

C-16-51

## INTENT TO AWARD

TO: E. L. HARVEY & SONS, INC.  
68 HOPKINTON ROAD  
WESTBOROUGH, MA 01581

FOR: CURBSIDE TRASH REMOVAL – Two (2) year contract

AMT:                    FY17 \$1,030,000.00  
                          FY18 \$1,071,200.00

1. This award is based on competitive bids	YES
2. The above company was the lowest qualified bidder	YES
3. Was this contract a result of a budget item? a) If not, how will the money be raised?	YES
4. Was the bid process required by law? a) If not, under what provisions of law will the contract be awarded? M.G.L. c.30B §1(b)(30).	NO
5. Have all required specifications been complied with?	YES
6. Does the item require a service contract to guarantee proper performance?	YES
7. Are performance bonds required and have they been provided? UPON AWARD OF CONTRACT	YES
8. Are there any penalty clauses either for lack of delivery or performance or for failure to pay on time ?	YES
9. Is this contractor a Methuen businessman?	NO
10. Are there sufficient funds to encumber the expenditure?	YES

SOLID WASTE DISPOSAL/TIPPING FEES      ACCT # 01-3890-5300-39810

6/1/16  
Date

Stephen N. Zann  
Stephen N. Zann, Mayor

EXTENSION #3

AGREEMENT  
BY AND BETWEEN

THE CITY OF METHUEN

AND

E.L. HARVEY & SONS, INC.

IT IS HEREBY AGREED by and between the City of Methuen, a Municipal corporation in the County of Essex and organized under the laws of the Commonwealth of Massachusetts, acting by and through Stephen N. Zanni, Mayor, but without personal liability to himself, (hereinafter called "the City") and E.L. HARVEY & SONS, INC. (hereinafter called "E.L. HARVEY"), to extend the Contract Agreement for full residential curbside trash collection and other related services dated August 22, 2011 as amended on July 1, 2015 by and between said parties as follows:

The parties agree to extend the contract for a period of two (2) years starting July 1, 2016 through June 30, 2018.

Year one – July 1, 2016 to June 30, 2017 the amount of \$ 1,030,000.00 paid in monthly installments.

Year two – July 1, 2017 to June 30, 2018 the amount of \$1,071,200.00 paid in monthly installments.

IN WITNESS WHEREOF, the parties hereto set their hands and seals this 1st day of July, 2016.

E. L. Harvey & Sons, Inc.

James A. Harvey

City of Methuen

Stephen N. Zanni

Stephen N. Zanni, Mayor

Approved as to form:

Anne Randazzo, Asst. City Solicitor

The undersigned, in compliance with City of Methuen Municipal Contract Ordinance Chapter 7, Section 7C, certifies that an appropriation in the amount required for this Contract is available.

Thomas J. Kelly, City Auditor

EXTENSION #2

AGREEMENT  
BY AND BETWEEN

THE CITY OF METHUEN

AND

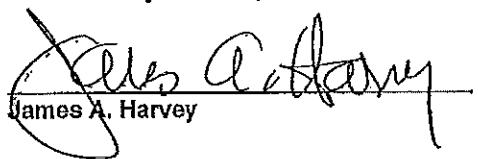
E.L. HARVEY & SONS, INC.

IT IS HEREBY AGREED by and between the City of Methuen, a Municipal corporation in the County of Essex and organized under the laws of the Commonwealth of Massachusetts, acting by and through Stephen N. Zanni, Mayor, but without personal liability to himself, (hereinafter called "the City") and E.L. HARVEY & SONS, INC. (hereinafter called "E.L. HARVEY"), to extend the Contract Agreement for full residential curbside trash collection and other related services dated August 22, 2011 as amended on June 10, 2014 by and between said parties as follows:

The parties agree to extend the contract for the period July 1, 2015 to June 30, 2016 in the amount of \$870,000.00 payable in monthly installments.

IN WITNESS WHEREOF, the parties hereto set their hands and seals this 1st day of July, 2015.

E. L. Harvey & Sons, Inc.

  
James A. Harvey

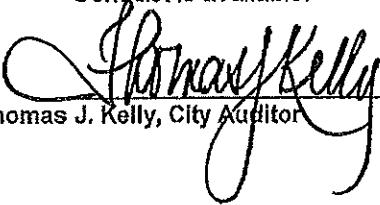
City of Methuen

  
Stephen N. Zanni, Mayor

Approved as to form:

  
Kerry R. Jenness, City Solicitor

The undersigned, in compliance with City of Methuen Municipal Contract Ordinance Chapter 7, Section 7C, certifies that an appropriation in the amount required for this Contract is available.

  
Thomas J. Kelly, City Auditor

EXTENSION #1

AGREEMENT  
BY AND BETWEEN

THE CITY OF METHUEN

AND

E.L. HARVEY & SONS, INC.

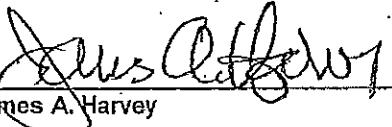
IT IS HEREBY AGREED by and between the City of Methuen, a Municipal corporation in the County of Essex and organized under the laws of the Commonwealth of Massachusetts, acting by and through Stephen N. Zanni, Mayor, but without personal liability to himself, (hereinafter called "the City") and E.L. HARVEY & SONS, INC. (hereinafter called "E.L. HARVEY"), to extend the Contract Agreement for full residential curbside trash collection and other related services dated August 22, 2011 by and between said parties as follows:

**PARAGRAPH 2:** Paragraph 2 of said Agreement, attached hereto; is hereby amended by striking the last two sentences of the agreement and adding therein:

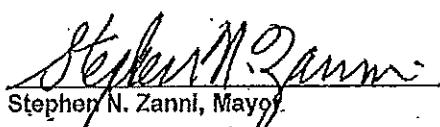
This contract agreement shall be for one (1) year for the period from July 1, 2014 through June 30, 2015 in the amount of \$832,320.00 paid in monthly installments. The contract agreement may be extended for an additional one (1) year at the mutual consent of both parties.

IN WITNESS WHEREOF, the parties hereto set their hands and seals this 10<sup>th</sup> day of June, 2014.

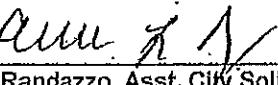
E. L. Harvey & Sons, Inc.

