

ADDENDUM NUMBER 1 TO PROPOSED RECYCLING CONTRACT

The proposed Contract for a recycling program for the City of Henderson, North Carolina is hereby amended by deleting the last sentence in paragraph eight (8) to read as follows:

The Company shall provide a local or toll free telephone number which persons may call during regular business hours for customer assistance regarding any complaint or general information regarding the recycling program. The minimum hours during which this telephone service assistance shall be available are eight (8:00) o'clock a.m. to four (4:00) p.m. Monday through Friday, excluding predetermined holidays as approved by the City Manager or his designee. The telephone for customer service shall not be satisfied through the use of any automated telephone answering system. The Company will further provide the City with a telephone number whereby the Company can be reached at all times. The Company shall maintain a daily log of all incoming telephone calls and complaints otherwise communicated and the disposition of each, and the daily log will be available for inspection at any time by the City or its duly authorized representatives.

IN WITNESS WHEREOF, the party below hereunto set his hand and seal. This addendum being executed in five originals one of which is retained by each of the Contractors and one by the City.

CITY OF HENDERSON

By: _____
James G. Morgan
Public Works Director



CITY OF HENDERSON

Post Office Box 1434
180 Beckford Drive
Henderson, North Carolina 27536-1434

OFFICE OF
PUBLIC WORKS
DIRECTOR

JAMES G. MORGAN

Phone: (919) 492-6111 FAX: (919) 492-7935

October 21, 1994

Waste Management of Raleigh-Durham
Attn: Mr. Brent Kirchoff
Post Office Box 11898
Durham, North Carolina 27703

Ref: **Pre-Bid Conference**

Dear Mr. Kirchoff:

At the Pre-Bid Conference held at City Hall on Thursday, October 21, 1994 a question was raised about the requirement of the Contractor's equipment having to remain in Vance County during the term of the proposed Contract (last sentence of paragraph eight (8) on page four (4)).

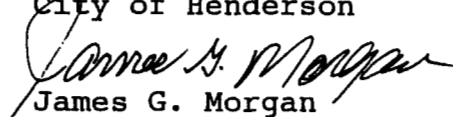
After a discussion with the Contractors present, the City Administration decided to remove that requirement from the proposed Contract. An appropriate addendum has been prepared and is included in this package.

At the Pre-Bid Conference I also gave out a new Bid Package because of some mis-spelled words in the one mailed to Contractors on Friday, October 14, 1994. The only change except for corrections of mis-spelled words is on page seven (7) and page ten (10). Page seven (7) changed the approximate house count from 5600 to 5860 (which is exact). Page ten (10) changed the number of recycling bins from 5800 to 6000.

Looking forward to seeing you at the Bid Opening on Thursday, October 27, 1994 at 2:00 P.M. at City Hall.

With regards, I remain

Sincerely,
City of Henderson


James G. Morgan
Public Works Director

JGM
Attachments

CITY OF HENDERSON
DEPARTMENT OF PUBLIC WORKS
220 GUPTON STREET
HENDERSON, N.C. 27536

MEMO:

TO: Eric M. Williams, City Manager
FROM: James G. Morgan, Public Works Director *JGM*
DATE: October 18, 1994
SUBJECT: Attached Recycling Proposal

I checked my copy of the Recycling Proposal when I returned to my office on Monday and found several mis-spelled words and words left out of some of the sentences you had added to the material.

I have gone over the material and made the necessary corrections and this a corrected copy. I have corrected copies for the contractors that we can give to them at the Pre-Bid Conference this Thursday if you like.

I did not make copies of all the letters to the contractors for the material that the staff will keep.

Thanks.

**CITY OF HENDERSON
ADVERTISEMENT FOR
RECYCLING PROGRAM**

**City of Henderson
Advertisement For Recycling Program**

Pursuant to Section 143-129 of the General Statutes of North Carolina, sealed proposals endorsed "City of Henderson Recycling" to be furnished to the City of Henderson, N.C. will be received by the City Purchasing Officer in the City Council Chambers, Municipal Administration Building, 180 Beckford Drive, Henderson, N.C. until 2:00 p.m. on October 27, 1994, at which time the proposals will be opened and read publicly. Specifications may be obtained from the office of the City Public Works Director, Public Works Complex, 220 Gupton Street, Henderson, N.C., or the Office of the City Manager, 180 Beckford Drive, Henderson, N.C. Questions related to the specifications should be directed to Mr. James G. Morgan, Public Works Director, telephone (919) 492-6111, extension 228, or Mr. Eric M. Williams, City Manager, at extension 206. The City of Henderson reserves the right to reject any and all bids.
City of Henderson
James G. Morgan
Public Works Director
Eric M. Williams
City Manager
October 19, 1994

Pursuant to Section 143-129 of the General Statutes of North Carolina, sealed proposals endorsed "City of Henderson Recycling" to be furnished to the City of Henderson, N. C. will be received by the City Purchasing Officer in the City Council Chambers, Municipal Administration Building, 180 Beckford Drive, Henderson, N. C. until 2:00 P. M. on October 27, 1994, at which time the proposals will be opened and read publicly.

