

**COUNCIL OF THE
VILLAGE OF HIGHLAND HILLS**

ORDINANCE NO. 2024-51

For the September 12, 2024
Council Meeting

Introduced by: Mayor Michael L. Booker

Supported by:

**AN ORDINANCE RECOMMENDING ACCEPTANCE OF THE BID OF WASTE
MANAGEMENT OF OHIO, INC. AND AUTHORIZING THE MAYOR TO ENTER
AND EXECUTE AN AGREEMENT FOR RECYCLING PROCESSING SERVICES,
AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Resolution No. 2024-22, The Village of Highland Hills participated in the Consortium, organized by the Cuyahoga County Solid Waste District, comprising the communities of Beachwood, Highland Hills, Lyndhurst, Moreland Hills, Pepper Pike, Solon, University Heights and Woodmere to request bids for the processing of recyclables collected within the participating communities; and

WHEREAS, on behalf of the Consortium, the Cuyahoga County Solid Waste District advertised an Invitation to Bid for Recycling Processing Services in The Plain Dealer on June 5, 2024 and June 6, 2024; and

WHEREAS, on July 9, 2024, bids were received from four (4) companies and publicly opened; and

WHEREAS, on July 16, 2024 representatives from the consortium communities met to review the bids and select the lowest and best bidder; and

WHEREAS, following the bid review, the Consortium determined that Waste Management of Ohio, Inc. (WM) submitted the lowest and best bid and therefore recommends a contract award to Waste Management of Ohio, Inc. (WM) for recycling processing services for the term to commence October 1, 2024.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF HIGHLAND HILLS, OHIO:

Section 1: Council hereby approves the recommendation of the Consortium to select Waste Management of Ohio, Inc. (WM) as the Successful Contractor to provide recycling processing services for the Village of Highland Hills.

Section 2: Council hereby authorizes the Mayor to execute and deliver to Waste Management of Ohio, Inc. (WM) a copy of this Ordinance, which will serve as a Notice of Award, and an

Agreement for Recycling Processing Services to be signed and returned to the attention of Mayor Michael L. Booker.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Revised Code.

Section 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, welfare and safety of the Village of Highland Hills, and for the orderly operation of the Public Works Department and therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

Passed in Council this 12th day of September, 2024.

First Reading ✓ Second Reading _____ Third Reading _____
Vote: Pride ✓ yea ___ nay _____ Greene ✓ yea ___ nay _____ Mills ✓ yea ___ nay _____
McManus ✓ yea ___ nay _____ Wright ✓ yea ___ nay _____

Cassandra Pride
Cassandra Pride
President of Council

9/12/24
Date

Attest: Margaret Sikon
Margaret Sikon, Clerk of Council

9/12/24
Date

Filed with the Mayor: ✓

9/13/24
Date

Approved By: [Signature]
Michael L. Booker, Mayor

9/13/24
Date

**AGREEMENT FOR
RECYCLING PROCESSING SERVICES**

THIS AGREEMENT (the “Agreement”) for Recycling Processing Services by the Village of Highland Hills is entered into by and between the Village of Highland Hills, a municipal corporation in the County of Cuyahoga, State of Ohio (the “City/Village”) and Waste Management of Ohio, Inc. (the “Contractor”).

W I T N E S S E T H

WHEREAS, pursuant to Resolution No. 2024-22, the City/Village is authorized to participate in a consortium to obtain Proposals for Recycling Processing Services; and which authorized the Cuyahoga County Solid Waste District to issue an Invitation to Bid on behalf of the Consortium; and,

WHEREAS, following publication of the Invitation to Bid in the Plain Dealer on June 5, 2024 and June 6, 2024 and the evaluation of the Bids, the Consortium selected the Contractor as the Successful Contractor and recommended each Community enter into an Agreement for Recycling Processing Services with the Contractor; and,

WHEREAS, the City/Village has considered the Bid and recommendation of the Consortium; and the City/Village, pursuant to Ordinance 2024-46 approved the Contract and authorized Mayor Michael L. Booker to execute the Contract by and on behalf of the City/Village, and the City/Village has received the required executed original and copies from the Contractor.