  
James A. Harvey

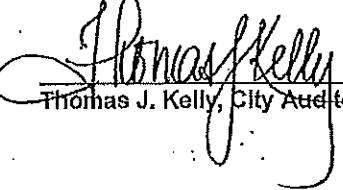
City of Methuen

  
Stephen N. Zanni, Mayor

Approved as to form:

  
Anne Randazzo, Asst. City Solicitor

The undersigned, in compliance with City of Methuen Municipal Contract Ordinance Chapter 7, Section 7C, certifies that an appropriation in the amount required for this Contract is available.

  
Thomas J. Kelly, City Auditor

CLERK CERTIFICATE  
AUTHORIZATION TO SIGN CONTRACT

At a duly authorized meeting of the Board of Trustees/Directors of the

E. L. Harvey & Sons Inc. held on 6/15/2016  
(Name of Organization) (Date)

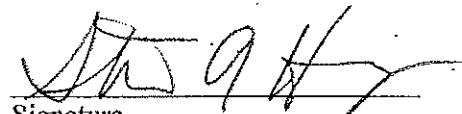
which all the Trustees/Directors were present and waived notice, it was VOTED, that

Benjamin J. Harvey (Name) of this organization, is authorized to execute contracts in the name and behalf of said organization, and affix its corporate seal thereto; and such execution of any contract or obligation in this organization's name on its behalf by such Vice President (Officer) under the seal of the organization shall be valid and binding upon this organization.

I hereby certify that I am the clerk of the E. L. Harvey & Sons and Inc. that Benjamin J. Harvey is the duly elected Vice President (Officer) (Type name)

said organization, and that the above vote has not been amended or rescinded and remains in full force and effect as of this date.

Corporate Seal Here:  
(If no seal, print "none")

  
Signature

Stephen Harvey  
Type Name

Secretary  
Title

6/15/2016  
Date

LEGISLATION ENACTED BY THE COMMONWEALTH OF MASSACHUSETTS,  
EFFECTIVE JULY 1, 1983, REQUIRES THAT THE ATTESTATION BELOW BE SIGNED.

ATTESTATION

Pursuant to M.G.L. Ch. 62C, Sec. 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, I am in compliance with all the laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Benjamin J. Harvey  
\*Signature of Individual  
or Corporate Name (Mandatory)

42609598  
\*\*Social Security Number  
(Voluntary) or Federal Identification Number

By: U  
Corporate Officer  
(Mandatory, if Applicable)

Date: 6/15/2016

Benjamin J. Harvey  
Print name

- \* Approval of a contract or other agreement will not be granted unless this certification clause is signed by the applicant.
- \*\* Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment of obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of Mass. G.L.C. 62C, S. 49A.

## STATEMENT OF GOOD STANDING

In accordance with State and Federal regulations, I, Benjamin J. Harvey,  
hereby certify that we are not disbarred, suspended or otherwise excluded from  
receiving funds or bidding on any project by any State or Federal agency.

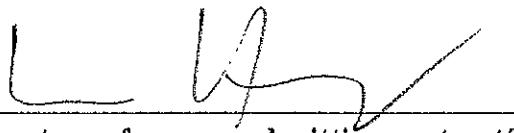
Signature

Date

6/15/2016

## CERTIFICATE OF NON-COLLUSION

The undersigned certifies under the penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business partnership, corporation, union, committee, club or other organization, entity or group of individuals.



Signature of person submitting contract/bid

Benjamin J. Harvey  
Print Name

E.L. Harvey & Sons Inc.  
Name of Business

6/15/2016  
Date

**CITY OF METHUEN  
MASSACHUSETTS  
OFFICE OF THE MAYOR**

This AGREEMENT made and concluded this 22nd day of August in the year two thousand eleven by and between E.L.Harvey & Sons, Inc., 68 Hopkinton Road, Westborough, MA 01581, hereinafter called the Contractor, and the City of Methuen, a municipal corporation established under the laws of the Commonwealth of Massachusetts, acting by and through its Mayor, William M. Manzi III, hereinafter called the City.

WITNESSETH that the Contractor agrees and by these presents does agree for consideration hereinafter contained to provide and deliver the items specified per proposal submitted, said proposal being incorporated herein and made a part hereof. The Contractor agrees to commence full residential curbside trash collection and other related services under this Contract no later than September 1, 2011. This contract is for three years. The City reserves the right to renew this Agreement for two (2), additional one (1) year extensions to the Contract.

The Contractor shall not assign nor transfer this contract, or any part thereof, or any sum due or to become due hereunder without the written consent of the Mayor of said City.

The Contractor further agrees to indemnify and save harmless the said City of Methuen, its officers and agents from all claims and actions of every name and description brought against the said City, or its officers and agents, for or on account of any injury or damage received or sustained by any person, structure or property on account of any act or omission of said Contractor or its servants or agents in the performance of this contract. The Contractor hereby agrees that so much of the money due to under, and by virtue of this agreement as shall be considered necessary by said Mayor may be retained by the said City until all such suits or claims for damages as aforesaid shall have been settled and evidence furnished to the satisfaction of said Mayor; provided, however, that notice of such claims in writing and signed by the claimants shall be previously filed in the office of the City Clerk of said City.

The City, if the Contractor shall fail to furnish and deliver any of said work described as required after notification for same has been given to the Contractor or mailed to him at the business address stated in his/her proposal, acting by the Mayor, may obtain the services at any other source and the City, if the Mayor shall give to the Contractor or mail to him at his business address stated in his proposal a notice signed by the Mayor that the Contractor has failed to carry out the contract to the satisfaction of the Mayor, acting by the Mayor and at this discretion and without further notice may cancel the contract.

IN CONSIDERATION WHEREOF, the said City agrees to pay said Contractor the following price: 1<sup>st</sup> year \$666,665.00  
2<sup>nd</sup> year \$800,000.00  
3<sup>rd</sup> year \$816,000.00  
optional year one (1) \$832,320.00  
optional year two (2) \$848,966.00

Said payment to be made as follows: Upon presentation of invoices providing sufficient information as determined by the DPW Dept., Raymond E. DiFiore or his designee.

This Agreement shall be subject to appropriation for each fiscal year. If no such appropriation is made this Agreement shall be terminated.

Failure on the Contractor's part to comply with the terms of this Agreement, applicable federal and state laws and all rules and regulations promulgated thereunder shall upon reasonable constitute grounds for the City to revoke and otherwise terminate the contract and all obligations of the City hereunder.

