

Contract Agreement Between

The Town of Silver City

And

Southwest Solid Waste Authority

For FY 18-19 Recycling Services within the Town of Silver City

WHEREAS the Southwest Solid Waste Authority (SWSWA) is a special district of the State of New Mexico providing municipal solid waste and recycling services throughout Grant County, New Mexico; and

WHEREAS recycling of municipal solid waste has certain benefits including but not limited to protecting land and water quality, saving energy resources, conserving forest systems, and in saving landfill space; and

WHEREAS the Town of Silver City (TSC) is a municipal corporation of the State of New Mexico desiring recycling services within the Town in order to help attain the benefits of recycling; and

WHEREAS the SWSWA has invested the personnel and equipment to collect a variety of recyclable material; and

WHEREAS while recycling has benefits, the costs of implementing recycling programs are substantial; and

NOW THEREFORE, in consideration of the mutual understandings and promises set forth herein, the SWSWA and TSC agree as follows:

SECTION 1. GENERAL SCOPE OF AGREEMENT. The SWSWA will provide recycling collection, for the TSC businesses and identified institutional establishments as defined herein, that TSC cannot accommodate with curbside recycling services, such as, but not limited to, downtown area of Town of Silver City. The TSC will compensate SWSWA for said recycling services as provided for below.

SECTION 2. TERM OF AGREEMENT. The term of this Agreement shall be for two years from July 12, 2018 to July 12, 2020. TSC and SWSWA will reevaluate this contract in 12 months at which time modifications can be proposed and presented to each board for approval.

SECTION 3. SCOPE OF SERVICES. SWSWA shall provide the following recycling services within the TSC limits.

- 3.1 Curbside Commercial. The SWSWA shall provide once a week curbside collection to small commercial and institutional solid waste accounts of the TSC that are not accommodated by TSC. This includes, but is not limited to the downtown businesses of TSC. SWSWA shall coordinate commercial curbside recycling pick-up with the TSC municipal solid waste pick-up services. Institutional accounts include public schools and federal, state, and local government offices. The SWSWA will make special runs to commercial and

institutional accounts as requested for large pick-ups so long as these requests are limited to approximately twelve (12) per year total. The Curbside Commercial routes shall include weekly special runs to the local newspaper distributors for collection.

- 3.3 Commercial Cardboard. The SWSWA shall provide curbside commercial cardboard collection once a week for established TSC small commercial and institutional accounts located in the downtown area of TSC.
- 3.4 Roll-off/Drop-off Services. The SWSWA shall furnish two drop off sites with one roll off container for recyclable materials, with the exception of glass, within the TSC limits and one additional drop-off site at the main landfill. The roll off containers shall be SWSWA scheduled holidays.

SECTION 4. MATERIALS TO BE COLLECTED. Under this agreement (in addition to batteries, antifreeze, oil, paint, tires and scrap metals) the SWSWA shall collect a variety of recycling material with the exclusion of glass.

SECTION 5. PERFORMANCE.

- 5.1 SWSWA staff shall pick up loose recyclable materials that are dropped or scattered near all collection bins.
- 5.2 TSC shall notify SWSWA of its holiday schedule and changes to the TSC normal trash runs due to holidays.
- 5.3 SWSWA shall provide to the TSC Town Manager an annual report regarding recycling operations by the SWSWA. The report shall include total tonnage of recyclable materials collected by service, the total tonnage sold/shipped by material type, the estimated gross and net diversion rates for the TSC service area and the estimated participation rate by service.
- 5.4 Any regular municipal solid waste collected as part of the recycling services will be disposed of at the Town's expense pursuant to rates adopted by the SWSWA board.

SECTION 6. COMPENSATION. The TSC shall compensate the SWSWA \$211,001.90 on an annual basis for the above services (\$17,583 monthly). The SWSWA shall bill the TSC the monthly amount beginning with July 31, 2018 invoice.