NOW THEREFORE, in consideration of the mutual promises and obligations contained herein, the City/Village and the Contractor agree as follows:

ARTICLE 1: DEFINITIONS

The capitalized terms used herein are defined in **Exhibit A: Definitions**

ARTICLE II: TERM AND RENEWAL TERMS

This Agreement shall be effective on October 1, 2024, or upon the date last signed below whichever is later and shall terminate on September 30, 2026. Following the initial term of the Agreement, the City/Village may, by mutual agreement, renew and extend the Agreement for two (2) consecutive one-year terms ending on September 30, 2027 and September 30, 2028, respectively. The City/Village shall provide written notice to the Contractor of the City/Village’s desire to renew and extend this Agreement on or before May 15, 2026 and May 15, 2027, respectively, and the Contractor shall provide written consent to the City/Village to renew and extend the Agreement on or before June 1, 2026 and June 1, 2027, respectively.

ARTICLE III: STATEMENT OF WORK

During the term of this Agreement, the Contractor will perform the services set forth in this **Article III** of this Agreement and also set forth in the Invitation to Bid and the Contractor's Bid which are incorporated herein by reference including, but not limited to the provision of all labor, materials, equipment, management, facilities, record keeping, and billing related to the provision of services. Such services will be performed throughout the term of this Agreement. The Contractor agrees to perform all services hereunder in a safe and workmanlike manner, and in full compliance with all applicable laws, regulations, and ordinances of any federal, state or local governmental entity. The Contractor represents and warrants that all facilities used in the performance of this Contract are, and shall remain, properly permitted, licensed and available to the City.

1. Recycling Processing Services

- a. Receipt for Recyclable Materials. The Contractor is responsible for receiving all Recyclable Materials delivered by the City/Village at the Receiving Facility or Material Recovery Facility (MRF). The Contractor must receive the vehicles in such a manner so as to allow the vehicles to unload and return to service in a timely fashion. The Contractor must weigh all Recyclable Materials delivered and provide a weight ticket to the driver or an electronic scale ticket to the applicable City/Village. The Recyclable Materials will consist of household Recyclables the City/Village collects through their residential single stream Recycling program. The following materials shall be processed: mixed paper, cardboard, metal cans, glass and plastic bottles and jugs. The Contractor may offer to process additional materials. All materials to be processed by the Contractor, along with their end markets, shall be identified in **BID FORM 3**.

All communities collect loose Recyclables except for Pepper Pike who uses blue bags. The City of University Heights will be converting their collection system from that of bagged recyclables to loose at the curb in a cart. In the event that Pepper Pike implements a recycling collection system where the materials are loose (not bagged), the Contractor will offer the current Market Rate Calculation for Recycling Processing Services set forth in **BID FORM 8** to their community.

Please note that Pepper Pike and University Heights operate cardboard and paper drop-offs. See the requirements for containers services below.

- b. Receiving Facility Services. The Contractor must own and operate a facility that is located within a reasonable driving distance from the City/Village to receive Recyclables delivered by the City/Village. The Receiving Facility may be the actual MRF, or a transfer facility needed to consolidate materials for shipment to a MRF. Reasonable driving distance is defined as an approximate thirty (30) minute drive each way from the City/Village. The Contractor is advised that distance, convenience of access routes, and turnaround time at the Receiving Facility was considered by the City/Village as part of the determination of the Successful Recycling Company. The Receiving Facility must meet the following minimum requirements:
 - i. The Receiving Facility must have a truck scale and record-keeping system in order to weigh and record the tonnage of Recyclables delivered by the City/Village. Scale tickets must be provided to the driver of each load delivered or an electronic scale ticket must be sent to the applicable City/Village and will serve as verification of tonnage for reporting

and payment purposes.

