisions in this Agreement.
6. At the end of the contract or extension term, the City also reserves the right to continue the contract on a month to month basis for a minimum of one (1) month and a maximum of an additional three (3) months for a rate not to exceed the rate being charged by the Contractor during the preceding year +2.5%.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION FOUR: Scope of Services. The Contractor shall perform recycling collection services in the City as follows:

The Contractor shall collect and remove all recyclable materials which are segregated and placed in the recycling containers at the curbside on public streets, as designated by the parties from all single-family homes and certain designated multi-family homes in the City. The Contractor's employees will:

1. Leave the area clean and litter-free;
2. Replace all containers back to the location they were collected from; and
3. Leave a tag, provided by the contractor, explaining why an item was not picked up.
4. The recyclable materials shall be collected by The Contractor on the same day as the City's collection of refuse and landscape waste.
5. The current City collection system is based on a five-day-a-week service.

a. The roster of Stops-Per-Day 2018 are as follows:

Day	Home Per Day
Monday	1,350
Tuesday	1,042
Wednesday	1,193
Thursday	1,061
Friday	1,329

- b. If the City determines it is in its best interests to modify the number of stops per day, the collection day of certain streets, subdivisions, or housing complexes, the contractor shall modify their collection days to match the City's at no change in the per-home cost for collection, or in the rebate formula.
 - c. It is understood that the collection days per week will be maintained at five (5) days per week.
6. When the collection day falls on one of the following recognized holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day; service by the Contractor will be delayed one day. Collections are to be provided on all other days, Monday through Friday, including Martin Luther King, Jr. holiday, Veteran's Day Holiday, the day after Thanksgiving, and Christmas Eve.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

7. Collection times shall be between the hours of 6:00 a.m. and 6:00 p.m., the City reserves the right to alter these times as necessary.
8. The Contractor shall, at their expense, at the commencement of this Agreement, mail to each customer a promotional piece on the City's recycling program. The Contractor may request that the material be distributed with the City's news letter. The Contractor shall provide 250 extra copies to the Public Works Department for distribution to new customers.
9. **Equipment to be Used by Contractor:** The Contractor agrees to collect all work in fully enclosed, leak-proof, modern trucks. The City shall have the right to inspect all vehicles to ensure that the vehicles are safe and capable of collecting all material.
10. **Missed Collections.** The Contractor agrees to pick up all missed collections on the same day the Contractor receives notice of a missed collection, provided notice is received by the Contractor before: 11:00 a.m. on the collection day. With respect to all notices of a missed collection received after 11:00 a.m. on the collection day, the Contractor shall make a reasonable effort to make the collection on that same day, however if the collection is not made on that day the pick up that missed collection shall be before 11:00 a.m. on the following business day.
11. The Contractor shall undertake to perform all Services rendered hereunder in a neat, thorough and workmanlike manner, without supervision by the City, and to use care and diligence in the performance of all specified Services and to provide neat, orderly, uniformed and courteous employees and personnel on its crews.
12. The Contractor shall provide an adequate work force so as to insure regular collection under adverse weather conditions, irrespective of equipment breakdowns or similar problems. The Contractor shall employ qualified personnel, all of whom shall be licensed as required by law, in sufficient number to provide the Services specified under this Agreement.
13. The Contractor shall provide an adequate number of vehicles for regular collection services. All vehicles shall be kept in good repair and appearance and shall be maintained in a sanitary condition at all times.
14. The Contractor shall provide the Services in compliance with all applicable governmental laws, rules, regulations and permits. Except as specifically identified in this Agreement, the Contractor shall pay as and when due all costs and expenses incurred by the Contractor with respect to the Services to be provided pursuant to this Agreement.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

