

SECOND AMENDMENT TO THE REFUSE, RECYCLING AND
LANDSCAPE WASTE COLLECTION AND DISPOSAL AGREEMENT

WHEREAS, the VILLAGE OF ORLAND PARK, ILLINOIS (“Village”) and WASTE MANAGEMENT OF ILLINOIS, INC. (“Contractor”) (individually a “Party” and collectively the “Parties”) entered into a Refuse, Recycling and Yard Waste Collection and Disposal Agreement on June 17, 2013 (the “Agreement”); and

WHEREAS, the Parties entered into a First Amendment to the Agreement on September 21, 2016; and

WHEREAS, the Parties have deemed it necessary and appropriate to enter into this Second Amendment (“Second Amendment”) to a) amend the Landscape Waste collection provisions of the Agreement, b) provide for an “Opt Out Plan” with regard to the Landscape Waste cart distribution plan, c) provide for an “At Your Door Special Collections” service, and d) extend the Agreement for five (5) years and related provisions in the Agreement due to the five (5) year Agreement extension.

NOW, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Pursuant to Section 5 (Contract Period) of Part I of the Agreement, the parties mutually agree to extend the Agreement upon the expiration of the initial term for an additional five (5) years from January 1, 2024 to December 31, 2028 rather than three (3) years as stated therein.

2. Section 10 (“Performance Bond”) of Part I of the Agreement is amended to add the following:

<u>“Contract Term</u>	<u>Performance Bond Amount</u>
January 1, 2024 through December 31, 2028	\$2,725,000.00 per year”

3. The Village is no longer providing a leaf collection program for residents therefore, Section 24 (Village’s Leaf Collection Program) of Part I of the Agreement is deleted.

4. The following provision shall be inserted into the Agreement as Section 24 (Force Majeure) of Part 1 and shall apply retroactively to May 1, 2018:

“An event of “Force Majeure” means an event beyond the control of the Village or Contractor which prevents a Party from complying with any of its obligations under this Agreement, including but not limited to:

- a. an act of God (such as, but not limited to fires, explosions, earthquakes, storm, lightning, floods, impending approach of a storm and tornados;
- b. war (whether or not declared), rebellion, riot, commotion, interference by civil or military authorities (excluding strike lockout or other form of labor dispute, in which case Contractor must provide the Village with a plan as to how Contractor’s services to the Village will not be interrupted), statute, ordinance, government order or ruling; and
- c. acts or threats of terrorism.

Neither the Village nor the Contractor shall be considered in breach of this Agreement to the extent that performance of their respective obligations (excluding the obligation for payment for services previously rendered) is prevented by an event of “Force Majeure” that arises after the date of this Second Amendment.

The Party claiming to be prevented from carrying out its obligations hereunder shall give notice to the other Party of an event of “Force Majeure” upon it being foreseen by, or becoming known to the affected Party and its expected duration.

If and to the extent that the Contractor is prevented from executing the services by an event of “Force Majeure”, while the Contractor is so prevented, the Contractor shall be relieved of its obligations to provide services as otherwise required hereunder but shall endeavor to continue to perform its obligations hereunder so long as reasonably practicable (and in accordance with good operating practices) provided that if and to the extent that the Contractor incurs additional cost in so doing, the Contractor shall be entitled to the amount of such cost (“cost” being defined as having no additional profit component), so long as the Contractor has taken reasonable steps to mitigate the cost.”

5. Section B.6 (Disposal) of Part III of the Agreement shall be replaced with the following:

“All Recyclables will be collected in accordance with the Delivery Specifications listed in ATTACHMENT A to facilitate the sale of said materials to end-use markets or recycled material brokers.”

6. The first two paragraphs in Section B.10 (Revenues) of Part III of the Agreement are deleted. The third paragraph will be revised to read as follows:

“Contractor will, however, provide the Village with a “Monthly Waste Disposal Report” summarizing Recyclables processed by Contractor during the previous

month. This Report is to be provided to the Village whether or not revenue is generated from Contractor's sale of the Recyclables."

7. The following provisions shall be inserted as Section B.12 (Tag and Leave) of Part III of the Agreement which provides as follows:

"B.12. Contractor shall, commencing January 1, 2019, "tag and leave" recycling carts that are contaminated with non-recyclables. In cases of abusive non-compliance by residents with the Contractor's Delivery Specifications as set forth in Attachment A, Contractor may upon notice to the Village, elect to discontinue recycling services to such residents." Notwithstanding the above, the parties agree that Contractor, in its sole discretion prior to January 1, 2019, may refuse to service or reject a Cart in which a resident is egregiously ignoring Contractor's Delivery Specifications."