- ii. The Receiving Facility must have a truck staging area for dumping loads and adequate equipment to assist with the unloading of Recyclables from City/Village vehicles as needed.
 - iii. The Receiving Facility must be staffed and open to receive deliveries from 7:00 a.m. to 4:00 p.m. Monday through Friday, and from 7:00 a.m. to 4:00 p.m. on the Saturday after a week with a Holiday.
- c. Recycling Processing Services. The Contractor must have the necessary Recycling Facilities, equipment, capacity, management, labor, and industry experience needed to process and market the Recyclables delivered by the City/Village as detailed below.
- i. The Contractor must have a Material Recovery Facility to sort and prepare the Recyclables for sale to recycling markets and must be able to provide, or arrange for, the transport of all processed Recyclables to recycling markets.
 - ii. The Contractor must have established relationships with recycling markets that are sufficient to ensure that the Recyclable Materials delivered by the City/Village to the Contractor are Recycled during all market conditions. Upon request by the District or the City/Village, the Contractor must identify the companies to which they sell the Recyclables and provide verifiable information that the Recyclable Materials delivered to the Contractor by the City/Village are being continuously delivered to a recycling market.
 - iii. The Contractor must perform a composition analysis of the Recyclable Materials for the City/Village for the purpose of determining Contamination levels and Recyclable Material percentages (**BID FORM 8 – Pricing Sheet (2 of 2)**) within the first 90 days of the Contract and annually thereafter prior to the anniversary date of the Contract. The City/Village will require no more than one composition study to be performed annually. The study shall be performed on a representative sample of the Recyclable Material delivered by City/Village at the Contractor's expense. The procedure for conducting the physical analysis of the Recyclables will be agreed upon between the Contractor and the City/Village. This data will be used to complete the update of **BID FORM 8 – Pricing Sheet (2 of 2)**. On the day that the composition analysis is conducted, the web site RecyclingMarkets.Net or the Contractor's preferred market index (see below), will be utilized to document the applicable commodity pricing in **BID FORM 8 – Price Sheet (2 of 2): Market Rate Calculation for Recycling Processing Services**. If utilized, the Contractor's preferred market index must be made available for the City/Village to access at any time. A printed copy of the pricing sheet utilized to create the monthly invoice must accompany the invoice for the City/Village.

<https://www.recyclingmarkets.net/secondarymaterials/prices.html?cid=3&city=CHICAGO+%28Midwest+%2F+Central%29#prices>
 - iv. The composition analysis and documentation of commodity pricing is to be completed as outlined in the prior paragraph. The price resulting from updating **BID FORM 8 –**

Pricing Sheet (yellow boxes in BID FORM 8) will remain in effect until 9-30-2025. Prior to 9-30-2025, the process of performing a composition analysis, updating the composition percentages and commodity market values, and calculating an updated price for Recycling Processing Services will be completed. This process will be repeated prior to 9-30-2026, 9-30-2027, and 9-30-2028 respectively. The remaining individual commodity prices shall be updated by the Contractor monthly and reflected as an updated table accompanying the monthly invoice to the City/Village. The procedure for conducting the physical analysis of the Recyclables will be agreed upon between the Contractor and the City/Village .

2. Container Services

The Contractor must have the ability to provide container and hauling services for any Contracting Community that requests this service. Container service may be requested for the collection of OCC and Mixed Paper. Communities that currently use containers is shown on **Table 2**.

Table 2: Container Services for OCC and Mixed Paper Recycling

Consortium Member	Container Service
Beachwood	No current service. May want to add OCC. The City of Beachwood did not use any open top containers at all for anything last year.
Highland Hills	No current service. Highland Hills has (2) recyclable 8-yard containers each pulled once per week.
Independence	No current service. Do not utilize large containers for collection of recyclables.
Lyndhurst	No current service.
Moreland Hills	No current service
Pepper Pike	40- yard for OCC picked up approx. 3 x / month (on-call service).
Solon	Option to rent as needed. 30-yard for OCC and paper. Solon doesn't use any of the containers on the Solid Waste or Recycling bid.
University Heights	30-yard for OCC
Woodmere	No current service. Woodmere does not have any containers for any solid waste or recycling.

3. Record-Keeping and Billing

The Contractor must maintain a record-keeping system to record the tonnage of Recyclables received from the City/Village. The City/Village must receive a monthly statement and invoice documenting the tonnage of Recyclables delivered and the payment due. Invoices must be received by the City/Village within thirty (30) days following the last day of the month of service. Invoices must be accompanied by weight slips from a certified scale documenting the net weight of the Recyclables delivered to the Receiving Facility, the date of delivery, and the vehicle number for the City/Village. Invoices will be due and payable within thirty (30) days of receipt of the invoice and all required documentation.