Specifications may be obtained from the Office of the City Public Works Director, Public Works Complex, 220 Gupton Street, Henderson, N. C. or the Office of the City Manager, 180 Beckford Drive, Henderson, North Carolina

Questions related to the specifications should be directed to Mr. James G. Morgan, Public Works Director, telephone (919)-492-6111, extension 228 or Mr. Eric M. Williams, City Manager, extension 206.

The City of Henderson reserves the right to reject any and all bids.

City of Henderson
James G. Morgan
Public Works Director
Eric M. Williams
City Manager

Henderson Daily Dispatch
Publish Date: October 19, 1994

A COPY OF THIS LETTER WAS PREPARED FOR EACH CONTRACTOR



CITY OF HENDERSON

Post Office Box 1434
180 Beckford Drive
Henderson, North Carolina 27536-1434

OFFICE OF
CITY MANAGER
ERIC M. WILLIAMS

Phone: (919) 492-6111 FAX: (919) 492-7935

October 14, 1994

Browning-Ferris Industries
Attn: Ms. Jean Dodd
4600 New Bern Avenue, Suite 103
Raleigh, North Carolina 27610

**RE: Request for Proposals
Recycling Program
City of Henderson, NC**

Dear Ms. Dodd:

Proposals are being solicited from qualified solid waste collection firms to service, under the terms of a proposed Contract, a recycling program for the City of Henderson. The City intends to award a Contract to only one solid waste collection firm. Firms being mailed a copy of this proposal directly are shown on the attached page.

The attached materials contain information necessary to submit such a proposal to the City for consideration. Action on this matter is planned by the City Council during November of this year, with implementation on January 1, 1995, or as soon as possible thereafter.

The City will hold a Pre-Bid Conference at 2:00 P. M. on Thursday, October 20, 1994 in the Conference Room at the Municipal Building, 180 Beckford Drive in Henderson. Bidders will be given the opportunity to make suggestions or ask questions related to the specifications or proposed Contract.

The deadline for receipt of proposals is 2:00 PM on Thursday, October 27th, at which time all bids will be opened and read aloud. If you have questions at any time during the process, or require any further clarification, please free to contact me personally or by phone at (919) 492-6111. If for any reason you are not in a position to respond to our Request for a Proposal under the terms of the proposed Contract, I would appreciate hearing from you in writing.

Thank you and we look forward to hearing from you.

Very truly yours,
City of Henderson

Eric M. Williams
City Manager

EMW/dew
Attachment/s

SunShares
Ms. Karen Smith
1215 S. Briggs Avenue, Suite 100
Durham, North Carolina 27703

Browning-Ferris Industries
Ms. Jean Dodd
4600 New Bern Avenue, Suite 103
Raleigh, North Carolina 27610

Waste Industries, Inc.
Mr. Jim Perry
Post Office Box 19026
Raleigh, North Carolina 27619

Waste Management of Raleigh-Durham
Mr. Brent Kirchoff
Post Office Box 11898
Durham, North Carolina 27703

CONTENTS

ITEM _____

EXHIBIT A: **INFORMATION AND PROPOSAL FORMS**

EXHIBIT B: **CONTRACT**

"EXHIBIT A"
INFORMATION AND FORMS
FOR
RECYCLING PROGRAM
CITY OF HENDERSON, NORTH CAROLINA

GENERAL INFORMATION AND PROPOSAL FORMS
Recycling Program Under A Contract

City of Henderson, North Carolina
Opening date: 10-27-94 at 2:00 P. M.
Henderson Municipal Building
180 Beckford Drive
Henderson, North Carolina 27536

I. GENERAL INFORMATION

The information contained herein has been prepared specifically to provide information to prospective bidders necessary for them to prepare a proposal for a recycling program within the incorporated area of Henderson, North Carolina.

