#### ORDINANCE NO. 2007 - 1

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AN ORDINANCE OF THE TOWNSHIP OF MARION, BERKS COUNTY, PENNSYLVANIA RELATING TO SANITATION AND THE PROMOTION OF PUBLIC HEALTH AND SAFETY; REQUIRING THAT ALL ASHES, GARBAGE, SOLID WASTE AND OTHER REFUGE MATERIALS AND RECYCLABLES BE DISPOSED OF IN ACCORDANCE WITH THIS ORDINANCE; AND PROVIDING FOR THE COLLECTION RATES AND CHARGES; AND PRESCRIBING PENALTIES FOR THE ENFORCEMENT THEREOF.

WHEREAS, The Second Class Township Code in 53 P.S. § 67101 and the Municipal Waste Planning, Recycling and Waste Reduction Act in 53 P.S. § 4000.304 authorizes and empowers Townships of the Second Class such as Marion Township to prohibit the accumulation of ashes, garbage, solid waste and other refuge materials upon private property including the imposition and collection of reasonable fees and charges for the collection, removal and disposal thereof, and provides for the Board of Supervisors to collect, remove and dispose of the same by contract or otherwise; and

WHEREAS, Marion Township has received various bids to conduct a township wide solid waste collection, removal and disposal system and is now awarding the bid and authorizing and affirming the entry of a contract with Waste Management of Pennsylvania, Inc. ("Waste Management"), the lowest bidder, in regard thereto ("Successful Bidder"). The contract shall include the collection, removal and disposal of municipal solid waste including all garbage, rubbish, ashes and other refuse ("MSW"), and for the collection and disposal of recyclable materials such as clear and colored glass, aluminum, steel, bi-metallic cans, plastic containers (numbers 1 and 2) and newsprint ("Recyclables"), for certain residents, property owners and businesses in Marion Township, as set forth below, in accordance with certain specifications, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, Marion Township now desires to require the mandatory collection, removal and disposal of MSW and Recyclables for certain Township residents, property owners and businesses as set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Township of Marion, Berks County, Pennsylvania as follows:

1. All MSW shall be accumulated by all residential dwelling units (including single family and multi-family dwellings), farm dwellings and commercial units within Marion Township and shall be made available for collection and disposal as required in the specifications which are attached hereto as Exhibit "A"; provided, however, multi-family dwellings, farm dwellings or commercial units utilizing a dumpster, and institutional and industrial establishments are not included in the mandatory MSW collection. In lieu of a quarterly clean up

as referenced in the specifications, there shall instead be a pick up of a maximum of one bulk item per week.

- 2. All Recyclables shall be accumulated by all residential dwelling units (including single family and multi-family dwellings) and shall be made available for collection and disposal as required in the specifications which are attached hereto as Exhibit "A"; provided, however, multi-family dwellings with five or more units or utilizing a dumpster, building contractors, and commercial, institutional and industrial establishments are not included in the mandatory Recyclables collection.
- 3. No person or entity other than Waste Management shall collect, haul and dispose of MSW and Recyclables within Marion Township from April 1, 2007 until March 31, 2010 or until the contract between Marion Township and Waste Management expires or terminates.
- 4. The contract for the collection, removal and disposal of MSW and Recyclables in accordance with Exhibit "A" is awarded to Waste Management and the entry of a contract with Waste Management for the same is affirmed.
- 5. The charge to be paid by all property owners, residents and businesses for the collection and removal of MSW and Recyclables is set forth on Exhibit "B" attached hereto and the billing and collection of said charges shall be the responsibility of Waste Management and all payments shall be sent by the property owner, resident or business directly to Waste Management.
- 6. A violation of this Ordinance shall be subject to an action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure and shall result in a fine of not less than One Hundred and 00/100 Dollars (\$100) nor more than One Thousand and 00/100 Dollars (\$1,000) per violation and may result in imprisonment to the extent allowed by law for the punishment of summary offenses. A separate offense shall arise for each day or a portion thereof in which a violation is found to exist. In addition, Marion Township may file a civil action or impose a municipal lien upon any property that fails to pay the required charge.
- 7. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Marion Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.
  - 8. All Ordinances or parts of Ordinances inconsistent herewith are hereby appealed.
  - 9. This Ordinance shall become effective five (5) days after the date of its enactment.

DULY ORDAINED AND ENACTED this 22 day of February , 2007, by the Board of Supervisors of the Township of Marion, Berks County, Pennsylvania in public session duly assembled.

st: Lion A. Burballu(SEAL)

BOARD OF SUPERVISORS OF THE TOWNSHIP OF MARION BERKS COUNTY, PENNSYLVANIA

Tony L. Brubaker, Chairman

Jarold I. Manbeck

Harold E. Zechman

# **EXHIBIT "A"**

#### Townships of Marion and Heidelberg Berks County Pennsylvania

General Stipulations and Information for Bidders

#### 1.1 Receipt of Bids

Sealed bids or proposals shall be addressed to The Townships of Marion and Heidelberg, P.O. Box 241, Tulpehocken Forge Road, Robesonia, Pennsylvania 19551, and marked "BID ON SOLID WASTE AND RECYCLING" in accordance with the Specifications and Bidding Documents attached hereto and will be received at the aforesaid address until November 16, 2006 at 12:00 P.M. (noon) prevailing time. The deadline for bidding will be strictly adhered to by the Townships, and any bids received after 12:00 PM prevailing time on November 16, 2006 will not be accepted by the Townships. All bids will be publicly opened and read on November 30, 2006 shortly after 7:00 PM at a joint meeting of the Townships to be held at the above address.

