

**Rick Schroder**

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**From:** Kari Thomas  
**Sent:** Wednesday, June 12, 2024 5:35 PM  
**To:** Rick Schroder; Whitney Walston; Stephanie Fisher  
**Subject:** Adding Dumpsters to Agenda

Hi Rich,

I would like to add dumpsters to the agenda. Mainly regarding the recent school contractor dumpster that was requested.

Kari

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**ORDINANCE NO. 22-0503**

**AN ORDINANCE OF THE CITY OF JOHNSON CITY, TEXAS APPROVING AN EXCLUSIVE FRANCHISE AND CONTRACT BETWEEN THE CITY OF JOHNSON CITY AND HILL COUNTRY WASTE SOLUTIONS FOR THE COLLECTION AND DISPOSAL OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY OF JOHNSON CITY, TEXAS; AND PROVIDING AN EFFECTIVE DATE**

**RECITALS**

**WHEREAS,** as a municipal corporation organized under the laws of the State of Texas and pursuant to the Texas Constitution and state law, the City of Johnson City, Texas (“City”) has the authority to protect and promote the public health, safety and welfare, and to regulate the use of the City public rights-of-way; and

**WHEREAS,** pursuant to Texas Health and Safety Code Chapter 363, Sections 363.116(a), and 363.117, the City has the authority to adopt rules for regulating solid waste collection, handling, transportation, storage, processing and disposal; and

**WHEREAS,** it is in the public interest to ensure solid waste and recycling services are provided to the citizens of the City; and

**WHEREAS,** the City Council of the City reviewed service proposals and selected Hill Country Waste Solutions (“Contractor”) to provide said services; and

**WHEREAS,** the City Council has determined that granting of a franchise to and execution of a contract with Hill Country Waste Solutions Waste for said services will assist in meeting the solid waste and recycling needs of the community and is necessary to preserve or protect the public health of the citizens of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOHNSON CITY, TEXAS, THAT:**

**ARTICLE I. FINDINGS OF FACT**

The foregoing recitals are adopted as facts and are incorporated fully herein.

**ARTICLE II. GRANT OF EXCLUSIVE FRANCHISE; AWARD OF CONTRACT**

- A. The City Council hereby grants to the Contractor an exclusive right and franchise to collect, haul and dispose of solid waste and recyclable materials over, upon, along and across the City’s present and future streets, alleys, bridges and public properties within the City’s jurisdictional limits in accordance with applicable law and the City’s ordinances and regulations governing solid waste collection and processing.

- B. The City Council hereby approves the terms for performance of services authorized under the Franchise as outlined in the *“Exclusive Franchise and Contract between the City of Johnson City and Hill Country Waste Solutions for the Collection and Disposal of Municipal Solid Waste and Recyclable Materials in the City of Johnson City, Texas”* (“Contract”), attached hereto as Exhibit A and incorporated fully herein for all purposes.
- D. The City Council hereby selects and awards this Contract to Contractor for the provision of services pursuant to the Franchise in accordance with the terms described therein. In addition, and as provided in the Contract, the Contractor is designated as the sole provider of all roll-off and other commercial containers within the City to be used for the collection and disposal of construction debris, brush, et cetera, whether permanent or temporary.
- E. The Mayor is hereby authorized to execute the Contract on behalf of the City.

### ARTICLE III. REPEALER AND SEVERABILITY

**REPEALER:** All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

**SEVERABILITY:** Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### ARTICLE IV. EFFECTIVE DATE

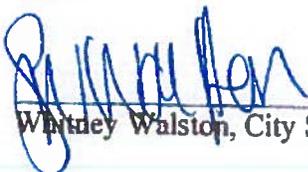
This Ordinance shall be effective immediately upon passage and approval.

**PASSED AND APPROVED** this, the 3<sup>rd</sup> day of May 2022, by a majority vote of the City Council of Johnson City, Texas.

CITY OF JOHNSON CITY, TEXAS

  
\_\_\_\_\_  
Rhonda Stell, Mayor

Attest:

  
\_\_\_\_\_  
Whitney Walston, City Secretary

**Exclusive Franchise and Contract**  
**between the City of Johnson City and**  
**Hill Country Waste Solutions**  
**for the Collection and Disposal of**  
**Municipal Solid Waste and Recyclable Materials**  
**in the City of Johnson City, Texas**

**Effective June 1, 2022**

STATE OF TEXAS

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§  
§

COUNTY OF BLANCO

**EXCLUSIVE FRANCHISE AND CONTRACT  
BETWEEN THE CITY OF JOHNSON CITY AND  
HILL COUNTRY WASTE SOLUTIONS  
FOR THE COLLECTION AND DISPOSAL OF  
MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS  
IN THE CITY OF JOHNSON CITY, TEXAS**

This Exclusive Franchise and Contract between the City of Johnson City and Hill Country Waste Solutions for the Collection and Disposal of Municipal Solid Waste and Recyclable Materials in the City of Johnson City, Texas (“Contract”) is made on June 1, 2022 (“Effective Date”) and entered into between the City of Johnson City, Texas (“City”) and Hill Country Waste Solutions (“Contractor”), individually “Party”, and collectively “the Parties”, acting by and through their duly authorized representatives.

**RECITALS**

**WHEREAS**, the City Council of the City of Johnson City, Texas (“City Council”) has determined that it would be in the best interest of the citizens and businesses of the City and would promote and protect the health, safety, and general welfare of the inhabitants of the City to provide for the collection, removal, and disposal of solid waste in the City; and

**WHEREAS**, the City Council desires to grant to the Contractor the exclusive franchise, license and privilege and to execute a contract with the Contractor for the collection, hauling, recycling and disposal of recyclable materials and municipal solid waste within the City’s boundaries.

**NOW, THEREFORE**, in consideration of the foregoing and on the terms and conditions hereinafter set forth and for other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Contractor agree as follows:

**I. GRANT OF EXCLUSIVE FRANCHISE; AWARD OF CONTRACT**

1.1 As conducted via separate ordinance, the City hereby affirms its grant to the Contractor, for the term of this Contract and in accordance with applicable law and the City’s ordinances and regulations governing solid waste collection and processing, of an exclusive right and franchise to collect, haul and dispose of solid waste and recyclable materials over, upon, along and across the City’s present and future streets, alleys, bridges and public properties within the City’s jurisdictional limits.

1.2 A franchise fee shall not be assessed nor collected by either Party.

1.3 The City hereby selects and awards this Contract to Contractor for the services of collection, hauling and disposal of solid waste and recyclable materials within the City for

residential, commercial / industrial and municipal units. In addition, the Contractor shall be the sole provider of all roll-off and other commercial containers within the City to be used for the collection and disposal of construction debris, brush, et cetera, whether permanent or temporary.

## II. TERM

2.1 Initial Term. The initial term of this Contract shall commence June 1, 2022 ("Commencement Date") and shall terminate on June 1, 2025, unless terminated as provided herein.

2.2 Automatic Renewal. At the end of the initial 3-year term, and at the end of each renewal term thereafter, this Contract shall automatically renew for a successive three (3) year term, unless terminated as provided herein.

## III. DEFINITIONS

The following definitions shall apply:

- a. Bag: Plastic sack with sufficient strength to maintain physical integrity when lifted by the top of the bag and designed to transport solid waste which shall not exceed thirty-five pounds (35 lbs.) when filled.
- b. Brush Items: Solid waste comprised of undergrowth, small trees, and shrubs personally cut / trimmed by the owner of the same parcel and placed curbside for regularly-scheduled brush item pickup.
- c. Bulky Items; White Goods: Solid waste comprised of large household items, including, but not limited to, stoves, refrigerators, water tanks, washing machines, discarded bathroom fixtures, furniture, mattresses, television sets, and other household items that cannot be handled by normal solid waste processing, collection, or disposal methods. The terms do not include construction or remodeling debris in excess of one hundred pounds (100 lbs.) per item, plant materials, rocks, dirt, dead animals, brush items, hazardous, special, or infectious wastes, tires, car batteries, or stable matter
- d. Bundle: Plant trimmings and newspaper and magazine stacks securely tied together forming an easily handled package not exceeding four feet (4') in length and weighing no more than thirty-five pounds (35 lbs.) per bundle.
- e. Chief Administrative Officer: The individual, or his designee, designated by the City to administer and monitor the Contract.
- f. Commercial: A third-party entity, which is of, connected with, or engaged in commerce and in the business of or contracted to perform services for or sell goods to a separate and distinct individual or business.
- g. Commercial and Industrial Units: A commercial or industrial structure or parcel being used for commercial purposes within the corporate limits of the City. A commercial or

industrial unit shall be deemed to be occupied and requiring solid waste collection and disposal services when the unit or occupant is engaging in commercial activity and domestic water or electric services are being supplied thereto.

- h. **Commercial Container; Roll-off Container:** Metal or comparable material receptacle designed for use by a commercial and industrial unit that is to be lifted and emptied mechanically for use by commercial and industrial units and for use by a residential unit for removal of construction debris, brush, et cetera. A roll-off container is considered a commercial container that is loaded onto a winch truck and not exceeding forty (40) cubic yards in volume.
- i. **Commercial Hand-Load Customer:** A hand-load service provided to less intensive commercial and industrial units or customers that consists of the same curbside services supplied to residential units by the Contractor.
- j. **Construction and Remodeling Debris:** Waste building materials, including, but not limited to, rocks, fencing, concrete or cinder blocks, bricks, and lumber resulting from construction, remodeling, repair, or demolition operations.
- k. **Container:** A receptacle with a capacity of greater than twenty gallons (20 gal.) but less than ninety-six gallons (96 gal.) constructed of plastic, metal, or fiberglass having handles of adequate strength for lifting and having a tight-fitting lid. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of the container, including its contents, shall not exceed thirty-five pounds (35 lbs.).
- l. **Curbside:** That portion of the public right-of-way adjacent to paved or traveled municipal or State roadways, with or without curbing, and extending to the front property line.
- m. **Dead Animal:** An animal, or portion thereof, that has expired from any cause.
- n. **Disposal Site:** A solid waste depository, including, but not limited to, a sanitary landfill, transfer station, incinerator, and waste processing / separation center licensed, permitted, and approved by all governmental bodies and agencies having jurisdiction to receive, for processing or final disposal, solid waste.
- o. **Garbage:** Every accumulation of waste (animal, vegetable, and / or other matter) that results from packing, canning, storage, transportation, decay, or decomposition of meats, fish, fowl, birds, fruits, grains, or other animal or vegetable matter, including, but not limited to, used tins, cans, and other food containers and all putrescible or easily decomposable waste and animal or vegetable matter which is likely to attract flies or rodents.
- p. **Hazardous Waste:** Any chemical, compound, mixture, substance, or article which is designated by the United States Environmental Protection Agency, pursuant to the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 or appropriate agency of the State, to be "hazardous" or toxic and

requiring special handling or special disposal treatment, as defined by or pursuant to Federal or State Law.

- q. **Infectious Waste:** Hazardous waste with infectious characteristics, including, but not limited to, contaminated animal waste, human blood and blood products, isolation waste, pathological waste, and discarded sharps / needles.
- r. **Out-Of-Cycle Service; Extra Pickup:** Brush item, bulky item, white good, and other solid waste collection and disposal services requested by a residential, commercial, or industrial unit and collected by the Contractor out of the ordinary schedule and within five (5) business days of payment by the unit to the City.
- s. **Producer:** An occupant of a residential, commercial, or industrial unit that generates solid waste.
- t. **Recyclable Material:** The following constitutes recyclable materials:
  - i. **Paper:** Goods made of paper, such as circulars, catalogs, carbonless paper, dry goods packaging without liners, envelopes, file folders, flattened cardboard, junk mail, magazines, newspapers, office paper, paperback books, paper bags, paper towel / toilet paper cores, and non-metallic gift wrap. Phone books and wet or yellowed paper are not included in the definition of paper goods;
  - ii. **Glass Bottles and Jars:** Beverage bottles, food and condiment bottles, and jars made of glass with lids removed and bottles and jars rinsed clean. Mirrors, windows, ceramics, or other glass or glazed materials are not included in the definition of glass bottles and jars;
  - iii. **Metal Cans:** Aluminum, steel, and tin beverage and food cans rinsed clean, rinsed baking tins, and empty aerosol cans with nozzles removed;
  - iv. **Plastics:** Goods made of plastic and labeled No. 1 thru No. 7 with all lids removed and bottles rinsed. Examples include beverage bottles, shampoo and lotion bottles, meat trays, condiment bottles, prescription and medicine bottles with labels removed, and bundled plastic grocery bags; and
  - v. Any other items added to or removed from this definition as determined by the City during the Contract term.
- u. **Recycling Container:** A receptacle with a capacity of greater than eighteen gallons (18 gal.) but less than ninety-six gallons (96 gal.) constructed of plastic, metal, or fiberglass that is provided to residential and commercial units by the Contractor. Total weight should not exceed thirty-five (35) pounds when full.
- v. **Refuse:** Cans, bottles, rags, dry wastes, paper, kitchen and household wastes, food containers, lawn trimmings, leaves, and other materials typically generated by a residential, commercial, or industrial unit.
- w. **Residential Unit:** A dwelling within the corporate limits of the City occupied by a person or group of persons for residential and noncommercial purposes. A residential unit shall be deemed occupied when domestic water or electric services are being supplied,

however, an unoccupied home placed on the market for sale shall not be deemed occupied. The term "Residential Unit" includes "Handicapped Residential Unit".