The intent is to provide a recycling program for the benefit of all of our citizens by means of a curbside collection program, manned drop-off centers, unmanned drop-off centers; or a combination of the stated methods of recycling.

The City of Henderson, located in Vance County, North Carolina, has a 1990 population of approximately 16,000 and is experiencing a moderate rate of growth. There are approximately 75 miles of streets within the City's incorporated area, which encompasses roughly seven (7) square miles.

Waste Management of Raleigh-Durham Inc. currently collects and disposes of waste from approximately 283 front loading containers under a Contract which expires on December 31, 1996. The City's Sanitation Division currently provides twice weekly backdoor garbage collection and once weekly curbside trash and yard waste collection.

II. PROPOSALS

Proposals for consideration must be made in accordance with the forms provided herein with supplemental information submitted when necessary. All proposals must be submitted in a sealed envelope bearing on the outside the name and address of the bidder and should be marked "City of Henderson Recycling".

Proposals will be received in the office of the City Purchasing Officer at City Hall, 180 Beckford Drive, Henderson, North Carolina until 2:00 P. M. on Thursday, October 27th, 1994, at which time all bids will be opened and read aloud. Firms submitting proposals should do so with the understanding that their prices will remain unchanged for a minimum of ninety (90)

calendar days. Delays beyond that time will be subject to negotiation between the successful bidder and the City.

III. QUALIFICATIONS OF BIDDER

The City of Henderson will make investigations as deemed necessary to determine the ability of the bidder to perform the work required and the bidder shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of such bidder, fails to satisfy the City of Henderson that the bidder is qualified to carry out the obligations of the Contract and to complete the work required therein.

IV. CONDITIONS OF WORK

Each firm submitting a proposal must inform themselves fully of the conditions relating to the execution of the proposed Contract. Failure to do so shall not relieve a successful bidder of his obligation to furnish all materials and labor necessary to carry out the provisions of the Contract.

V. CUSTOMER SERVICE TELEPHONE

The successful bidder shall provide a local or toll free telephone number which persons may call during regular business hours for customer assistance regarding any complaint or any general information regarding the recycling program. The minimum hours during which this telephone service assistance shall be available are eight o'clock (8:00) a. m. to four o'clock (4:00) p. m. Monday through Friday, excluding predetermined holidays as approved by the City Manager or his designee. The telephone for customer service shall not be satisfied through the use of any automated telephone answering system. All complaints made by citizens to the Contractor with regard to work performed under this Contract shall be given prompt and courteous attention and the City shall be notified of each complaint.

VI. LAWS AND REGULATIONS

The bidders attention is directed to the fact that all applicable City, County, and State laws and regulations concerning solid waste collection and disposal shall apply to the Company's operation under the proposed Contract, and they will be deemed to be included in the Contract as if they were written out in full.

VII. RECYCLING CONTAINERS

Should the City elect to provide a curbside recycling program, the containers may or may not be purchased through the Contractor. The containers shall be produced of rigid plastic construction having a capacity of eighteen (18) gallons and will have the City decal and bungee cords attached. City work crews would be responsible for the distribution of containers.

VIII. SERVICE AREA

Should the City elect to provide a curbside recycling program, the Contractor shall collect and remove all recyclable materials which are placed in or adjacent to recycling containers at the curbside.

The Contractor shall collect recyclables from single-family homes at a point other than the curb where no one at the residence is capable of placing the container at the curb due to a physical limitation. The number of units to be serviced in this manner will be mutually agreeable between the City and the Contractor. The City shall be responsible for providing a list of such residences, to be updated at a frequency mutually agreeable between the City and the Contractor.

The recycling collection services shall be expanded to include all areas annexed into the City and all new residential construction within the City.

IX. RECYCLABLE MATERIALS

Recyclable materials shall include each of the following:

- (a) **Newspaper** (with inserts)
- (b) **Aluminum and bi-metal beverage cans**
 - Tabs on top of cans do not have to be removed by customers
- (c) **Glass bottles and jars** (unbroken clear, green and brown)
 - Labels and rings do not have to be removed by customer
- (d) **Plastic bottles**
 - Plastic is limited to Category 1, plastic beverage bottles (PET) and Category 2, plastic dairy or beverage bottles (HDPE)

- (e) Any other marketable material agreed on by the City and the Company

X. CITY FACILITY OFFICE PAPER AND ALUMINUM CANS

- (a) Computer paper
- (b) White and yellow legal paper
- (c) White or colored copy paper

Staples and paper clips do not have to be removed

- (d) Aluminum beverage cans

COLLECTION - The Contractor shall collect from City facilities office paper and aluminum beverage cans once every week at the following six (6) locations.