8. Section C.2 (Frequency of Collection) of Part III, shall be revised to read as follows:

"Landscape Waste will be collected one day each week from April 1 through the second (2nd) full week of December for each year of the Agreement."

9. The following language will be inserted in Section C (Landscape Waste Collection) of Part III, as follows:

"C8.1. Carts for Affected Residents of Leaf Collection Program.

- a) The Village will communicate the Landscape Waste Cart program to the affected residents and, additionally, the Village will manage and be responsible for the "Opt-Out Program" hereinafter described in 8.2, below.
- b) Contractor will provide five thousand (5,000) ninety-six (96) gallon carts ("Additional Cart(s)") for delivery to the residential units (addresses as determined by the Village) covered under the Village's previous leaf collection program to be used by residents primarily for Landscape Waste during the Landscape Waste collection period, but may be used for refuse during winter months. The Additional Carts will remain the property of the Contractor.
- c) The Village's Public Works Department ("PW") will periodically update Contractor regarding Additional Cart deliveries and, further, will request Contractor to deliver Additional Carts to PW in increments of two hundred (200), plus or minus, on an as needed basis for up to three (3) years from the date of this Second Amendment or until the entire 5,000 Additional Carts have been provided by Contractor to the Village and/or Village residents. Additional Carts not delivered to addresses based on the residents' election to "opt-out" will be provided to the Village or, at the election of the Village, retained by the Contractor for subsequent use by the Contractor for the Friday leaf collection areas. Those residents in the Friday leaf collection areas will be offered an Additional Cart, if

available, and the Additional Cart will be delivered by PW to the resident address.

C.8.2 Landscape Waste Cart Distribution – Opt-Out Plan.

- a) PW will notify those residents previously covered under the Village's Leaf Collection Program having addresses within the Monday through Thursday regular leaf collection area that such notified residents may elect to "opt-out" and decline to accept an Additional Cart by calling or e-mailing PW.
- b) PW will notify the Contractor of those addresses whereat the residents did not "opt-out" for Additional Carts to be delivered.
- c) Contractor will inform PW of the date and addresses where Additional Carts were delivered so that PW can monitor the accuracy of the cart deliveries. The Contractor's distribution of the initial Additional Carts to residents shall be completed no later than October 30, 2018.
- d) The Contractor will, upon notice from PW, pick up Additional Carts from those resident addresses at which residents have initially not elected to "opt-out" but no longer desire the Additional Cart and, further, PW will deliver Additional Carts, if available, to those resident addresses at which the residents have initially elected to "opt out" but now desire an Additional Cart.

10. The first paragraph of Section D.5 of Part III of the Agreement is amended to add the Orland Park Health & Fitness Center public parking lot, 15430 West Avenue to the list of those public parking lots specified in Section D.5. In addition, the listing of streets to be swept by Contractor as specified in the third paragraph of Section D.5. is amended to include "West Avenue from 143rd Street to Ravinia Avenue", "LaGrange Road from 131st Street to 171st Street, and 147th Street from John Humphrey Drive to Ravinia Avenue."

11. The second paragraph of Section 13 (Default, Penalties and Fines) of Part I of the Agreement is amended to provide as follows:

"Commencing January 1, 2024, should the Contractor fail to provide service to 99% of the scheduled service addresses by the day after the scheduled collection day, the Contractor shall pay to the Village liquidated damages of \$1,000.00 per day until service is provided to those neglected service addresses. In addition, for complaints not resolved to the Village's satisfaction within 48 hours, excluding Sundays and Holidays, liquidated damages of \$100.00 per day will be assessed against the Contractor. Should the Contractor choose to operate in violation of the hours of operation listed herein, the Contractor shall pay to the Village liquidated damages of \$1,000.00 per day. These provisions do not waive other remedies that the Village may have.

12. Section E.5 (Annual Community Support Contribution) of Part III of the Agreement is amended to provide as follows:

“Commencing January 2019 and annually on or before January 31, thereafter during the Term, the Contractor will provide the Village with a check for FIFTY THOUSAND DOLLARS (\$50,000.00) to be used at the discretion of the Village.”