- x. Residential Unit Solid Waste: A collective term comprised of garbage, refuse, stable matter, rubbish, and dead animals. A commercial hand-load customer is also part of a residential unit solid waste service.
- y. Roll-Off Containers: See "commercial container".
- z. Rubbish: All other waste materials not included in the definitions of bulky items, white goods, construction and remodeling debris, dead animals, garbage, hazardous waste, refuse, brush items, or stable matter. Rubbish excludes tires and car batteries.
- aa. Solid Waste: A collective term comprised of garbage, brush items, bulky items, refuse, construction and remodeling debris, stable matter, rubbish, white goods, and dead animals.
- bb. Special Waste: Solid waste that poses particular management and / or disposal problems and requires special care, such as human or swine excrement, used oil, tires, end-of-life vehicles, batteries, and some electronic goods.
- cc. Stable Matter: All manure or other waste matter, excluding swine excrement, normally accumulated in or about a stable or any animal, livestock, or poultry enclosure and resulting from the keeping of the same.
- dd. Stop Service: The temporary suspension of solid waste collection and disposal services by the Contractor to a Unit due to the Unit's non-payment of fees associated with solid waste collection and disposal services.
- ee. Tipping Fee; Gate Fee: The charge levied upon a given quantity of solid waste or recyclable material received at a processing facility.
- ff. Unit: A residential, commercial, and industrial unit; occupant; or user.

#### IV. INDEMNIFICATION

**4.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD HARMLESS THE CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, AND SERVANTS, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, CAUSES OF ACTION, LIABILITIES, AND SUITS OF ANY KIND AND NATURE, INCLUDING, BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY OR DEATH AND PROPERTY DAMAGE MADE UPON THE CITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO THE CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF THE CONTRACTOR,**

**ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT, OR SUBCONTRACTOR OF THE CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS AND DUTIES UNDER THIS CONTRACT, ALL WITHOUT, HOWEVER, WAIVING GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER STATE LAW AND WITHOUT WAIVING ANY DEFENSE OF THE PARTIES UNDER STATE LAW.**

**4.2 ADDITIONALLY, CONTRACTOR ASSUMES RESPONSIBILITY AND LIABILITY AND HEREBY AGREES TO INDEMNIFY THE CITY AS PROVIDED ABOVE FROM ANY LIABILITY CAUSED BY THE CONTRACTOR'S FAILURE TO COMPLY WITH APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, REGULATIONS, AND INDUSTRY STANDARDS.**

4.3 This indemnity obligation shall not be construed to negate or reduce any other right or obligation of indemnity that would otherwise exist. Further, this indemnification and hold harmless requirement shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the contractor or any subcontractor under any workers compensation acts, disability benefit acts or other employee benefit acts.

## **V. INSURANCE**

5.1 The Contractor shall at all times during the Contract term maintain in full force and effect Employer's Liability, Worker's Compensation, Public Liability, and Property Damage insurances, as provided below. All insurances shall be made by insurers and for policy limits acceptable to the City and before the commencement of the contract work.

5.2 The Contractor shall furnish the City copies of the required certificates of insurance prior to Effective Date of the Contract. Said certificates shall be attached hereto and incorporated fully herein as Exhibit B. Contractor shall be responsible to maintain that all certificates of insurance are up to date as filed at the City.

5.3 The obligations of Contractor pursuant to this Section shall survive expiration or termination of this Contract.

5.4 Failure of the Contractor to fully comply with the requirements set forth herein regarding insurance may be considered a material breach of this Contract and may be cause for termination of this Contract.

5.5 The Contractor, or its parent corporation if applicable, shall carry the following types of insurance at the following limits:

<u>Coverage</u>	<u>Limits of Liability</u>
Worker's Compensation	Statutory Amount
Employer's Liability	\$500,000.00 each occurrence
Bodily Injury Liability except Automobile	\$500,000.00 each occurrence \$1,000,000.00 aggregate
Property Damage Liability except Automobile	\$500,000.00 each occurrence \$1,000,000.00 aggregate
Automobile Bodily Injury Liability	\$500,000.00 each person \$1,000,000.00 aggregate
Automobile Property Damage Liability	\$500,000.00 each occurrence \$1,000,000.00 aggregate
Excess Umbrella Liability	\$500,000.00 aggregate

5.6 The certificates of insurance shall be prepared and executed by an insurance company or its authorized agent and shall contain the following provisions and warranties:

- a. The company is licensed and admitted to do business in the State of Texas.
- b. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or Insurance Services Organization.
- c. All endorsements and insurance coverages shall contain the requirements and instructions contained herein.
- d. The form of the notice of cancellation, termination, or change in coverage provisions shall be included in the certificate and shall be provided to the City as described herein. Original endorsements affecting coverage requirements by this section shall be furnished with the certificates of insurance.
- e. The City shall be provided with blanket waivers of subrogation on all required policies.
- f. The City shall be named as an additional insured on each policy.
- g. Each certificate shall contain the following express obligation: "This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in full force for the contract term. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice shall be given to the certificate holder."

## **VI. PERFORMANCE BOND**

The Contractor shall furnish a performance bond of \$100,000.00 as security for the faithful performance of the Contract. Such performance bond shall be furnished annually by the Contractor for the following contract year, and shall indemnify the City against any loss resulting from any failure of performance by the Contractor. The initial bond shall be posted on or before the date that the Contractor commences providing services to the City pursuant to the Contract, and the performance bond shall be renewed annually such that the performance bond is in effect at all times the Contract between the Contractor and City remains in effect. The premiums for the performance bond shall be paid by the Contractor. A certificate from the surety company showing that the bond premium is paid in full shall accompany the bond. The surety on the bond shall be a duly authorized corporate surety company authorized to do business in the State of Texas. Attorneys-in-fact who sign bonds must file, with each bond, a certificate and effectively dated copy of their power of attorney.

## **VII. LICENSES AND LAWS**

7.1 The Contractor is required to obtain all Federal and State licenses and permits necessary to perform the contracted services.

7.2 In performance of its services, the Contractor shall observe all State and Federal laws, rules, and local and City regulations, regarding the collection, removal, and disposal of solid waste.

## **VIII. COLLECTION AND PROCESSING EQUIPMENT**

The Contractor, at its sole cost and expense, shall purchase, maintain and operate the solid waste disposal system and its equipment in a manner that renders competent and efficient service. All equipment, including motor vehicles and trucks shall be in good condition and repair. The trucks used in the collection of residential solid waste shall be constructed of metal, with completely enclosed "packer" type bodies that are designed and manufactured for the collection of residential solid waste. With the exception of rented vehicles, all vehicles shall be painted, numbered, and have the Contractor's name and telephone number on each side of the vehicle in a size and type so as to be easily readable from a distance of a minimum of fifty feet (50').

## **IX. SERVICES FOR RESIDENTIAL, COMMERCIAL/INDUSTRIAL UNITS**

9.1 *Residential Services.* The Contractor shall provide the following residential unit services:

- a. Contractor shall provide one (1) curbside residential unit solid waste collection and disposal services per week for each residential unit located within the City. Contractor shall pickup one (1) container and three (3) bags of residential unit solid waste not exceeding thirty-five (35) pounds each when full. As part of the three-bag limit, the Contractor shall accept grass, leaves, tree trimmings, and other similar plant materials which are bundled or placed in plastic bags in lengths no greater than four (4) feet and weighing no more than thirty-five (35) pounds per bundle or plastic bag.

The Contractor shall not collect items in excess of these limits but shall provide photographs to the City to advise the unit of collection. Residential unit service pickup shall be curbside. Pickup for a residential unit service for the disabled or handicapped shall be collected near the residence. Contractor shall provide one (1) recycling bin to each residential unit. Additional recycling containers may be provided to residential units by the Contractor for an additional monthly fee.

- b. Contractor shall provide one (1) curbside collection of recyclable materials biweekly for each residential unit located within the City.
- c. Contractor shall provide commingled brush and white good / bulky item collection and disposal services to residential units two (2) times per year at dates and times to be coordinated between the City and the Contractor. The City shall issue notice to a unit of these pickup dates and times. At each service, each residential unit shall be limited to eight (8) cubic yards of compacted brush and/or non-compacted bulky / white good items.
- d. Solid waste collection and disposal services shall be provided between the hours of 7:00 A.M. and 7:00 P.M. for curbside residential unit solid waste collection and disposal services; curbside collection of recyclable materials; and brush / white good / bulky item collection and disposal services.

9.2 *Commercial / Industrial Services.* The Contractor shall provide the following commercial and industrial unit services:

- a. The Contractor shall collect and dispose of municipal solid waste from a commercial and industrial unit that falls within the regulatory definition of municipal solid waste and which is placed in requisite containers. Other than commercial hand-load customers, this Contract does not include curbside service for commercial or industrial units.
- b. The Contractor shall provide roll-off and other commercial containers within the City for the collection and disposal of construction debris, brush, and similar material for either permanent or temporary setup.
- c. Commercial recycling of recyclable materials will be made available to commercial or industrial units. Such units will have the option of selecting compactors, commercial containers, frontload units, and/or totters for the collection and disposal of recyclable materials. Recyclable materials for commercial or industrial units include cardboard, office paper, aluminum cans, and glass and plastic bottles.

9.3 In the event that a residential, commercial, or industrial unit requires the collection and disposal of excessive or unusual items or requests services not contemplated by this Contract, such unit shall make arrangements with the City and the Contractor for the collection and disposal of said items that are independent from those regular or routine services contemplated under this Contract. The Contractor shall have no obligation whatsoever to collect hazardous,

infectious, or special wastes. Only benign volumes of hazardous waste, meeting the regulatory definition of municipal solid waste, shall be serviced under this Contract.

9.4 Unless specified elsewhere in this Contract, the Contractor shall not pickup and dispose the following as a part of the regular solid waste, brush item, and white good / bulky item collection and disposal services:

- a. construction and remodeling debris and other debris originating from commercial lot clearing and / or construction operations;
- b. brush items cut / trimmed by a commercial or private contractor; or
- c. bulky items and white goods resulting from work completed by a commercial or private contractor during bulky item pickup.

The Contractor shall report to the City said items which have not been properly disposed for pickup and disposal. In accordance with City Ordinance, units shall make delivery and payment arrangements with the City for the collection and disposal of said items by the Contractor utilizing a commercial container(s) in accordance with the Schedule of Rates attached as Exhibit A, and incorporated fully herein.

## **X. SERVICES FOR CITY FACILITIES**

10.1 The Contractor shall provide per municipal fiscal year, for the collection and disposal of a minimum of three hundred sixty (360) cubic yards of compacted brush, trees, and other plant materials trimmed and/or removed by the City from City right-of-way and public drainage areas. The Contractor shall provide this service at no charge to the City, however, the Contractor may invoice the City, for the collection and disposal of said materials in excess of three hundred sixty (360) cubic yards collected and disposed of per year at rates contained in Exhibit A, the Schedule of Rates.

10.2 Regular scheduled solid waste collection and disposal services shall be provided free of charge at the following City facilities:

- a. City Hall, 303 E. Pecan Dr., Johnson City, TX 78636; and
- b. Wastewater Treatment Plant, 404 U.S. Hwy. 281, Johnson City, TX 78636.

10.3 Regular scheduled solid waste collection and disposal services, including the collection, disposal, and replacement of clean plastic garbage bags, shall be provided to the City free of charge for all permanent, public trash receptacles within the City listed in Exhibit C, attached hereto and incorporated fully herein. The number and location of public trash receptacles may be increased at the sole discretion of the City. The City shall purchase and supply the Contractor with replacement plastic garbage bags.

10.4 The Contractor shall provide solid waste collection and disposal services for sewage sludge originating from the City's Wastewater Treatment Plant at times determined by the City's Public Works Director and at rates contained in Exhibit A, the Schedule of Rates.

## **XI. ADDITIONAL SERVICE PROVISIONS**

11.1 The following holidays may be observed by the Contractor, with no service on these days:

New Year's Day (January 1)  
Thanksgiving Day (Last Thursday in November)  
Christmas Day (December 25)

11.2 The number of residential, commercial, or industrial units to be served by the Contractor may be increased or decreased by the City at any time.

11.3 Should Contractor fail to respond within seven (7) business days to any complaint of solid waste collection of qualified solid waste, after being notified by the City by telephone or email, the City, without further notice, may collect and dispose of the solid waste, and shall bill the Contractor for charges incurred by the City. Said charges shall not exceed the Schedule of Rates.

11.4 The Contractor shall submit to the City the proposed solid waste collection routes and schedules within thirty (30) days from the effective date of this Contract.

11.5 The Contractor shall notify the City a minimum of five (5) business days before any scheduled delay in the regular solid waste collection schedule. Such notice shall include the Contractor's proposal for completing the delayed collection within a reasonable timeframe.