City Hall- 180 Beckford Drive

Public Works Complex- 220 Gupton Street

Waste Water Treatment Plant- Hwy. #39, West

Police Department- 110 Young Street

Recreation Department- 300 S. Garnett Street

Meter Shop- Vicksboro Road

A ninety (90) gallon container for paper will be provided at each site and paper will be deposited into these containers mixed. A ninety (90) gallon container will be provided for aluminum beverage cans. The 90 gallon containers will be provided by the City.

The City is currently developing plans for the construction of several new facilities which would result in different locations for some of the above sites. Should the new facilities be occupied during the term of the proposed Contract appropriate discussions will occur between the City and the Contractor.

XI. RECYCLING COLLECTION SERVICES

Those services to be performed by the Contractor are as follows:

- (a) Collection of recyclable materials either from curbside, manned drop-off centers, unmanned drop-off centers or a combination of the stated methods
- (b) Processing of recyclable materials which includes the sorting and preparation of recyclable materials for marketing
- (c) Marketing of the recyclable materials
- (d) Maintaining complete and accurate records of collection, processing and marketing activities and such other information that may be reasonably required by the City.
- (e) Implementation of a strong citizen education and public awareness program to inform the general public about the need for recycling and to stimulate interest and promote active participation in the recycling program

XII. POST COLLECTION HANDLING

The Contractor shall be responsible for the sorting, handling, processing, storage and marketing of the recyclable materials. The Contractor shall ensure that the materials collected are recycled for reuse and resale, and shall prevent the materials from being deposited in any landfill. **ALL REVENUES FROM THE SALE OF THE RECYCLABLE MATERIALS BY THE CONTRACTOR WILL BE SHARED WITH THE CITY ON A 50-50 BASIS.** The Contractor will endeavor to ensure the best available market prices are obtained for each recyclable material. If the City of Henderson identifies a material market that would yield a higher market unit for recyclable materials, the Contractor would then use the newly identified market. Should the applicable markets collapse and render the products worthless, the City and Contractor would meet and discuss alternatives for disposal of the product that would be fair to both parties, but in any event the responsibility of obtaining markets rests with the Contractor until the end of the terms of the Contract.

XIII. RECORD KEEPING AND REPORTING

In addition to the reporting requirements indicated in Section X (d) the Contractor shall maintain records on the weight of materials collected by type. If the City elects to provide a curbside recycling program, the Contractor shall also maintain records on the set out rate (percentage of eligible households which put out a container on each collection day), and shall furnish an accurate estimate of the participation rate (percentage of eligible households which set out a container at least once per month). These records shall be furnished to the City on a monthly basis. Monthly and year-to-date information shall be included in each report. The Contractor shall ensure that the information provided to the City is accurate and reflects only materials collected under the Contract.

The monthly reports shall also show the revenues received by the Contractor for recyclable materials collected under the Contract, by type of material.

XIV. INCENTIVE PROGRAM

If the City elects to provide a curbside recycling program the City may also elect to give some type of incentive to our citizens to promote the recycling program. Should the City elect to offer an incentive program which would refund a portion of the Utility bill each month for citizens who recycle, the use of bar codes and scanners will be necessary by the Contractor. The scanners would be provided by the City and the appropriate training in their use will be conducted on a mutually agreeable basis between the City and the Contractor.

XV. EDUCATIONAL LITERATURE

All educational literature to be supplied to the residences, such as instructions, or continuing education on the recycling program will be supplied by the Contractor. The City may also mail brochures with the monthly Utility bills.

PROPOSAL

**Curbside Recycling Program
and City Facility Office Paper and Aluminum Cans**

The undersigned bidder affirms that he is familiar with the services to be performed within the City of Henderson under the proposed Contract, shown as EXHIBIT B, and hereby submits the following rates and other information:

1. The prices quoted below will eventually be incorporated into paragraph five (5) of the proposed Contract:

Unit Descriptions

1. Residential curbside recyclable materials collected once every other week (the City has approximately 5860 households)

at \$ _____ (_____ Dollars)

per unit per month.....\$ _____
per unit
per month

2. City facility recyclable office paper and aluminum cans collected once a week at \$ _____ (_____ Dollars)

per month.....\$ _____
per month

The City of Henderson reserves the right to reject any or all bids and also reserves the right not to enter into any Contract as a result of this bid invitation.

Bidder: _____

By: _____

Address: _____

Telephone: (_____) _____

*NOTE any special conditions or requirements below, or on separate sheets as necessary.