15. The Contractor shall (in a manner consistent with applicable law, insurance requirements and recognized safety practices), establish and maintain appropriate safety procedures for the Services provided. The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to, employees performing the Services and any other persons who may be affected thereby including, without limitation, any City employee.
16. The Contractor shall take all reasonable actions to avoid damage as a result of its, and any Subcontractor's, operations to existing sidewalks, curbs, streets, alleys, pavements, utilities, adjoining property, the work of separate contractors, and the property of the City and others, and the Contractor shall repair any damage thereto specifically caused by the Contractor or its Subcontractors' operations. The Contractor shall also leave all property described in the preceding sentence in a clean and orderly condition.
17. Cleanup of Spillage or Blowing Litter. The Contractor shall clean up any material spilled or blown during the course of collection and/or hauling operations. All Collection vehicles shall be equipped with at least one broom and one shovel for use in cleaning up material spillage. All materials shall be transported in a covered vehicle so that the materials do not drop or blow onto any public street or private property during transport.
18. The Contractor, as agent for the City, shall have a contractual obligation to ensure that all Recyclable Materials collected are properly processed and marketed. No collected Recyclable Materials shall be land-filled or incinerated unless advance authorization to do so is given in writing by the corporate authorities of the City.
19. Estimating Materials Composition as Collected. The Contractor shall conduct at least one materials composition analysis of the City's recyclable materials each year to estimate the relative amount, by weight, of each recyclable commodity by grade: i.e., industry specification or offer a suitable alternative to a composition analysis. The Contractor shall provide the City with a copy of the analysis each year of the Contract.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION FIVE: Expansion of Services

1. The City reserves the right to add up to 5% to the customer base for recycling collection services through new construction or annexation under the pricing terms of this Agreement.
2. The City shall furnish the new customer(s) a Recycling cart at the City's expense.
3. Expansion to Additional Multi-Family Buildings. At present, the City provides a once a week pick-up service to some town homes located within the City. In the future the City may wish to, or through legislation, be required to provide a recycling service to multi-family dwellings.

If this takes place during the term of this contract, The Contractor shall be required to enter into negotiations with the City to provide this service.

SECTION SIX: Replacement of Recycling Containers.

1. If the Contractor causes irreparable damage to a City owned recycling cart, (excluding normal wear and tear) The Contractor shall be billed for the replacement of the recycling containers.
2. The cart will be replaced from the City's existing cart inventory.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION SEVEN: Transportation/Disposal of Recyclable Materials

1. The Contractor shall transport the collected recyclable materials to a processing center of The Contractor's choice, or may choose to utilize the facility so designated and provided by the Solid Waste Agency of Northern Cook County, provided that required terms and conditions are met.
2. The Contractor will have exclusive rights for the collection of all Recyclable Materials from all Households within the City, provided however, that the Contractor's exclusive rights will not include Recyclable Materials hauled by the owner or occupant of any Household.
3. The Contractor agrees to provide a monthly accounting statement to the City, detailing the amount and type of the recycled materials collected in the City.
 - a. These Statements shall be sent to the Public Works Department in an electronic form (email).
 - b. These statements shall be due to the City with in 15 business days after the close of the preceding month.
4. The Contractor agrees to negotiate with the City concerning any changes which may be required due to changes in mandatory regulations or laws. Both parties must agree on any changes that have a significant effect on performance under this contract.

SECTION EIGHT: Labor and Costs.

The Contractor shall, at its sole cost and expense, except as otherwise provided herein, furnish all labor and equipment required to perform curbside collection of recyclable materials, pursuant to this Agreement.

SECTION NINE: Log of Complaints

1. If and when The Contractor receives a call relating to a missed pick-up or other service problem the call shall be logged by The Contractor and such log shall be provided to the City on a monthly basis.
2. The form shall indicate the day and the hour on which the complaint was received and the day and hour on which it was resolved. Said logs shall be sent to the Public Works Director by the 15th day of the following month.
3. Further, the City may maintain its own log for registering complaints regarding the performance of the Contractor's employees.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION TEN: Refusal to Pick up Recyclable Material

The Contractor shall not pick-up material under the following circumstances:

1. The Contractor shall continue to collect all of the recyclable materials currently listed in the City's Refuse, Yardwaste and Recycling Guidelines as published on the City's website as of January 1, 2018, regardless of the market value for any particular item; for the entire term of this agreement, and any extension that may be granted.
2. The City and the Contractor shall have the right to renegotiate the terms and payments under this Agreement based upon such market changes.