No fuel price adjustment or surcharges may be applied during the term of this Agreement.

ARTICLE IV: STATEMENTS, PAYMENTS, AND INVOICES

During the Term, the City/Village agrees to pay the Contractor in the following amounts as set forth in **BID FORM 8**, which includes all direct and indirect costs related to Recycling Processing Services and all Governmental Fees applicable in the State of Ohio.

1. Permissible Pass-Through Fees:

Any and all Governmental Fee *increases* incurred for disposal of Solid Waste at a licensed Disposal Site may be passed on by the Contractor to the City/Village. Any and all Governmental Fee *decreases* shall be passed on by the Contractor to the City/Village. A Governmental Fee is a fee applied to the disposal of Solid Waste levied by the United States Federal Government, State of Ohio, County, Township, Municipality, or Solid Waste District. The Contractor shall give the City/Village and Residents as much notice as is practicable before adjusting for Governmental Fee modifications.

2. Record-Keeping – Daily, Monthly, and Annual Report:

The Contractor must submit a monthly record of the total tonnage of Recyclable Materials managed for the preceding month within ten (10) days of the preceding month and submit this with the monthly invoice to the City/Village. The Contractor shall also submit a year-end annual report. The year-end report will be due within thirty (30) days of the end of the reporting year and include a month-by-month accounting of all Recyclable Materials delivered to the Receiving Facility.

3. Billing Service and Payment

The composition analysis and documentation of commodity pricing is to be completed as outlined in **Article III: Statement of Work**. The price resulting from updating **BID FORM 8 – Pricing Sheet** (yellow boxes in **BID FORM 8**) will remain in effect until 9-30-2025. Prior to 9-30-2025, the process of performing a composition analysis, updating the composition percentages and commodity market values, and calculating an updated price for Recycling Processing Services will be completed. This process will be repeated prior to 9-30-2026, 9-30-2027, and 9-30-2028 respectively. The remaining individual commodity prices shall be updated by the Contractor monthly and reflected as an updated table accompanying the monthly invoice to the City/Village. The procedure for conducting the physical analysis of the Recyclables will be agreed upon between the Contractor and the City/Village.

<https://www.recyclingmarkets.net/secondarymaterials/prices.html?cid=3&city=CHICAGO+%28Midwest+%2F+Central%29#prices>

The Contractor will invoice the City/Village for services rendered within ten (10) days following the end of the month. The invoice will be sent to City/Village Hall at the attention of Marcellis O’Neal, the Assistant Finance Director.

4. Fuel Adjustments

The Contractor will not apply a Fuel Price Adjustment at any time during the term of this Agreement.

ARTICLE V – PERFORMANCE BOND AND INSURANCE

1. Performance Bond.

Within ten (10) days after receiving the Notice of Award, the Contractor will furnish a Performance Bond in the amount of [INSERT AMOUNT] executed by a duly authorized surety, acceptable to the City/Village in all respects, or such other security acceptable to the City/Village. The Performance Bond will be issued annually for each Contract year during the term of the Contract. The entire cost of the bond(s) will be paid for by the Contractor.

2. Insurance.

The Contractor will at all times during the Contract maintain in full force in effect the insurance coverages listed below, including contractual liability coverage arising hereunder. All insurance will be issued by insurers and for policy limits acceptable to the City/Village, and the Contractor will furnish the City/Village certificates of insurance or other evidence satisfactory to the City/Village evidencing the required insurance has been procured and is in force. The Contractor will upon written request from City/Village provide City/Village with original copies of the insurance certificates associated with such policies.