PROPOSAL

Manned Drop-Off Center

The undersigned bidder affirms that he is familiar with the services to be performed within the City of Henderson under the proposed Contract, shown as EXHIBIT B, and hereby submits the following rates and other information:

1. The prices quoted below will eventually be incorporated into paragraph five (5) of the proposed Contract.

The City may elect to provide a manned drop-off center(s) at a sight(s) to be determined by the City and in this event, the Contractor shall provide an adequate number of containers for the collection of newspaper, glass bottles and jars, and aluminum and bi-metal cans, PET and HDPE plastics from the public.

- (a) The Contractor shall empty the containers periodically to insure that containers do not overflow
- (b) The Contractor shall take reasonable steps to maintain safe and sanitary conditions at the drop-off center(s) and maintain the containers in a safe condition
- (c) The Contractor shall provide all equipment, materials, and labor to construct, maintain and operate the drop-off center(s)

Unit Descriptions

1. Manned drop-off center for recyclable materials per unit, per month cost \$ _____ (_____ Dollars)

The City of Henderson reserves the right to reject any and all bids and also reserves the right not to enter into any Contract as a result of this bid invitation.

Bidder: _____

By: _____

Address: _____

Telephone: (_____) _____

*NOTE any special conditions or requirements below, or on separate sheets as necessary.

PROPOSAL

Unmanned Drop-Off Center

The undersigned bidder affirms that he is familiar with the services to be performed within the City of Henderson under the proposed Contract, shown as EXHIBIT B, and hereby submits the following rates and other information:

1. The prices quoted below will eventually be incorporated into paragraph five (5) of the proposed Contract.

The City may elect to provide an unmanned drop-off center(s) at a sight(s) to be determined by the City. In this event, the Contractor shall provide an adequate number of containers for the collection of newspaper, glass bottles and jars, aluminum and bi-metal cans, PET and HDPE plastics from the public.

- (a) The Contractor shall empty the containers periodically to insure that containers do not overflow
- (b) The Contractor shall take reasonable steps to maintain safe and sanitary conditions at the drop-off center(s) and maintain the containers in a safe condition
- (c) The Contractor shall provide all equipment materials, and labor to construct, maintain and operate the drop-off center(s)

Unit Descriptions

1. Unmanned drop-off center(s) for recyclable materials per unit, per month cost \$ _____ (_____ Dollars)

The City of Henderson reserves the right to reject any and all bids and also reserves the right not to enter into any Contract as a result of this bid invitation.

Bidder: _____

By: _____

Address: _____

Telephone: (____) _____

*NOTE any special conditions or requirements below, or on separate sheets as necessary.

PROPOSAL

Eighteen (18) Gallon Recycling Containers

The undersigned bidder affirms that he is familiar with the services to be performed within the City of Henderson under the proposed Contract, shown as EXHIBIT B, and hereby submits the following rates and other information:

1. The prices quoted below will eventually be incorporated into paragraph five (5) of the proposed Contract.

Unit Description

1. Residential eighteen (18) gallon recycling containers. The containers shall be produced of rigid plastic construction and will have the City decal and bungee cords attached. The total number of containers will be six thousand (6000).

Per unit cost \$ _____ (_____ Dollars).

Total cost \$ _____ (_____ Dollars).

The containers may or may not be purchased through the Contractor.

The City of Henderson reserves the right to reject any or all bids and also reserves the right not to enter into any Contract as a result of this bid invitation.

Bidder: _____

By: _____

Address: _____

Telephone: (_____) _____

*NOTE any special conditions or requirements below, or on separate sheets as necessary.

"EXHIBIT B"

CONTRACT

NORTH CAROLINA
VANCE COUNTY

CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, 1994 by and between the City of Henderson, a municipal corporation organized under the laws of the State of North Carolina, hereinafter referred to as the City; and _____ (doing business as _____) hereinafter referred to as the Company:

W I T N E S S T H :

WHEREAS, the City of Henderson is a municipal corporation in the State of North Carolina having powers conferred upon it by the laws of the State of North Carolina;

WHEREAS, the City desires, within the City and upon certain City owned property, to provide a recycling program for the collection and sale of recyclable materials, and it appearing to the City that the most satisfactory means to affect the end, and to promote the general welfare of the citizens of Henderson and of the City in the most economical fashion, is to grant a Contract for the collection and sale of recyclable materials.