SECTION ELEVEN: Drop Off Center and Pick up of City Buildings

1. Without any compensation therefore, the Contractor shall provide two (2) covered 20-yard containers (or one (1) 40 yard container) for newspaper and comingled recyclables for the drop-off of recycled material twenty four (24) hours a day.
2. Containers are to be located at the Old Public Works building, 3200 Central Road. The Contractor shall also provide free pick-up service of recycling bins at the following City buildings:
 - City Hall 3600 Kirchoff Road
 - Fogarty Fire Station 3111 Meadow Drive*
 - Neuckranz Fire Station 2455 Plum Grove Drive*
 - Public Works 3900 Berdnick Street
 - Rolling Meadows Public Library 3110 Martin Lane

*Note that these locations will be changed during the contract period.

This Area Intentionally Left Blank

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION TWELVE: Protection of Recyclable Materials

City agrees to take such steps as may be reasonably practical to protect The Contractor's ownership and the City's interest in all recyclable materials placed at the curbside for collection by The Contractor under the terms of this Agreement.

SECTION THIRTEEN: Permit and Licenses

The Contractor, at its sole cost and expense, shall maintain throughout the term of this Agreement, all permits, licenses, including a City Business Licenses, insurance and approvals necessary or required for The Contractor to perform the work and services described herein.

SECTION FOURTEEN: Independent Contractor

1. The Contractor shall perform all work and services described, herein as an independent contractor and not as an officer, agent, servant, or employee of the City.
2. The Contractor shall have exclusive control of, and the exclusive right to control the details of the services and work performed hereunder, in accordance with the terms of this Agreement, and all persons performing the same.
3. Nothing herein shall be construed as creating a partnership or joint venture between City and The Contractor.
4. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant, or employee of the City, and no such person shall be entitled to any benefits available or granted to employees of the City.

SECTION FIFTEEN: Non-Assignment

1. Neither The Contractor nor City shall assign, transfer, convey, or otherwise hypothecate this Agreement or their rights, duties, or obligations hereunder, or any part thereof, without the prior written consent of the other.
2. If at such time, during the term of this contract, the Contractor's company name changes the Contractor shall notify the City in writing within 10 business days of this name change, and provide the City with all required documentation and forms detailing the name changes.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION SIXTEEN: Compliance with Laws and Regulations

The Contractor agrees that, in all performance of work and services under this Agreement, The Contractor will qualify under and comply with any and all Federal, State, and Local laws and regulations now in effect or hereafter enacted during the term of this Agreement which are applicable to The Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

SECTION SEVENTEEN: Equal Employment Opportunity

1. The Contractor shall comply with all provisions of the Equal Employment Opportunity clause.
 2. In the event of The Contractor's noncompliance with the provisions of this Equal Employment Opportunity clause, the Illinois Human Rights Act or the Illinois Department of Human Rights Rules and Regulations, The Contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
-

This Area Intentionally Left Blank

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION EIGHTEEN: Prevailing Wage

1. When Applicable, not less than the prevailing rate of wages, as found by the Illinois Department of Labor or the City, or determined by a court on review, shall be paid to all laborers, workers, and mechanics performing work under this contract.
2. The Contractor, and each subcontractor, shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed by them on this contract and also showing the actual hourly wages paid to each of such persons.
3. The submission by The Contractor and each subcontractor of payrolls, or copies thereof, **shall be required as of August 1, 2018.**
4. The Contractor and each subcontractor shall preserve their weekly payroll records for a period of three years from the date of completion of this contract.
5. If the Illinois Department of Labor revises the prevailing rate of hourly wages to be paid for the occupation, the revised rate, as provided by the Illinois Department of Labor, shall apply to this contract.
6. The Contractor assumes full responsibility for complying with all prevailing wage requirements throughout the term of this contract.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION NINETEEN: Insurance Requirements

The contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

1. Minimum Scope of Insurance - Coverage shall be at least as broad as:
 - a. Insurance Services Office Commercial General Liability occurrence form CG 0001 with the City named as additional insured, on a form at least as broad as the attached sample endorsement including ISO Additional Insured Endorsement CG 2010 (Exhibit A), CG 2026 (Exhibit B). CG2037 - Completed Operations; and
 - b. Insurance Service Office Business Auto Liability coverage form number CA 0001, Symbol 01 "Any Auto."
 - c. Workers' Compensation as required by the Workers' Compensation Act of the State of Illinois and Employers' Liability insurance.
 - d. Environmental Impairment/Pollution Liability Coverage for pollution incidents as a result of a claim for bodily injury, property damage or remediation costs from an incident at, on or migrating beyond the contracted work site. Coverage shall be extended to Non-Owned Disposal sites resulting from a pollution incident at, on or mitigating beyond the site; and also provide coverage for incidents occurring during transportation of pollutants.

2. Minimum Limits of Insurance
 - a. Contractor shall maintain limits no less than the following:
 - b. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, and property damage and \$1,000,000 per occurrence for personal injury. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000 or a project/contract specific aggregate of \$1,000,000.
 - c. Owners and Contractors Protective Liability (OCP): \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
 - d. Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

Minimum Limits of Insurance Continued

- e. Workers' Compensation and Employers' Liability: Workers' Compensation coverage with statutory limits and Employers' Liability limits of \$500,000 per accident.
- f. Environmental Impairment/Pollution Liability: \$1,000,000 combined single limit per occurrence for bodily injury, property damage and remediation costs.

3. Deductibles and Self-Insured Retentions

- a. Any deductibles or self-insured retentions must be declared to and approved by the City.

4. Other Insurance Provisions

- a. The policies are to contain, or be endorsed to contain, the following provisions:
- b. General Liability and Automobile Liability Coverage
- c. The City, its officials, agents, employees and volunteers are to be covered as additional insured as respects: liability arising out of the Contractor's work, including activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, agents, employees and volunteers.
- d. The Contractor's insurance coverage shall be primary as respects the City, its officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officials, agents, employees and volunteers shall be excess of Contractor's insurance and shall not contribute with it.
- e. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, agents and volunteers.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

Other Insurance Provisions Continued

- f. The Contractor's insurance shall contain a Severability of Interests/Cross Liability clause or language stating that Contractor's insurance shall apply separately to each insured against who claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- g. If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not "follow form," then the Contractor shall be required to name the City, its officials, employees, agents and volunteers as additional insured.
- h. All general liability coverage shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.
- i. The contractor and all subcontractors hereby agree to waive any limitation as to the amount of contribution recoverable against them by City. This specifically includes any limitation imposed by any state statute, regulation, or case law including any Workers' Compensation Act provision that applies a limitation to the amount recoverable in contribution such as Kotecki v. Cyclops Welding.

5. Workers' Compensation and Employers' Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and volunteers for losses arising from work performed by Contractor for the City.

6. All Coverage

- a. Each insurance policy required shall have the City expressly endorsed onto the policy as a Cancellation Notice Recipient.
- b. Should any of the policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

7. Acceptability of Insurers

- a. Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

8. Verification of Coverage

- a. Contractor shall furnish the City with certificates of insurance naming the City, its officials, employees, agents and volunteers as additional insureds (Exhibit D), and with original endorsements affecting coverage required by this clause.
- b. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- c. The certificates and endorsements are to be received and approved by the City before any work commences.
- d. The following additional insured endorsements may be utilized: ISO Additional Insured Endorsements CG 2010 (Exhibit A) or CG 2026 (Exhibit B), and CG 2037 (Exhibit C) – Completed Operations, where required.
- e. The City reserves the right to request full certified copies of the insurance policies and endorsements.