#### 1.2 Printed Form of Bids

All bids must be made upon the blank Form of Proposal attached hereto and must give the price proposed in figures, written in ink or typed, and must be signed by the Bidder with his full name and address, and where a partnership, the name and address of each partner in full; if a corporation, the place where chartered and the names, titles and business address of the President, Secretary and Treasurer. In submitting bids, the Form of Proposal must not be removed from the Bidding Documents. The Form of Proposal must be returned intact as received, including proper signatures and seals.

### 1.3 Certified Check, Treasurers Check or Bid Bond

Each bid must be accompanied by a Certified Check, Treasurers Check or Bid Bond payable to the Township of Marion and the Township of Heidelberg, in the amount of Fifteen Thousand Dollars . (\$15,000) to insure good faith in bidding.

The above mentioned Check or Bid Bond shall be forfeited to the Townships in the event of the successful Bidder neglecting or refusing to enter into a contract for the furnishing Municipal Solid Waste (hereinafter called "MSW") collection and disposal, and recyclables collection and marketing services for (a.) single family dwellings and (b.) multi-family dwellings, farm dwellings and commercial units not using a dumpster on a daily basis for a period of three (3) years beginning on April 1, 2007 and ending on March 31, 2010, and to give bond as hereinafter specified, not as penalty but as just and liquidated damages for delays or additional costs or expenses incurred by the Townships owing to the Bidder's failure to accept the award and execute the Contract and give bond as required.

1.4 Certified Checks, Treasurer's Checks or Bid Bonds Returned
The Certified Checks, Treasurers Checks or Bid Bonds of the unsuccessful

Bidders will be returned after the Contract is awarded to the successful Bidder. The check or bid bond of the successful Bidder will be returned to him after the execution of the Contract and delivery of the required performance bond and insurance certificates evidencing coverage as required by these Contract documents. The Townships shall not be liable for any interest thereon.

#### 1.5 Financial Statement

Each bid must be accompanied by a full and complete statement under notarized oath of the financial condition of the Bidder. In addition, the Bidder shall furnish a complete financial report of Bidder's prior year's operation including all information pertinent to actual collection, disposal and billing operation setting forth all costs, wage rates and other information necessary to determine the financial responsibility of the Bidder.

#### 1.6 Plans and Specifications

With each bid the Bidder must furnish one set of general plans and specifications setting forth the equipment, size of work crew, times of collection, routing and methods proposed by him for collecting, receiving, transporting, conveying, handling, and disposing of MSW and marketing of recyclable materials. In particular, the methods, apparatus, and equipment for the elimination and control of nuisances that may arise during the process of collection, treating or disposal of the material shall also be shown, specified and described in sufficient detail to enable the Townships to judge their adequacy and sufficiency. It is an essential requirement of this Contract that neither objectionable odors, noxious gases nor putrescent liquid shall escape during or after the process of collection, conveyance, treatment or disposal of the MSW. In addition, the Bidder shall submit a sworn statement stating that he will abide by all ordinances, rules and regulations of any municipality providing or making available landfill disposal facilities and of any other governmental unit having jurisdiction thereof.

### 1.7 Examination of the Townships

Bidders shall and are hereby directed to inspect the Townships thoroughly to investigate all circumstances affecting the cost and nature of the work and shall assume all risks in connection therewith.

### 1.8 Examination of Bidding Documents

Bidders are required to carefully examine the Bidding Documents for the proposed work and circumstances affecting the cost of the work and the manner of performance.

#### 1.9 Conditions of Work

The Townships do not make any representations in connection with the work. Bidders must become fully aware of the conditions relating to the work. Failure to do so will not relieve the Successful Bidder of its obligation to furnish and perform the work, or to carry out the provisions set forth in the Specifications and General Stipulations and Information for Bidders.

#### 1.10 Independent Contractor

The Successful Bidder shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the Townships or either of them. The Successful Bidder shall have exclusive right to control the details of the services and work performed hereunder and all persons performing the same, and nothing herein shall be construed as creating a partnership or joint venture between the Townships or either of them and the Successful Bidder. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant, or employee of the Townships or either of them, and no such person shall be entitled to any benefits available or granted to employees of the Townships.

#### 1.11 Sales and Use Tax Act

Bidders shall make their own independent analysis of Pennsylvania Sales and Use Taxes and the applicability or nonapplicability thereof to the materials, supplies, and services to be provided and performed under and as a part of the Contract work. All taxes are to be included in the prices bid and neither the Townships nor their residents will make any separate payment of taxes.

#### 1.12 Basis of A ward

The Townships will award the Contract to a qualified and responsible Bidder on the basis of the lowest total cost of the Contract Option (Options I, II, or III) that the Townships choose over the Contract period. The bid for the Contract term small be on a per dwelling unit and per commercial unit basis to include the cost of twice monthly recyclables collection, weekly MSW collection and disposal and a quarterly Clean-Up of Bulk items.