WHEREAS, North Carolina General Statutes 160A-319 empowers the City to grant this Contract, as does Section 29 of the Charter of the City of Henderson; and

WHEREAS, in accordance with North Carolina General Statutes 160A-76 the City Council of the City of Henderson has by Ordinance, duly adopted at two regular meetings of the City Council after a duly advertised public hearing, authorized the granting of this Contract;

NOW, THEREFORE, in consideration of the mutual covenants of the parties, the City does hereby grant to the Company a Contract for a recycling program for the benefit of all of our citizens.

1. For the purpose of this Contract, the following will be considered recyclable materials:

- (a) Newspaper (with inserts)
- (b) Aluminum and bi-metal beverage cans
- (c) Glass bottles and jars
- (d) Plastic bottles- PET and HDPE
- (e) Any other marketable material agreed on by the City and the Company

2. The territory covered by this Contract shall be the territory which is presently, or by annexation will be, within the corporate limits of the City of Henderson, together with any municipally owned or occupied property outside the corporate limits of the City of Henderson.

3. This Contract shall continue for a period of three (3) years, commencing on the 1st day of January, 1995, and ending on the 31st day of December, 1997, and may be renewed with the consent of both parties for three (3) additional one (1) year terms, provided that there shall be no changes in the terms and conditions hereof (except as otherwise provided herein) unless a duly advertised Public Hearing is first held by the City Council.

4. The Company shall provide a recycling program within the territory covered by this Contract, said services to include the furnishing of all necessary labor, vehicles and equipment in order to collect, prepare for market and marketing of all recyclable materials.

5. The Company shall bill the City of Henderson by the 10th day of the month after services have been rendered as set forth in subsequent Addendums to this Contract as they may from time to time be approved in accordance with the terms herein.

The Company shall pay to the City of Henderson one-half of all proceeds from the sale of collected recyclable materials by the 10th day of the month following the sale of materials.

6. The Company shall provide the City with maps and schedules of collection routes (both regular and special) and shall keep such information current. In the event of changes in routes or schedules that will alter the day of pick-up the Company will be responsible for notifying the City Manager of the City of Henderson, or his authorized designee, on a monthly basis, or as often as the City Manager may reasonably request.

7. The Company shall indemnify and save the City free and harmless from any and all liability, loss, cost, damage, or other expense from accident or damage, either to itself or to the persons or property of others, which may arise from negligence of the Company, its officers, its employees, or its agents and occurs by reason of the exercise of rights and privileges granted. During the period of this Contract the Company shall carry a policy that fulfills all the requirements of the Worker's Compensations Act of North Carolina, including all legal requirements for occupational diseases. The Company shall also carry motor vehicle and General Liability insurance with minimum limits of \$1,000,000 property damage or for bodily injury or death to anyone person, a \$1,000,000 aggregate property damage, bodily injuries or deaths in any one accident as the same is commonly understood in the insurance trade. Each bid proposal must include satisfactory evidence of the ability to secure (or a copy of the policy) providing for Environmental Impairment Insurance coverage. Coverage for all insurance shall be provided by an insurance company authorized to transact business in the State of North Carolina. The Company will furnish to the City proof that such insurance has been obtained annually and the Company shall by the 1st day of January each year beginning with January 1, 1995, file a certificate with the City Manager for his approval. After the approval of the City Manager of said Certificate of Insurance, the Certificate shall remain on file in the Office of the City Clerk of the City of Henderson.

8. The Company shall provide a local or toll free telephone number which persons may call during regular business hours for

customers assistance regarding any complaint or any general information regarding the recycling program. The minimum hours during which this telephone service assistance shall be available are eight (8:00) o'clock a.m. to four (4:00) o'clock p.m. Monday through Friday, excluding predetermined holidays as approved by the City Manager or his designee. The telephone for customer service shall not be satisfied through the use of any automated telephone answering system. The Company will further provide the City with a telephone number whereby the Company can be reached at all times. The Company shall maintain a daily log of all incoming telephone calls and complaints otherwise communicated and the disposition of each, and the daily log will be available for inspection at any time by the City or its duly authorized representatives. Sufficient equipment to service the City and its customers will remain in Vance County for the duration of this Contract.