13. The following provision shall be inserted into the Agreement as Section E.7 (At Your Door Program) of Part III.

“Commencing January 1, 2019, Contractor shall provide “At Your Door Special Collection” services to Village residents as more fully described in “ATTACHMENT B – HOME GENERATED SPECIAL MATERIALS” attached hereto and incorporated into the Agreement as ATTACHMENT C.”

14. Section B.1. (“Monthly Unit Rates”) of Part IV of the Agreement is amended to add the following Monthly Unit Rates as follows:

<u>“Contract Year</u>	<u>Monthly UNIT Rate</u>
January 1, 2019 through December 31, 2019	\$22.32
January 1, 2020 through December 31, 2020	\$22.88
January 1, 2021 through December 31, 2021	\$23.45
January 1, 2022 through December 31, 2022	\$24.04
January 1, 2023 through December 31, 2023	\$24.64
January 1, 2024 through December 31, 2024	\$25.38
January 1, 2025 through December 31, 2025	\$26.14
January 1, 2026 through December 31, 2026	\$26.92
January 1, 2027 through December 31, 2027	\$27.73
January 1, 2028 through December 31, 2028	\$28.56”

15. Section B.2.a (“Debris Clean Up For Over Three Cubic Yard (Bulk Items)”) of Part IV of the Agreement is amended to add the following Cubic Yard Charge.

<u>“Contract Year</u>	<u>Per Cubic Yard Charge</u>
January 1, 2024 through December 31, 2024	\$21.50
January 1, 2025 through December 31, 2025	\$22.00
January 1, 2026 through December 31, 2026	\$22.50
January 1, 2027 through December 31, 2027	\$23.00

January 1, 2028 through December 31, 2028	\$23.50”
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16. Section B.2.b. (Off Route Clean Up) of Part IV of the Agreement is amended to add the following Cubic Yard Charge.

<u>“Contract Year</u>	<u>Per Cubic Yard Charge</u>
January 1, 2024 through December 31, 2028	\$25.00”

17. Section B.2.c. (Cart Rentals and Purchases) of Part IV of the Agreement is amended to add the following Annual Fees.

<u>“Annual Rental Fees (96-gallons or 64-gallons)</u>	<u>Annual Fee</u>
January 1, 2024 through December 31, 2028	\$44.00
Rental Cart Replacement	No Charge
<u>Cart Purchase</u>	
<u>January 1, 2024 through December 31, 2028</u>	<u>\$95.00/cart</u>
<u>Assembly Charge Fee (first time delivery free)</u>	<u>\$25.00/cart”</u>

18. Section B.2.d. (“Household Construction Debris Clean Up in Excess of 2 Cubic Yard”) of Part IV of the Agreement is amended to add the following Cubic Yard Charge.

<u>“Contract Year</u>	<u>Per Cubic Yard Charge</u>
January 1, 2024 through December 31, 2024	\$21.50
January 1, 2025 through December 31, 2025	\$22.00
January 1, 2026 through December 31, 2026	\$22.50
January 1, 2027 through December 31, 2027	\$23.00
January 1, 2028 through December 31, 2028	\$23.50”

19. Section B.2.e. (“Off Season Street Sweeping (December 1 to February 28)”) of Part IV of the Agreement is amended to add the following Per Hour Charges.

<u>“Contract Year</u>	<u>Per Hour Charge</u>
January 1, 2024 through December 31, 2024	\$170.00
January 1, 2025 through December 31, 2025	\$174.00
January 1, 2026 through December 31, 2026	\$178.00
January 1, 2027 through December 31, 2027	\$182.00
January 1, 2028 through December 31, 2028	\$186.00”

20. “ATTACHMENT A – RECYCLING PROGRAM” attached to and made a part of the Agreement is hereby replaced by “ATTACHMENT A – RECYCLING PROGRAM (revised) SINGLE STREAM SPECIFICATIONS” attached to this Second Amendment and made a part hereof.

21. Except as amended herein and the First Amendment, all other terms of the Agreement will continue in full force and effect.

This Second Amendment has been entered into between the parties on the ____ day of _____, 2018.

VILLAGE

VILLAGE OF ORLAND PARK,
Cook and Will Counties, Illinois,
a municipal corporation

CONTRACTOR

WASTE MANAGEMENT OF ILLINOIS, INC.,
a Delaware corporation

Keith Pekau, Village President

Name and Title

Attest:

John C. Mehalek, Village Clerk

Name and Title

ATTACHMENT A

ATTACHMENT B