#### 1.13 Questionnaire

The attached questionnaire must be fully and completely answered. However, to the extent that the information called for in paragraphs 5 and 6 above is detailed and set forth in the Questionnaire, it need not be otherwise duplicated.

1.14 Approval of Disposal Facility

The location of the disposal facility which the Bidder proposes to use in the disposal of MSW must meet the approval of the Townships. Each bid must be accompanied by a letter from a permitted disposal facility certifying that the facility is permitted to accept and dispose of MSW and that the facility has the capability to accept and properly dispose of all MSW from the Townships for the full term of the Contract.

#### 1.15 Execution of Contract

The Bidder whose bid is accepted will be required to execute a Contract within twenty (20) days of the receipt of notification of the award. In case of failure or refusal on the part of the Bidder to enter into a contract within this period, the amount of the Certified Check, Treasurer's Check or Bid Bond will be forfeited and paid to the Townships.

#### 1.16 Performance Bond

The successful Bidder, within twenty (20) days of receipt of notification of the award shall deliver a bond with suitable, reasonable requirements, guaranteeing performance of the contract or delivery to be made with surety in the amount of One Hundred Percent (100%) of the total bid price. The bond shall be posted with an approved surety company authorized to do business in the Commonwealth of Pennsylvania. The bond shall further be conditioned that the successful Bidder comply in all respects with the terms and conditions of the Contract, and his obligation thereunder, including the specifications, and any renewals thereof, and shall indemnify and save harmless the Townships against or from all cost, expense, damage, injury or loss to which the said Townships may be subjected by reason of any wrongdoing, misconduct, want of care or skill, negligence or default under the part of the successful Bidder, his agents or employees in or about the execution or performance of the Contract, including the specifications, and shall save and keep harmless the Townships against and from all claims or losses to it from any cause whatsoever, including but not limited to patent infringements, in the matter of completing said Contract.

Further, the bond shall entitle the Townships in the event of a default under the terms of the bond, to collect all or such part of the proceeds of the bond as necessary to provide the services as herein set forth, although the Townships does not itself pay the cost of services.

The bond is to be approved by the Townships and their respective Solicitors.

#### 1.17 Assignment of Contract

The Successful Bidder shall give his personal attention constantly to the faithful performance of the work, shall keep said work under his own control, and shall not transfer or assign by power of attorney or otherwise, nor subcontract the work or any part thereof without the previous written consent of the Townships. In such case, he shall state to the Townships in writing, the name and address of such assignee or sub-contractor that he intends employing, the portion of the work the subcontractor is to do or the material which he is to furnish, his place of business and such other information as the Townships may require, in order to know whether such sub-contractor is reputable and reliable and able to perform the work as called for in the specifications.

The Successful Bidder shall not, either legally or equitably, assign any of the monies payable under the Contract unless by and with the consent of the Townships. The Successful Bidder shall not be released from any of his liabilities or obligations under this

Contract should any sub-contractor fail to perform in a satisfactory manner the work undertaken by him.

### 1.18 Reservations and Annulments

The Townships will determine the successful Bidder upon the basis of the bids submitted, and reserves the right to reject any or all bids, and may re-advertise if the best interests of the Townships are to be hereby promoted. The Townships may waive technical defects, if, in its judgment, the best interests of the Townships shall so require; also, the right to annul any contract if, in its opinion, there shall be failure at any time to perform faithfully any of its stipulations, or in case of a willful attempt to impose upon the Townships any materials or workmanship inferior to those required by the Contract. Any action taken in pursuance of this latter stipulation shall not affect or impair any right or claim of the Townships to claim damages for the breach of any of the covenants of the Contract by the Successful Bidder.

No bid may be considered from any person, firm or corporation, who has defaulted in the performance of any Contract or agreement previously made with the Townships or conclusively shown to have failed to perform satisfactorily such Contract or agreement.

#### 1.19 Payment

The price stipulated with respect to dwelling units in the bid hereto attached shall cover the cost of all labor, material, equipment, disposal costs and any other costs and expenses needed to complete the Contract in all details. The Successful Bidder shall accept the price stated in the bid hereto attached as full compensation for the collection and disposal of MSW and the collection and marketing of the designated recyclable materials. Charges for MSW collection/disposal and recyclables collection, transportation and marketing shall be made monthly by the Successful Bidder, thirty (30) days before payment is due.

The Townships are soliciting bids based upon the Townships billing and collecting the charges for MSW collection/disposal, recyclables collection and quarterly Bulk Clean-up. Under this option, the Townships would make monthly payments to the Successful Bidder for MSW collection/disposal, recyclables collection and Bulk Clean-up transportation and marketing.

The bid forms require that Bidders separately identify a price for (a) basic Solid Waste curb collection service, and (b) additional 33 gallon containers (per container). The lowest bid will be determined by (a), but an otherwise low bid may be disqualified if (b) is disproportionately high.

### 1.20 Bids May be Rejected as Informal

Proposals or bids, which contain erasures, alterations, conditional bids, omissions, or irregularities of any kind may be rejected by the Townships at its option as not complying with the Bidding Documents.