9. The Company shall, during the first full year of this Contract, maintain in full force and effect, at its expense, and shall furnish to the City a performance bond executed by one or more surety companies legally authorized to do business in the State of North Carolina, in a manner and form approved by the City Manager, in the amount of ten thousand dollars (\$10,000.00) to be paid to the City by the surety, on behalf of the Company, conditioned on the faithful performance by the Company of all of the terms, conditions and covenants contained in this Contract. In lieu of a standard performance bond the City will accept a \$10,000 Certificate of Deposit (CD) purchased by the Company with the principle payable to the City and the interest to the Company. Said bond or CD is made a part of this Contract by reference and is to be delivered to the City before any services are rendered by Company under this Contract. If the Company shall fail to comply with any one or more of the provisions of the Contract, there shall be recoverable, jointly and severally, from the Company as principal and from the surety, or sureties, of such bond any damages or losses suffered by the City as a result thereof. In subsequent years of this Contract (and any renewals thereof) the

amount of the performance bond may, at the City's sole discretion, be reduced to a lesser amount, conditioned upon the Company's prior faithful performance of this Contract. Said bond shall provide for sixty (60) days written notice to be given to the City prior to cancellation or material change in said bond, or of the intention by surety or surety companies not to renew such bond. In the event said bond is canceled or the surety thereon relieved of liability, this Contract is subject to cancellation by the City unless an adequate replacement bond, or other satisfactory surety, is provided by the Company to the City at least thirty (30) days before the effective date of such bond cancellation or surety release. Damages recovered by the City from the surety shall not be construed to excuse faithful performance by the Company or limit the liability of the Company under this Contract for damages, either to the full amount of the bond or otherwise, or preclude exercise of other rights or remedies allowed by law, whether exercised concurrently or subsequently. The Company may, at its option, provide the City an Irrevocable Letter of Credit from an institution acceptable to the City in a manner and form approved by the City Attorney or put up a cash deposit for the full bond amount in lieu of this performance bond requirement.

10. The City agrees that insofar as the fulfillment of this Contract is concerned, Company shall have all of the rights, and privileges and access to property and garbage storage areas as the City has under the General Statutes of North Carolina and the City Code of the City of Henderson, whether said storage areas are on public or private premises, and the City hereby assigns Company said rights and privileges during the term of this Contract (and any renewals thereof).

11. The Company shall furnish recycling services to all establishments covered by the terms of this Contract at the level of service agreed to by the City and the Company.

12. All recyclable materials collected by the Company shall be collected and hauled in enclosed, tight, non-leakable trucks. Any leakage or spillage of recyclable materials from the trucks

onto streets or alleys or private property shall be removed immediately by the Company. The Company shall maintain with the City a current list showing the size, age, make, serial number, and identification number of all vehicles which will be or are being used to perform Company's services under this Contract, and to make those vehicles available for inspection upon request of the City.

13. The Company shall promptly settle any and all disputes between the company and any citizen. In the event of an irreconcilable dispute, the Company shall submit the dispute to the City Manager of the City of Henderson for determination of the dispute. His determination shall be binding on the Company unless either party appeals his decision to the City Council. Written notice of an appeal must be submitted to the City Clerk within three (3) working days after the parties are notified of the City Manager's decision. In the event of an appeal to the City Council, the City Council's decision shall be binding on the Company.

14. The City Council of the City of Henderson has sole authority to terminate this Contract on behalf of the City. It is understood and agreed that the nature of the performance under this Contract is such that time is of the essence. Events of default and/or major breach of this Contract by the Company in performance constitute grounds for termination by the City; these include (but are not limited to):

A. Substantial failure to perform any term or provision of this Contract by Company for a period of one week, except when the failure to perform is caused by an act beyond the control of the Company, such as act of God, war, public enemy, civil commotion, riot, insurrection, or any similar act beyond the control of the Company which renders impossible the performance under this Contract.

B. The filing by the Company of a voluntary petition in bankruptcy or the failure of the Company promptly to lift or suspend any execution, garnishment, or attachment of such consequence as will impair (in the sole opinion of the Henderson City Council) the ability of the Company to

perform under the Contract, or the commission by the Company or any act of bankruptcy or the adjudication of the Company to be bankrupt, or the assignment by the Company for the benefit of its creditors under the provisions of any bankruptcy act, as amended or under any similar act which may be hereinafter enacted.

In the event of any breach of this Contract or unsatisfactory performance on the part of the Company, the City (in lieu of termination) may give the Company written notice of the nature of the breach or unsatisfactory performance and demand its correction and if, the Company does not within thirty (30) day of receipt of such notice correct the condition causing the breach, the City may terminate this Contract on the last day of any month by giving written notice to Company on or prior to the 15th day of said month after the City Council has approved its termination.

In the event of termination of this Contract as herein set forth, the City shall be entitled to so much of the bond or deposit which represents actual damages caused by the Company's termination.