The City/Village and its council members, officers, representatives, agents, and employees will be additional insured's on the Contractor's Commercial General Liability, Employers Liability, Automobile Liability, and Excess/Umbrella Liability insurance; the extent of the additional insured coverage afforded will be no less broad than that provided under ISO Form CG 20 26 11/85 for General Liability and Umbrella/Excess Liability, ISO Form CA 20 48 02/99 for Auto Liability, or substitute forms providing equivalent coverage. The additional insured coverage afforded under Contractor's policies will include both ongoing operations (work in progress) and completed operations (completed work). The insurance coverage to be purchased and maintained by Contractor as required by this paragraph will be primary to any insurance, self- insurance, or self-funding arrangement maintained by City/Village which will not contribute therewith, and there will be severability of interests under the insurance policies required hereunder for all coverage's provided under said insurance policies and otherwise provide cross liability coverage.

The Contractor will be responsible for the payment of any and all deductible(s) or retention(s) under the policies of insurance purchased and maintained by it pursuant to this Contract. To the extent permitted by law, all or any part of any required insurance coverage may be provided under an approved plan or plans of self-insurance. The coverage's may be provided by the Contractor's parent corporation.

Insurance Coverage Requirements	Minimum limits of liability, terms, and coverage
Commercial General Liability	\$1,000,000 bodily injury and property damage each occurrence, including advertising and personal injury, products and completed operations. \$2,000,000 products/completed operations annual aggregate. \$2,000,000 general annual aggregate
Auto Liability Insurance	\$1,000,000 each person, bodily injury, and property damage, including owned, non-owned and hired auto liability ISO Form CA 9948, or a substitute form providing equivalent coverage, is required
Employer's Liability	\$1,000,000 bodily injury by accident, each accident \$1,000,000 bodily injury by disease, each employee \$1,000,000 bodily injury by disease, policy aggregate
Umbrella/Excess Liability	\$5,000,000 each occurrence and annual aggregate Underlying coverage shall include General Liability, Auto Liability, and Employers Liability
Pollution Legal Liability	\$1,000,000 per claim \$1,000,000 annual aggregate covering damages or liability arising or resulting from Contractor's services rendered, or which should have been rendered, pursuant to this Contract
Property	Contractor shall purchase and maintain property insurance covering machinery, equipment, mobile equipment, and tools used or owned by Contractor in the performance of services hereunder. City/Village shall in no circumstance be responsible or liable for the loss or damage to, or disappearance of, any machinery, equipment, mobile equipment, and tools used or owned by Contractor in the performance of services hereunder.

3. Workers' Compensation Coverage.

Prior to commencing work under this Agreement, the Contractor shall furnish to the City/Village satisfactory proof that the Contractor has paid current premiums for workers' compensation coverage for all persons employed in carrying out the work covered by this Agreement. Such proof must be included as **Exhibit B**. The Contractor is responsible for forwarding updated proof of payment for workers' compensation coverage on an ongoing basis, as such proofs expire. The Contractor shall hold the City/Village free and harmless for any and all personal injuries of all persons performing work for the Contractor under this Agreement.

ARTICLE VI – INDEMNIFICATION

1. Environmental Indemnity.

The Contractor will indemnify, save, and hold the City/Village, its members of council, employees, agents, officers and consultants (each an “Indemnatee”) harmless from and against any and all liabilities, claims, demands, causes of action, penalties, judgments, forfeitures, liens, suits, costs and expenses whatsoever (including those arising out of death, injury to persons, or damage to or destruction of property), and the costs and expenses incident thereto which any Indemnatee may incur, become responsible for, or pay out for or resulting from Contamination of or adverse effects on the environment, or any violation of governmental laws, regulations, or orders, in each case, to the extent caused by the Contractor’s negligence or willful misconduct relating to the performance of the work hereunder. Any Indemnatee will promptly notify the Contractor of any assertion of any claim against it for which it is entitled to be indemnified hereunder, will give the Contractor the opportunity to defend such claim, and will not settle such claim without the approval of the Contractor. This section will survive the expiration or earlier termination of this Agreement.