9. Subcontractors

- a. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor.
- b. All coverage for subcontractors shall be subject to all of the requirements stated herein.

10. Assumption of Liability

- a. The contractor assumes liability for all injury to or death of any person or persons including employees of the contractor, any sub-contractor, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this agreement.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

11. Safety/Loss Prevention Program Requirements

- a. Contractor will provide written confirmation that a safety/loss prevention program is in place at the starting date of this contract period.
- b. Evidence of completed employee safety training can be provided.

12. Regulatory Requirements

- a. Contractor must comply with all applicable laws, regulations, and rules promulgated by any Federal, State, County, Municipal and/or other governmental unit or regulatory body now in effect or which may be in effect during the performance of the work. Included within the scope of the laws, regulations, and rules referred to in this paragraph but in no way to operate as a limitation, are Occupational Safety & Health Act (OSHA), Illinois Department of Labor (IDOL), Department of Transportation, all forms of traffic regulations, public utility, Intrastate and Interstate Commerce Commission regulations, Workers' Compensation Laws, Prevailing Wage Laws, the Social Security Act of the Federal Government and any of its titles, the Illinois Department of Human Rights, Human Rights Commission, or EEOC statutory provisions and rules and regulations.
- b. Evidence of specific regulatory compliance will be provided by contractor, if required by owner.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION TWENTY: Indemnity/Hold Harmless Provision

1. To the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify and hold harmless the City, its officials, employees and agents against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, cost and expenses, which may in any way accrue against the City, its officials, agents and employees, arising in whole or in part or in consequence of the performance of this work by the Contractor, its employees, or subcontractors, or which may in any way result therefore, except that arising out of the sole legal cause of the City, its employees or agents, the Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and, if any judgment shall be rendered against the City, its officials, employees and agents, in any such action, the Contractor shall, at its own expense, satisfy and discharge the same.
2. Contractor expressly understands and agrees that any performance bond or insurance policies required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City, its officials, employees and agents as herein provided.

SECTION TWENTY ONE: Termination.

1. In the event The Contractor materially defaults in the performance of any of the covenants or agreements to be performed by it pursuant to the terms of this Agreement, City shall notify The Contractor in writing of the nature of such default. Within fifteen (15) days following such notice: The Contractor shall correct the default;
2. In the event of a default not capable of being corrected within fifteen (15) days, The Contractor shall commence correcting the default within fifteen (15) days of City's notification thereof, and thereafter correct the default within thirty (30) days. Total 45 days from notice.
3. If The Contractor fails to correct the default as provided above, City, without further notice, shall have all of the following rights and remedies which City may exercise singly or in combination; to be determined in its sole discretion. The right to declare that this Agreement together with all rights granted The Contractor hereunder are terminated, effective upon such date as City shall designate; and
4. The right to contract with others to perform the services otherwise to be performed by The Contractor, or to perform such services, itself.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

5. Any and all the rights under federal, state or local laws.
6. In the event that The Contractor becomes aware of any condition which may result in The Contractor's default or breach of any material terms of this Agreement, The Contractor shall notify the City within fifteen (15) days of said condition. Failure to so notify the City shall result in termination of the Agreement at the City's option.
7. If The Contractor fails to perform in a timely manner any of its obligations under this Agreement, and such failure is due in whole or in part to any strike, lockout, labor trouble, civil disorder, riots, insurrections, war, fuel shortages, casualties, acts of God, then The Contractor shall not be deemed in default hereunder as result of such failure.