### 1.21 Time of Commencement and Expiration of Contract

The Successful Bidder shall begin work on April 1, 2007 and his work under this Contract will expire March 31, 2010.

### 1.22 Bidders Responsibility as to Number of Dwelling Units

It is stipulated that the bid under this proposal shall be for a monthly rate per dwelling unit and per commercial unit A "dwelling unit" is one or more rooms in a residence or dwelling which room or rooms have fixed cooking facilities arranged for occupancy by one, two or more persons living together, or one family. This definition includes a farm dwelling and multiple family dwellings. Although there are approximately 507 dwelling, commercial and farm units within the Township of Marion and approximately 5-48 dwelling, commercial and farm units within the Township of Heidelberg, all Bidders are advised and cautioned that the Townships make no warranty as to the number of dwelling units within the Townships now or at any time in the future. It will be the responsibility of the successful Bidder to ascertain the number of dwelling units from time to time and to deliver the information to the Townships or its collection agent. As the bid under this proposal is for a monthly rate per dwelling unit and per commercial unit, nothing herein is to be construed as a warranty as to the number of dwelling units or the gross amount which may be received at any time by the successful Bidder.

### 1.23 Changes Prior to the Opening of Bids

During the period allowed for preparation of bids, the Bidders may be furnished addenda or bulletins for additions to or alterations of the Specifications, which shall be included in the work covered by the Proposal and become a part of the Contract Documents. If any prospective Bidder is in doubt as to the true meaning of any part of the Specifications or other Contract Documents, he may submit to the Townships Manager a written request for an interpretation thereof. The Bidder submitting the request will be responsible for its prompt delivery. Any interpretation of the Contract Documents will be made only by an addendum duly issued and a copy of such addendum will be mailed or delivered to each prospective Bidder of record. The Townships will not be responsible for any other explanations or interpretations of the specifications or other Contract Documents.

#### 1.24 Withdrawal of Bids

A bid, after having been submitted, may be withdrawn by the Bidder prior to the time set for the opening of bids upon the presentation of a written request of such withdrawal to either the Secretary for Marion Township or the Secretary for Heidelberg Township. No withdrawal of any bid will be allowed after said time even though bids may not as yet have been opened.

#### 1.25 Contract Extension Clause

It shall be an option on the part of both the Successful Bidder and the Townships to extend the Contract for a total of not more than three additional years. Prior to the expiration of the Contract period, the Successful Bidder and the Townships may mutually

agree to extend the Contract for a total of not more than three (3) additional years, provided all other terms shall remain the same.

#### 1.26 Labor Strike

The Townships shall not hold the Successful Bidder responsible for failure to collect MSW and/or recyclables due to striking personnel at a disposal facility, landfill, transfer station or recycling center over which the Successful Bidder has no control. The Successful Bidder shall, however, immediately secure alternative facilities to dispose of MSW and to market recyclable materials. The Successful Bidder shall be responsible for its striking personnel and shall take any and all measures necessary to fully perform the Contract during any strike or other labor problem.

#### 1.27 Records

The Successful Bidder shall provide to the Townships, on a quarterly basis, written documentation setting forth the total number of tons of each material recycled, and the total number of tons of MSW collected and disposed from the Townships. On behalf of the Townships, the Successful Bidder shall also provide the total number of households serviced in the Townships.

#### 1.28 Public Notice

It shall be the responsibility of the Successful Bidder to notify the Townships of any change in collection routes, pick-up times, or other similar changes by contacting the Secretaries of each Township. Individual customers must be notified by way of public advertisement in the local newspapers and/or individual notices not less than five (5) calendar days preceding any change.

#### 1.29 Headings

Headings or title preceding the text of paragraphs or subparagraphs are inserted solely for the ease of reference and shall not constitute a part of the Bidding Documents, nor shall they affect their meaning, construction or effect.

#### **SPECIFICATIONS**

For the Collection and Disposal of Municipal Solid Waste for a period of three (3) years from April 1, 2007 and ending March 31, 2010

#### 2.1 Scope of Work

The work to be done under this contract consists of collection by use of closed unit packer type vehicles and disposal in the manner herein described of all municipal solid waste including all garbage, rubbish, ashes and other refuse from all residential dwelling units (including single family and multifamily dwellings), farm dwellings and commercial units within the boundaries of the Townships of Marion Berks County, Pennsylvania, except for multi-family dwellings, farm dwellings or commercial units utilizing a dumpster. Collection of municipal solid waste from multifamily dwellings, commercial units and farm units utilizing a dumpster, and institutional and industrial establishments are not included in this Contract.

#### 2.2 Definitions

- a. The term SOLID WASTE shall include, but is not limited to garbage, rubbish, ashes, dead animals, grass clippings, street cleanings, plant growth, wood or non-putrescible materials.
- b. The term COMMERCIAL is the use of premises other than as a dwelling, institution or industry.
- c. The term MATERIAL includes garbage, trash, ashes, refuse, and rubbish.
- d. The term DWELLING UNIT when it occurs in these specifications means one or more rooms in a dwelling which room or rooms has fixed cooking facilities arranged for occupancy by one person. two or more persons living together, or one family.
- e. The term CARRY OUT SERVICE means receptacles for carry out service shall be located at ground level or the floor closest thereto, and not more than 75 feet from the street or alley from which collection is made.