15. The Company shall conduct operations in compliance with all applicable Federal and State laws, together with all applicable ordinances of the City of Henderson. Company shall not dispose of collected recyclable materials in any landfill. Further, during the term of this Contract and from the date of formal award the Company shall reasonably assist the City in analyzing operational and service problems in future recycling needs.

16. The Contractor shall not, in the performance of this Contract, discriminate against any employee or applicant for employment because of race, color, creed, national origin, or ancestry.

17. The Company shall indemnify and save the City (and its officials, employees, and agents) harmless from any and all claims, suits, and actions of any kind made upon or brought against the City (or any of its officials, employees, or agents) on account of any damages or injuries sustained by any person, firm, or

corporation and arising in any way out of the performance or non-performance of this Contract by Company or any of its officials, agents, or employees (said indemnification to include attorneys' fees and all other expenses incurred by or for the City in investigating or defending the same).

18. Should any provision in this Contract be held invalid by any court of competent jurisdiction, such invalidity shall not affect any other provisions hereof. Any questions concerning the enforcement, interpretation or validity of this Contract shall be decided by a lawsuit instituted in the Superior Court of Vance County, North Carolina.

19. This Contract shall be binding on the parties, their successors and assignees. This Contract, however, as to the Company, may not be sold, assigned, or transferred in any manner whatsoever, voluntarily or involuntarily, or by operation of law, without the prior written consent of the City Council.

20. The rights of the Company for the period of this Contract shall be exclusive (unless the City Council determines that the same is not in the best interest of it's citizens). This Contract is adopted by the parties in good faith and in the event it should be determined by any court of competent jurisdiction that this Contract is an ultra vires act by the City or that it is in violation of any anti-trust law, the Company agrees that no action shall be taken against the City for damages.

21. The rates set out in appropriate addendums hereof shall be binding upon the Company. All requests for increases in rates, fees, and/or charges shall be subject to prior approval of the City Council after an appropriate public hearing is held at which time all interested parties can be heard. Further, no requests for increases in rates, fees, and/or charges by the Company may be submitted to the City Council more often than annually unless they are solely and directly related to changes in direct operational costs related to this Contract over which the Company has no control. Justification for such request must include the Company's most current financial information reflecting the operational cost

of the services provided under this Contract. The City may in addition require any other reasonable information which it deems necessary in analyzing request for rates, fees, and\or charges.

Annual cost adjustments, either upward or downward, requested by the Company (or the City) shall be considered in comparison with the percentage change in the Consumer Price Index published by the U. S. Department of Labor, Bureau of Labor Statistics (or the equivalent successor index, if some other department or bureau shall assume the functions of the U. S. Department of Labor, Bureau of Labor Statistics) for the Southeast Region, all urban consumers, all items and/or the Municipal Cost Index (MGI) published by American City and County. A written request by the Company to the City (or vice versa) must be received no later than March 1st each year for the preceding twelve month period from January 1st through December 31st and annually thereafter. Any resulting price adjustment will become effective on July 1st of each subsequent year. However, in no case shall the adjustment exceed eight percent (8%) in any one year.

While all requests for any increases must be first approved by the City Council, the City Council may waive the public hearing requirement and/or the normally required documentation and or justification when the requested increases are solely and directly related to any cost beyond the Company's control.

22. The Company agrees to employ local residents (as much as possible) to fulfill the obligations of this Contract.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF HENDERSON

BY: _____

Robert G. Young, Jr., Mayor

(seal)

ATTEST

BY: _____

Dianne E. White

City Clerk

COMPANY _____

BY: _____

President

(corporate seal)

ATTEST

BY: _____

Secretary

I, _____, a Notary Public in and for said County and State, do hereby certify that on the ____ day of _____, 1994, before me personally appeared Robert G. Young, Jr., with whom I am personally acquainted, who, being by me duly sworn, says that he is Mayor and that Dianne E. White is City Clerk of the City of Henderson, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said Mayor and City Clerk subscribed their names thereto and the said common seal affixed, all by order of the City Council of said municipal corporation; that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and notarial seal, this ____ day of _____, 1994.

Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA

COUNTY OF _____

This is to certify on the ____ day of _____, 1994, before me personally appeared _____, with whom I am personally acquainted, who, being by me first duly sworn, says:

That he is President and _____ is the Secretary of _____, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, attested by said Secretary, and said common seal was affixed, all by authority duly conferred, and that said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal this ____ day of _____, 1994.

Notary Public _____

My Commission Expires:
