
INTER

OFFICE

MEMO

To: HARRISBURG CITY COUNCIL
From: Kirk Petroski, City Clerk
LEGISLATIVE APPROVAL FORM

Date:

LEGISLATIVE APPROVAL FORM/CERTIFICATE OF ACCEPTANCE

BILL NO. -2020 RESOLUTION NO. ⁹⁵-2020

THE ABOVE LISTED ITEM WAS WRITTEN AND PREPARED FOR FINAL INTRODUCTION AT THE HARRISBURG CITY SOLICITOR'S OFFICE ON:

Isaac S. Gaylord
Deputy City Solicitor

11/20/20
Date

Requested by Department/Bureau: Mayor and Public Works

Department/Bureau Contact Person:

For Action on or before:

The attached was received in the Office of the City Clerk for introduction on

Received by: _____

Date: _____

RESOLUTION NO. 95 - 2020

Moved by: _____

A Resolution authorizing the City of Harrisburg to negotiate and enter into an intergovernmental cooperation agreement with the Borough of Penbrook for the purpose of authorizing the City to provide municipal solid waste and recycling collection and disposal services within the Borough.

WHEREAS, the City of Harrisburg (“the City”) and the Borough of Penbrook (“the Borough”) desire to enter into an intergovernmental agreement to allow the City to provide municipal solid waste and recycling collection and disposal services within the Borough, the form of which is attached hereto as “Exhibit A”; and

WHEREAS, the City and the Borough are authorized to enter into this Intergovernmental Cooperation Agreement pursuant to the Intergovernmental Cooperation Act, 53 Pa. C.S. § 2301 *et seq.*; and

WHEREAS, the City and the Borough desire to work together to provide more efficient and effective services to their respective residents; and

WHEREAS, the effective date of the agreement shall be January 1, 2021, and shall run for a term of three (3) years, with the option to extend the agreement for two (2) additional one (1) year terms; and

WHEREAS, the agreement exists to govern the terms and conditions under which the City will provide municipal solid waste and recycling collection and disposal services within the Borough; and

WHEREAS, this agreement authorizes monthly payments from the Borough to the City for services performed pursuant to the agreement at the rates per dwelling unit described on page A-1 of “Exhibit A”; and

WHEREAS, the agreement authorizes payment for provision of collection and disposal of illegally dumped municipal solid waste at the rates described on page D-1 of “Exhibit A”; and

WHEREAS, the agreement authorizes payment for rental of roll-off dumpsters at the rates described on page E-1 of “Exhibit A”; and

WHEREAS, no new organizational structure is necessary to implement the agreement; and

WHEREAS, no real property shall be acquired, licensed, managed, or disposed of pursuant to this agreement; any personal property acquired, licensed, managed, or disposed of pursuant to the agreement shall be acquired, licensed, managed, or disposed of pursuant to the rules and regulations governing the municipality which owns the property; and

WHEREAS, no entity is created pursuant to this agreement.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF HARRISBURG, that the City of Harrisburg is hereby authorized to negotiate and enter into an intergovernmental cooperation agreement with the Borough of Penbrook for the purpose of authorizing the City to provide municipal solid waste and recycling collection and disposal services within the Borough.

BE IT FURTHER RESOLVED that the Mayor, City Controller, and other appropriate City officials are authorized and directed to take all steps necessary to further effectuate the purpose of this Resolution.

I second this resolution _____

EXHIBIT A

Intergovernmental Cooperation Agreement between
The City of Harrisburg, Pennsylvania
and
The Borough of Penbrook, Pennsylvania

This Intergovernmental Cooperation Agreement ("Agreement") is made and entered into by and between the City of Harrisburg ("City") and the Borough of Penbrook ("Borough"), acting through their proper officials.

WHEREAS, the City is a third-class city incorporated under the laws of the Commonwealth of Pennsylvania and operating under the Optional Third Class City Charter Law with its offices located at Martin Luther King Jr. City Government Center, 10 North 2nd Street, Harrisburg, PA 17101; and

WHEREAS, the Borough is a borough incorporated under the laws of the Commonwealth of Pennsylvania with its offices located at 150 S. 28th Street, Penbrook, PA 17103; and

WHEREAS, each party is a "local government" under the Intergovernmental Cooperation Act, 53 Pa. C.S. §2301 *et seq.*; and

WHEREAS, the Borough is authorized to regulate and provide for garbage and other refuse material by the Borough Code, 8 Pa. C.S. §1202(8); and

WHEREAS, the City is authorized to collect and dispose of garbage, ashes, solid waste, and other refuse pursuant to the Third Class City Code, 11 Pa. C.S. §12409(b); and

WHEREAS, the City and the Borough are required to comply with the provisions of the Municipal Waste Planning, Recycling and Waste Reduction Act, 53 P.S. §4000.101, *et seq.*, as amended, in the management of municipal waste; and

WHEREAS, the Borough requires municipal solid waste and recycling collection and disposal services for its residents; and

WHEREAS, the City desires to provide such services to the residents of the Borough; and

WHEREAS, the parties desire to work together to provide more efficient and effective services to their respective residents; and

NOW THEREFORE, the parties, intending to be legally bound hereby, agree as follows:

1. The City shall provide residential municipal solid waste and recycling collection and disposal services (hereinafter "Trash Services") for the Borough beginning on January 1, 2021. This Agreement shall run from that date until December 31, 2023. However, this agreement shall only have legal effect once each party's legislative body has passed an ordinance or resolution adopting this agreement pursuant to 53 Pa. C.S. §§2305, 2307.

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2. The City shall be responsible for providing a monthly invoice to the Borough at the rates described in "Exhibit A." The pricing years described in Exhibit A shall run from January 1 through December 31 of each calendar year.
3. The Trash Services, including the collection and disposal of municipal solid waste and recycling, billing, complaints, and service calls, ("Trash Services") are more specifically set forth in Exhibit "B" which is incorporated herein by reference.
4. The City shall at its own expense, perform all labor and supply all necessary vehicles, tools, equipment, materials, and other facilities to meet the terms of this Agreement. It is expressly agreed that the City's current municipal solid waste and recycling equipment and vehicles are sufficient to meet the terms of this agreement and that the Borough shall not have the authority to direct the purchase of any specific pieces of equipment by the City. It is further agreed that no title to any property shall be transferred as a result of this agreement with the exception of municipal solid waste and recycling containers where value is remitted to the City pursuant to Paragraph 13 below.
5. The parties further acknowledge and agree that they mutually intend this Agreement to have an effective date of January 1, 2021.
6. The Penbrook Borough Manager shall serve as the Borough representative for the purposes this Agreement.
7. The Director of Public Works of the City of Harrisburg shall serve as the City representative for the purposes of this Agreement.
8. The Parties, through their representatives, shall work together diligently and cooperatively to determine the operational and functional requirements necessary to ensure long term and adequate provision of municipal solid waste and recycling collection and disposal services for the residents of the Borough.
9. The City specifically recognizes that Penbrook Borough has adopted ordinances regulating recycling and the collection, storage and disposal of Municipal Waste to which City is subject as exclusive collector except as modified herein; see Code of the Borough of Penbrook, Pennsylvania, Chapter 218, Article III (Recycling) and Article II (Solid Waste). The Borough shall provide the City with at least thirty (30) days advance written notice prior to any amendment of these Ordinances, or the enactment of any other Ordinance that pertains to the subject matter of this Agreement.
10. The City primarily secures coverages of insurance that feature self-insurance retention programs, that allow for a range of excess and umbrella coverages to satisfy the statutory obligations of the City, in the areas of commercial general, automobile, worker' compensation, cyber and excess liability, which coverages shall, at all times during the contract, maintain in full force and effect and provide statutorily mandated coverage for the City.

The City shall provide to the Borough proof in the form of annual Certificates of Insurance issued on the City's policies naming the Borough of Penbrook as an Additional Insured in

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relation to the City's provision of Trash Services to the Borough. In the event of cancellation or material change in the policy or policies for which the certificates were issued, Penbrook Borough shall be notified by thirty (30) days prior written notice.

11. The City shall furnish security for the Borough through the establishment and maintenance of a restricted fund in the amount of fifty thousand dollars (\$50,000.00) for the benefit of the Borough. The City shall establish such a fund through passage of its 2021 budget. Recodification of the restricted fund shall not constitute breach of this agreement or grounds for termination; however, failure to maintain the fund shall constitute a material breach.

12. If the City terminates this Agreement prior to the Termination date it shall be liable to the Borough for the cost of procuring another entity to perform similar collection and disposal services provided that: 1) the Borough diligently works to secure such services and 2) that such liability shall not exceed fifty thousand dollars (\$50,000.00).

13. If the Borough terminates this Agreement prior to the Termination date it shall be liable to the City for the value of the Municipal Solid Waste and Recycling Containers purchased by the City for the purposes of this contract; if the Borough exercises its option to pay for recycling containers in paragraph 14, it shall not be liable for the value of the Recycling Containers. The value of the containers shall be determined by subtracting twenty percent (20%) of the purchase price of the containers from the purchase price of the containers for each year of the Agreement that has passed at the date of early termination. In the event the Borough is required to repay the value of the containers as provided herein, the containers will become and remain the property of the Borough.

14. The Borough shall have the option to pay the City the cost of the Recycling Containers purchased by the City. If the Borough exercises this option the Recycling Containers shall become the property of the Borough.

15. Either party may terminate this agreement with at least ninety (90) days written notice given prior to the end of any budget year to the other party subject to the provisions of paragraphs 12 and 13 of this agreement.

16. If any term or provision of this agreement shall be determined to be invalid or unenforceable, the validity, enforceability and effect of all other terms and provisions shall not be affected thereby and shall remain in full force and effect.

17. The waiver by the City or the Borough of a breach of any provision of this agreement by the other party will not operate, nor be construed to operate, as a waiver of any other breach by said party.

18. Nothing contained in this Agreement shall be, nor shall be construed by any Court of law to be a waiver by the City of Harrisburg or the Borough of Penbrook of any governmental immunity provided by common law or statutory law of the Commonwealth of Pennsylvania, including but not limited to any statutory bar or cap on liabilities afforded a political subdivision of the Commonwealth of Pennsylvania.

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Intergovernmental Cooperation Agreement between

The City of Harrisburg, Pennsylvania

and The Borough of Penbrook, Pennsylvania

"Exhibit A"

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Harrisburg Pricing for Penbrook Borough		
Contract Pricing Per Dwelling Unit—128 Gallons		
Year	Recycling & Trash Quarterly	Recycling & Trash Yearly
2021	\$66.00	\$264.00
2022	\$69.15	\$276.60
2023	\$72.46	\$289.84
2024 (extension)	\$75.93	\$303.72
2025 (extension)	\$79.58	\$318.32

*Includes 1 bulk item per week, 1 recycling pickup, and woody waste pickup.

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Intergovernmental Cooperation Agreement between
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and
The Borough of Penbrook, Pennsylvania
"Exhibit B"

I. Municipal Solid Waste Collection

- a. Collection services will be provided one (1) time per week to each dwelling unit as a dwelling unit is defined by Section 218-10(B) of the Borough of Penbrook's Ordinances. Regular collection services shall be provided on Wednesday of each week other than weeks where an approved holiday or weather event requires a modified pickup day.
- b. The City shall provide each unit with Municipal Solid Waste Containers free of additional charge. Each unit shall be entitled either one (1) ninety-five gallon container, or one (1) sixty-five (65) gallon container, or two (2) thirty-five gallon containers. Ownership of and title to any and all containers provided shall remain with the City, except as provided in paragraphs 4 and 13 of the agreement. The City shall provide, at its own cost, any replacement containers. The City shall provide Penbrook Borough with a list of fees for purchasing additional cans annually.
- c. Customers in Penbrook Borough's solid waste program shall use only Municipal Solid Waste containers provided by the City of Harrisburg. Any combination of these containers equal to 128 gallons of solid waste shall be picked up as part of regular service.
- d. All waste shall be placed within the cans provided to Customers by the City; however, the City shall collect additional neatly contained bags of waste placed out intermittently by Customers on occasions, including holidays, large gatherings, or spring cleaning, and the like. Nothing in this section shall require the City to collect additional waste from Customers who routinely place out excessive amounts of waste or place out additional waste without sufficiently bagging said waste to prevent tearing or spread of waste by vermin or other means. The City shall work with the Borough and Customers to ensure that Customers who routinely generate excess waste have sufficient containers in accordance with Paragraphs (e) and (i) below.
- e. Customers who desire more than the number of containers provided free of charge as described in paragraph (b) above shall be entitled to pay a one-time fee to the City for the provision of an additional container provided that: 1) the total number of gallons of all containers for an account shall not exceed one hundred and twenty eight (128) and 2) that the City shall provide the Borough annually a fee list for each of the container sizes. The initial fee list is attached hereto as Exhibit C, and shall be updated annually, if necessary, in the City's discretion.
- f. The City shall provide bag tags to the Borough at a rate of two dollars (\$2.00) per tag. Residents shall be able to purchase tags from the Borough, and the City shall pick up additional waste from Customers who put out additional Municipal Solid Waste on normal collection days marked with a bag tag.
- g. Collection services included in the fees described in Exhibit A shall include collection of up to one-hundred-and-twenty-eight (128) gallons of municipal solid waste per week, plus one (1) bulk item.
 1. Each bulk item shall not exceed one hundred and sixty pounds (160 lbs.) in weight. Acceptable bulk items include: household furniture, chairs, coffee and side tables, dining

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tables, desks, sofas, box springs, mattresses, entertainment units, bed frames, carpeting, basketball boards, metal poles, white goods, and minor household appliances. The City shall pick up eight (8) tires per year, without rims, per customer. Any debris, such as plywood, drywall, or lumber shall be placed out in bundles not to exceed four (4) feet by two (2) feet and not in excess of sixty (60) pounds. Bulk items that cannot be mixed with the municipal solid waste stream, such as items containing freon, small engines, or tires shall be placed out in accordance with normal pickup; however, collection of such bulk items may occur up to one (1) business day after normal collection. Nothing herein is intended to require the City to collect or dispose of other forms of regulated waste, including but not limited to medical waste, hazardous waste, industrial waste, or other waste materials subject to environmental restrictions outside the permits routinely secured by the City.

- h. All tree or shrubbery trimmings shall be placed in designated receptacles provided by the City and placed out for pickup on a schedule to be mutually agreed upon by the parties. The City shall provide each customer one thirty two (32) gallon container for such waste. The Borough Manager and the Director of Public Works shall determine a mutually agreeable schedule for the collection of such woody waste, and the City shall inform the residents, of such schedule.
- i. Units that generate more than one-hundred-and-twenty eight (128) gallons of waste per week may purchase additional collection and disposal services from the City. Such units shall be charged for the ability to have each additional one-hundred-and-twenty eight (128) gallons of Municipal Solid Waste collected and disposed of at the rates described in "Exhibit A" for each increment of one-hundred-and-twenty eight (128) gallons of collection and disposal capacity. The City shall not collect from any unit that requires more than eight (8) ninety-five (95) gallon Municipal Solid Waste Containers. The City shall not collect from any institution, property, or establishment that makes use of dumpsters or dumpster style services. The Borough shall not newly authorize or otherwise permit the use of dumpsters, containers or compactors for the collection of solid municipal waste and/or recycling for properties qualifying as dwelling units for the purposes of this agreement without a 90-day advance written notice to the City.
- j. The City shall provide collection service on the next business day from normal collection during weeks which have a holiday occurring on or before Wednesday of that week. The City shall provide the Borough with an approved list of holidays for each year at least thirty (30) days before January First of each year.
- k. Collection shall not begin before 7:00 A.M. or continue after 4:30 P.M., except when otherwise approved in advance by the Borough Manager or in the case of mechanical breakdown or extremely unusual circumstances.
- l. The City shall provide one-time curbside collection of Christmas trees from the first business day after Christmas Day for a period of twenty-one (21) business days.

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- k. Municipal Pickups — the City will provide suitable receptacles (to be determined by mutual agreement of the parties) and pick up, free of charge, waste and recycling from the following locations:
1. Penbrook Borough Municipal Building
 2. Citizens' Fire Company No. 1 of Penbrook
 3. Penbrook Borough Garage
 4. A mutually agreed upon location near the concession stand at 31st and Boas Street within the Borough
- l. The Director of Public Works and the Borough Manager are authorized to arrange for the City to provide additional collection and disposal services of Municipal Solid Waste that has been illegally dumped or is the result of extraordinary circumstances at the rates described in Exhibit D.
- m. The Director of Public Works and the Borough Manager are authorized to arrange for the City to provide roll off dumpsters to the Borough, including for collection of street sweeping waste. The Director of Public Works shall annually establish rates for the rental of such dumpsters and provide such rates to the Borough on or before January 1 of each year of this agreement. Rates for the first year of such service are attached hereto as Exhibit E.
- n. The City will cooperate with Penbrook Borough in providing accurate, timely information to the public regarding the collection of municipal solid waste and recyclables.
- o. The City shall dispose of all waste at facilities designated by the Dauphin County Department of Solid Waste Management & Recycling.
- p. Recyclable materials and municipal solid waste shall be collected in a neat and workman like manner, and if, by accident or otherwise a spill, caused by the employees of the City, shall occur, the employees of the City shall be required to gather up same in a neat and clean manner. The employees of the City shall also be obligated to load his/her vehicle in such a manner as to prevent spillage. City's employees shall not be loud, noisy, vulgar, obscene, or insulting to residents.
- q. Employees of the City shall exercise reasonable care in handling of refuse containers and shall not willfully break, deface, or damage same. Refuse containers and collection carts shall be returned to behind the curb and, in the absence of curb, off the paved roadway.
- r. The City shall provide, at no additional cost, carry out service to residents who possess disabilities. Carry out service shall mean that the resident shall not be required to place their municipal solid waste receptacles on the street for collection, and that the City shall retrieve the receptacles from an agreed upon location on the resident's property. This service shall only be available to residents who contact the City and arrange for such services to commence.
- s. The City shall provide monthly woody waste and municipal solid waste tonnage reports to the Borough in a form mutually agreeable to the parties.

II. Recycling

- a. Recyclable Materials shall include colored and clear glass, bi-metal (tin) cans, aluminum cans, plastic (PET and HDPE) bottles, corrugated cardboard, office paper and such other materials as agreed upon by the Borough and the City.
- b. Recyclables shall be commingled in the Recycling container.
- c. The Borough shall use reasonable efforts to enforce the rules and regulations relating to containers for recyclables and proper preparation of recyclable materials by residents for collection by City.
- d. The City may, in consultation with the Borough, establish glass collection sites in and around the Borough to encourage separate recycling of glass.
- e. The City shall provide a monthly recycling report for Penbrook Borough which shall be submitted in the form requested by Penbrook Borough. The "Monthly Recycling Report" shall include complete information with respect to the preceding month, including the amount, (by weight) of recyclable material collected during each month.
- f. The City shall distribute, at least two (2) week prior to the beginning of each year of the contract, explanatory materials developed in conjunction with the Borough explaining the recycling program and educating residents on acceptable recyclable materials. Nothing in this section shall prohibit development and distribution of additional educational materials in conjunction with the Borough. The City agrees to participate in other educational forums with the Borough at no additional cost.

III. Billing

- a. The Borough shall be responsible for billing and collecting revenue from customers.
- b. The Borough shall pay the City monthly for services the City provides pursuant to this agreement. The total annual payment amount shall be determined by multiplying the annual prices listed in "Exhibit A" by the number of dwelling units serviced by the City.
- c. The City shall invoice the Borough for any services provided pursuant to Section II Paragraphs (l) and (m), and the Borough shall pay the invoices within sixty (60) days of issuance of the invoice.
- d. The Borough shall inform the City, in writing, of any changes to the number of units subject to service under this agreement prior to changing the amount paid monthly.