2. General Indemnity.

The Contractor will indemnify, save, and hold the City/Village, its members of council, employees, agents, officers and consultants (each an “Indemnatee”) harmless from and against any and all liabilities, claims, demands, causes of action, penalties, judgments, forfeitures, liens, suits, costs and expenses whatsoever (including those arising out of death, injury to persons, or damage to or destruction of property), and the cost and expenses incident thereto (including reasonable attorneys’ fees), which any Indemnatee may hereafter incur, become responsible for, or pay out for or resulting from the performance of the services under this Agreement, provided that any such claim, damage, loss, or expense: is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting there from; and is caused in whole or in part by any negligent act or omission of the Contractor, anyone directly or indirectly employed by the Contractor, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation will not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section. Any Indemnatee will promptly notify the Contractor of any assertion of any claim against it for which it is entitled to be indemnified hereunder, will give the Contractor the opportunity to defend such claim and will not settle such claim without the approval of the Contractor. This section will survive the expiration or earlier termination of this Agreement.

3. Indemnity Not Limited.

In any and all claims against the City/Village, its employees, agents, officers, and consultants, by any employee of the Contractor or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor under workers’ compensation acts, disability benefit acts, or other employees’ benefit acts. Nothing herein shall be construed as creating any personal liability on the part of any employee, agent, officer, or consultant of the City/Village.

ARTICLE VII: PERFORMANCE ASSURANCE; BREACH AND TERMINATION

1. Performance Assurance; Dispute Resolution.

The Contractor agrees to immediately report to the City/Village any notice or order from any governmental agency or court or any event, circumstance, or condition that may adversely affect the ability of the Contractor to fulfill its obligations hereunder. If upon receipt of such report or upon the City/Village's own determination that any such notice, order, event, circumstance, or condition adversely affects the ability of the Contractor to fulfill its obligations hereunder, the City/Village will have the right to demand adequate assurances from the Contractor that the Contractor is able to fulfill its obligations hereunder. Upon receipt by the Contractor of any such demand, the Contractor, within fourteen (14) days will submit to the City/Village its written response. In the event that the City/Village does not agree that the Contractor's response will provide adequate assurance of future performance to the City/Village, then the City/Village may, in the exercise of its sole discretion, seek substitute or additional sources for the delivery of all or a portion of the services provided by the Contractor, declare the Contractor is in default of its obligations under this Agreement or take such action the City/Village deems necessary to assure that the services will be available to the City/Village.

2. Breach of Contract; Termination.

Upon the material failure of the Contractor to comply with the terms or conditions of this Agreement, the City/Village may terminate the Agreement in the following manner: The City/Village shall provide notice to the Contractor, by certified mail, return receipt requested, of the alleged material failure of the Contractor to comply with the Agreement. The Contractor shall have ten (10) days to provide the City/Village with written assurance, which can be substantiated by reasonable proof, that the material failure(s) issues identified in the notice have been corrected. In the event that the Contractor fails to provide such written assurance and substantiating proof within the ten (10) day period for corrective action, or there are ongoing or continuing failures to perform the services, the City/Village may terminate this Agreement. Any such termination shall not take effect until the City/Village is able to secure alternate or substitute performance. The City/Village may commence the process to obtain an alternate or substitute service provider for the services following the failure of the Contractor to cure the alleged material failure to the satisfaction of the City/Village, in the exercise of the reasonable discretion of the City/Village.

3. Surety or City/Village Cover in the Event of a Material Failure.

In the event of termination, the Contractor's surety shall have the right to take over and perform under the Agreement. However, if the surety does not commence performance, the City/Village shall take over performance by contract or otherwise at the expense of the surety. In the event there is no surety-provided cover, or the City/Village is unable to provide or obtain cover, the effective termination date may be delayed by the City/Village until the City/Village completes the process of obtaining a substitute service provider of the services. In such event, the Contractor shall continue to perform its responsibilities under this Agreement until the effective date of termination. Material failure includes, but is not limited to, the City/Village's receipt of more than twenty (20) bona fide complaints in any given month regarding the services. A bona fide complaint is a complaint that the City/Village has investigated and determined that the complaints represent failures of the Contractor to provide the required services. Material failure also includes the failure of the Contractor to provide the Performance Bond and proof of insurance as required, or payment of the City/Village income taxes.

4. Termination for Change of Control of Contractor.

The award of this Agreement is based on the ownership and control of the Contractor as of the time of the award. Such ownership and control are a material term in such an award. If during the term of this Agreement, the Contractor shall be merged or sold, the City/Village shall have the right, in its sole discretion, to terminate this Agreement upon thirty (30) days written notice of termination to the Contractor. In the event of such notice of termination, the Contractor shall continue to perform under the terms of this Agreement until such time as the City/Village is able to obtain alternate or substitute service.