11.6 The Contractor shall maintain a website and an office or such other facilities by which it may be contacted Monday through Friday, excluding holidays, from 8:00 A.M. to 4:30 P.M. The Contractor shall inform the City on a quarterly basis of the Contractor's business contact phone numbers.

## **XII. BILLING, RATES, AND FEES**

12.1 The City shall be billed for all Units within the City in accordance with the Schedule of Rates. The City shall collect and remit all sales tax in accordance with applicable State Law. The Schedule of Rates shall not be amended nor subject to Consumer Price Index adjustments for a period of one (1) year from the Effective Date of this Contract.

12.2 Following one (1) year from the effective date of this Contract, modifications to the Schedule of Rates for any contractual or renewal term shall be subject to a Consumer Price Index (CPI) adjustment. The CPI adjustment shall be based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index-Urban Wage Earners and Clerical Workers South Urban (all items) adjustment (CPI-U). Said adjustment shall not vary by more than five percent (5%) from term year to term year.

12.3 In determining the following year's CPI-U adjustment, the Schedule of Rates, as amended from time to time, shall be computed as follows. The CPI-U used will be the CPI-U published by the Bureau during the ninety (90) days preceding the adjustment under this section.

The amount of the increase or decrease shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period.

- a. In addition to the above, the Contractor may adjust the Schedule of Rates at any time after giving thirty (30) days written notice to the City on the basis of unusual changes in the cost of operations. The Contractor shall also be entitled to "pass through" any actual taxes, fees, or other impositions made upon the Contractor by any governmental or regulatory entity by billing the City directly for such costs to the extent the Contractor is affected or liable for them. The City may cancel the Contract by giving the Contractor thirty (30) days written notice should the abovementioned increase(s) in rates be considered by the City, at its sole discretion, to be unreasonable.
- b. The Contractor may implement, at its discretion, a fuel surcharge when the average quarterly price per gallon (three-month average) of "Diesel – All Types" for the "Gulf Coast" region preceding July 1, October 1, January 1, and April 1 equals \$3.70 or higher per gallon, according to the United States Energy Information Administration. The surcharge shall act as a "pass through" whereby the Contractor shall bill the City directly for such surcharge to the extent the Contractor is liable for them. Fuel surcharges shall be computed as follows:

$$\frac{((\text{Avg. Diesel Cost per Gal.}) - \$3.69) * (\text{No. of Gals. Purchased in Preceding 3 Months})}{\text{No. of Residential, Commercial, and Industrial Units within City}}$$

An implemented fuel surcharge shall be removed and discontinued and any excess collection refunded to the City when the average quarterly price per gallon falls below \$3.70 per gallon.

### **XIII. DISPOSAL OF SOLID WASTE; OWNERSHIP**

- 13.1 Contractor shall dispose all solid waste in compliance with all laws and regulations of the Federal Government and the State of Texas.
- 13.2 The Contractor shall dispose all solid waste at a properly permitted landfill selected by the Contractor. The Contractor shall pay all landfill fees for solid waste hauled by the Contractor.
- 13.3 The title to solid waste shall pass to the Contractor when the solid waste is placed in the Contractor's collection vehicle or upon the removal of the same by the Contractor from the unit's curbside location, whichever comes first.

### **XIV. CONTRACTOR'S STANDARD OF CARE AND EMERGENCY MANAGEMENT**

- 14.1 The Contractor shall use reasonable care and diligence in executing this Contract.

14.2 **Industry Standard.** The Contractor shall use all proper skills and care, as are typical in the industry, and the Contractor shall exercise all due and proper precautions to prevent injury to any property or person.

14.3 The Contractor shall provide the City with an emergency telephone number available for response on a 24-hour x 7 days per week x 365 days per year basis.

14.4 The Contractor shall at all times work to ensure compliance with all activities and responsibilities assigned to and required of the City's solid waste collection and disposal franchisee within Annex K *Public Works & Engineering* of the City's Emergency Management Plan, attached as Exhibit D and incorporated fully herein. A full and complete copy of Annex K is available for review at City Hall.

## **XV. CITY DUTIES AND RESPONSIBILITIES**

15.1 The City shall perform all billing and payment collection, scheduling, establishment of new service, and service termination functions for all Units in the City. Billing shall be in accordance with the most recent adopted Municipal Fee Schedule.

15.2 The City shall collect and remit all sales tax in accordance with applicable State Law.

15.3 The City shall notify the Contractor within two (2) business days of any complaints received by the City regarding the Contractor's failure to collect solid waste or alleviate other concerns.

15.4 The City shall notify each Unit of the following requirements for pickup:

- a. Each container, bag, bundle, or other solid waste container must be placed at a curbside location for collection on a scheduled collection day;
- b. Containers, bags, and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians;
- c. When construction work is being performed in the right-of-way, containers, bags, and bundles shall be placed as close as practicable to a vehicular access point for the solid waste collection vehicle to enter and exit; and
- d. The Contractor may decline to collect any container, bag, or bundle that is not placed correctly along the curbside or is containerized incorrectly.

## **XVI. COLLECTION ALTERNATIVE**

In the event the collection and disposal of solid waste is interrupted for any reason for more than forty-eight (48) hours as a sole result of a willful or negligent act of the Contractor, the City shall have the right to make alternate arrangements for the collection and disposal of municipal solid waste in order to provide for and protect the public health and safety. The Contractor shall reimburse the City within seven (7) business days of municipal payment for services for all costs

associated with the City providing alternate solid waste collection and disposal services. If the service interruption is the result of the occurrence of hazardous conditions, as reasonably determined by the Contractor, an exception to this Section will be made by the City. In such instances, a report will be made to the City and service shall resume when the hazardous condition is rectified.

## **XVII. RECORDS AND REPORTS**

17.1 The City shall have access during regular business hours, and upon reasonable advance notice, to all of Contractor's records, customer service cards, and all papers relating to the operation of the Contractor within the City under this Contract. Upon request, the Contractor shall furnish to the City reports of the results of all complaints and investigations received from the public and actions taken by the Contractor.

17.2 The Contractor shall maintain books and financial records in accordance with generally accepted accounting principles. The City shall have the authority to audit, examine, and make excerpts or transcripts from the books and records during the Contractor's regular business hours regarding the operation of the Contractor under this Contract.

17.3 The Contractor shall keep complete and accurate books of accounts and records of its operations under this Contract.

17.4 The City shall provide the Contractor with copies of approved building and tree trimming permits upon monthly receipt of a written request for said information.

## **XVIII. CONTRACTOR COMPLAINT RESPONSE**

The Contractor shall respond to a Unit's complaints pertaining to customer service, property damage, or personal injury from the solid waste collection and disposal service. A unit complaint received by the City shall be forwarded to the Contractor. The Contractor shall notify the City of the action(s) taken in response to a forwarded complaint within two (2) business days of the complaint. Failure of the Contractor to timely respond to complaint shall be considered a failure to perform under this Contract.

## **XIX. TERMINATION; DEFAULT**

19.1 Default by Contractor.

- a. **Default Notice and Cure.** In the event of a failure by Contractor to perform any material provision of the Contract, the City shall give written notice of such breach to Contractor along with a thirty (30) day ("Cure Period") notice to correct such breach ("Default"). A defaulting party shall not be declared in default, if, within the cure period, the defaulting party has commenced in a commercially reasonable manner to remove or cure such alleged default, provided that, in the event the alleged default cannot reasonably be removed or cured within the cure period, the defaulting party shall provide the non-defaulting party a commercially reasonable written timeline for removing or curing such alleged default and the Parties shall enter into a written

agreement extending the cure period to a timeframe consistent with such timeline. The City may withhold all or part of any sums which would otherwise be due to Contractor, but that relate to such default, either until such time as such default is cured, or if such default cannot be cured, forever.

- b. **Emergency Notice and Cure.** If the City determines, and notifies Contractor, that such default poses an immediate or emergency threat to the health or safety of any person or to any property interest, and if Contractor has not cured such default within twenty-four (24) hours after receipt of such notice, the City shall have the right to perform or cause to be performed all or part of the work necessary to cure such default. In the event that the City performs such work, or caused it to be performed, Contractor shall compensate the City for the cost thereof. The City shall also have the right to exercise its right to payment for costs incurred under the performance bond or may deduct any such compensation due to the City from any sums otherwise due and owing to Contractor.
- c. **Termination and Payment.** If Contractor has not adequately corrected such breach, the City may terminate the contract after such cure period. Upon the date of termination, Contractor shall immediately discontinue all services unless the notice directs otherwise. At such time, the City shall pay Contractor only for services performed on or before such termination date.
- d. **City Performance.** In the event such termination occurs, the City may exercise its rights under Contractor's performance bond and procure the services of another waste services provider to complete the work covered under the contract for the remainder of the time period covered by the initial term of the Contract or extension thereof.

**19.2 Forfeiture of Franchise and Termination of Contract on Material Breach by Contractor.** Upon written notice by the City, this Contract shall terminate and the franchise deemed forfeited within thirty days of a material breach by the Contractor of the terms, covenants, or conditions of this Contract. Such notice shall provide reasonable detail of the nature of the material breach. A material breach shall include, but not be limited to, the following:

- a. Failure of the Contractor to pay the City any and all fees or payments prescribed by this Contract in a timely manner;
- b. Failure of the Contractor to provide, as solely determined by the City, the services provided for in this Contract within ten (10) business days of the receipt of a written demand for performance by the City;
- c. Failure of the Contractor to repair or replace defective equipment, goods, or products within thirty (30) calendar days of receipt of written demand for performance by the City;
- d. Failure of the Contractor to cure urgent health or sanitation conditions or risks, as determined by the Chief Administrative Officer, within two (2) business days of receipt of written or oral demand for performance by the City;

- e. Failure of the Contractor to adequately cure a default within the specified time period;
- f. Material misrepresentation(s) of fact in the application for or negotiations of this Contract;
- g. Conviction of any director, officer, employee, or agent of the Contractor of the offense of bribery or fraud connected with or resulting from the awarding of this Contract;
- h. Material misrepresentations of fact knowingly made to the City with respect to or regarding the Contractor's operations, management, revenues, services, or reports required pursuant to this Contract; and
- i. The revocation or denial of solid waste collection and disposal permit(s) through Federal and State Laws and regulations which would prohibit or interfere with the ability to fulfill the requirements of this Contract.

19.3 Termination by City upon Contractor Bankruptcy. The City may terminate this Contract one hundred eighty (180) calendar days after the appointment of a receiver or trustee who is directed to take over and conduct the business of the Contractor, whether in receivership, reorganization, bankruptcy, or other action or proceeding, whether voluntary or involuntary.

19.4 Termination by Either Party.

- a. Either Party may terminate this Contract without cause at any time during the Contract term upon providing written notice to the other Party not less than one hundred eighty (180) calendar days prior to termination.
- b. Upon termination, the City shall be responsible only for payment to Contractor for services performed by the Contractor on or before such termination date.
- c. Termination of the Contract shall terminate the franchise grant.

## XX. ADDITIONAL PROVISIONS

20.1 **Independent Contractor; No Third-Party Beneficiaries.** The Contractor is acting as an independent contractor and not as an employee or agent of the City. Nothing in this Contract shall be construed to create any right in any third party not a signatory to this Contract, and the parties do not intend to create any third-party beneficiaries by entering into this Contract. The City will not be liable for any claims that may be asserted by any third party against the Contractor or its contractors, or subcontractors, occurring in connection with services performed by the Contractor under this Contract.

**20.2 Litigation.**

- a. **Governing Law and Venue.** This Contract shall be governed by the laws of the State of Texas, and exclusive venue for any action concerning this Contract shall be in Blanco County, Texas.
- b. **Negotiation; Dispute Resolution.** If a dispute arises out of this Contract, the Parties shall first, in good faith, seek to resolve the dispute through negotiation between the upper management of each respective Party. If the dispute cannot be resolved informally, the dispute shall be submitted to non-binding mediation first before resorting to other alternative dispute proceedings, including litigation in court.
- c. **Litigation Costs.** Each Party shall be responsible for its own costs and fees of negotiation, mediation and/or litigation, and waives its right to recovery from the prevailing Party of litigation costs and fees, including attorneys' fees.
- d. **Limitation of Damages.** No Party will be liable to the other under this Contract for consequential damages, including lost profits, or exemplary damages.

**20.3 Assignment.** The Contractor may not assign this Contract without the specific prior written approval of the City, which may be withheld for any reason

**20.4 Notices.** All notices and payments required to be given by either party to the other party shall be in writing and, shall be delivered to either party at the following addresses:

City:

Chief Administrative Officer  
City of Johnson City  
Mailing: P.O. Box 369  
Physical: 303 E. Pecan Drive  
Johnson City, Texas 78636

Contractor:

Karlis Ercums IV, President  
Hill Country Waste Solutions  
Mailing: P.O. Box 960  
Physical: 11737 U.S. Hwy 281 N.  
Spring Branch, TX 78070

Advance written notice of a change of address shall be provided to the respective Party not less than thirty (30) days of such change of address.

A notice shall be deemed delivered when received if delivered personally or if sent by Federal Express or other carrier; or 72 hours after deposit if sent by First Class, postage pre-paid mail through the U.S. Postal Service.

**20.5 Amendments.** No amendments, alterations or variations to the terms of this Contract, including all addendums hereto, shall be effective unless made in writing, approved and signed by both parties.

**20.6 Severability.** If any section, sentence, clause, or paragraph of this Contract shall be held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties shall use their best efforts to replace the invalid, illegal, or unenforceable provision(s) of this Contract with valid legal terms and conditions approximating the original intent of the parties.

**20.7 Force Majeure.** If either of the Parties is unable to provide the services or perform the requirements of Contract due to circumstances beyond their control and without their fault, such as an act of God, acts of a public enemy, war, riot, civil commotion, sovereign conduct, or the unforeseeable act or conduct of any person or persons not party to this Contract, then the Party shall be excused from such performance for such period of time as is reasonably necessary to remedy the adverse effect of such event, and neither Party shall be liable for a breach of Contract. A Party claiming an event of Force Majeure shall give prompt written notice to the other Party specifying the event and an estimate of the time needed to cure.

**20.8 No Waiver Implied.** The failure of a Party to insist upon performance of any of the terms, covenants, or conditions of this Contract shall not be construed as a waiver or relinquishment of the future performance of any term, covenant, or condition by the other Party, but rather, the obligation of the other Party with respect to such future performance shall continue in full force and effect.

**20.9 Entire Contract.** This Contract constitutes the entire agreement between the parties. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement. All Exhibits attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. Notwithstanding any other provisions in this Contract, the City, acting by and through the City Council of the City of Johnson City, Texas, shall be the final arbiter, authority, and decision maker on all matters related to this Contract, the solid waste collection and disposal services within the corporate municipal limits of the City, and the municipal Solid Waste Collection and Disposal Services Franchise.

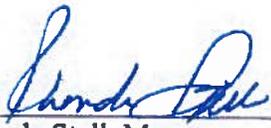
**20.10 Counterparts.** This Contract may be executed in duplicate original counterparts, each of which so executed shall be deemed to be an original. Such counterparts shall together constitute one in the same instrument.

*[Remainder of page intentionally left blank]*

*Signature Page(s) follow.*

**IN WITNESS WHEREOF**, the Parties have made and executed this Contract on the respective dates by each signature:

**CITY: CITY OF JOHNSON CITY**

  
Rhonda Stell, Mayor

  
Date

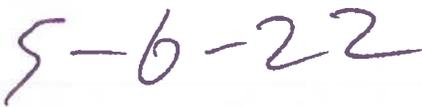
Attest:

  
Whitney Walston, City Secretary

  
Date

**CONTRACTOR: HILL COUNTRY WASTE SOLUTIONS**

  
Karlis Ercums IV, President

  
Date

## Exhibit A

### Schedule of Rates for Solid Waste Collection and Disposal Services

\*\*\*\*\*The Rates / Fees notated below do not include applicable fuel or other surcharges or sales tax\*\*\*\*\*

#### Carts:

Residential Unit Service (RUS) (1x weekly)	\$12.50 / month
Handicapped RUS (1x weekly)	\$12.50 / month
RUS Recycling (biweekly)	\$4.07 / month
Handicapped RUS Recycling (biweekly)	\$4.07 / month
Additional 96 Gallon (gal.) Totter for RUS	\$7.30 / month / totter
Additional 96 Gal. Totter for RUS Recycling	\$3.00 / month / totter
RUS Extra Pickup	\$10.00 ea.
Commercial Hand Load Service (1x weekly)	\$16.50 / month
Commercial Unit Hand Load Recycling (biweekly)	\$5.37 / month
Additional 96 Gallon (gal.) Toter for Commercial Hand Load Service	\$9.64 / month / totter
Additional 96 Gal. Totter for Commercial Hand Load Service Recycling	\$3.95 / month / totter
Commercial Hand Load Service Extra Pickup	\$10.00 ea.

#### Frontload Commercial Containers:

Size / Frequency	Trash	Recycling
2 Cu. Yard / 1X Per Week	\$58.00 / Month	\$52.00 / Month
2 Cu. Yard / 2X Per Week	\$115.00 / Month	N/A
3 Cu. Yard / 1X Per Week	\$81.00 / Month	\$73.00 / Month
3 Cu. Yard / 2X Per Week	\$157.00 / Month	N/A
4 Cu. Yard / 1X Per Week	\$106.00 / Month	\$95.00 / Month
4 Cu. Yard / 2X Per Week	\$206.00 / Month	N/A
4 Cu. Yard / 3X Per Week	\$309.00 / Month	N/A
6 Cu. Yard / 1X Per Week	\$162.00 / Month	\$145.00 / Month
6 Cu. Yard / 2X Per Week	\$313.00 / Month	N/A
6 Cu. Yard / 3X Per Week	\$470.00 / Month	N/A
8 Cu. Yard / 1X Per Week	\$200.00 / Month	\$180.00 / Month
8 Cu. Yard / 2X Per Week	\$352.00 / Month	N/A
8 Cu. Yard / 3X Per Week	\$525.00 / Month	N/A
Frontload Extra Pickup	\$37.50 ea.	N/A

**Roll-Off:**

	<b>Misc. / Delivery / Hauling Fee</b>	<b>Disposal Fee</b>
<b><i>Large Roll-Off Containers:</i></b>		
Delivery Fee	\$75.00	N/a
Relocation Fee	\$75 (Truck Not Onsite) / NONE (Truck Still Onsite)	N/a
Rental / Day	First 30 days free; \$5.00 / day thereafter	N/a
20 Cu. Yard	\$475.00 / Pull	\$60 / Ton
30 Cu. Yard	\$525.00 / Pull	\$60 / Ton
40 Cu. Yard	\$575.00 / Pull	\$60 / Ton
Dry Run Charge (Fee assessed in the event the Contractor is unable to service commercial container due to overload, other weight issues, locked gate(s), or other similar issues.)	\$75	N/a
Same Spot Charge (Fee assessed in the event the Contractor is required to place the commercial container in the same location as the commercial container being swapped out.)	NONE	N/a
<b><i>Mini Roll-Off Containers:</i></b>		
Delivery Fee	NONE	N/a
Relocation Fee	\$75 (Truck Not Onsite) / NONE (Truck Still Onsite)	N/a
Rental / Day	No rental fee	N/a
8 Cu. Yard	\$300.00 / Pull	\$N/A / Ton
Dry Run Charge (Fee assessed in the event the Contractor is unable to service commercial container due to overload, other weight issues, locked gate(s), or other similar issues.)	\$75	N/a
Same Spot Charge (Fee assessed in the event the Contractor is required to place the commercial container in the same location as the commercial container being swapped out.)	NONE	N/a

**Miscellaneous Fees:**

	<b>Misc. / Delivery / Hauling Fee</b>	<b>Disposal Fee</b>
Commingled brush and white good / bulky item collection and disposal services to residential units two (2) times per year.	\$0.80 / Unit / Month	N/a
Special Waste collection and disposal services for sewage sludge originating from the City's Wastewater Treatment Plant.	\$1,750.00 / 30 Yd. End Dump Trailer	N/a

**Emergency Management Plan Services**

*For any work that must be subcontracted by the Contractor, the Contractor shall serve as a pass through and the City shall pay the Contractor the subcontractor's invoiced amount.*

	<b>Misc. / Delivery / Hauling Fee</b>	<b>Disposal Fee</b>
Residential Truck + Driver	\$250.00 / hr.	\$60 / Ton
Residential Truck + Driver + Helper	\$300.00 / hr.	\$60 / Ton
Dedicated Roll Off + Driver	\$200.00 / hr.	\$60 / Ton
Mini Wheeled Front End Loader + Operator	\$150.00 / hr.	N/a

**Certificates of Insurance**

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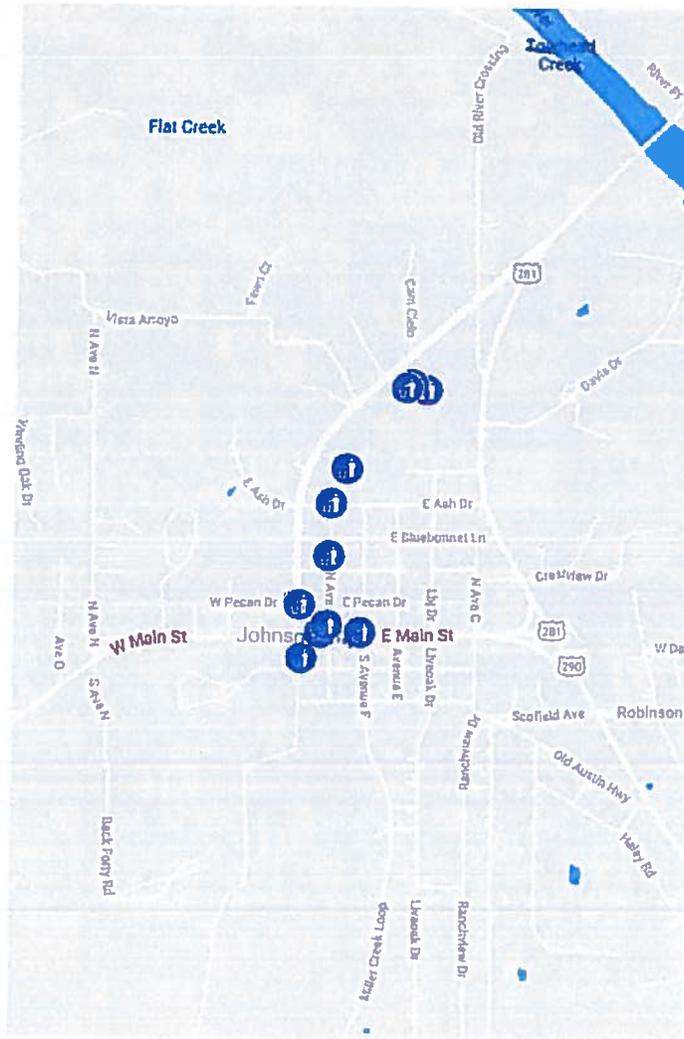
See attached certificates.

Public Trash Receptacles

City of Johnson City

Trash Cans

- 1 Pocket Park - 1 Trash Can
- 1 JC Bank - 1 Trash Can
- 1 Proof & Cooper - 1 Trash Can
- 1 Memorial Park - 1 Trash Can
- 1 Memorial Park - 1 Trash Can
- 1 Park - 1 Trash Can
- 1 Park - 1 Trash Can
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- 1 Park - 1 Trash Can
- 1 Park - 1 Trash Can
- 1 Annex - 1 Trash Can



**Exhibit D**

**City of Johnson City**  
**Emergency Management Plan**  
***Annex K Public Works & Engineering***

A complete copy of Annex K is available for copy and inspection at City Hall in Johnson City.

**ANNEX K**

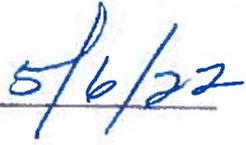
**PUBLIC WORKS &  
ENGINEERING**

**CITY OF JOHNSON CITY, TEXAS**

**APPROVAL AND IMPLEMENTATION**

**Annex K  
Public Works & Engineering**

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



**ANNEX K  
PUBLIC WORKS & ENGINEERING**

**I. AUTHORITY**

- A. See Section I of the Basic Plan for general authorities.
- B. Texas Local Government Code, Chapter 418.023

**II. PURPOSE**

The purpose of this Annex is to outline the local organization, operational concepts, responsibilities, and procedures to accomplish coordinated public works and engineering activities during emergency situations.

**III. EXPLANATION OF TERMS**

**A. Acronyms**

DPS	Texas Department of Public Safety
EOC	Emergency Operations Center
EMC	Emergency Management Coordinator
FEMA	Federal Emergency Management Agency
GDEM	Governor's Division of Emergency Management
IC	Incident Commander
ICP	Incident Command Post
ICS	Incident Command System
NIMS	National Incident Management System
NRP	National Response Plan
SAR	Search and Rescue
SOP	Standard Operating Procedures
TAHC	Texas Animal Health Commission
TDH	Texas Department of Health
TCEQ	Texas Commission on Environmental Quality
TDSR	Temporary Debris Storage and Reduction
TRRN	Texas Regional Resource Network
TxDOT	Texas Department of Transportation

## **B. Definitions**

### **1. Debris Clearance**

Clearing roads of debris by pushing debris to the roadside

### **2. Debris Disposal**

Placing road debris into an approved landfill

### **3. Debris Removal**

Debris collection and transport to a temporary storage site for sorting or to a permanent disposal site. Debris removal also includes damaged structure demolition and removal.

## **IV. SITUATION & ASSUMPTIONS**

### **A. Situation**

1. See the general situation statement and hazard summary in Section IV.A of the Basic Plan.
2. This jurisdiction anticipates that emergency situations may occur which threaten public health, safety, and property. An emergency situation of this nature may require emergency public works and engineering services.