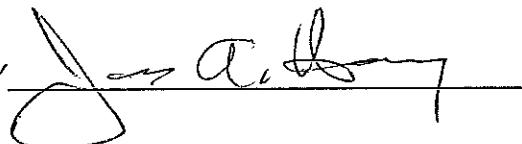
IN WITNESS WHEREOF, the said Contractor acting by and through its official title, and the City of Methuen having caused these presents and an instrument of like tenor to be executed in its name and behalf by its Mayor William M. Manzi, III duly authorized as aforesaid, and its corporate seal to be hereto and to an instrument of like tenor affixed on the day and year first above written.

Signed and Sealed in Presence

E. L. HARVEY & SONS, INC.

Pamela L. Jorberg  
Witness

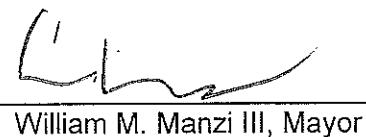
BY



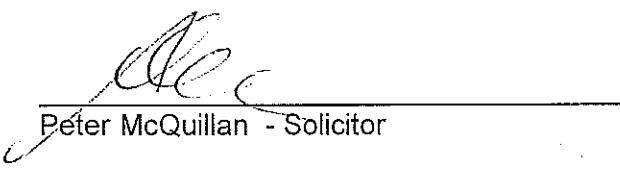
David Adams  
Witness

BY

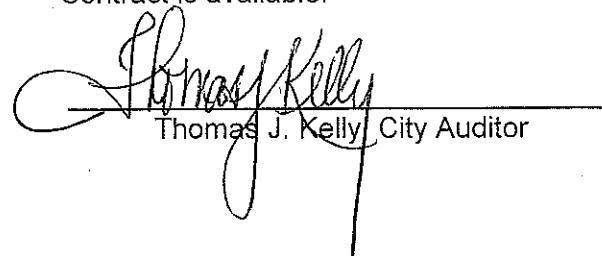
CITY OF METHUEN

  
William M. Manzi III, Mayor

APPROVED AS TO FORM:

  
Peter McQuillan - Solicitor

The undersigned, in compliance with City of Methuen Municipal Contract Ordinance Chapter 7, Section 7C, certifies that an appropriation in the amount required for this Contract is available.

  
Thomas J. Kelly, City Auditor

## TAX COMPLIANCE CERTIFICATION

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

John A. Harvey  
Signature of Individual  
(Mandatory)

By: Corporate Officer or Corporate Name  
(Mandatory, if applicable)

CEO

04-2609598

\*\* Social Security # (Voluntary) or  
Federal Identification Number

\*\* Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of Mass. G.L. c. 62C s. 49A.

## NON-COLLUSION CERTIFICATION

The undersigned certifies under the penalties of perjury that his proposal is in all respects bona fide, fair and made without collusion or fraud with any other person.

E.L. Harvey & Sons, Inc. 8-11-11  
Company Date  
By John A. Harvey CEO  
Name and Title

## CONFLICT OF INTEREST - GOOD AND SERVICES

The contractor in light of the provision of Chapter 268A of the Massachusetts General Laws, covenants that he/she has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the purchase of goods required under this bid/proposal. The contractor further covenants that in the performance of this contract no person having any such interest shall be employed.

John A. Harvey  
Signature of individual submitting bid or proposal

E.L. Harvey & Sons, Inc.

Name of business

PROVIDER

## Attachment II

### City of Methuen

#### Contractor's Cost Proposal

Trash Collection and hauling to the Wheelabrator waste to energy facility located in North Andover:

Year 1 (September 1, 2011 to June 30, 2012): \$666,665  
Six Hundred Sixty-Six Thousand Six Hundred Sixty-Five Dollars

Year 2 (July 1, 2012 to June 30, 2013): \$800,000  
Eight Hundred Thousand Dollars

Year 3 (July 1, 2013 to June 30, 2014): \$816,000  
Eight Hundred Thousand Sixteen Dollars

Option Year\* (July 1, 2014 to June 30, 2015): \$832,320  
Eight Hundred Thirty-Two Thousand Three Hundred Twenty Dollars

Option Year\* (July 1, 2015 to June 30, 2016): \$848,966  
Eight Hundred Forty-Eight Thousand Nine Hundred Sixty-Six Dollars

\* Option Year indicates a possible extension year as indicated in the Invitation For Proposals.

C-12-7

## INTENT TO AWARD

TO: E. L. HARVEY & SONS, INC.  
68 HOPKINTON ROAD  
WESTBOROUGH, MA 01581

FOR: CURBSIDE TRASH REMOVAL (FIRST YR 10 MONTHS)

AMT: THREE (3) YEAR CONTRACT WITH 2 ADDITIONAL OPTIONAL YEARS

1 <sup>ST</sup> YR.	\$666,665.00	Opt. Yr. 1	\$832,320.00
2 <sup>nd</sup> YR.	\$800,000.00	Opt. Yr. 2	\$848,966.00
3 <sup>rd</sup> YR.	\$816,000.00		

1. This award is based on competitive bids YES

2. The above company was the lowest qualified bidder YES

3. Was this contract a result of a budget item? YES  
a) If not, how will the money be raised?

4. Was the bid process required by law? NO  
a) If not, under what provisions of law will the contract be awarded?  
M.G.L. c.30B §1(b)(30).

5. Have all required specifications been complied with? YES

6. Does the item require a service contract to guarantee proper performance? YES

7. Are performance bonds required and have they been provided? YES  
UPON AWARD OF CONTRACT

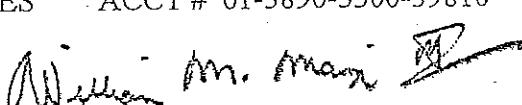
8. Are there any penalty clauses either for lack of delivery or performance or for failure to pay on time? YES

9. Is this contractor a Methuen businessman? NO

10. Are there sufficient funds to encumber the expenditure? YES

SOLID WASTE DISPOSAL/TIPPING FEES ACCT # 01-3890-5300-39810

8/04/2011  
Date

  
William M. Manzi, Mayor

**City of Methuen  
Department of Public Works**

**Invitation For Proposals  
For Solid Waste Collection & Hauling  
Related Services**

The City of Methuen is inviting proposals for the provision of solid waste collection and hauling related services for the initial period anticipated to begin on or about September 1, 2011 and ending June 30, 2014 with possible option years. Proposals must be submitted (one original and three copies) to the City of Methuen, Purchasing Director Suite 303, Searles Building, 41 Pleasant Street, Methuen, MA 01844, and must arrive in a sealed envelope marked, "Proposal(s) for Solid Waste Collection and Hauling Related Services", no later than 11:00AM on Tuesday, August 2, 2011. Proposals must include a written description (Attachment I) of how services will be performed (e.g. number and types of trucks to be used; number of employees per truck) and the cost associated with providing said services (Attachment II).

