

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ADMINISTRATOR
FOR THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE
A CONTRACT WITH ORANGE GROVE CENTER, INC. FOR
RECYCLING AND REFUSE SERVICES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it
is hereby authorizing the Administrator for the Department of Public Works to execute a contract
with Orange Grove Center, Inc. for recycling and refuse services, for years one and two in the
amount of \$588,773.04 each; for year three is a 2.5% increase in the amount of \$603,492.37; and
for year four is a 2.5% increase in the amount of \$618,579.68.

ADOPTED: _____, 2014

/mem

City of Chattanooga



Resolution Request Form

(This form is only required for resolutions requiring expenditure of City funds)

Date: May 23, 2014

Preparer: William C. Payne

Department: Public Works

Brief Description of Purpose for Resolution:

Resolution Number (if approved by Council): _____

A City Council Action is requested to authorize the Administrator of the Department of Public Works to enter into a contract with Orange Grove Center, Inc. for Fiscal Years 2015, 2016, 2017, and 2018 for recycling and refuse services for a total amount during all four years which shall not exceed \$2,429,424.76. This contract will provide for payment for services during FY 2015 in the amount of \$588,773.04; FY 2016 in the amount of \$603,492.37; FY 2017 in the amount of \$618,579.68; and FY 2018 in the amount of \$618,579.68.

| | | | |
|---------------------------------------|----------------------------------|---|---------------------------------------|
| Name of Vendor/Contractor/Grant, etc. | <u>Orange Grove Center, Inc.</u> | New Contract/Project? (Yes or No) | <u>No</u> |
| Total project cost \$ | <u>\$2,429,424.76</u> | Funds Budgeted? (YES or NO) | <u>Yes</u> |
| Total City of Chattanooga Portion \$ | <u>\$2,429,424.76</u> | Provide Fund | <u>1100</u> |
| City Amount Funded \$ | <u>\$0.00</u> | Provide Cost Center | <u>K00604</u> |
| New City Funding Required \$ | <u>\$2,429,424.76</u> | Proposed Funding Source if not budgeted | <u>FY 2015, 2016, 2017 & 2018</u> |
| City's Match Percentage % | _____ | Grant Period (if applicable) | _____ |

List all other funding sources and amount for each contributor.

| <u>Amount(s)</u> | <u>Grantor(s)</u> |
|------------------|-------------------|
| | |
| | |
| | |
| | |

Agency Grant Number _____

CFDA Number if known _____

Other comments: (Include contingency amount, contractor, and other information useful in preparing resolution)

Year 1 is \$588,773.04; Year 2 is \$588,773.04; Year 3 is a 2.5% increase \$603,492.37; Year 4 is a 2.5% increase \$618,579.68

Approved by: _____

Reviewed by: FINANCE OFFICE

DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Agreement for the Operation of Refuse and Recycling Convenience Centers and Single Stream Recycle Sorting

THIS AGREEMENT entered into this 1st day of _____ 2014 by and between the CITY OF CHATTANOOGA, TENNESSEE, a municipal corporation, (hereinafter "CITY") and the ORANGE GROVE CENTER, INC. (hereinafter "CONTRACTOR").

PURPOSE

This Agreement identifies and defines the responsibilities of both parties regarding the operations of the Refuse and Recycling Convenience Centers (hereinafter "CENTERS") for the CITY.

The basis for this Agreement is to provide residents continued convenient access and customer service to advance recycling and waste diversion efforts of the CITY and generate revenues from the sale of recyclable materials for the CITY.

The underlying principle for this Agreement is to provide job training and economic development opportunities by providing jobs to developmentally disabled citizens (hereinafter "CLIENTS").

TERMS

The CONTRACTOR will provide adequate staffing at the CENTERS for four years from July 1, 2014 until June 30, 2018. This Agreement will automatically be renewed for a successive four (4) year term. Either party may terminate this Agreement by providing the other party an advance of ninety (90) days written notice.

COMPENSATION

The CITY will pay the CONTRACTOR an amount not to exceed \$588,773.04 for the first year of the contract. An increase of 2.5% will be applied on July 1 at the beginning of the second and third year during the contract. The CONTRACTOR will operate additional CENTERS at a comparable compensation for each additional Center.

INVOICES

The CONTRACTOR shall submit an invoice and all documents required by this Agreement to the CITY within twenty (20) days after the end of each calendar month to the Director of City Wide Services, Department of Public Works, at 900 E. 11th Street, Chattanooga, TN 37402. The invoice shall be on company letterhead showing amount of payment due and the period for which payment is due. The CITY shall pay each such invoice on or before the 20th day of the calendar month following the month in which the invoice is received.

LAWS, REGULATIONS, PERMITS, & TAXES

The CONTRACTOR shall have and maintain, at its own expense, all licenses, registrations, permits and authorizations necessary for operations of the CENTERS.