### **B. Assumptions**

1. Employing public works and engineering personnel and equipment during pre-disaster operations should minimize disaster damage. Advance preparation of personnel and equipment may also hasten restoration efforts.
2. Local departments and agencies responsible for the public works and engineering function may have insufficient resources to remove the debris created by a major emergency or disaster and accomplish other recovery tasks.
3. Public works & engineering departments and agencies are expected to accomplish expedient repair and restoration of essential services and vital facilities. Dependent on the scale of the operation(s), major reconstruction initiatives will likely require contract assistance.
4. Public works and engineering will be able to organize and carry out debris clearance in the aftermath of an emergency. Large scale debris and/or hazardous material operations, however, will likely require external assistance.
5. Private construction companies, engineering firms, and equipment rental contractors have staff and equipment resources that may be contracted to carry out public works and engineering

activities during emergency situations. However, the local government may have to compete with businesses and individuals seeking those resources for repairs or rebuilding.

6. Assistance may be available from other jurisdictions through inter-local agreements from commercial firms through contingency contracts. Some types of emergency situations, including earthquakes, hurricanes, and floods, may affect large areas, making it difficult to obtain assistance from usual sources.

7. Damage to chemical plants, power lines, sewer and water distribution systems, and secondary hazards, such as fires, may result in health and safety hazards. These hazards could pose a threat to public works and engineering personnel and impede operational capabilities.

8. Alternate disposal methods and facilities may be needed as local landfills and waste disposal facilities may prove inadequate to deal with large amounts of debris. Special considerations must be made if the debris has been contaminated with chemicals or petroleum products.

9. If local capabilities prove inadequate to deal with a major emergency or disaster, State and/or federal resources will be available to assist in debris removal and restoration of essential services.

## **V. CONCEPT OF OPERATIONS**

### **A. General**

The general public works and engineering tasks to be performed during emergency situations include:

1. For slowly developing emergency situations, taking actions to protect government facilities, equipment, and supplies prior to the onset of hazardous conditions.
2. Providing heavy equipment support for search and rescue operations.
3. Conducting damage-assessment surveys of public facilities, roads, bridges, and other infrastructure.
4. Inspecting damaged structures.
5. Clearing debris from roadways and making repairs to reopen transportation arteries.
6. Making expedient repairs to essential public facilities to restore operations or protect them from further damage.
7. Removing debris from public property and managing debris disposal operations for public and private property.
8. Assisting in controlling public access to hazardous areas.

### **B. Protecting Resources and Preserving Capabilities**

1. Public works and engineering resources may be employed during slow developing emergency situations to protect and limit damage to government facilities, equipment, and essential utilities. Protective actions may include sandbagging, building protective levees,

ditching, installing protective window coverings, or removing vital equipment. Public works and engineering elements are expected to identify buildings and other infrastructure that will benefit from protective measures and, in coordination with the departments or agencies that occupy those facilities, carry out necessary protective actions.

2. If time permits, public works and engineering elements are also expected to take action in advance of an emergency situation to preserve response and recovery capabilities by protecting vital equipment and supplies located either in place or by relocating them to a safe location.

#### **C. Search & Rescue (SAR) Support**

Public works and engineering crews may be required to provide heavy equipment support for search and rescue operations, particularly support for search operations in collapsed buildings.

#### **D. Damage Assessment**

1. Public works and engineering departments will lead preliminary damage assessments of public buildings, homes, businesses, roads, bridges, and other infrastructure following a disaster. Damage assessment procedures and forms used in the assessment processes are discussed in Annex J, Recovery.

2. Public works and engineering personnel shall inspect damaged structures. Inspections are conducted to identify unsafe structures and, if necessary, take actions to restrict entry and occupancy until the structures can be made safe.

3. Damaged buildings posing an immediate threat to public health and safety should be appropriately posted to restrict public access pending repairs or demolition.

#### **E. Debris Clearance and Removal**

See Appendix 2, Debris Management.

#### **F. Temporary Repairs and Restoration**

1. The public works and engineering staff is expected to make timely temporary repairs to government-owned buildings and other infrastructure essential to emergency response and recovery operations. Building contents should be removed or restricted until the restoration process is complete. Personnel should coordinate with building occupants to determine which areas and equipment have the highest priority for protection.

2. Hazardous situations may result in damage to computers storing vital government records and/or hard copy records, such as building plans, legal documents, tax records, and other documents. When computers or paper records are damaged, it is essential to obtain professional technical assistance for restoration as soon as possible.

3. It is generally impractical to restore buildings sustaining major damage during the emergency response phase. Major repairs will normally be postponed until recovery operations commence and will typically be performed by contract personnel.

**G. Actions by Phases of Emergency Management:**

1. Prevention

a. Identify vulnerabilities of existing public buildings, roads, bridges, water systems, and sewer systems to known hazards and take steps to lessen vulnerabilities.

b. Reduce vulnerability of new public facilities to known hazards through proper design and site selection.

c. Develop plans to protect facilities and equipment at risk from known hazards.

d. Install emergency generators in key facilities and have portable generators available to meet unexpected needs.

2. Preparedness

a. Ensure government buildings, roads and bridges, and public works equipment are in good repair.

b. Ensure an adequate number of personnel are trained to operate heavy equipment and other specialized equipment.

c. Stockpile materials needed to protect and repair structures, roads, bridges, and other infrastructure.

d. Develop general priorities for clearing debris from roads.

e. Maintain an adequate quantity of barricades and temporary fencing.

f. Maintain current maps and plans of government facilities, roads, bridges, and utilities.

g. Review plans, evaluate emergency staffing needs in light of potential requirements, and make tentative emergency task assignments.

h. Establish and train damage survey teams.

i. Execute contingency contracts for emergency equipment and services with local contractors, and execute agreements with individuals and businesses to borrow equipment.

j. Develop procedures to support or accomplish the tasks outlined in this Annex.

- k. Ensure government-owned vehicles and other equipment can be fueled during an electrical outage.
3. Response
- a. If warning is available, take actions to protect government facilities and equipment.
  - b. Survey areas affected by a hazard, assess damage, and determine the need and priority for expedient repair or protection to prevent further damage. Report damage assessments to the EOC.
  - c. Upon request, provide heavy equipment support for SAR operations. See Annex R, Search and Rescue.
  - d. Clear roads of debris. See Appendix 2.
  - e. Inspect damaged buildings to determine if they are safe for occupancy.
  - f. Remove debris from public property and manage proper debris disposal. See Appendix 2.
  - g. Make repairs to damaged government facilities and equipment, as needed.
  - h. Coordinate with the PEC staff to arrange for emergency electrical service, if required, to support emergency operations.
  - i. Assist the City's Water / Wastewater Utility in making emergency repairs to government-owned utility systems, as necessary. See Annex L, Utilities.
  - j. Upon request, restrict access to hazardous areas using barricades and temporary fencing.
4. Recovery
- a. Repair or contract repairs for government-owned buildings, roads, bridges, and other infrastructure.
  - b. Support community clean-up efforts, as necessary.
  - c. Participate in compiling estimates of damage and response and recovery costs.
  - d. Participate in post-incident review of emergency operations and make necessary changes to improve emergency plans and procedures.

## **VI. ORGANIZATION & ASSIGNMENT OF RESPONSIBILITIES**

### **A. Organization**

1. The function of public works and engineering during emergency situations shall be carried out in the framework of our normal emergency organization described in Section VI.A of the Basic Plan and in accordance with the National Incident Management System (NIMS)/National Response Plan (NRP) protocols. Preplanning for emergency public works and engineering tasks shall be conducted to ensure staff and procedures needed to manage resources in an emergency situation are in place.

2. During an Incident of National Significance or a Disaster Declaration under the Stafford Act Public Assistance Program, public works and engineering personnel may integrate, as required, into the National Response Plans, Emergency Support Function (ESF) No. 3 activities. ESF No. 3 will develop work priorities in cooperation with State, local, and/or tribal governments and in coordination with the Federal Coordinating Officer and/or the Federal Resource Coordinator.

### **B. Assignment of Responsibilities**

1. The Johnson City Public Works Director, under the direction of the Chief Administrative Officer, will serve as the Public Works Officer during emergencies and will:

a. Coordinate certain pre-emergency programs to reduce the vulnerability of local facilities and other infrastructure to known hazards. See Annex P, Hazard Mitigation.

b. Manage the public works and engineering function during emergency situations in accordance with the NIMS.

c. Oversee the restoration of key facilities and systems and debris removal following a disaster.

d. Develop and implement procedures to ensure a coordinated effort between the various local departments and agencies that perform public works and engineering functions. Ensure appropriate emergency response training for assigned personnel in accordance with Section IX.D of the Basic Plan.

e. Identify contractors who can provide heavy and specialized equipment support during emergencies and individuals and businesses that may be willing to lend equipment to the local government during emergencies.

f. Assist the Resource Manager in maintaining a current list of public works and engineering resources. See Annex M, Resource Management. In an effort to facilitate assistance pursuant to mutual aid agreements, our available resources are typed according to NIMS and a part of the Texas Regional Response Network (TRRN).

- g. Maintain this Annex.
  - h. Develop damage assessment procedures and provide training for damage survey teams.
  - i. Provide engineering services and advice to the Incident Commander and EOC staff.
  - j. Assist in conducting damage assessments in the aftermath of an emergency. See Annex J, Recovery.
  - k. Safeguard vital engineering records.
2. The Johnson City Public Works Department will:
- a. Carry out pre-disaster protective actions for impending hazards, including identifying possible facilities for debris storage and reduction.
  - b. Conduct damage assessments in the aftermath of a disaster.
  - c. Repair and protect damaged government facilities.
  - d. Provide heavy and specialized equipment support for SAR operations.
  - e. Carry out debris clearance and removal. See Appendix 2.
  - f. With the assistance of the Chief Administrative Officer, negotiate inter-local agreements for public works and engineering support.
  - g. Maintain stockpiles of disaster supplies, such as sandbags, plastic sheeting, and plywood.
  - h. Maintain reasonable stockpiles of emergency paving materials.
  - i. Make emergency repairs to City roads, bridges, culverts, and drainage systems.
  - j. Supervise debris clearance from the public right-of-way and support debris removal operations.
  - k. Place barricades, where needed, for safety.
  - l. Provide personnel and equipment to aid in SAR operations, as needed.
  - m. Provide heavy equipment support for protective actions taken prior to an emergency and for response and recovery operations.
  - n. Assist in repairs to government-owned utilities and drainage systems.

- o. Support damage assessment operations.
  - p. Determine if access to damaged structures should be restricted or if they should be condemned and demolished.
  - q. Inspect expedient shelter and mass care facilities for safety.
  - r. Assess damage to parks and recreation facilities and assist in assessing damage to other facilities.
5. City Solid Waste franchise will:
- a. Collect and properly dispose of refuse.
  - b. Support emergency public works and engineering operations with available resources.
6. The Development Department will:
- a. Support damage assessment operations.
  - b. Determine if access to damaged structures should be restricted or if they should be condemned and demolished.
  - c. Inspect expedient shelter and mass care facilities for safety.
7. BearCom will:
- a. Restore damaged communications systems.
  - b. Provide communications technical and equipment support for emergency operations.

## **VII. DIRECTION & CONTROL**

### **A. General**

1. The Mayor shall, pursuant to NIMS, provide general guidance for the public works and engineering function and, when necessary, approve requests for State or federal resources.
2. The Incident Commander (IC) will manage public works and engineering emergency resources committed to an incident site and shall be assisted by a staff commensurate with the tasks to be performed. If the EOC is not activated, the IC may request additional resources from public works and engineering department(s). The IC may also request authorized officials to activate mutual aid agreements or emergency response contracts to obtain additional resources.

3. The EOC will be activated for major emergencies and disasters. When the EOC is activated, the Public Works Director will manage the emergency public works and engineering function from the EOC. The IC shall direct resources committed to the incident site and coordinate resource requests through the Public Works Director. The Public Works Director shall manage resources not committed to the incident site and coordinate the provision of additional resources from external sources.

4. The Public Works Director will respond to mission priorities established by the IC, EMC, Chief Administrative Officer, or Mayor direct departments and agencies with public works and engineering resources to accomplish specific tasks; and coordinate task assignments to achieve overall objectives.

5. The Public Works Director will identify public and private sources from which needed resources can be obtained during an emergency and coordinate with the Resource Manager to originate emergency procurements or to obtain such resources by lease, rental, borrowing, donation, or other means.

6. A major emergency or disaster may produce substantial property damage and debris requiring a lengthy recovery operation. In such incidents, it may be desirable to establish a Debris Removal Task Force to manage debris removal and disposal. The task force may continue to operate even after the EOC deactivates. See Appendix 2 for the organization and responsibilities of this element.

7. Normal supervisors of public works and engineering personnel participating in emergency operations will exercise their usual supervisory responsibilities over assigned personnel, subject to NIMS span of control guidelines. Organized crews from other jurisdictions responding pursuant to inter-local agreements will normally operate under the direct supervision of their own supervisors. Individual volunteers will work under the supervision of the individual heading the team or crew to which they are assigned.

## **VIII. READINESS LEVELS**

### **A. Readiness Level IV - Normal Conditions**

See the prevention and preparedness activities in Section V G.