In addition, written questions concerning this Invitation For Proposals (IFP) may be submitted to the Director of Public Works, Suite 205, Searles Building, 41 Pleasant Street, Methuen, MA 01844 (e-mail: [redifiore@ci.methuen.ma.us](mailto:redifiore@ci.methuen.ma.us)) no later than 11:00AM on Friday, July 22, 2011. Any written questions received and corresponding written responses from the City will be sent to all interested vendors who have received the IFP by 12:00PM on Tuesday, July 26, 2011.

The City of Methuen has a population of 44,055 people according to Census data and currently generates approximately sixteen thousand (16,000) tons of solid waste related material annually through its curbside collection program. Residents receive weekly solid waste service at the curb through a typical five day routing program.

Per Massachusetts General Laws, Chapter 30B, Section 1(b)(30), a contract for the transportation, receipt, processing or disposal of solid waste materials, is exempt from the public bid laws for the Commonwealth of Massachusetts. As such, the City of Methuen, at its own discretion, will select the Contractor that they believe serves the best interest of the City and offers the best all-around package for the provision of solid waste collection and hauling related services the City is seeking to obtain. Because this service is exempt from the bidding laws, the City of Methuen is free to negotiate with whatever firms they so choose in whatever manner they believe is best suited to the City's needs.

All firms responding to this Invitation For Proposals must clearly understand that this is not a formal bid pursuant to the requirements of M.G.L. Chapter 30B. The City of Methuen is utilizing this format in order for all interested firms to provide a proposal(s) based on equal footing so that a more direct comparison can be made between all proposals. The City of Methuen reserves the right to reject any and all proposals, or parts thereof, if deemed to be in the best interest of the City.

Thank you in advance for your interest in working with the City of Methuen.

Sincerely,

Raymond E. DiFiore  
Director of Public Works

## 1.0 INTRODUCTION

### 1.1 *Overview*

The City of Methuen, a municipal corporation located within the County of Middlesex and the Commonwealth of Massachusetts, by its Director of Public Works, seeks proposals from qualified vendors interested in providing Solid Waste Collection and Hauling Related Services. The City has a current population of 44,055 (census data) and 180 miles of City road, and provides solid waste services to approximately 11,992 households, Methuen Housing Authority households, municipal and school buildings and other select locations (henceforth called the "service area"). The selected vendor will provide said services for a period of nearly three years, with anticipated commencement on September 1, 2011 through June 30, 2014, with the potential addition of at least two (2) optional, one (1) year extensions at the total discretion of the City.

Proposals are requested for the weekly collection and transportation of solid waste generated in the service area. Solid Waste collected in the service area will be transported to the nearby Wheelabrator waste to energy facility Delivery Point in North Andover, Massachusetts. Approximately sixteen thousand (16,000) tons of solid waste were collected from the service area in FY11.

Other related solid waste services, including the collection, transportation and disposal of recyclable materials, the collection of yard waste material and the collection and disposal of White Goods and CRT's, are being provided by other vendors or the City and are not part of this IFP process. In addition, the City provides opportunities for residents to appropriately dispose of Household Hazardous Waste items which allows for the safer collection and disposal of solid waste related materials.

By submitting a proposal, said vendor (hereinafter referred to as either the "Contractor" or "Vendor" or "Proposer") agrees to the provisions and responsibilities described in this Invitation For Proposals (hereinafter referred to as the "IFP") and understands the IFP will form a major component of any agreement (hereinafter referred to as the "Contract") between the parties. The term "Contractor" shall include any subcontractor, agent, employee, or servant of the same.

Per Massachusetts General Laws, Chapter 30B, Section 1(b)(30), a contract for the transportation, receipt, processing or disposal of solid waste materials, is exempt from the public bid laws for the Commonwealth of Massachusetts. As such, the City of Methuen, at its own discretion, will select the Contractor that they believe serves the best interest of the City and offers the best all-around package for the collection and hauling related services the City is seeking to obtain relative to solid waste. Because this service is exempt from the bidding laws, the City of Methuen is free to negotiate with whatever firms they so choose in whatever manner they believe is best suited to the City's needs.

All firms responding to this Invitation For Proposals must clearly understand that this is not a formal bid pursuant to the requirements of M.G.L. Chapter 30B. The City of Methuen is utilizing this format in order for all interested firms to provide a proposal(s) based on equal footing so that a more direct comparison can be made between all proposals. The City of Methuen reserves the right to reject any and all proposals, or parts thereof, if deemed to be in the best interest of the City.

### 1.2 *Terms & Payments*

#### 1.2.1 Term of Contract

The contract period shall commence on the day following the last date on which a Contract has been executed (hereinafter referred to as the "Effective Date" of this contract) with service anticipated to begin on September 1, 2011 and will be a three year contract. The Contractor agrees to commence full residential curbside trash collection and other related services under this Contract no later than September 1, 2011 unless a later date is determined by the City. The City reserves the right to add up to at least two (2), additional one (1) year extensions to the Contract.

### 1.2.2 Contract Payments

The City agrees to make twelve (12) payments annually to the Contractor, based upon invoices submitted to the City on a monthly basis. The Contractor agrees that a delay in the commencement of any Contract service, for any reason and caused by either party, or a suspension by the Contractor of any Contract service, or any failure to submit the required supporting documentation with its invoice, shall result in a corollary delay in scheduled payments.

The City accepts and agrees to pay to the Contractor for services delivered under this Contract as described in Contractor's Letter Proposal (Attachment I), Contractor's Cost Proposal (Attachment II) and any related clarification documents to said Proposals. For the purposes of this Contract, and only if the City shall elect to reduce or eliminate the level of a Contract service(s), the Contract price may be reduced proportionate to the scheduled cost of service(s) deleted from the Contract.

The Vendor will be responsible for serving all existing and yet-to-be-built residential units through the Contract period anticipated to end on, or after, June 30, 2014; no additional price allowances will be made to serve units in excess of the 11,992 households or other service area components. In the event that the number of accounts is increased for any reason, including growth, the Contractor agrees to provide all services to such accounts with the agreed upon costs.