IV. Complaints and Service Calls

- a. The City shall establish a dedicated phone number to resolve Borough resident complaints, questions, and service calls
- b. All complaints by residents of the Borough made through the Borough or directly to the City regarding Trash Services provided under the contract shall be responded to by the City within two (2) working days after receipt of the complaint, barring emergencies, staffing shortages, or acts of god.
- c. The City shall submit a report to the Borough each month by the 15th day of the following month listing all of the complaints received by the City during the previous calendar month. This report shall be on forms agreed upon by the parties and shall include, at a minimum, the following information:
 - i. Date of complaint
 - ii. Name, address, telephone number of the person making the complaint
 - iii. Description of the nature of the complaint
 - iv. Date of resolution of complaint
 - v. Description of resolution of complaint
- d. The Borough reserves the right to intercede in any unresolved complaint by a resident or property owner; to investigate said complaint and work together with the City to resolve the complaint.
- e. Notice of Residents of Violation shall be handled as follows:

If the City does not pick up municipal solid waste or recyclable items from any residential unit due to the resident not complying with the rules and regulations regarding the placement of containers, the type and size of containers or bundles or boxes, the proper containerization or separation of the recyclables, the City shall place, either in the container or at the door of the residence, provide a notice indicating the reason that the waste or recycling item(s) were not picked up on that day. A copy of this notice shall be forwarded to the Borough within two (2) working days after the notice is issued to the resident.

V. Remedies and Mediation of Disputes

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- a. The intent of the parties hereto is to cooperatively undertake the provision of necessary services in an efficient and cost effective manner to best serve the public good. Remedies for the failure of either party to comply with the terms of this Agreement shall be limited to the terms provided.
- b. If either party shall determine that an operational deficiency caused by the manner in which the other party hereto performed, failed to perform, or hindered the performance of any obligation under this Agreement, the party so impacted may submit a letter of protest to the other party within 45 days of the incurrence of any such unanticipated obligation.
- c. The other party shall respond in writing to any such letter of protest within 30 days, acknowledging or disputing the matter, in whole or part. The parties shall work to promptly resolve any remaining dispute hereunder by a separate agreement that shall not be deemed or provide to alter the terms of this Agreement.
- d. If the parties have not resolved the dispute within 30 days of the issuance of a written reply under this section, either party may request in writing to mediate the dispute through the Dauphin County Bar Association or another mediation program that shall be mutually agreed upon by the parties.
- e. Nothing in this Section shall be deemed to limit the right of either party to terminate this Agreement in a manner otherwise provided herein.

VI. Weather Delays

In the event of a snowfall or other weather event that affects collection of Municipal Solid Waste as described in Section I(a) above the Director of Public Works and the Borough Manager shall coordinate collection schedules; however, the following provisions shall apply:

1. If the streets within the Borough are impassable due to a snowfall or other weather event twenty-four (24) hours after the weather event ends the City shall not be obligated to provide collection services that week.
2. Within the discretion of the Director of Public Works collection may be delayed by up to twenty-four (24) hours due to a snowfall or other weather event. In the event that collection is delayed the Director of Public Works shall coordinate with the Borough Manager to advertise the alternative collection date to the residents of the Borough.

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Intergovernmental Cooperation Agreement
between
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“Exhibit C”

Fees for the Provision of Additional Containers

The fees for the provision of additional containers pursuant to Exhibit B, Section I (e) above are as follows:

Size of Container	Fee
95 Gallon	45.68
65 Gallon	41.68
35 Gallon	34.68

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Intergovernmental Cooperation Agreement
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“Exhibit D”

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Special Municipal Pickup Fee

When the Borough Manager and the Director of Public Works agree that the City shall provide special pick up of illegally dumped municipal solid waste, or in other extraordinary circumstances, the City shall invoice the Borough at the following rates:

- \$85 Per ton collected
- \$75 Per Vehicle
- \$50 per man
- \$25 for fuel per hour per vehicle

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“Exhibit E”

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Roll Off Dumpster Rental Rates

Size	Construction & Demolition Disposal	Municipal Solid Waste
20 Yard	\$500.00 for 3 Tons	\$210.00 Delivery and Pick-up Fee, disposal fee charged at current LCSWMA Rates
30 Yard	\$550.00 for 3.5 Tons	\$220.00 Delivery and Pick-up Fee, disposal fee charged at current LCSWMA Rates
40 Yard	\$600.00 for 4 Tons	\$220.00 Delivery and Pick-up Fee, disposal fee charged at current LCSWMA Rates

1. Containers are rented for up to ten days at this price.
2. C&D Containers with mixed use will be charged at the Municipal Solid Waste disposal rate.
3. Tonnage over the allowed amount for C&D rate will be charged at \$85.00 per ton.
4. Disposal of tires requires advance notice and an additional fee.