5. Force Majeure.

Performance hereunder may be suspended where made impracticable due to events beyond the reasonable control of a Party required to perform, including without limitation, acts of God, war, riot, labor unrest, or acts of superior governmental authority.

ARTICLE VIII. MISCELLANEOUS

1. Entire Agreement

This Agreement, the Invitation to Bid, Bidder's Bid Forms, and all attachments hereto represent the entire agreement of the parties as to its subject matter and supersedes all other prior written or oral understandings. This Agreement may be modified or amended only by writing signed by both parties.

2. Notices

Written notice required to be given under this Agreement will be sufficient if delivered personally or mailed by certified mail with return receipt requested with proper postage to the Contractor, attention _____, and to the City/Village, attention Mayor Michael L. Booker at their respective addresses set forth above. Any change of address must be given in like manner.

(INSERT CONTACT NAMES, ADDRESSES HERE)

Village of Highland Hills
3700 Northfield Road
Highland Hills, Ohio 44122
Attention: Mayor Michael L. Booker

3. Waiver

No waiver, discharge, or renunciation of any claim or right of the City/Village or the Contractor arising out of a breach or alleged breach of this Agreement by the City/Village, or the Contractor will be effective unless in writing signed by the City/Village and the Contractor.

4. Applicable Law

This Agreement will be governed by, and construed in accordance with, the laws of the State of Ohio. Additional Cities/Villages located within the Solid Waste Management District may "opt-in" at a later date without the necessity of a further competitive bidding process, in accordance with Ohio Revised Code section 9.48.

5. Unenforceable Provision

If any provision of this Agreement is in any way unenforceable, such provision will be deemed stricken from this Agreement and the parties agree to remain bound by all remaining provisions. The parties agree to negotiate in good faith a replacement provision for any provision so stricken.

6. Binding Effect

This Agreement will be binding upon and will inure to the benefit of, and be enforceable by and against, the respective successors and assigns of each party hereto. Provided, however, that the Contractor may not assign this Agreement or any of the Contractor's rights or obligations hereunder without the express written consent of the City/Village, which consent may be withheld for any reason or for no reason.

7. Rights or Benefits

Nothing herein will be construed to give any rights or benefits in this Agreement to anyone other than the City/Village and the Contractor and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City/Village and the Contractor and not for the benefit of any other party.

IN WITNESS WHEREOF, the City/Village and the Contractor, acting herein by their duly authorized representatives, have hereunto set their hands this day and year first above written.

VILLAGE OF HIGHLAND HILLS

_____	_____
Michael L. Booker	MAYOR
_____	Title
Signature	9/13/24
	Date

Approved by City/Village Attorney or

Law Director

_____	_____
Thomas P. O'Donnell	9/12/24
Signature	Date

WASTE MANAGEMENT OF OHIO, INC.

_____	_____
Name	Title
_____	_____
Signature	Date

CONTRACT EXHIBIT A: DEFINITIONS

“Bid” means a proposal submitted to the Consortium in response to the Invitation to Bid as described herein.

“Bid Attachment” means the supplemental information required by the Consortium to be submitted with the Bid Forms.

“Bid Bond” means a bond issued in the name of each individual Consortium Community in the amount of \$2,000 guaranteeing that if the Bid is accepted, a Contract will be entered into by the Bidder and each Community.

“Bidder” means a person, partnership, joint venture, or corporation submitting a Bid to the Consortium in response to the Invitation to Bid to provide Recycling Processing Services.

“Bid Documents” means the documents prepared and furnished by the District on behalf of the Consortium. Bidders are to use the Bid Documents in the submission of all Bids. Bid Documents include the Legal Notice, Instructions to Bidders, Form of Contract, Bid Forms, and all attachments thereto.

“Bid Form” means the forms provided by the Consortium in the Bid Documents on which all Bids must be submitted.

“City/Village” means the communities participating in this Invitation to Bid and the Contracting Community if used in the Form of Contract

“Consortium” and **“Consortium Communities”** means the Cities and Villages participating in this Invitation to Bid that have passed resolutions authorizing participation.