Disposal related fees are not part of this IFP as the City will pay such fees for Acceptable Curbside Waste directly to another vendor's Delivery Point.

## 2.0 DEFINITIONS

Acceptable Curbside Waste: means mixed household waste (including trash, garbage and refuse) generated by the City of Methuen, within the City by residents, schools and municipal facilities and having the characteristics of solid waste normally generated through a municipal program.

Bulky Item: shall mean a household item that is too large to fit in a container (trash barrel or bag), such as, but not limited to, a mattress, box spring, couch, carpet (cut in 5 foot lengths to fit in truck, rolled, tied or taped and not exceeding 60 lbs.), lawn furniture, grill (without tank), large plastic toy, plastic pool and a chair.

Cathode Ray Tubes (CRT's): shall mean any intact, broken or processed glass tube used to provide the visual display in televisions, computer monitors and certain scientific instruments.

City: shall mean the City of Methuen, a municipal corporation located within the County of Middlesex and the Commonwealth of Massachusetts.

Condominiums: shall mean a residential unit comprised of multiple dwellings used as a residence, not for commercial purposes, with the units comprising the complex duly registered and recorded

with the Middlesex County of Deeds and also comprising of an association which sets rules and regulation pertaining to the unit's organization, operational costs and having a committee or controlling body.

Construction and Building Debris: shall mean any material resulting from the excavation, construction, renovation, remodeling, repair or demolition to any structure regardless of cause of such operations. Said debris includes items such as wood, beams, shingles, bricks, insulation, plaster, drywall, rebar, masonry, asphalt, concrete, counters, countertops, shower stalls, sinks, radiators, furnaces, earth and gravel.

Containers: shall mean plastic bags and plastic and metal barrels for holding trash. Plastic bags shall have sufficient wall strength to maintain physical integrity when lifted from the top with a total weight including its contents not to exceed fifty (50) pounds. Plastic or metal barrels shall have handles of adequate strength for lifting, tight fitting lids or covers, the mouth of the barrel being equal to or greater in diameter than its base, with a total weight including its contents not to exceed sixty (60) pounds

Contract Documents: shall mean the written agreement between the City and the selected vendor, the Invitation For Proposals, the vendor's proposal and any written clarifications made between said parties.

Contractor: shall mean the corporation, subcontractor, partnership, agent, employee or servant of the same with which the City of Methuen has entered into a contract or agreement to collect, transport and dispose of trash, recyclables and other materials as outlined in the IFP and all related documents. The terms "vendor" and "proposer" shall also have the same meaning as "contractor".

DPW: shall mean the City of Methuen Department of Public Works.

Delivery Point: shall mean the permitted Wheelabrator waste to energy facility located on Holt Road in North Andover, Massachusetts, at which the City and its authorized hauler(s) shall deliver its waste for acceptance and disposal.

Hazardous Waste: shall mean any toxin, chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency, an appropriate agency of the Commonwealth of Massachusetts, or an appropriate department of the City of Methuen as "hazardous". Such wastes include, but are not limited to, paints, thinners, varnishes, cleaning products, pesticides, rat poisons, bathroom cleaners, furniture polish, oven cleaners, motor oil, antifreeze, auto batteries, photo chemicals, brake and transmission fluids, septic tank additives, fire extinguishers, PCB's, lighter fluid, weed killer, explosives, ammunition, fireworks, asbestos, radioactive materials, kerosene, propane, dyes, and mercury bearing wastes such as thermostats, thermometers and fluorescent bulbs.

Household: shall mean a dwelling within the City occupied by a person or group of persons comprising of not more than four residential units or four families. A household shall be deemed occupied when either water or domestic light and power services are being provided thereto. A dwelling, whether of single or multi-level construction, consisting of four or less contiguous or separate single family dwelling units, shall be treated as a household except for commercial apartments.

Recyclables: shall mean those materials that are collected curbside for the purpose of recycling. Said materials shall be in two sorts and include: 1) *mixed paper* (comprised of newspapers, inserts,

magazines, catalogues, office paper, junk mail, paperboard, paperback books, phone books, brown paper bags, and corrugated cardboard (flattened to 3' by 3' or less)) and 2) *containers* (comprised of glass (clear, brown and green) bottles and jars, metal food and beverage cans, aluminum foil and pans, milk and juice cartons and plastic (#1-#7) bottles and jars).

Service Area: shall mean all households, municipal and schools buildings, and related areas identified in this Invitation For Proposals as eligible for receiving trash related services.

Trash: shall mean all garbage, rubbish and solid waste that is not considered recyclable, yard waste, hazardous waste, construction and building debris, a CRT, White Good or an unacceptable waste. The term "solid waste" shall have the same meaning as "trash".

Unacceptable Waste: shall mean hazardous waste, biological waste, asbestos, building and construction debris, agricultural waste, automobile or truck parts such as engines, transmissions and batteries, heavy machinery, tree logs and limbs greater than six inches in diameter, tree stumps and any other materials designated by the United States Environmental Protection Agency, an appropriate agency of the Commonwealth of Massachusetts, or the City of Methuen as an unacceptable waste.

White Goods: shall mean items and appliances employing electricity, oil, natural gas or liquefied gas to preserve or cook food, to wash or dry clothing or to cool or heat air or water. These items include refrigerators, freezers, ovens, stoves, ranges, air conditioners, dishwashers, dehumidifiers, water heaters, clothes washers, and clothes dryers.

Yard Waste: shall mean grass clippings, weeds, grass clippings, garden materials, shrub trimmings, and brush one (1) inch or less in diameter. Yard waste is not considered to be a collectable item and is prohibited from collection or disposal under this contract.

### **3.0 SPECIFICATIONS FOR SOLID WASTE RELATED COLLECTION AND HAULING RELATED SERVICES**

#### **3.1 *Trash Service***

##### **3.1.1 Curbside Household Service**

The Vendor will be responsible for serving all existing and yet-to-be-built households through the end of the Contract. No additional price allowances will be made to serve units in excess of the current household estimate.

Recent data from Methuen City Hall about the households being serviced indicates the approximate household breakdown as follows:

<u>Type of residence</u>	<u>Number of Units</u>
Single Family	10,661
Two family	1,034
Three family	237
Four family	60

As part of the service area to be provided, the vendor also will be responsible for serving residential households that are part of the Methuen Housing Authority (MHA). A list of MHA locations and estimated household count is included as Attachment X.