### 2.3 Provisions for Place of Disposal

The Successful Bidder will agree to dispose of all MSW collected within the Townships at one or more permitted disposal facilities. Due to potential liability for improper disposal and other important concerns, disposal at a permitted disposal facility is an essential term of these specifications. Failure to so dispose all MSW collected shall be material breach of the Contract unless the successful Bidder has previously obtained a written waiver for good cause shown from the Townships. In event of such breach the Townships may, at their option, (a) terminate the Contract under Section 2.20 and/or (b) impose damages, not as a penalty, but as liquidated damages for the unquantifiable risk of

increased disposal liability of \$10.00 for each ton of MSW collected, but not delivered to the designated location. The liquidated damages may be collected under the Performance bond for which Section 1.16 provides.

#### 2.4 Methods of Collection

With respect to dwelling units, all MSW shall be collected in watertight. covered plastic or metallic cans or durable and watertight plastic bags provided by the customer/property owner that can be easily and quickly handled by one man, shall be removed without spilling, loaded in the truck and delivered to the disposal facilities.

Trucks for the removal of materials shall be of metal, securely covered, watertight, strongly built, kept thoroughly cleansed and well painted and must have the name of the Successful Bidder and telephone number painted on each side of the same, in letters of a size to be read and always legible as well as placards indicating the truck is hauling MSW. Open trucks or trucks covered with tarps will not be acceptable for this work.

### 2.5 Time When Collections Shall be Made

a. All collections of MSW from participating dwelling units shall be made once per week.

b. If a holiday which is observed by the Successful Bidder falls on a regular collection day, the customers normally provided MSW and recyclables collection on the particular day shall be provided said service on the next business day. The collections for the remaining days in the week during which a holiday occurs shall be adjusted accordingly.

c. It will be the responsibility of the Successful Bidder, at his own expense, to notify all parties or persons occupying premises within the Townships when a holiday falls on a regular collection day the collection will be made on the day following the holiday. The method of notification must be approved by the Townships.

### 2.6 Hours When Collections Shall be Made

All collections shall be made between the hours of 6:30 A. M. and 4:30 P.M., prevailing time; provided, however, that this shall not prevent the collection of material on an emergency basis. The extension of the emergency hours shall at all times be subject to approval of the Townships.

### 2.7 Containers to be Provided by Residents or Tenants

All parties or persons participating in the MSW collection and disposal service within the Townships will be required by the Townships to provide containers of durable, watertight, rust-resistant materials having a close fitting lid and handles to facilitate collection and of a capacity of not more than thirty-five (35) gallons and shall be of such size as can be handled easily by one man; or durable and watertight plastic bags. The maximum weight of a filled container shall not exceed 60 pounds. All MSW containers or plastic bags shall be securely covered or tied, as the case may be.

MSW containers and all materials for dwelling units shall be placed along or on the curb and where there is no curb, immediately next to the paved portion of the roadway. In case of dispute, the Townships shall decide as to the location to be selected for placing of containers by the owner or tenant.

Residents must make special arrangements with the Successful Bidder to remove ashes from the cellar or other places on the premises.

#### 2.8 Handling of Containers

All MSW collectors of the Successful Bidder shall exercise reasonable care in handling MSW containers and shall not willfully break, deface or injure the same. All covers shall be replaced on cans when cans are returned to the place of collection.

#### 2.9 Penalty for Containers

All cans or containers, except plastic bags, broken or destroyed in improper or careless handling of the same by the collector of MSW shall be replaced by the Successful Bidder at his own expense.

### 2.10 Rules Under Which MSW Shall be Collected

With respect to dwelling units, the Successful Bidder will be required to collect a maximum of four (4) containers of MSW from each dwelling unit, commercial unit not using a dumpster and farm dwelling not using a dumpster at each collection time under the regular monthly price. Additional containers of MSW shall be collected on a cost per container basis.

### 2.11 Investigation and Reporting of Complaints

It will be the duty of the Townships to investigate all complaints made of failure on the part of the owner, tenant, or occupant of dwelling or dwelling units, farm dwellings or commercial units within the Townships to comply with the provisions relative to the use of the regulation receptacles, the placing of said vessels or receptacles for emptying by the Successful Bidder, etc., and to prosecute all offenders under such provisions.

### 2.12 MSW Collected to be Property of Successful Bidder

The Successful Bidder for the collection and disposal of any MSW mentioned in these specifications will become the owner of such material from the time of its collection.

### 2.13 Exclusive Right to Successful Bidder

The exclusive right and privilege of collecting, removing and disposing of all MSW and collecting and marketing all residential recyclable material from permitted units in the Townships as aforesaid, will be given to the successful Bidder under the Contract entered into between the Townships and the successful Bidder and said Contract will provide that no person shall carry, convey, or transport through the streets, alleys, or public places of the Townships any of aforesaid material from dwelling units without being subject to the penalties prescribed by the law of the Commonwealth of

Pennsylvania and Ordinances of the Townships. The Townships agree on its part to prevent as far as lawful any person other than the Successful Bidder from gathering, hauling, removing or carrying any material from dwelling units within the Townships limits, which under the specifications the Successful Bidder is required to dispose of or market.