The CONTRACTOR shall perform all of its obligations hereunder in accordance with any and all requirements, including amendments hereto, of the constituted public authorities and with all Federal, State, City, and Local laws and ordinances and the applicable rules, regulations, methods and procedures of all governmental boards, bureaus, offices, commissions and other agencies now or hereafter in effect. The CONTRACTOR shall pay any and all Federal, State, City, and Local taxes, fines, penalties and assessments.

INSURANCE

The CONTRACTOR, at its own cost and expense, shall obtain and maintain in full force and effect, insurance coverage as outlined below, which will satisfactorily insure the CONTRACTOR and the CITY against any and all claims and liabilities which could arise out of the Agreement and possible future contracts including, but not limited to, claims and liabilities for injury, death or damage to persons and property which could arise because of the CONTRACTOR's receiving, handling, sorting, processing refuse and other material as well as the

marketing recyclables, and such other insurance as necessary to insure any other obligation incurred by the CONTRACTOR herein. The insurance coverage required herein must be in the minimum amounts set forth below.

A comprehensive General Liability Insurance Policy (including Completed Operations and Contractual Liability Coverage) with minimum limits of \$500,000 bodily injury each person; \$1,000,000 bodily injury each occurrence; \$250,000 property damage each occurrence; and \$500,000 property damage each occurrence, with a contractual liability endorsement, and which shall name the CITY as an additional insured.

A Worker's Compensation and Employer's Liability Insurance Policy with a Statutory Limit of coverage.

The CONTRACTOR shall submit within ten (10) days after execution of this Agreement and within ten (10) days following renewal of or replacement of any policy for approval by the CITY, certificates of insurance or such other evidence as the CITY may require to be verified that the above insurance is in full force and effect. The CONTRACTOR's insurance policies shall be on an occurrence basis, not a "claims made" basis and shall provide that the CITY be given at least sixty (60) days written notice prior to any change or cancellation of such policies. The CONTRACTOR shall have no liability to the CITY for any damages or expenses in excess of the amounts paid by the insurance which the CONTRACTOR is required to carry under this Agreement.

OPERATION OF THE RECYCLING AND REFUSE CONVENIENCE CENTERS

While maintaining ownership, the CITY will provide for the use of the CONTRACTOR, the real property and equipment at five (5) Recycling Convenience CENTERS and three (3) Residential Refuse Collection CENTERS. The CONTRACTOR is to staff each of the CENTERS with staff members and CLIENTS to ensure the CENTERS are adequately staffed during the hours of operation. The CONTRACTOR will provide monthly reports detailing the number of hours that their staff and CLIENTS worked at each Center, each day.

The CONTRACTOR will operate the CENTERS on Monday through Friday from 10:00 AM to 6:00 PM, Saturday from 9:00 AM to 6:00 PM, and Sunday 1:00 PM to 5:00 PM. The CENTERS will be closed on New Year's Day, Easter Day, Thanksgiving Day, Christmas Eve, and Christmas Day. The CITY may change the hours or days of operation by providing the CONTRACTOR with a ninety (90) day written notice in which shall identify and describe any relative change in compensation agreed to by the CITY and the CONTRACTOR.

The CONTRACTOR is required to complete daily activity reports provided by the CITY which will provide information such as vehicle license tags, information from customer's driver's license if necessary to determine residency, and participation on a monthly basis. These reports shall be submitted in written form to the Director of City Wide Services with the monthly invoice.

The CONTRACTOR will monitor materials delivered to each Center and ensure that all items delivered to the CENTERS are properly separated in designated containers. The CONTRACTOR will not accept any items from customers that the CENTERS do not accept. The Director of CITY Wide Services will define acceptable and non-acceptable materials for each CENTER in a 'standard operating procedure' and provide a method or container for the storage and collection of the material. The CONTRACTOR will not undertake any modification or changes to the physical site without prior approval of the CITY.

The CITY will provide and maintain safe, physical facilities at the CENTERS to include fences, compactors, storage containers, gates, buildings, and roll-off containers appropriate for each material. The CITY will be responsible for utilities such as water, sewer, and electricity. The CONTRACTOR is responsible for maintaining telephone service as well as the normal safeguarding of the CENTERS during normal business hours.

The CONTRACTOR acknowledges that they are solely responsible and liable for any accidents, injuries, or other

mishaps to their employees occurring within the confines of the CENTER. The CONTRACTOR shall have no liability to the CITY for any damages or expenses in excess of the amounts paid by the insurance which the CONTRACTOR is required to carry under this Agreement.

The CITY will maintain the real property in its current condition subject to fair wear and tear for the life of this Agreement. The CITY will provide for the transport of material collected at the CENTERS once containers are at capacity. The CONTRACTOR will provide a minimum of one (1) days notice to the CITY's hauling contractor when refuse containers are at capacity and hauling services are required. The CONTRACTOR will pay for hauling services if hauling services are requested by the CONTRACTOR and the containers are not filled to capacity.