SECTION 7. ADDITIONAL SERVICES. Any additional recycling services requested by the TSC shall be based on task orders and require written approval of the TSC Town Manager and the written approval of the SWSWA Manager. TSC shall compensate SWSWA for any additional recycling services in an amount mutually agreed to by both the Town Manager and SWSWA Manager, subject to appropriation of funds within each party's budget.

SECTION 8. CONTRACT PROVISIONS.

- 8.1 General Liability. The SWSWA shall obtain and maintain general liability insurance coverage for its employees and capital which are the subject of this Agreement in an amount no less than that required by New Mexico State Law for special districts.
- 8.2 Workers' Compensation. The SWSWA shall secure and maintain all necessary Workers' Compensation insurance as is required by New Mexico State Law to cover the SWSWA employees hereunder.
- 8.3 Vehicle and Equipment Coverage. The SWSWA shall secure and maintain vehicle liability, property damage and medical coverage insurance.
- 8.4 Prohibited Interests. The SWSWA agrees that it and its employees presently have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner of degree with the performance of the services in the Agreement. The SWSWA further agrees that in the performance of this Agreement, no persons having such interest shall be employed by the SWSWA for the specified recycling services.
- 8.5 Standard of Performance. The SWSWA shall not subcontract out any portion of the services to be performed under this Agreement without the prior written approval of the TSC, which shall not be unreasonably withheld. Any entities transporting recyclables to market shall not be considered subcontractors for purposes of this Agreement.
- 8.6 Force Majeure. Neither party shall hold the other party, nor any of the other party's agents, employees or contractors, liable for any loss or damage due to uncontrollable forces such as fire, theft, storm, war, or other forces majeure, which by exercise of due diligence and foresight could not reasonably have been foreseen.
- 8.7 Applicable Law. This Agreement shall be construed according to the laws of the State of New Mexico.
- 8.8 Non-Assignment. The SWSWA may not assign this Agreement or any privileges or obligations herein without the written approval of TSC, which shall not be unreasonably withheld.
- 8.9 Invalidity of Prior Agreements. This Agreement supersedes all prior contracts and agreements, written or verbal, which may exist between the parties with reference to said services. It cannot be modified or changed by any verbal promise by whosoever made; nor shall any written modification of it be binding on the either party until said modification or change is approved in writing by both parties.
- 8.10 Breach of Agreement. Any event of non-performance of the terms and conditions of the Agreement shall be considered a breach. In the event of non-performance by either party, the party alleging breach shall give the other party notice by certified mail, return receipt requested at the address set forth below. If the event resulting in non-performance is not corrected by the other party within 30 days from the date of mailed notice, it shall be cause to terminate this Agreement.

8.11 Reduction of Compensation for Substandard Performance. The Compensation of the SWSWA by the Town as described in Section 6 herein shall be reduced for the month invoiced if SWSWA fails to maintain a 95% performance level. Performance shall mean the collection of poorly placed curbside recycling bin at normal collection times. Any performance level below 95% shall cause a reduction of compensation paid equal to the percentage of performance below the 95% baseline performance.

8.12 Notices. Any notices required under this Agreement shall be made in writing, postage paid to the following addresses:

TSC: Town of Silver City
Attn: Town Manager- Finance Director
P.O. Box 1188
Silver City, NM 88062

SWSWA: Southwest Solid Waste Authority
Attn: Manager
P.O. Box 2617
Silver City, NM 88062

8.13 Indemnity. Each party shall indemnify and hold harmless the other from any claim, cost, liability, cost, liability or loss arising out of its own negligence.

8.14 Validity of Provisions. If any provision of this Agreement shall be declared illegal, void, or unenforceable, the other provisions shall not be affected but shall remain in full force and effect.

8.15 Litigation. Any litigation arising under this Agreement or relating to it shall be filed in the 6th Judicial District County, County of Grant, and State of New Mexico. In addition to other relief, the prevailing party shall be entitled to reimbursement from the other party for its attorney's fees and related litigation costs.

SECTIONS 9. EFFECTIVE DATE. This contract upon signature by both parties for the term specified above.

TSC:

SWSWA:

BY: _____

BY: _____