2.14 Successful Bidder to have Telephone in Office

Successful Bidder shall establish and maintain and list in the Greater Reading and Greater Lebanon Telephone Directories a toll-free telephone number with his office or plant which persons in the Townships may use to contact Successful Bidder and shall attend such telephone between the hours of 9:00 o'clock, A.M., and 5:00 o'clock, P.M., every day each week, except Saturday and Sunday.

#### 2.15 Observance of Law and Ordinances

The Successful Bidder must, in the performance of work and services under the Contract, qualify under and comply with any and all federal, state and local laws, ordinances and regulations now in effect, or hereinafter enacted or adopted during the term of the Contract, which are applicable to the Successful Bidder, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

### 2.16 Motorized Equipment to be Used

Motorized equipment alone shall be used and employed in the performance of this Contract. Such motorized equipment shall be sufficient to service all of the residential collection points within the Townships as set forth in the Bidding Documents. The Successful Bidder shall be in constant radio contact with each piece of equipment used in the Townships from a base at its main office.

### 2.17 Responsibility of Successful Bidder

The Successful Bidder will be and is hereby responsible for any and all injury or damage to property or persons or accidents which may occur to any person or persons in consequence of his act, or the acts of his agents, servants, or employees. The Successful Bidder agrees that liability and Worker's Compensation insurance shall be furnished protecting the Townships against loss or injury occasioned by the acts of the Successful Bidder, his agents, servants, or employees, in accordance with attachment entitled "Insurance". The Successful Bidder shall comply with the provisions of the current Worker's Compensation Act and any supplements or amendments thereto relative to worker's compensation insurance, and shall furnish proof to the Townships Manager that he has accepted the provisions of said Act and either insured his liability thereunder or secured exemption therefrom, and the Successful Bidder shall indemnify and save harmless the Townships against or from any and all costs, expense, damage, claim, demand, suit, injury or loss to which the said Townships may be subjected by reason of any wrongdoing, misconduct, negligence or fault of Successful Bidder, his agents, servants, or employees in or about the execution or performance of the said Contract, including said specifications and as set forth in Section 1.9 of the General Stipulations and information for Bidders.

### 2.18 Additions to the Contract Price

Additions to the Contract price for dwelling units shall be made at the price stipulated in the bid proposal after the effective date of this Contract.

### 2.19 Modification of Contract

This Contract and the specifications herein contained may be modified and changed from time to time, as may previously be agreed upon in writing, between the parties hereto, in a manner not materially affecting the substance hereof, provided, however, that the consent of the Townships be first obtained. The Ordinance will be amended by the Townships to conform to the Contract or contracts awarded.

# 2.20 Conditions Under which Contract may be Cancelled or Terminated by Townships Council

If the work under this Contract shall be abandoned by the Successful Bidder, or if this Contract shall be assigned or the work subcontracted by him other than as herein specified, or if at any time the Townships shall be of the opinion and so certify in writing (which certificate shall be final, binding and conclusive on the Successful Bidder) that the performance of the Contract is being unnecessarily or unreasonably delayed, or that the Successful Bidder is violating any of the conditions or covenants of this Contract, or the specifications thereof, or is executing the same in bad faith, or not in accordance with the terms thereof, the Townships may cancel and terminate this Contract by a written notice, to be served upon the Successful Bidder either personally or by leaving it at his residence or office. The Townships shall thereupon have the power and is hereby authorized to procure in the manner prescribed by law such and so much of said work to be performed as may be necessary to fulfill the Contract and in such cases, the Townships shall have the power and is hereby authorized to charge to the Successful Bidder the amount of loss suffered by the Townships, and collect the same out of the bond filed by the Successful Bidder.

### 2.21 Authorizing Townships to Perform Contract

If the Successful Bidder shall fail to perform any part of the work called for in this Contract in accordance with the terms thereof and Townships decide not to cancel and terminate this Contract as provided in previous clause, the Townships shall have the power and are hereby authorized to perform or cause or procure to be performed such part of the work as the Successful Bidder shall fail to perform at the expense of the Successful Bidder and to deduct such expenses and collect the cost of same out of the Bond filed by the Successful Bidder, in any legal proceedings, or any loss by reason thereof or both, at the sole option of the Townships.

### 2.22 Municipal Trash Collection

The Successful Bidder shall collect all municipal trash from the receptacles located at the respective Township buildings free of charge to the Townships.

### 2.23 Spring Clean-up Program

As part of the regular collection service, the Successful Bidder shall provide the equipment and personnel quarterly for "Bulk Clean-up". Bulk Clean-Up shall be

performed on one day each quarter as may be mutually agreed upon by the Townships and the Successful Bidder. The Successful Bidder shall provide sufficient equipment and personnel to remove all bulk items (i.e. appliances, furniture, and other similar items), excluding MSW collected under the regular service, household hazardous waste and tires, placed at the designated location as set forth in paragraph 2.7. The Successful Bidder shall not be required to remove any item which two (2) men are unable to lift onto the truck. The Successful Bidder shall provide a carry-out service for bulk items in accordance with paragraph 2.24. The Successful Bidder shall provide notice to the residents setting forth the date for Bulk Clean-Up and items that will not be collected. The bidders shall also provide a list of the items not allowed for the Bulk Clean-Up with their bid.