### **B. Readiness Level III - Increased Readiness**

1. Review plans and procedures.
2. Inform key public works and engineering personnel.
3. Monitor the situation.
4. Check equipment readiness and correct deficiencies.

5. Check emergency supplies and fill shortfalls.

**C. Readiness Level II – High Readiness**

1. Monitor the situation.

2. Alert personnel for possible emergency duty.

3. Increase short-term readiness of equipment, if possible.

4. Review inter-local agreements and contracts for resource support and alert potential resource providers of possible emergency operations.

5. Identify personnel to staff the ICP and EOC.

**D. Readiness Level 1 – Maximum Readiness**

1. Mobilize selected public works and engineering personnel.

2. Implement plans to protect government facilities and equipment.

3. Ensure equipment is loaded and fueled; consider precautionary deployment of resources.

4. Dispatch personnel to the ICP and EOC when activated.

5. Advise resource suppliers of the situation.

6. Continue to monitor the situation.

**IX. ADMINISTRATION & SUPPORT**

**A. Resource Support**

1. A listing of local public works and engineering equipment is provided in Annex M, Resource Management.

2. Should our local resources prove to be inadequate during an emergency requests will be made for assistance from other local jurisdictions, agencies, and industry in accordance with existing mutual-aid agreements and contracts.

3. If the public works and engineering resources available locally, from with jurisdictions, and from businesses are insufficient to deal the emergency situation, assistance may be requested from the State. The Mayor should approve requests for State aid, and forward said requests to

the Disaster District Committee (DDC) Chair in Austin. Cities must request resource support from their county before requesting assistance from the State in accordance with Section V.F of the Basic Plan.

#### **B. Communications**

The public works and engineering communications network is depicted in Appendix 1.

#### **C. Key Facilities**

A listing of key local facilities that provide a general priority for damage assessment, debris clearance, and repair is contained in Annex G, Law Enforcement. The Chief Administrative Officer shall determine the specific priority for public works and engineering work on each of these facilities in the aftermath of an emergency.

#### **D. Reporting**

In addition to reports that may be required by their parent organization, public works and engineering departments and agencies participating in emergency operations should provide appropriate situation reports to the IC or, if an incident command operation has not been established, to the EOC. The IC will forward periodic reports to the EOC. Pertinent information will be incorporated into the Initial Emergency Report and periodic Situation Reports. Essential information to be included in the Initial Emergency Report and Situation Reports are outlined in Appendices 2 and 3 to Annex N, Direction and Control.

#### **E. Records**

Expenses incurred while carrying out emergency response and recovery operations for certain hazards may be recoverable from the responsible party, insurers, or as a basis for requesting reimbursement for certain allowable costs from the State and/or federal government. Hence, all public works and engineering elements shall maintain detailed records of labor, materials, equipment, contract services, and supplies consumed during large-scale emergency operations.

#### **F. Post Incident Review**

For large-scale emergency operations, the EMC shall organize and conduct an after action critique of emergency operations in accordance with the guidance provided in Section IX.F of the Basic Plan. The After Action Report will serve as the basis for an Improvement Plan.

### **X. PLAN DEVELOPMENT & MAINTENANCE**

**A. Development.** The Johnson City Public Works Director is responsible for developing and maintaining this Annex.

**B. Maintenance.** This Annex will be reviewed annually and updated in accordance with the schedule outlined in Section X of the Basic Plan.

**C. Operating Procedures.** Departments and agencies assigned responsibilities in this Annex will develop and maintain SOPs covering those responsibilities.

**XI. REFERENCES**

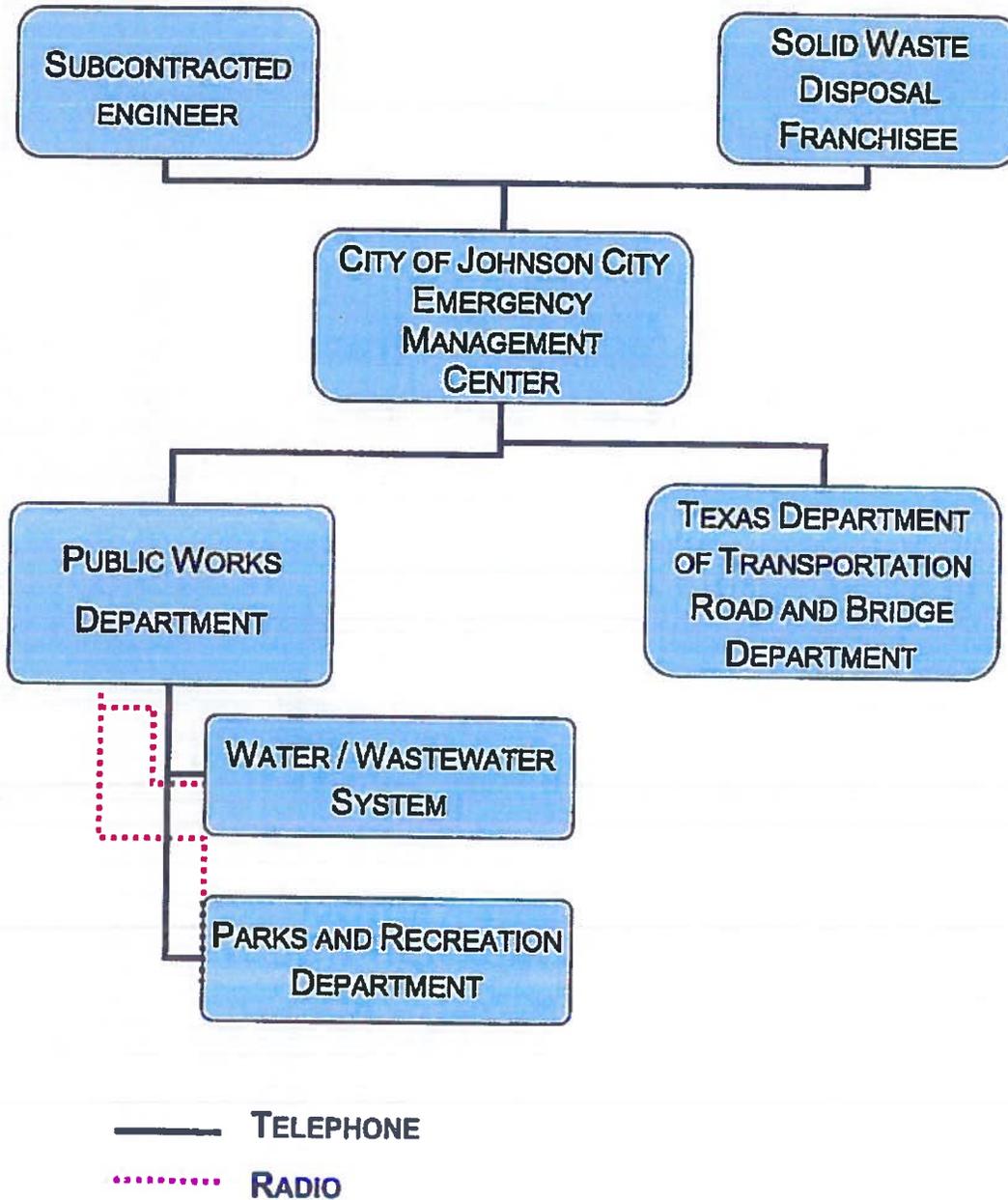
- A. DEM, Texas Disaster Recovery Manual.
- B. FEMA, Public Assistance Debris Management Guide (FEMA-325).
- C. FEMA, State and Local Guide for All-Hazard Emergency Operations Planning (SLG-101).
- D. FEMA, Reducing Losses in High Risk Flood Hazard Areas: A Guidebook for Local Officials (FEMA-116).

**APPENDICES:**

Appendix 1..... Public Works & Engineering Communications Network

Appendix 2..... Debris Management

APPENDIX 1  
PUBLIC WORKS & ENGINEERING COMMUNICATIONS NETWORK



## APPENDIX 2 DEBRIS MANAGEMENT

### A. Objectives

1. The objectives of debris management in the aftermath of an emergency are to:
2. Reopen roads and provide access to facilities that provide essential government and population support services.
3. Remove debris from public property.
4. Assist citizens in removing debris from private property.
5. Reduce the volume of debris going to disposal facilities to extend the life of those facilities and reduce costs.
6. Ensure hazardous materials are segregated from other debris and properly disposed of.

### B. Explanation of Terms

1. Debris is the remains of items destroyed or damaged as a result of natural or technological disasters. Disaster debris may include yard waste, building materials, household items, personal property, hazardous household products, batteries, automobiles, boats, hazardous chemicals, spoiled food, dead animals, and other materials. Some types of debris may pose a threat to health, safety, and the environment.
2. Categorization of Debris. There are a variety of schemes for categorizing debris. In this Appendix, the following categorization is used:
  - a. Burnable Materials, which include:
    - 1) Burnable Natural Debris – Generally trees, shrubs, vegetation, et cetera.
    - 2) Burnable Construction and Demolition (C&D) Debris – Wooden structural members and other wood products, such as roof decking, siding, doors, et cetera.
  - b. Non-burnable Debris – Plastic, glass, metal, sheet rock, roofing shingles, carpet, tires, treated lumber, bricks, concrete, soil, and similar items. Household waste is a type of non-burnable debris.
  - c. Hazardous Debris – Industrial and household hazardous waste, paint, materials containing asbestos, batteries, petroleum products, agricultural chemicals, dead animals, and similar products.

### C. Situation & Assumptions

1. Situation
  - a. The type and quantity of debris generated by an emergency situation is a function of the type of event, the location of impact, and the event magnitude, intensity, and duration.

b. The quantity and type of debris generated, its location, and the size of the area over which it is spread affect the method(s) of removal and disposal; the costs incurred in doing so; the time it will take to accomplish the task.

**2. Assumptions**

a. Emergency situations requiring debris removal may occur at any time.

b. Local government may have insufficient resources to remove debris created by a major emergency or disaster and, simultaneously, accomplish other recovery tasks.

c. If local debris removal capabilities are insufficient, the Mayor may issue a local disaster declaration and request State assistance in debris removal. If the local emergency situation is of such magnitude that the Governor requests a Presidential Disaster Declaration and such a declaration is approved, federal resources could become available.

d. For major emergencies or disasters, private contractors may be needed to collect, reduce the volume of, and dispose of debris.

e. Citizens should assist in removing debris from the immediate area of their homes and businesses, but will generally need government assistance in removing it for disposal.

f. Citizens are often willing to help their neighbors in removing debris. Proper public information can encourage such cooperative action, speeding up the process and reducing costs.

**D. Concept of Operations**

1. Phased Approach. Debris management shall be conducted in phases, including:

a. Phase 1 - Emergency Roadway Clearance

Following a disaster, the top priority is to clear major roads and routes providing access to key population support facilities, such as hospitals, to allow for the movement of emergency vehicles, resumption of critical services, and damage assessment. Emergency roadway clearance also facilitates the deployment of:

1) External response elements and delivery of emergency equipment and supplies. In initial roadway debris clearance, debris is normally pushed to the side of the road with no attempt to remove or dispose of it.

2) Local government is responsible for clearing City streets, county roads, and their rights-of-way. The Texas Department of Transportation (TxDOT) is responsible for clearing State and federal highways and associated rights-of-way along with completing debris disposal resulting from the clearing process.

3) In this phase, crews equipped with chain saws will generally be required to cut up downed trees, and heavy equipment will be needed to move the remains. If possible, heavy equipment used for moving debris should be equipped with protective cabs, and all personnel should wear protective equipment. Fire hydrants, driveway cutouts, and utility valves should be left unobstructed.

4) Electrical systems are often damaged by the same hazards that create substantial debris. Public works and engineering crews may need to coordinate their efforts to remove debris with PEC utility crews.

b. Phase 2 – Debris Removal and Disposal

1) Debris Removal from Public Property.

a) In the aftermath of a disaster, it may be necessary to remove debris from a variety of public properties, including:

- (1) Roads and rights of way;
- (2) Government buildings, grounds, and parking lots;
- (3) Parks and recreation facilities; and
- (4) Storm drainage systems and reservoirs.

b) If the emergency situation resulted in a Presidential Disaster Declaration, the expense of debris removal from public property may be partially reimbursed by the federal government if the debris must be removed to:

- (1) Eliminate immediate threats to life, public health, and safety;
- (2) Eliminate immediate threats of significant damage to improved public or private property;
- (3) Ensure economic recovery of the affected community; and
- (4) Large-scale debris removal and disposal operations can be extremely costly. It is vital to determine if federal assistance will be provided and the rules that apply to such assistance before commencing debris removal operations. See the *DEM Texas Disaster Recovery Manual* for further information.

c) State law provides that State resources may not be used to clear or remove debris from local public property unless the local government presents the State an unconditional authorization for removal.