SECTION TWENTY TWO: BREACH, Events of Defaults and Remedies

1. Each of the following shall constitute a Breach on the part of the Contractor:
 - a. Failure of the Contractor to perform timely any obligation with respect to the collection of Recyclables under this Agreement except that such failure shall constitute a Breach only if such failure remains unresolved for seventy two (72) hours after notice to the Contractor from the City of such failure;
 - b. The Contractor's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property;
 - c. A bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding being instituted by the Contractor under the laws of any jurisdiction;
 - d. A bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the Contractor under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days;
 - e. Any action or answer by the Contractor approving of, consenting to or acquiescing in any such proceeding; and
 - f. The levy of any distress, execution or attachment upon the property of the Contractor which shall (or which reasonably might be expected to) substantially interfere with its performance under this Agreement.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

2. Each of the following shall constitute a Breach on the part of the City:
 - a. Failure of the City to pay, within sixty (60) days after notice from the Contractor of such nonpayment, amounts which are undisputed or which are determined to be due to the Contractor under this Agreement;
 - b. The City's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property;
 - c. A bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted by the City under the laws of any jurisdiction;
 - d. A bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the City under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days;
 - e. Any action or answer by the City approving of, consenting to or acquiescing in any such proceeding; and
 - f. The levy of any distress, execution or attachment upon the property of the City which shall (or which reasonably might be expected to) substantially interfere with the City's performance hereunder.
3. Remedies of City - If a Breach occurs, the City may exercise (subject to the Contractor's right(s) any one or more of the following:
 - a. The City may terminate this Agreement immediately, upon notice to the Contractor and, subject to the provisions of subsection (5) below, upon such termination the Contractor shall cease providing services under this Agreement. Upon any such termination of this Agreement, the Contractor shall for a period requested by the City, but not longer than six (6) months, continue to perform the contractual services during which period the City shall continue to pay the Contractor its scheduled compensation;
 - b. The City may seek and recover from the Contractor any unpaid amounts due the City, all its substantiated costs for the failure of the Contractor to perform any obligation under this Agreement and all damages, whether based upon contract, negligence (including tort), warranty, delay or otherwise, arising out of the performance or non-performance by the Contractor of its obligations under this Agreement. The Contractor, however, shall not be liable to the City for indirect, consequential, special or punitive damages for Breach of this Agreement;

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

- c. The City may (A) call upon the sureties to perform their obligations under performance bonds or letter of credits, or (B) in the alternative, after releasing the sureties from their obligations under the performance bonds or letters of credit, take over and perform the required services by its own devices, or may enter into a new contract for the required services, or any portion thereof, or may use such other methods as shall be required in the opinion of the City for the performance of the required services;
- d. The City shall have the power to proceed with any right or remedy granted by federal laws and laws of the State as it may deem best, including any suit, action or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the City shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law; and
- e. No remedy by the terms of this Agreement conferred upon or reserved to the City is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the City. No delay or omission to exercise any right or power accruing upon any Breach by the Contractor shall impair any such right or power or shall be construed to be a waiver of any such Breach by the Contractor or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Breach by the Contractor shall extend to or shall affect any subsequent default or Breach by the Contractor or shall impair any rights or remedies consequent thereto.
- f. This Section shall survive the termination of this Agreement.

4. Remedies of Contractor

- a. If a Breach, by the City occurs, the Contractor may terminate this Agreement immediately, upon notice to the City. In such event, the Contractor's sole remedy shall be to seek and recover from the City any unpaid amounts due the Contractor for 100% of services rendered and any damages as a result of the Breach by the City.
- b. The Contractor shall not be entitled to specific performance or any other equitable remedies.
- c. This Section shall survive termination of this Agreement.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION TWENTY THREE: Performance Bond Letter of Credit.