The CONTRACTOR is to ensure litter is constantly monitored and removed immediately from any parking area, driveway, access road, grounds, or surrounding area. The CONTRACTOR is to protect against environmental contaminations and shall immediately make necessary repairs of routine concerns and notify the CITY of any problems encountered outside of daily operations or acceptance of materials. The CONTRACTOR is responsible for operating the CENTER in accordance with federal, state, and local guidelines, and the CITY's standard operating procedures. The Director of City Wide Services is responsible for developing and revising the CENTER'S standard operating procedures.

The CONTRACTOR will furnish to the CITY copies of any and all keys for the CENTERS.

The CITY will retain all revenue generated from the sale of marketable materials collected at the CENTERS.

The CITY is responsible for hauling, transferring, and disposal of all refuse, recyclables, and garbage from the CENTERS.

SINGLE STREAM RECYCLE SORTING

The CONTRACTOR will provide and operate a materials recovery facility (MRF); equipment, labor, and services required for the receiving, handling, sorting, processing, marketing and sale of single stream recyclable materials collected through the CITY's curbside collection program. The recyclables which may be collected in a curbside single stream method will include: all grades of paper, cardboard, ferrous metals, non-ferrous metals, all grades of plastic, all grades of glass and other materials that have marketable value. The Center shall operate Monday-Friday each week throughout the year. The CITY will not deliver recyclables to the CONTRACTOR on Thanksgiving Day or Christmas Day.

The CONTRACTOR is obligated to accept all recyclables collected by the CITY or its contractors from the CITY's curbside collection program and delivered to the CONTRACTOR's MRF. The materials will be delivered to the CONTRACTOR's current MRF in an "as picked up" condition and will be deposited at a location within the MRF at the direction of the facility manager. The CITY will use its best efforts to minimize garbage and other non-recyclable waste from entering the processing system. The CONTRACTOR will use its best efforts to ensure materials delivered to the MRF are protected from the weather. All processing or other optional cost incurred upon or after delivery of the materials to the CONTRACTOR's MRF is the responsibility of the CONTRACTOR.

All materials delivered to the CONTRACTOR under this agreement shall be accepted by the CONTRACTOR "as is" without warranty expressed or implied and the CONTRACTOR shall handle the same at its own risk and shall be responsible for the proper disposal of any and all contaminants, residuals, or non-marketable recyclables. The CITY is responsible for the prompt removal and proper handling of any waste delivered by it to the CONTRACTOR, which is classified as hazardous by any federal or state regulation. The CITY will not remove or transport any other waste from the CONTRATOR after delivering said material to the MRF.

The CITY shall cause its agents, including but not limited to crews collecting and delivering recyclables, to carry

out the curbside collection program in a responsible and efficient manner, however, no guarantee or warranty is made as to levels of participation or compliance with applicable laws by persons from whom the CITY collects recyclables nor as to the effectiveness of the CITY's enforcement of said laws.

In the absence of weather, equipment or other unforeseeable causes, it is the intent of the CITY to deliver the recyclables on the same day they are collected.

CONTRACTOR shall maintain accurate records of the type and weight of materials delivered to the MRF.

The CONTRACTOR shall operate certified weight scales at the MRF or other receiving site, calibrated in accordance with procedures established by the applicable State and Local authorities, to weigh vehicles delivering recyclables to said facility or site. Each loaded vehicle shall be weighted upon entering the CONTRACTOR'S MRF or other receiving site. The contractor may use stored tare weights to calculate net weight of the materials. All weights shall be recorded and imprinted automatically by the scales upon weigh slips.

The CITY shall have the right to monitor the operation of the scales, the recording of the weight slips, and inspect the MRF upon reasonable notice to determine the CONTRACTOR's compliance with this contract as well as to inspect the recyclables delivered by CITY vehicles and material departing to evaluate the effectiveness of the CITY'S collection methods. All scales shall be tested for accuracy and a certificate of such testing shall be provided to the CITY annually.

The CONTRACTOR shall give the CITY priority consideration in entering the MRF, weighing, and off-loading operations. The CONTRACTOR shall use its best efforts to see that the maximum total weighing and tipping time from arrival at the CONTRACTOR's MRF or receiving site, to departure from the MRF or receiving site shall not exceed twenty (20) minutes per truck.

Recyclable materials will be collected and transported to the CONTRACTOR's MRF or other receiving site by the CITY in accordance with existing collection practices and conducted in the best interest of the CITY. The CONTRACTOR shall insure that the MRF is available to receive recyclables when delivered by the CITY.