2) Debris Removal from Private Property.

a) Debris removal from private property, including demolishing condemned structures, is generally the responsibility of the property owner, and the cost may be wholly or partly covered by insurance. If there has been a Presidential Disaster Declaration and debris on private property is so widespread that public health, safety, or the economic recovery of the area is threatened, local government may be partially reimbursed for the cost of debris removal from private property. Local government normally has the responsibility for collecting and disposing of debris from private property placed at the curb and bears the cost of that effort.

b) When the Governor has issued a disaster declaration for an emergency situation, § 418.023 of the Texas Government Code provides that State resources may be used to remove debris from private property. As a general rule, the property owner must authorize the removal of debris, grant unrestricted access, and indemnify the State against any claim resulting from the removal. The Executive Order of the Governor Relating to Emergency Management provides that county judges and mayors who have issued a local disaster declaration may exercise the emergency powers of the Governor on an appropriate local scale. Consequently, local governments may remove debris from private property subject to the same conditions cited

above. Attachment 1 to this Appendix provides a sample Debris Removal Access Agreement that should be used to meet statutory requirements.

2. Preparation for Debris Removal.

Considerable time and labor can be saved in the debris removal process by sorting debris from public property and encouraging the public to sort debris from private property before it is picked up. A proactive public outreach program should advise the public of the actions they can take to facilitate pickup, including:

Sorting debris into categories – burnable natural debris, burnable construction and

- a. Demolition debris, non-burnable debris, and potentially hazardous debris.
- b. Placing sorted debris piles at curbside.
- c. Keeping debris off roadways and away from fire hydrants and utility valves.
- d. Disposing of household waste in normal refuse containers.

3. Estimating the Amount of Debris

In determining the means to be used to remove and dispose of debris, it is essential that local officials have a reasonable estimate of the amount of debris that must be removed and eventually disposed of. Attachment 3 to this Appendix provides a methodology that may be used to estimate the amount of debris that must be removed.

4. Determining Debris Removal Strategy.

a. After an estimate of the amount of debris that needs to be removed is made, options for removing the debris should be evaluated in terms of their cost and timeliness.

b. The general strategies for debris removal and processing are as follows:

1) Removal and processing of debris by local government.

a) Advantages:

(1) Direct government control.

b) Disadvantages:

(1) Normally requires diversion of significant government resources from regular functions and makes them unavailable for other recovery tasks.

(2) Speed of debris removal may be constrained by the government equipment and personnel available.

(3) Local government may lack specialized equipment and skills needed to carry out all aspects of debris removal.

2) Removal and processing of debris by contractors.

a) Advantages:

- (1) Speed of debris removal may be increased by contracting for additional resources.
- (2) If local contractors are used, may provide a local economic benefit.

b) Disadvantages:

- (1) Requires detailed contracts.
- (2) Requires extensive oversight and inspection.

3) Removal and processing of debris by a combination of local government and contractors.

c. If contractors are used, the disaster area should be divided into geographic sectors and bids solicited based on the estimated quantity of debris in each sector. In defining sectors, it is desirable to group properties of like type, construction, and with similar vegetation together. This will also facilitate estimating the quantity of debris that needs to be removed.

d. Debris may be removed by a one-time collection of all debris at each property or by using multiple passes to collect different types of material that have been pre-sorted by the property owner.

5. Establishing Temporary Debris Storage and Reduction (TDSR) Facilities.

a. The effective disposal of large quantities of disaster debris requires that suitable temporary storage and volume reduction facilities be established. Such facilities hold debris until it can be sorted, reduced in volume, and dispatched to an appropriate disposal facility. Sorting and volume reduction can significantly reduce the costs of debris disposal and prevent potentially serious environmental problems.

b. Sorting. TDSR facilities sort debris and send it to the most appropriate facility for treatment or disposal. Sorting is needed to separate burnable from non-burnable materials; segregate hazardous products for disposal at authorized facilities; and identify debris that can be burned, chipped or ground, recycled, or disposed of at a landfill without treatment.

c. The volume of debris can be greatly reduced by a variety of methods, including:

1) Incineration.

This method includes open burning, use of air curtain pit incineration (trench burners), or use of portable air curtain incinerators. Incineration of burnable debris typically reduces its volume by 95 percent.

2) Chipping and grinding.

Chipping and grinding is appropriate for clean, woody debris and typically reduces its volume by 75 percent. However, chipping and grinding normally costs as much as incineration, and, unless the resulting mulch can be disposed of without cost or at a profit, local government may incur additional costs to have the residual material hauled to a landfill.

3) Recycling.

Recycling debris may present an opportunity to reduce the overall cost of disposal. Metals, lumber, and soil are the most likely candidates for recycling. Before the local government attempts to operate a recycling operation, it is essential to determine if there is, in fact, a market for the materials sorted out in the recycling process. Otherwise, the output may simply have to

be hauled to a landfill. Specialized contractors may be willing to undertake recycling, particularly if it involves large amounts of well-sorted debris.

d. Site Selection.

1) Criteria to consider when selecting TDSR facilities are:

- a) Preferably government-owned.
- b) Large enough to accommodate a storage area, a sorting area, and volume reduction operation area(s).
- c) Reasonable proximity to disaster areas and debris disposal sites.
- d) Good road access.
- e) Not in a residential area or in the vicinity of schools, churches, or other facilities with population concentrations.
- f) Not in an environmentally-sensitive area, such as wetlands or a water well field.

2) Local landfills and sites for TDSR facilities are described in Attachment 2 to this Appendix. The selection of specific sites to be used for TDSR facilities will normally be made by a team of local, State, and, where appropriate, federal personnel who are familiar with the local area and the specific environmental regulations governing such facilities. Attachment 3 to this Appendix provides methods for determining space requirements for TDSR sites and estimating the quantity of debris that must be disposed of after processing.

6. Public Information and Instructions.

a. In the aftermath of an emergency situation, Public Information Staff should provide the public detailed information on debris removal and disposal plans and procedures. Providing appropriate instructions to the public concerning debris removal can significantly reduce the time and costs involved. Public information on debris removal must start as soon as possible after the disaster – before people start moving and stacking large amounts of debris.

b. Public instructions should encourage citizens to:

- 1) Assist their neighbors, particularly the elderly or infirm, in removing debris;
- 2) Move debris to curbside for pickup;
- 3) Separate debris into the categories, as determined by local officials; and
- 4) Keep debris piles away from fire hydrant and utility valves.

c. Public information should keep citizens advised of:

- 1) Debris pickup schedules and the system of pickup, if various types of debris will be picked up on different days.
- 2) Self-help disposal guidelines for citizens and businesses that wish to haul their own debris to a debris storage area or landfill.

d. The normal methods of public information dissemination should be used to provide information to the public. If loss of electric power has occurred, extra effort must be made to

reach those without power using door hangers, flyers, signs, and, if necessary, door-to-door outreach.

7. **Regulatory Issues and Technical Assistance.**

a. The Texas Commission on Environmental Quality (TCEQ) regulates the disposal of waste, including hazardous waste. TCEQ also issues emergency permits for debris incineration. Hence, the advice and assistance of TCEQ should be obtained in developing and implementing plans for debris disposal.

b. The Texas Department of Health (TDH) is the State agency responsible for ensuring food safety. The assistance of TDH should be sought when there are questions regarding the safety of foodstuffs in damaged retail stores, warehouses, and processing facilities. TDH has the authority to condemn unsafe foodstuffs so that such foodstuffs can be disposed of quickly.

c. The Texas Animal Health Commission (TAHC) can provide advice and assistance regarding the disposition of dead animals. TAHC may also help identify stray live animals so that they can be returned to their owners.

**E. Organization**

1. **Phase 1 - Emergency Roadway Clearance**

During Phase 1, the normal emergency organization, as outlined in Section VI.A of the Basic Plan and this Annex, should coordinate debris clearance operations. Debris clearance will normally be managed from the EOC by the Public Works Director. However, if debris is localized, an incident command operation may be established at the incident site to manage debris clearance.

2. **Phase 2 - Debris Removal and Disposal**

a. For small-scale debris removal and disposal operations, the normal emergency organization, as outlined in the Basic Plan and this Annex, may coordinate debris removal and disposal.

For major emergencies or disasters that result in large volumes of debris, removal and disposal may have to continue for an extended period of time. For these situations, a Debris Management Task Force, consisting of personnel from those departments and agencies having the required expertise, shall be formed to

b. Manage debris removal and disposal operations. The Task Force should be comprised of personnel to perform the following functions:

1) **Operations:**

- a) Plan debris removal and processing;
- b) Manage the use of government resources; and
- c) Monitor the use of contract resources committed to the task.

2) **Contracting & Procurement:**

- a) Develop contracts for services and/or equipment;
- b) Obtain bids; and
- c) Award contracts.

3) **Legal:**

- a) Contract review;
- b) Manage authorizations for debris removal; and
- c) Prepare legal documents for building condemnation and land acquisition.

4) **Administration:**

- a) Provide supply;
- b) Administrative; and
- c) Accounting support.

4) **Engineering:**

- a) Damage assessment;
- b) Develop scopes of work and specifications for contracts; and
- c) Prepare cost estimates.

4) **Public Information:**

Provide information and instructions relating to debris removal to the public.

It may be desirable to organize the Debris Management Task Force as an ICS operation under an Incident Commander. Typically the IC will be the Public Works Director.

c. If the government uses its own resources to remove debris, the primary role of the operations staff is to plan and supervise debris removal. If contractors will be removing debris, the primary role of the operations staff is to monitor contractor work and ensure contract provisions are followed.

## **F. Task Assignments**

### **1. Phase 1 - Emergency Roadway Clearance**

Task assignments shall be as stated in Section VI.B of this Annex.

### **2. Phase 2 - Debris Removal and Disposal Phase**

Task assignments shall be, as stated in Section VI B of this Annex or, as necessary, determined by the Debris Management Task Force leader. General tasks of the various components of the Task Force are described in the Chapter 3 of the *FEMA Debris Management Guide* (FEMA-325).



**Attachment 1**

**Debris Removal Access Agreement**

I/We \_\_\_\_\_, the owner(s) of the property

commonly identified as \_\_\_\_\_,  
(Street Address)

\_\_\_\_\_, \_\_\_\_\_, State of Texas  
(City/town) (County) (Zip)

do hereby grant and give freely and without coercion, the right of access and entry to said property to the City of Johnson City, its agencies, contractors, and subcontractors thereof, for the purpose of removing and cleaning any or all storm-generated debris of whatever nature from the above described property.

It is fully understood that this agreement is not an obligation to perform debris clearance. The undersigned agrees and warrants to hold harmless the City of Johnson City, State of Texas, its agencies, contractors, and subcontractors, for damage of any type, whatsoever, either to the above described property or persons situated thereon and hereby release, discharge, and waiver any action, either legal or equitable that might arise out of any activities on the above described property. The property owner(s) will mark any storm damaged sewer lines, water lines, and other utility lines located on the described property.

I/We (have \_\_\_\_\_, have not \_\_\_\_\_)(will \_\_\_\_\_, will not \_\_\_\_\_) received any compensation for debris removal from any other source including Small Business Administration (SBA), National Resource Conservation Service (NRCS), private insurance, individual and family grant program or any other public assistance program. I will report for this property any insurance settlements to me or my family for debris removal that has been performed at government expense. For the considerations and purposes set forth herein, I set my hand this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

(\_\_\_\_\_) \_\_\_\_\_  
Telephone Number

\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Witness

**Attachment 2**

**Landfills  
&  
Potential Temporary Debris Storage and Reduction (TDSR) Sites**

**1. Transfer Station**

a. Name: Waste Connections Transfer Station

Address: 2021 HWY 281 SOUTH  
JOHNSON CITY TX 78636

Phone: 830-868-7597

Operated by: Waste Connections

Estimated capacity remaining (cubic yards): TBD

Estimated daily processing capacity: TBD

Normal operating schedule: 8 am to 5 pm

Restrictions: No hazardous waste

Fees: TBD

Other Factors: TBD

## **Attachment 3**

### **Debris Estimation**

This Attachment contains the following tabs:

1. **Tab A – Estimating Debris Quantity.**  
This Tab includes two worksheets (Worksheet 1 and Worksheet 2) which outline a methodology that can be used to estimate the quantity of debris produced by a disaster. The methodology allows the user to estimate the debris in various geographic areas (sectors) and then sum the amount of debris in each sector to determine the overall volume of debris that must be removed. The sectors developed in this process can be used in operational planning and contracting. To the extent possible, sectors should be drawn to encompass areas with buildings of similar construction and vegetative cover.
2. **Tab B – Estimating Debris Removal Time.**  
This Tab includes two worksheets (Worksheet 3 and Worksheet 4). The worksheets provide a methodology that can be used to estimate the time in days that it will take to remove specific quantities of debris given a known set of hauling resources and a reasonable estimate of the cycle time for those resources (time spent in pickup, hauling, unloading, et cetera).
3. **Tab C – Estimating Debris Disposal Quantity.**  
Worksheet 5 outlines a method to determine the volume of debris that will have to be disposed of after sorting and volume reduction, given information on the composition of debris that must be removed. To utilize this methodology, you must remove a sample of debris in each sector and sort it to determine the characteristics of the debris from that sector. If the sample of debris is not representative of debris in the sector, this method will be inaccurate.
4. **Tab D – Estimating Requirements for Debris Processing.**  
Worksheet 6 can be used to estimate how much space will be required for temporary debris storage and reduction facilities. This worksheet is based on US Army Corps of Engineers methodology.
5. **Tab E – Estimating Hurricane Debris Quantity.**  
Worksheet 7 can be used to estimate the quantity of debris produced by a hurricane. This worksheet is based on US Army Corps of Engineers methodology.