As an alternative to Bulk Clean-up, the Townships, as an option, are soliciting bids on the collection of a maximum of one bulk item (as defined above) per week from each dwelling unit as a part of the weekly MSW collection.

#### 2.24 Carry-Out Service

The Successful Bidder shall provide, for the same price as the regular collection service, a carry-out service to residents who possess disabilities which preclude them from taking MSW and recyclables to the designated location as described in paragraph 2.7. This service shall only be available to persons who are disabled as defined by the Americans with Disabilities Act of 1990, whose dwelling unit does not have residing therein another individual capable of transporting MSW and recyclables to the designated location. It shall be the responsibility of the resident to contact the Successful Bidder to schedule carry-out service.

### 2.25 Tree Trimmings, Brush and Yard and Garden Waste

Tree trimmings, hedge trimmings, brush and similar items are not required to be collected by the Successful Bidder. Yard and garden waste, including grass clippings and Christmas Trees, are also not required to be collected by the Successful Bidder.

#### 2.26 Missed Service Calls

The Townships will refer all complaints concerning missed service to the Successful Bidder. In case of missed service reported by the Townships or a customer, the Successful Bidder shall collect MSW or recyclables for the customer within twenty-four (24) hours of notification.

### 2.27 Temporary Cancellation of Service

Residents that do not generate MSW due to extended absence from their residences, may temporarily cancel collection service for a minimum of four (4) weeks, but no longer than twenty-six (26) weeks. Residents are required to contact the Successful Bidder and the Townships in writing a minimum of fourteen (14) days prior to the temporary. cancellation of collection and disposal service. Billings will be prorated by the Successful Bidder based on length of temporary cancellation of service.

#### 2.28 Minimal Generators

The Successful Bidder shall provide per bag collection of MSW for those residents that can justify the need. Residents must request per bag collection in writing to the Successful Bidder and the Townships Manager at least thirty (30) days prior to needing the per bag service. The letter must justify and document the need for the per bag collection. The cost per bag shall be determined by the Successful Bidder with the approval of the Township Managers. The per-bag collection cost shall not be included in the "Method of Evaluating Bids".

After choosing an optional collection service, the resident may switch the service types only during a two (2) week period each year beginning on the anniversary date of the start of the Contract term and they may make only two (2) changes during the Contract term.

#### **SPECIFICATIONS**

For Recyclable Collection and Marketing for a period of three (3) years from April 1, 2007 to March 31, 2010

#### 3.1 Scope of Work

The work to be done under this program consists of the collection and marketing of the following recyclable materials: clear glass, colored glass, aluminum, steel, and bi-metallic cans, plastic containers (numbers 1 and 2) and newsprint. The items described herein shall be removed from all residential dwelling units (including single family and multi-family dwellings) covered by this contract. Collection of recyclable materials from multifamily dwellings with five or more units or utilizing a dumpster, building contractors, and commercial, institutional and industrial establishments are not included in this Contract. Contractor must furnish a letter from a recycling center certifying the center's capability to accept and market all of the aforementioned recyclables over the full term of the Contract.

#### 3.2 Definitions

- a. The term ALUMINUM CANS means all food and beverage containers consisting of aluminum, excluding aluminum foil, trays, plates, and miscellaneous aluminum products.
- b. The term BIMETALLIC CANS means all food and beverage containers consisting of a steel (ferrous) cylinder bottom and an aluminum top.
- c. The term GLASS means all empty bottles, jars and other containers made of clear, green or brown glass. This includes all food and beverage containers made of glass. Excluded are blue glass, ceramics, light bulbs, pottery and flat glass commonly known as window or plate glass.
- d. The term NEWSPRINT means paper commonly having printed thereon news and other matters of public interest, but not including glossy advertising insets, magazines or periodicals.
- e. The term PLASTICS means all food, beverage, and detergent containers comprised of the following resins; #1 Polyethylene Terephthalate (PETE); and #2 High Density Polyethylene (HDPE).
- f. The term STEEL CANS means all food and beverage containers consisting of steel.

#### 3.3 Methods of Collection

All recyclables shall be removed, loaded in the vehicle, and delivered to a recycling center. Vehicles used for the collection of recyclables shall be thoroughly cleaned, well painted, strongly built, and equipped so that recyclable materials will not escape therefrom. In addition, the name of the Successful Bidder and his telephone number shall appear on each side of the vehicle in letters of legible size.

### 3.3 Time When Collections Shall be Made

Collection of recyclable materials shall be performed twice monthly from all dwelling units and commercial units that are included in this Contract and shall take place on the same day as collection of MSW.

### 3.5 Hours When Collections Shall be Made

All collection of recyclables shall be made within the hours of 6:30 AM to 4:30 PM. The collection of recyclables shall take place at approximately the same time as collection of MSW.