“Consortium Resolutions” means the resolutions of the legislative bodies of the Contracting Communities authorizing participation in the Consortium.

“Container Services” means the provision by the Contractor of rear or front load, roll-off containers, and carts for the collection of Recyclables at various municipal facilities and the regularly scheduled emptying of the containers as indicated in Table 2 of the Invitation to Bid.

“Contamination” or **“Contaminated Recyclables”** means the presence of Solid Waste, Garbage, Refuse, Residual Solid Waste, or any Non-Recyclable Materials that are commingled with Recyclable Materials and hinder or prevent the processing of the Recyclable Materials by the Contractor at the MRF.

“Contaminated Loads” means loads of materials delivered to the MRF that contain a level of Contamination in such amounts as to hinder or prevent the processing of the load.

“Contract” and **“Form of Contract”** means the agreement entered into by and between the Successful Contractor and the Contracting Community.

“Contracting Community” means the Consortium Community that enters into an agreement with the Successful Contractor.

“Contractor” means a person, partnership, joint venture, or corporation that will provide the Recycling Processing Services.

“Disposal Site” means a Solid Waste or refuse depository including but not limited to Solid Waste Landfills, Solid Waste Transfer Stations, incinerators, and waste processing/separation centers licensed, permitted, or approved to receive for processing or final disposal of Refuse and Dead Animals by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals.

“District”, “District Offices” and “Solid Waste District” means the Cuyahoga County Solid Waste District with offices located at 4750 East 131 Street, Garfield Heights, OH 44105.

“Holiday” means New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

“Form of Contract” means the form of the contract to be entered into by each Contracting Community and the Successful Bidder which contains the general terms and conditions required.

“Governmental Fees” means all federal, state, and local fees, taxes and assessments upon the transfer and disposal of Solid Waste.

“Invitation to Bid” means the request of the Consortium for Recycling Processing Services issued by the Cuyahoga County Solid Waste District.

“Notice of Award” means written notification that a Bid has been accepted by a Contracting Community.

“Notice to Proceed” means written notice from a Contracting Community to commence the Recycling Processing Services.

“Performance Bond” means the bond insuring performance of the Recycling Processing Services to be submitted to each Contracting Community upon Contract award in substantially the same form as that included in the Bid Documents.

“Receiving Facility” means the facility proposed by a Contractor to receive deliveries of Recyclables from the Consortium Communities. This may or may not be the facility where recyclable materials are processed.

“Recyclables” and “Recyclable Materials” means residential mixed paper, cardboard, aluminum, steel, and bi-metal cans; glass bottles and jars; and plastic bottles and jugs at a minimum.

“Recycled” and “Recycling” as defined in Chapter 3745 of the Ohio Administrative Code and/or the regulations promulgated thereunder.

“Material Recovery Facility or MRF” means the facility provided by the Contractor that has the adequate capacity, equipment, and labor needed to receive, sort, process, and prepare all commingled

cans, glass, plastic, paper, and cardboard delivered by the Contracting Communities for shipment to a recycled product manufacturer.

“Recycling Processing Services” means all services relating to the receiving, sorting, baling and other handling of Recyclables delivered by the Consortium Communities in order to prepare the Recyclable Materials for shipment and sale to recycling markets to be made into new products.

“Solid Waste” means unwanted residual or semi-solid materials resulting from community, commercial, industrial, and agricultural operations, but excluding earth or material from construction, mining or demolition operations, or other waste materials of the type that would normally be included in demolition debris, non-toxic foundry sand, slag and other substances that are not harmful to public health. Solid waste does not include any material that is an infectious or hazardous waste.

“Successful Contractor” means the Recycling Company selected by the Consortium to provide Recycling Processing Services.

“Term” means the duration of the Contract, including all executed option years.

CONTRACT EXHIBIT B: CURRENT WORKERS' COMPENSATION CERTIFICATE

CONTRACT EXHIBIT C: CORPORATION AFFIDAVIT

CONTRACT EXHIBIT D: PERFORMANCE BOND

To be provided by the Contractor within one week following the execution of the agreement.