The collection of trash will be on a weekly basis and will follow the five day, Monday through Friday schedule currently in place. Collections shall begin no earlier than 7:00AM and conclude no later than 4:30PM unless the Contractor has sought and received the approval of the DPW Director or his designee. Collection schedules will shift by one day to accommodate holiday schedules normally observed on weekdays by municipalities (note: trash collection will include Saturday collections during such weeks). The following are to be considered as observed holidays: New Years Day, Martin Luther King Day, President's Day, Patriot's Day, Memorial Day, July Fourth, Labor Day, Columbus Day, Veteran's Day, Thanksgiving, and Christmas.

Residents are allowed to discard one (1) bulky item along with their trash each week. Bulky items may include such items as furniture, carpet, windows, doors, mattresses and other household items provided that they require no more than two collection personnel to be lifted. Residents are responsible for placing trash at the curb, in acceptable containers, and separate from recyclables for easy access by the Vendor. The Vendor is responsible for assuring that materials defined by the City as "unacceptable" are not collected in the trash stream. Any material which is "not acceptable" at the delivery point, is included in the Commonwealth's disposal ban (e.g. yard waste) now and in the future, or included in the City's curbside recycling or related programs, shall be rejected from being collected as trash at the curb. The Vendor should include in their proposal a description of the procedures to be used by collection personnel for visual inspection and rejection of unacceptable materials. The Vendor shall be required to provide and issue warning (non-compliance) stickers at the curb when collection personnel spot unacceptable materials. Said stickers shall indicate the problem(s) with the rejected material so that the respective household can be educated about and correct the issue with the material in question.

Emptied trash containers and lids shall not be bent, thrown or otherwise abused and shall not be placed in driveways, in front of mailboxes, in the street, gutter or on sidewalks or in any other way that interferes with traffic or mail delivery service. In addition, the Vendor agrees to operate collection vehicles in such a manner as to prevent materials from being blown from the vehicle. If material spills or blows from the vehicle, the Vendor shall clean up and place in the collection vehicle all material before the vehicle proceeds to the next stop on the collection route or shall promptly make all other necessary arrangements for the immediate cleanup of the spilled materials.

In order to ensure uninterrupted collection service, the Contractor shall maintain sufficient back-up collection vehicles to replace and/or repair any vehicles that are out of service. The Contractor shall maintain collection vehicles in a clean condition and cause to have the words: "CONTRACTOR FOR CITY OF METHUEN" clearly visible on said vehicles. A telephone number (#) shall also be displayed prominently on all collection vehicles. Said telephone number shall be operated by the Vendor to receive and record any complaints or compliments regarding the manner of service rendered during the course of the Contract. All parts and systems of the collection vehicles shall operate properly and be maintained in a condition satisfactory to maintain a positive public image as reasonably determined by the City.

### 3.1.2 Municipal / School Buildings and Locations

The Vendor will be responsible for furnishing dumpsters to appropriate locations (or such additional or alternative locations as may be specified during the course of the contract term) and for the

collection and hauling to the delivery point of trash collected in said dumpsters based on the appropriate collection frequency.. The High School and Comprehensive Grammar School (CGS) are to be furnished with compactors for said purpose in place of dumpsters unless otherwise determined by the City. A list of locations where service is to be provided is included as Attachment IX. Dumpsters are to be equipped and maintained with locks or locking mechanisms by the Vendor in order to prohibit unauthorized or illegal dumping in said dumpsters.

On special occasions or events, the Vendor shall provide support in the form of placing dumpster(s) at location(s) provided at the discretion of the City Mayor or his designee and for the transporting of trash collected from said dumpsters to the delivery point. Historically, this has involved only a few events each year.

The Vendor will also be responsible for the manual collection of trash from additional non-residential locations (or such additional or alternative locations as may be specified during the course of the contract term) and for the hauling to the delivery point.

### 3.1.3 Other

The Contractor shall submit with each invoice a monthly report of all trash collected and disposed of at the delivery point(s). Said reports shall include a daily listing of the trash tonnage tipped by each truck at the delivery point(s) and the time and date of said tip.

The Contractor shall have in City or in the nearby vicinity a Supervisor or similar contact who can respond to needs as they arise and to report and resolve problems or issues in a timely fashion. The Contractor shall establish and maintain a toll free number available to residents and City officials both to provide information on solid waste services to residents and to receive and record any complaints or compliments regarding the manner of service rendered during the course of the contract. It shall be the responsibility of the Contractor to telephone City Hall before the end of each service day to collect any complaints or details of missed collections which may have been recorded and to report on the resolution of any prior complaints.

The City seeks to reduce the amount of trash generated and disposed of and may adopt program enhancements (e.g. barrel limit; automated collection) in the future as a means to increase recycling and reduce solid waste costs to the City. As an example, the City implemented Single Stream recycling in July 2010 and has realized both a reduction in solid waste and an increase in recycling. Proposers are encouraged to include in their proposals any additional recommendations that would assist in implementing waste reduction measures or propose other means for enhancing recycling through increased trash diversion.

## 4.0 GENERAL TERMS & CONDITIONS

### Compliance

Each party to this contract shall comply with all published federal, Massachusetts and local laws, by-laws, ordinances, rules, regulations and all administrative and judicial positions. This contract shall be considered to include all applicable laws as though such terms were set forth in full herein.

Where the Contractor's work is subject to the Commonwealth's prevailing wage law, the Contractor stipulates that it will pay employees subject to the law, throughout the term of this contract, at least the prevailing, prescribed rate of wage as determined for the Commonwealth of Massachusetts Division of Occupational Safety (DOS); such determination is incorporated by reference in this contract with specifications for the City provided as Attachment IX. Each Contractor and Subcontractor performing under this contract shall furnish to the DOS such statements as may be required under law, including within fifteen (15) days after completion of its portion of the contract work, a statement of compliance executed by the Contractor and, if any, the Subcontractor. The statement of compliance shall state that all mechanics, apprentices, teamsters, chauffeurs, laborers and other relevant workers employed on the project have been paid in accordance with wages determined under the provisions of Sections 27 and 27A of Chapter 149 of the Massachusetts General Laws.