### 3.6 Recycling Containers to be Provided by Residents or Tenants

All parties or persons participating in the recyclables collection service within the Townships will be required by the Townships to provide recycling containers with outside handles for the collection of glass, aluminum cans, steel, and bimetallic cans and plastic, with a capacity not less than twenty (20) nor more than thirty (30) gallons. All newspaper must be tied securely in bundles or contained in paper bags to prevent being blown about or torn apart. All recyclables to be collected must be placed at the designated location in time for collection by the Successful Bidder. Recyclable materials' receptacles shall be placed for collection by the Successful Bidder from the alley, public street, or private street abounding and abutting the property. Recyclable materials' receptacles shall be placed for collection at ground level on the property, not within the cartway of a street or alley, but accessible to the side or curb of the street or alley from which collection is made. A carry-out service shall be supplied for recyclables in accordance with paragraph 2.24.

#### 3.7 Handling of Containers

The Successful Bidder shall exercise reasonable care in handling recyclable containers and shall not willfully break, deface or damage the same. All containers broken or destroyed in improper or careless handling by the Successful Bidder shall be replaced by the Successful Bidder at his own expense.

### 3.8 Recyclable Materials to be Property of Contractor

From the time of collection of recyclable materials at the curb or a similar area for collection, those materials shall be and become the property of the Successful Bidder. It shall be a violation of the Townships' Ordinances for any person(s), not authorized by the Townships, to collect or pick-up or cause to be collected or picked-up any such recyclable material.

#### 3.9 Education

To assist the Townships in implementing educational programs, the Successful Bidder shall, during every year of the Contract, not less than two (2) weeks prior to the start of the Contract term, prepare and distribute to each and every dwelling unit a brief explanation of the recycling program setting forth the materials to be recycled and how those materials are to be prepared for collection. The Successful Bidder shall prepare and deliver biannually to each and every dwelling unit a one page yearly calendar with the recycling collection days conspicuously marked. The Successful bidder shall also prepare

and distribute to each and every dwelling unit under the Contract an explanation of any amendments to the recycling program during the term of the Contract. Prior to distribution, all materials must be approved by the Townships.

3.10 Recyclables Collection and Marketing Services for Townships Facilities
The Successful Bidder shall provide recyclables collection and marketing,
including any dumpsters or containers, free of charge, to the Townships at all Townships
facilities as listed in paragraph 2.22.

#### **INSURANCE**

- 4.1 Workmen's Compensation including Occupational Disease and Employer's Liability Insurance.
  - Statutory Amounts and coverage as required by Workmen's Compensation Laws of the Commonwealth of Pennsylvania.
  - b. Employer's Liability At least \$100,000 cash accident.
- 4.2 Public liability including coverage for direct operations, sublet work, elevators, contractual liability and completed operations with limits not less than those stated below:
  - a. Bodily Injury Liability Including Personal Injuries \$100,000 each person \$300,000 each occurrence
  - b. Property Damage Liability
    \$100,000 each occurrence
    \$100,000 each aggregate

Regarding Personal Injury - Written on a non-participating basis with no participation by insured.

Regarding Property Damage - Including Broad Form Property Damage - Remove "XCU" Exclusions (explosion, collapse, underground property damage).

Regarding Completed Operations Liability - Continue coverage in force for two years after completion of work.

- 4.3 Comprehensive Automobile Liability Insurance including coverage for owned, non-owned, and hired vehicles with limits not less than those stated below:
  - a. Bodily Injury Liability
    \$100,000 each person
    \$300,000 each occurrence
  - b. Property Damage Liability \$100,000 each occurrence
- 4.4 Owner's Contingent Liability (Owner's Protective).
  - a. Personal Injury

\$1,100,000 each person

\$1,300,000 each occurrence

b. Property Damage

\$3,100,000 each occurrence

\$1,100,000 each aggregate

- 4.5 Excess or Umbrella Policy in the amount of \$1,000,000.
- 4.6 Policies and insurers shall he subject to approval of the Townships.

4.7 Townships shall be listed as an additional insured and certificate holder on all of the aforementioned insurance policies of the Successful Bidder except Workmen's Compensation.

## **EXHIBIT "B"**

## MSW Collection Service Option VI 5

Curb Collection Service for the Township of Marion only and not for the Township of Heidelberg (Including Spring Clean-Up and Recycling; Billing and Collection of Charges to be done by the Successful Bidder

Municipal Solid Waste - Two (2) 35 gallon containers or 4 plastic bags per permitted unit:

Year 1 \$ 19.36	per month per dwelling unit, x 12 months =	<b>\$ 232.32</b>
Year 2 \$ 20.09	per month per dwelling unit, x 12 months =	\$ 241.08
Year 3 \$ 20.85	per month per dwelling unit, $x$ 12 months =	\$ 250.20
Three Year Cumulative T	otal per Dwelling Unit = \$ 723.60	

x 530

(estimated) Dwelling units =

\$ 383,508.00

Additional containers:

Year 1 \$ 3.00 each Year 2 \$ 3.15 each Year 3 \$ 3.30 each

#### **CERTIFICATE OF ENACTMENT**

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2007-1 adopted by the Board of Supervisors of Marion Township, Berks County, Pennsylvania at a regular meeting held on February 22, 2007, pursuant to notice as required by law.

Date: April 15, 2008

Secretary Burbakek