1. Within ten (10) days from the execution of this Agreement by all parties, The Contractor shall provide the City with a Performance Bond or an Irrevocable Letter of Credit in the amount of 50% of the total contract's billings, (based on a twelve (12) month term).
2. This Performance Bond or an Irrevocable Letter of Credit shall be renewed annually for an amount equal to the first years value.
3. If the contract is extended by any length of time the Performance Bond or an Irrevocable Letter of Credit shall also be extended for a similar length of time.
4. Said Letter of Credit shall be payable upon demand to the City and in a format approved by the City Attorney and payable to the City.
5. The performance bond or Letter of Credit shall remain in effect for the term of the contract. The performance bond shall have as surety a corporate surety having a Best's rating of no less than B+VII and licensed to do business in the State of Illinois.
6. The Contractor agrees that in the event The Contractor fails to fulfill any of the provisions stipulated in this contract, the City may, at its option, without waiving any of its other rights, hire such persons and equipment and enter such contracts as they may deem necessary to perform the work described in the contract and the City shall have the right to withdraw the value of said work from Letter of Credit or, at the City's option, seek payment from the company providing The Contractor's performance bond. In addition, the City shall be entitled to reimbursement by The Contractor of all expenditures including all costs, expenses, and attorney's fees resulting from such failure of performance on the part of The Contractor and the pursuit of its remedy.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION TWENTY FOUR: The Contractor's Records. The Contractor shall maintain its books and records related to the performance of this Agreement in accordance with the following minimum requirements:

1. The Contractor shall maintain any and all ledgers, books of account, invoices, vouchers and canceled checks, as well as all other records or documents evidencing or relating to charges for services, expenditures or disbursements borne by the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to The Contractor pursuant to this Agreement.
2. The Contractor shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
3. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time, during regular business hours, upon written request by City representative. The records shall be available to City representative at The Contractor's address indicated for receipt of notices in this Agreement.

SECTION TWENTY FIVE: Other Reports.

1. The Contractor shall provide to the Public Works Director a monthly data analysis of the recyclable material collected in Rolling Meadows.
2. The report shall detail the poundage of the various commodities collected and the subsequent diversion and participation rates.
3. This report shall be provided by the 15th of the following month.

SECTION TWENTY SIX: Waiver.

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or any other provision.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION TWENTY SEVEN: Contractor Work Stoppage.

1. In the event of a Contractor work stoppage or strike which extends beyond two (2) consecutive days of scheduled collections, The Contractor will make collection equipment, trucks and fuel available to the City at The Contractor's cost in order for collection of recyclable materials to continue as scheduled. The City agrees to hold The Contractor harmless in the event of a claim arising from the City's use and operation of equipment.
2. The Contractor will remove the collection and transportation cost from the monthly The Contractor invoice for services to the City reflecting the missed days of collection.
3. Force Majeure: The obligations of the Contractor hereunder shall be suspended in the event the collection, transportation or disposal of Recyclables is prevented by a cause or causes beyond the reasonable control of the Contractor. Such causes shall include, but not be limited to, acts of nature, acts of war, riot, fire, flood or sabotage, acts of terrorism.
 - a. In the event any of the foregoing occurs the Contractor asserts a right to suspend performance.
 - b. Under this Section, the Contractor shall:
 - i. within a reasonable time after it has knowledge of the effective cause, notify the City of the cause for suspension, the performance suspended and the anticipated duration of suspension and
 - ii. advise the City when the suspending event has ended and when performance will be resumed, which in no event shall be longer than 5 business days.
 - c. Once the suspending event ends, the Contractor will promptly resume performance.

SECTION TWENTY EIGHT: Law to Govern.

This Agreement is entered into and is to be performed in the State of Illinois. City and The Contractor agree that the laws of the State of Illinois shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

SECTION TWENTY NINE: Titles of Sections.

Section headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION THIRTY: Amendment.

This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

SECTION THIRTY ONE: Severability.

The invalidity of one or more of the phrases, sentences, clauses or Sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated.