**Tab A**

**ESTIMATING DEBRIS QUANTITY**

**Complete a separate Worksheet for Each Sector.**

Transfer results from Worksheet 1 to Worksheet 2.

CF = cubic feet      CY = cubic yards

Use Tab E for Estimating Hurricane Debris

<b>WORKSHEET 1</b>			
<b>Sector:</b>			
Description:	N = Number	M = Multiplier	CY = (N x M)
A. Homes (1800-2000 square feet)	100	300	30000
B. Mobile Homes	130	80	10400

C. Other Buildings	L = Length/ft.	W = Width/ft	H = Height/ft.	CF = (L x W x H)	CY = (CF/27) x.33
Subtotal [sum the right column]					

D. Debris Piles	L = Length/ft.	W = Width/ft	H = Height/ft.	CF = (L x W x H)	CY (CF/27)

Subtotal [sum the right column]					

WORKSHEET 2	Sector A	Sector B	Sector C	Sector D
<i>Debris Volume Estimate (cubic yards/CY)</i>				
A. Homes [from Worksheet 1]				
B. Mobile Homes [from Worksheet 1]				
C. Other Buildings [from Worksheet 1]				
SD = Structural debris (A + B + C)				
V = Vegetation Multiplier [see note]				
ST = Subtotal (SD x V)				
D. Debris Piles [from Worksheet 1]				
E. SV = Sector Volume (ST + D)				
TOTAL [add entries in row E above]				

Note:

V= Vegetative Multiplier:

<u>Vegetative Cover</u>	<u>V=</u>
None	1
Light	1.1
Medium	1.3
Heavy	1.5

**Tab B**  
**ESTIMATING DEBRIS REMOVAL TIME**

Worksheets 3 and 4 may be used to estimate the time it will take to remove a quantity of debris given information on the quantity and capacity of the hauling resources available and estimates of the cycle time for those resources. Cycle time is the time it takes a cargo truck to complete a round trip. Cycle time is computed by adding the time it takes to load a truck, the round-trip travel time between the loading point and the off-load point, unloading time, and any unproductive waiting time. This methodology will be most accurate if you use times observed during actual operations, not theoretical numbers.

<b>WORKSHEET 3</b>	<b>Sector A</b>	<b>Sector B</b>	<b>Sector C</b>	<b>Sector D</b>
<i>Debris to be Removed in cubic yards (CY) from Worksheet 2 or 7</i>				
<i>Removal Cycle (all times in hours)</i>				
B. Estimated loading time				
C. Estimated travel time (roundtrip)				
D. Estimated unload time				
E. Estimated waiting time				
F. Cycle time (B+C+D+E)				
G. Daily work period				
H. Cycles per day (G / F)				
<i>Removal Time</i>				
I. Capacity (CY) per cycle [ Worksheet 4]				
J. Capacity (CY) per day [H x I]				
K. Days to Clear Sector [A / J]				
Days to Clear All Sectors [add entries in Row K above]				

<b>WORKSHEET 4</b>	<b>Truck Capacity (CY)</b>	<b>Units Available</b>	<b>C. Group Capacity (AxB)</b>
<i>Equipment</i>			
Dump Truck, Light			
Dump Truck, Medium			
Dump Truck, Heavy			
<i>Capacity Per Cycle (CY)</i> [sum the right column]			

**Note:** In estimating units available, it is essential to consider that some equipment may not be operationally ready each day. Hence, an out-of-service factor based on local experience should be applied to obtain a realistic estimate of equipment available for use on a daily basis.

**Tab C**  
**ESTIMATING DEBRIS DISPOSAL QUANTITY**

Worksheet 5 provides a method of estimating the volume of debris that will have to be disposed of after volume reduction. It requires taking a sample of the debris in each sector to determine the percent of burnable debris (B below), the percent of burnable C&D debris (C below), the percent of non-burnable debris (D below) broken down by recyclable materials (D-1) and other material (D-2), and the percent of hazardous debris (E below).

*In taking a sample, it is desirable to include debris from at least 10 properties.*

Worksheet 5	Sector 1	Sector 2	Sector 3	Sector 4
<i>Sample Debris Characteristics</i>				
A. Debris volume [from Worksheet 2 or 7]				
B. % Burnable Natural Debris				
C. % Burnable C&D Debris				
D. % Non-Burnable Debris				
D-1. Potentially Recyclable				
D-2. Landfill				
E. % Hazardous Debris				
<i>Disposal Volume (cubic yards)</i>				
F. Burnable Natural Debris ( $A \times B$ )				
F-1. Amount to be chipped/ground <sup>1</sup>				
F-2. Amount to be burned				
G. Burnable C & D Debris ( $A \times C$ )				
H. Total Burnable ( $F-2 + G$ )				
I. Volume for disposal after burning ( $H \times .05$ )				
J. Volume for disposal after chipping or shredding ( $F-1 \times .25$ )				
K. Non-Burnable Debris ( $A \times D$ )				
L. Less Non-Burnables to be Recycled <sup>2</sup>				
Volume of Non-Burnables for Disposal ( $K - L$ )				
Volume (Non-hazardous) for Landfill Disposal ( $I + J + M$ ) <sup>3</sup>				
Total for Landfill Disposal [add quantities in row N above]				
O. Volume for Hazmat Disposal ( $A \times E$ )				
P. Total for Hazmat Disposal [add quantities in row O above]				

Notes:

1. *Local officials must decide how much debris to chip or grind instead of burning. The quantity should be based on a) the amount of chipped/ground wood that the local government wants to retain for use as mulch and b) the amount that can be disposed of without cost or at some profit to landscape product firms. Since chipping and grinding costs approximately the same as burning and produces a higher volume of residue, there is little reason to chip and grind instead of burning if you also have to pay to have the resulting mulch hauled away.*
2. *This number should be based on the proportion of recyclable materials for which you can determine there is a ready market. Recycling materials for which there is no market leaves you sorted debris to haul to the landfill.*
3. *If mulch produced in the chipping and grinding operation is hauled away without cost, do not include it (Item J) in the equation because disposal of that material is no longer an issue.*

**Tab D**

**ESTIMATING REQUIREMENTS FOR DEBRIS STORAGE & PROCESSING SITES**

This methodology may be used to determine the space required for debris storage and processing sites.

It assumes that:

1. Debris will be stacked 10 feet high; and
2. 40 percent of a site will be used for storage; and 60 percent will be used for sorting areas, and separation between debris piles, roads, site buffers, and burn pits.

WORKSHEET 6	
A. Debris Volume in cubic yards (CY) [From Worksheet 2 or 7]	
B. CY per acre assuming 10' stack height <sup>1</sup>	
C. Acres for debris storage only (A/B)	
D. Multiplier for processing, roads, & buffers	
E. Required facility area in acres <sup>2</sup>	

Notes:

1. If you plan to use a stack height other than the typical 10 feet, use the following formula to compute CY per acre:

$$CY = (\text{stack height in feet} / 3) \times 4840$$

2. Where the area requirement is large, the requirement is generally satisfied by establishing several sites that, taken collectively, provide the needed area.

**Tab E**  
**ESTIMATING HURRICANE DEBRIS QUANTITY**

Worksheet 7 may be used to estimate the quantity of debris that must be removed. This worksheet uses the formula  $Q = H \times C \times V \times B \times S$ , where:

- Q = the quantity of debris in cubic yards (CF)
- H = the number of households
- C = the storm factor in CY
- V = the vegetation characteristic multiplier
- B = the business/commercial density multiplier
- S = the storm precipitation characteristic multiplier

WORKSHEET 7	Sector A	Sector B	Sector C	Sector D
<i>Debris Volume Estimate - Hurricane</i>				
1. H = households				
2. C = Storm category				
3. V = Vegetation multiplier				
4. B = Business/commercial multiplier				
5. S = Storm precipitation multiplier				
6. $Q = H \times C \times V \times B \times S$				
TOTAL (add columns in item 6 above)				

*Notes:*

1. *H = Households. If you do not know the number of households, estimate the number by dividing the population of the area by 3.*

2.	<i>C = Hurricane Category</i>	<u>Category</u>	<u>C =</u>
1	2		
2	8		
3	26		
4	50		
5	80		

3.	<i>V = Vegetative Multiplier</i>	<u>Vegetative Cover</u>	<u>V =</u>
		None	1
		Light	1.1
		Medium	1.3
		Heavy	1.5

4.	<i>B = Business/Commercial Density Multiplier</i>	<u>Density</u>	<u>B =</u>
		Light	1.0

	<i>Medium</i>		<i>1.2</i>
	<i>Heavy</i>	<i>1.3</i>	
<i>5. S = Storm Precipitation</i>	<u><i>Precipitation</i></u>	<u><i>S =</i></u>	
<i>Multiplier</i>	<i>None to Light</i>	<i>1.0</i>	
	<i>Medium to Heavy</i>	<i>1.3</i>	

**FIRST AMENDMENT TO  
EXCLUSIVE FRANCHISE AND CONTRACT  
BETWEEN THE CITY OF JOHNSON CITY AND  
HILL COUNTRY WASTE SOLUTIONS  
FOR THE COLLECTION AND DISPOSAL OF  
MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS  
IN THE CITY OF JOHNSON CITY, TEXAS**

This First Amendment ("First Amendment") to Exclusive Franchise and Contract between the City of Johnson City and Hill Country Waste Solutions for the Collection and Disposal of Municipal Solid Waste and Recyclable Materials in the City of Johnson City, Texas ("Contract") is entered into by and between the City of Johnson City, Texas ("City") and Hill Country Waste Solutions ("Contractor"), individually "Party", and collectively "the Parties", acting by and through their duly authorized representatives.

**RECITALS**

**WHEREAS**, the City Council of the City and Contractor entered into that Contract on June 1, 2022 ("Effective Date") for the collection, removal, and disposal of solid waste in the City; and

**WHEREAS**, the Parties desire to update the Contract by this First Amendment.

**NOW, THEREFORE**, in consideration of the agreements contained herein, the Parties agree to amend the Contract as follows:

**FIRST AMENDMENT**

- A. The Parties hereby amend the following sections of the Contract, with strikethroughs constituting deleted text and underlines as new text, to read as follows:

**II. TERM**

- 2.1 Initial Term. The initial term of this Contract shall commence June 1, 2022 ("Commencement Date") and shall terminate on ~~June 1~~ September 30, 2025, unless terminated as provided herein.
- 2.2 Automatic Renewal. ~~At the end of the initial 3-year term, and at the end of each renewal term thereafter, this Contract shall automatically renew for a successive three (3) year term;~~ This Contract shall automatically renew for a successive three (3) year term ("Renewal Term") at the end of the initial term and at the end of each renewal term thereafter, unless terminated as provided herein.

## XII. BILLING, RATES, AND FEES

~~12.3 In determining the following year's CPI-U adjustment, the Schedule of Rates, as amended from time to time, shall be computed as follows. The CPI-U used will be the CPI-U published by the Bureau during the ninety (90) days preceding the adjustment under this section. The amount of the increase or decrease shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period.~~

12.3 CPI Adjustment. For modifications after the first year of this Contract, a modification amount of an increase or decrease shall be equal to the percentage that the CPI-U has increased or decreased during the term periods outlined below. The CPI-U used will be the CPI-U published by the Bureau as follows:

- a. Beginning one year from the effective date of this Contract ("Year Two"), the CPI-U to be used will be the CPI-U published by the Bureau for the twelve (12) month percent change from March 2022 to March 2023. Said adjustment will be applied and be effective June 1, 2023 through September 30, 2024.
- b. Following Year Two, for the subsequent year ("Year Three"), the CPI-U to be used will be the CPI-U published by the Bureau for the fifteen (15) month percent change from April 2023 to July 2024. Said adjustment will be applied and be effective October 1, 2024 through September 30, 2025.
- c. For years following Year Three, the CPI-U to be used will be the CPI-U published by the Bureau during the ninety (90) days preceding the adjustment to be made as authorized under this section. Subsequent modifications shall be implemented on October 1<sup>st</sup> of each year.

12.4 Additional Costs Adjustments.

- a. In addition to the above, the Contractor may adjust the Schedule of Rates at any time after giving thirty (30) days written notice to the City on the basis of unusual changes in the cost of operations. The Contractor shall also be entitled to "pass through" any actual taxes, fees, or other impositions made upon the Contractor by any governmental or regulatory entity by billing the City directly for such costs to the extent the Contractor is affected or liable for them. The City may cancel the Contract by giving the Contractor thirty (30) days written notice should the abovementioned increase(s) in rates be considered by the City, at its sole discretion, to be unreasonable.
- b. The Contractor may implement, at its discretion, a fuel surcharge when the average quarterly price per gallon (three-month average) of "Diesel – All Types" for the "Gulf Coast" region preceding July 1, October 1,