### **Changes in the Contract**

The Contractor shall do the work in the manner set forth in the specifications of the IFP and contract, except that the City Mayor and/or the Director of Public Works, by order in writing given to the Contractor, may make any reasonable order respecting a change (increase or removal) of any part of the work or furnish extra motor trucks or labor relating thereto, and the Contractor shall conform to such orders within a reasonable time. The Contractor shall abide by any changes in law, regulation (e.g. waste bans) or policy put in place by federal, state or local agencies that are related to the services outlined in the IFP, Contract and any related documentation.

### **Cancellation of Contract**

Should the Contractor on any occasion fail to report, collect or remove the household trash or other materials as provided in the specifications of the IFP and the contract, the City Mayor and/or the Director of Public Works reserves the right to send a special truck or other vehicle to collect and remove the same at the expense of the Contractor; or in the event of any failure on the part of the Contractor to comply with any of the provisions of the IFP and the contract, the City Mayor and/or the Director of Public Works may, at any time hereafter, cancel the contract if he/she shall see fit, by written notice of the cancellation delivered to the Contractor in hand or to his/her principal place of business or at his/her usual place of abode or sent to him/her by registered mail.

### **Force Majeure**

Each party to the Contract shall be excused without cost or liability to the other, for failure or delay in performance of any obligation set forth in the Contract by reason of a Force Majeure event. This provision shall not, however, relieve the Contractor or the City from using all reasonable efforts to overcome or remove such Force Majeure event. Such failure or delay shall be excused at any time during which performance is prevented by such Force Majeure event, and during such period thereafter as may be reasonably necessary for the Contractor or the City to correct the adverse effect of such Force Majeure event, provided that the Contractor or the City shall use its best efforts to obtain a stay or appeal of any Force Majeure event constituting a Change in Law, if in the Contractor's or the City's good faith judgment, after consultation with legal counsel, such action is warranted. Each party shall give prompt written notice of a Force Majeure event to the other. Each party shall attempt to remedy with all reasonable dispatch the cause or causes constituting a Force Majeure event; however, the settlement of strikes, lockouts, work slowdowns, and other similar labor actions or of any legal actions or administrative proceedings shall be entirely in the discretion of the affected party and the affected party shall not be required to make settlement of strikes, lockouts,

work slowdowns and other similar labor actions or of any legal actions or administrative proceedings when such settlement is or would be unfavorable in the judgment of the affected party.

### **Dismissal of Employees**

The Contractor shall dismiss, or transfer to duties outside the City of Methuen, any employee engaged upon the work when requested by the City Mayor and/or the Director of Public Works, for just cause, and the Contractor shall not again employ on the work any employee dismissed or transferred under the foregoing provisions without the consent of the City Mayor and/or the Director of Public Works.

### **Insurance Requirements:**

- (a) The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims set forth below which may arise out of a result from the Contractor's operations under the Contract, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.
- (b) Claims under Workmen's Compensation, disability benefit and other similar employee benefit acts;
- (c) Claims for damages because of bodily injury, occupational sickness or disease, or death of its employees, and claims insured by usual personal injury liability coverage;
- (d) Claims for damage because of bodily injury, sickness or disease or death of any person other than its employees, and claims insured by usual personal injury liability coverage;
- (e) Claims for damages because of injury to destruction of tangible property, including Loss of use resulting there from.

\*\*\* The Insurance required by the above shall be written for not less than the following minimum limits of liability:

#### Workmen's Compensation:

#### Statutory Requirements

Employer's Liability:	\$1,000,000
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#### Comprehensive General Liability:

##### Bodily Injury

Each person/each occurrence:	\$1,000,000	Or a Combined Single
General Aggregate per project:	\$2,000,000	Limit of \$2,000,000

##### Property Damage

Each Occurrence:	\$1,000,000	Or a Combined Single
General Aggregate per project:	\$2,000,000	Limit of \$2,000,000

#### Comprehensive Automobile Liability:

##### Bodily Injury

Each person/each occurrence:	\$1,000,000	Or a Combined Single
		Limit of \$1,000,000

	<u>Property Damage</u>	
Each occurrence:	\$1,000,000	Or a Combined Single Limit of \$1,000,000
Excess Liability (Umbrella):	\$1,000,000	

\*\*\* The above insurance policies shall also be subjected to the following requirements:

- (a) Insurance coverage for the Contractors' Comprehensive General Liability, as specified under the foregoing paragraph and for the City Protective Liability, as hereinafter specified under Paragraph entitled "Protective Liability Insurance" shall be written by one and the same insurance company to avoid the expense of duplicate and/or overlapping coverage to facilitate and expedite the settlement of claims.
- (b) Certificates of Insurance acceptable to the City shall be addressed to and filed with the City prior to commencement of the work. Renewal certificates shall be filed with the City at least ten (10) working prior to the expiration date of required policies.
- (c) No insurance coverage shall be subject to cancellation without thirty (30) Days prior written notice forwarded by registered or certified mail to the City. The City shall be notified of the attachment or any restrictive amendments to the policies.
- (d) All Certificates of Insurance shall contain true transcripts from the policies, authenticated by the proper officer of the insurer, evidencing in particular those insured, the extent of the coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses.
- (e) **The City shall be named as an additional insured on the Contractors' General Liability and Excess Umbrella Liability Insurance Policies.**

### **Performance Bond**

The Contractor shall, before commencing performance of the contract, provide a performance bond from a surety company qualified to do business under the laws of the Commonwealth of Massachusetts and satisfactory of the City Mayor and/or the Director of Public Works, in the sum of one hundred percent of the annual contract price and shall continue such bond in full force and effect during the term of the contract, the performance bond of (100%) shall be posted for each year separately. For the first year, the bond shall be posted with the City in a form satisfactory to the City's Solicitor, the performance bond must be sent with the signed contract and further 10 days prior to the start of each subsequent year of the contract.

### **Protection Against Liability**

The Contractor acknowledges and agrees that he/she is responsible for all his/her acts and doings and all the acts and doing of his/her employees hereunder as an independent contractor and he/she will indemnify and hold harmless the City of Methuen from any and all loss, damages, costs, charges, expenses and claims which may be made against it or to which it may be subject or to which it may be put by reason of any act, action, neglect, omission or default on his/her part, or any of his/her employees hereunder and will pay all costs and expenses of defense incidental thereto, and that all the same will be paid to the City of Methuen upon demand therefore.