SECTION THIRTY TWO: *Dispute Resolution*

1. In the event any controversy, claim or dispute between the Contractor and the City shall arise with respect to the provisions of this Agreement or the transactions contemplated by this Agreement, the City and the Contractor shall undertake in good faith to resolve the dispute.
2. The Contractor and the City shall continue to perform diligently their respective obligations under this Agreement
 - a. Notwithstanding the existence of any dispute, controversy or claim and during the pendency of any judicial, administrative or other dispute resolution process which is commenced by one or both parties.
 - b. Notwithstanding the preceding provisions of this subsection, a party may until payment discontinue performance of its obligations under this Agreement if the other party has failed to pay amounts which are undisputed and due or which are finally determined to be due.
3. This Section shall survive the termination of this Agreement

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION THIRTY THREE: Change in Law

1. The parties agree to enter into negotiations regarding a price adjustment for Contractor's performance of future services under this Agreement in the event that there is (i) a Change in Law or (ii) a force majeure event, and either such event will cause an increase in Contractor's future costs of performing its obligations under this Agreement, including, but not limited to, increased costs due to newly enacted taxes, fees, surcharges or impositions by local, state or federal governments.
2. For the avoidance of doubt a Change in Law or force majeure event shall not include the renegotiation of a labor contract or increased costs for any equipment.

Successors and Assigns.

This Agreement shall be binding upon the parties hereto, their permitted successors and assigns.

1. This Agreement and any Exhibits attached hereto contain the entire Agreement between the parties as to the matters contained herein.
2. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

SECTION THIRTY FOUR: Rebate Program/Revenue Sharing Program

There is currently no rebate program to be established upon the commencement of this Agreement. Should there be opportunity for the recyclables market to financially warrant the establishment of a rebate program for materials, the City and the Contractor shall negotiate the terms of such rebate program, in the general procedures as identified within the Contractor's proposal to the City for curbside recycling collection services, dated May 23, 2018.

The Contractor's proposal states "We propose high-side ONP #8 Newspaper price (Chicago) minus \$50.00 per ton processing fee. Revenue share would be 50% of the difference with the floor pricing of \$7.50 per ton."

Periodic monitoring of the recyclables market is to be the responsibility of the Contractor and the City.

SECTION THIRTY FIVE: Payments/Invoices to the City

The contractor shall submit to the City invoices for curbside recycling collection on a monthly basis. Submittals may be made during the month for which services are being provided, for payment to the contractor by the 30th day of the following month.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

SECTION THIRTY SIX: Notices.

All notices required or contemplated by this Agreement shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the parties as follows:

To City
Barry Krumstok, City Manager
3600 Kirchoff Road
Rolling Meadows, IL 60008
847-394-8500

with required copies to:

1) James E. Machoil
Storino, Ramello & Durkin
9501 West Devon Avenue
Rosemont Illinois 60018
E-mail: srd@SRD-law.com
Phone: (847) 318-9500

2) Fred Vogt, Director of Public Works
3900 Berdnick Street
Rolling Meadows, IL 60008
E-mail: vogt@cityrm.org
Phone: (847) 963-0500

To Contractor:
Patrick Flood/Mike Flood
Flood Brothers Disposal Company
17 W 609 14th Street
Oakbrook Terrace, IL 60181
Phone: (773) 626-5800

or to such other address as the parties may designate in writing.

City of Rolling Meadows
Agreement to Provide Residential
Curbside Recycling Collection Services

Signatory Page

IN WITNESS WHEREOF, the parties hereto have set their hands and signed this agreement as of this the 25th day, of July, 2018.

CITY OF ROLLING MEADOWS, a Municipal Corporation

By: Len Prejna
Len Prejna, Mayor

Attest:

By: Benny Umsted
City Clerk C.E.O. manager

Flood Brothers Disposal Company

By: William K Flood Jr
PRESIDENT

Attest: MARIA SPINA

By: Maria Spina