### **Monies withheld by the City**

The City may keep any monies which would otherwise be payable at any time hereunder and apply the same, or as much as may be deemed necessary therefore, to the payment of any expenses, including any expense directly or indirectly resulting to the City in connection with the faithful performance of this agreement. Losses or damages incurred by the City and determined as aforesaid may be retained until all the claims are settled so much of such monies as the City Mayor and/or the Director of Public Works shall be of the opinion will be required to settle all claims against the City, its officers, agents or servants. Any monies kept hereunder shall be deemed not due and payable to the Contractor until final disposition of any such expenses, losses, damages or claims referred to herein.

### **Contract Payments**

The City shall each month, so long as the Contractor shall faithfully do everything required of him in this contract, pay the Contractor the monthly portion of the yearly contract sum as stated in the bid of the Contractor, hereto annexed, after deducting from the total amount thereof the amount of any claim, expenses, penalty or loss that may be deemed proper to retain as provided aforesaid.

### **Contract Commitment**

The Contractor shall keep himself fully informed of all state and national laws, and municipal by-laws, ordinances, regulations or policies in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same and conform to and abide by the same. If any discrepancy or inconsistency is discovered in the specifications or contract from this work in relation to such law, ordinance, regulations, order or decree, he shall forthwith report the same to the City Mayor and/or the Director of Public Works, in writing. He shall at all times himself observe and comply with, and shall cause all his agents and employees to observe and comply with, all such existing and future laws, ordinances, regulations, policies and decrees; and shall protect and indemnify the City and the City Mayor and/or the Director of Public Works and their officers and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, policy, order or decree, whether by himself or his employees.

### **Contract Compliance**

It is understood and agreed that, because the public health and convenience of the City are involved in the performance of this contract, performance reasonably satisfactory to the City Mayor and/or the Director of Public Works or his designee, along with meticulous attention to every detail in the IFP, contract and specifications and a high standard of work is justified.

### **Contractor Performance and Remedies**

In the event of a failure of the Contractor to complete the collection program for a particular day's route due to inclement weather, mechanical breakdowns, personnel or other problems, the DPW may employ the services of others (including City services) to complete the day's route or until such time as the problem has been resolved to the Director of Public Work's satisfaction, and the expenses so incurred (or the reasonable value of City employee's time) shall be deducted from the next payment to the Contractor. No penalty shall be assessed if the failure to collect is for a reason beyond the

Contractor's control (e.g. two day blizzard); however in such event, the Contractor shall forthwith proceed to collect fully two routes per day until caught up or else the penalty shall apply.

Although not anticipated, the City shall be entitled to assess liquid damages against the Contractor for its failure to perform the following specified obligations for collection and transportation of solid waste. The Contractor acknowledges and agrees that the liquidated damages provided herein are not penalties but represent a fair measure of damages which will be sustained by the City in the event that the Contractor defaults on any of the following specified obligations. The City shall have the right to withhold the amount of liquidated damages assessed by it from any payments owed to Contractor as a credit or set-off of such amount:

a) use of a collection vehicle that is operated in conjunction with this contract for the collection and/or haul of waste other than under the provision of this contract;	\$5,000 per occurrence
b) use of an unmarked or un-inspected collection vehicle;	\$ 500 per occurrence
c) failure to finish any single collection route by 4:30PM	\$1,000 per occurrence
d) failure by Contractor to call in prior to the end of a work day to receive and reply to any complaints before collection vehicle(s) leave the City;	\$ 100 per occurrence
e) failure to promptly pick up waste spilled during collection and/or haul;	\$ 100 per occurrence
f) failure to replace or pay for damaged barrels or other collection containers within ten (10) day for which the City judges the Contractor to be at fault;	\$ 50 per occurrence

### **City's Liability**

The City's liability under this contract shall be to make all payments monthly, as such payments may from time to time become due, and said City shall be under no further obligation or other liability.

### **Contract Funding Appropriation**

It is understood that the provision of the contract is for a period of approximately 3 years, with the potential addition of two (2) optional, one (1) year extensions at the total discretion of the City. It is also understood that the provisions shall be subject to funding appropriation of the City Council. Notwithstanding, the Contractor agrees to hold the City harmless for the failure of the City appropriating authority to provide for funding, and in such case of non-appropriation shall release the City from its obligations under this contract. It shall, however, be the position of the City Mayor's office to include funding proposals to the City Council each of the contract years to provide for funding.

The Invitation For Proposals to provide Solid Waste Collection and Hauling Related Services to the City of Methuen has been read and fully understood by the Vendor listed below. This Proposal, includes, but is not limited to, the Vendor's letter proposal, cost proposal(s), purchase specifications, required documents, and any other required or requested documentation, submitted by said Vendor as executed by the Vendor's duly authorized representative listed below:

## ATTACHMENT IX

### DUMPSTER + LOCATIONS

<b><u>CONTAINER LOCATION</u></b>	<b><u>ADDRESS</u></b>	<b><u>SIZE</u></b>	<b><u>COLLECTION FREQUENCY</u></b>
Elmwood Cemetery	130 N. Lowell St.	6CY	1 x week
Public Safety Bldg.	90 Hampton Street	4CY	2 x week
Marsh School	309 Pelham Street	10 CY	5 x week
Tenney School	75 Pleasant Street	10 CY	5 x week
Timony School	45 Pleasant View	10 CY	5 x week
CGS	100 Howe Street		
High School	35CY Compactor		
Searles Building	2 CY		

Pleasant Valley School  
 St. Monica's School  
 Presentation of Mary

Currier School

Central / School Admin.

Public Safety Bldg./Police Station

DPW Yard

Water Dept.

# METHUEN HOUSING DEVELOPMENTS

	<u>Units</u>
36 Oakland Ave	40
75 Edgewood Ave	64
24 Mystic St	72
22 Mystic St	72
101 Broadway	41

## Location 2

	<u>Units</u>
Larchwood Rd	Total units 60
Oakside Ave	
Kenwood Rd	
Tudor St	
Pinewood Rd	

## Location 3

	<u>Units</u>
601 Lowell Blvd	16
601 Lowell Blvd (Handicap)	6

## Location 4

	<u>Units</u>
Riverview Blvd Unit 1-101	Total units 4
Riverview Blvd Unit 1-105	
Riverview Blvd Unit 5-101	
Riverview Blvd Unit 6-103	

## Location 5

	<u>Units</u>
19 A & B Mystic St	2

## Location 6

	<u>Units</u>
19 Mystic St	1
26-28 Haverhill St	2
36 1/2 Oakland Ave	2
30 Woodland St	1

## Location 7

	<u>Units</u>
25 Jade St	42

TOTAL UNITS 425