The CITY will be responsible for the collection of recyclables with its own work force and equipment or with those of its other contractors. Materials may be collected and transported in a variety of vehicles and will be delivered to the CONTRACTOR'S MRF for appropriate receiving, handling, sorting, processing and marketing. The CONTRACTOR shall maintain all weight tickets for material entering or leaving the MRF. Certified weight slips shall show date, vehicle's gross weights, vehicle's tare weights, material net weight, truck route numbers, and truck identification numbers, time of truck arrival, and time of truck departure. The CONTRACTOR will ensure the CITY driver's sign and print their name on each ticket. The CONTRACTOR will record an itemized listing per vehicle per delivery of the items of information contained on each weight slip and a final tabulation for all deliveries of each information category.

The CONTRACTOR shall provide or act as a recycling market outlet for the recyclable materials during the term of the contract regardless of market fluctuations. The CONTRACTOR must provide evidence that all recyclables delivered to the MRF have been used or marketed for use for legitimate purposes upon request of the CITY. The CONTRACTOR shall assume all responsibility for the proper storage of recyclables until sold.

The CONTRACTOR shall make every effort to maximize safety and minimize driver loss of time. All roads and driveways into and out of the site shall be maintained in good condition and passable without incurring vehicle damage or driving over stored material. The roadways, driveways and dumping areas shall be kept free of debris, which could potentially damage tires. All roads and driveways into and out of the site shall be paved

and maintained in such condition to expedite the entering and exiting of CITY vehicles. CITY drivers may not be unreasonably detained at the site. The CONTRACTOR shall use its best efforts to minimize the time spent by CITY vehicles at the site. No vehicles arriving at the site after CITY vehicles shall be allowed to dump prior to the CITY vehicles.

It may be necessary for the CITY to deliver materials to another materials recovery facility for sorting if the CONTRACTOR cannot perform the requirements of this contract at any given time. If materials are diverted for any reason, the CITY will inspect the MRF with a representative from the CONTRACTOR prior to resuming delivery of materials and all problems related to the diversion of materials must have been corrected before the CITY will resume delivery to the CONTRACTOR'S MRF.

The CITY may deliver materials to another materials recovery facility if the CONTRACTOR fails to meet any of the requirements of this contract temporarily until the CONTRACTOR is able to comply with the requirements of this contract. If the CITY delivers recyclable materials to another materials recovery facility, the CITY will receive all revenues from the sale of recyclable materials.

An area shall be provided for minimum emergency maintenance requirements of vehicles while at the MRF and the CONTRACTOR'S sanitary facilities shall be available for the use by CITY collection personnel. The CONTRACTOR shall also make available a drinking fountain, which shall be in service on a year-round basis, and shall supply potable water. A telephone shall also be provided for City personnel, contractors, and agents, to be used for City business at no cost to the CITY or to said personnel, contractors and agents.

Operation of the CONTRACTOR'S processing MRF or other receiving site shall meet local, county, and state fire, safety and health requirements, and shall be maintained in a manner acceptable to the City.

The CONTRACTOR shall submit a monthly report to the CITY with the monthly invoices for services containing the following items:

1. CENTER data including all data requested by the CITY.
2. Daily production report for the CONTRACTOR'S MRF for each product bailed and prepared for sale.
3. Dollar value of materials collected by the CITY and sold.
4. Report of wages paid to CENTER clients and MRF bi-weekly.

The CONTRACTOR shall recognize the CITY'S interest in expanding the number of items its residents recycle and understands that the CITY may participate in experimental programs to research and develop methods to more efficiently receive, handle, sort, process and market said additional materials. The CONTRACTOR shall cooperate with the CITY and with any third parties with whom the CITY may conduct such programs and shall provide such assistance and facilities as may reasonably be required.

The proposal or future contract does not make the CONTRACTOR an employee, agent or legal representative of the CITY for any purpose whatsoever, and CONTRACTOR acts as an independent agency and is not granted any right or authority to assume or create any obligation, duty or responsibility, express or implied, on behalf of or in the name of the CITY or to bind the CITY in any manner whatsoever.

MAINTENANCE OF RECORDS

The CONTRACTOR shall keep full and complete books of accounts and other records relating to the Agreement and in so doing shall comply with reasonable procedural requirements prescribed by the CITY. In order to verify CONTRACTOR'S compliance with the terms and conditions of the Agreement, the CITY, through its duly authorized representatives, shall have access to the books and records maintained by the CONTRACTOR with respect to any services provided to CITY pursuant to the Agreement at all reasonable times and for all reasonable purposes, including, but not limited to, inspecting and copying any books, records, memorandum,

checks, correspondence or other relevant documents. The CONTRACTOR shall retain all records for a period of three (3) years after the expiration of the Term; and for such longer periods as may be required to resolve any disputes or litigation where the use of the records may be needed.

INDEMNITY

The CONTRACTOR shall indemnify, defend and save harmless the CITY, its agents, officials and employees, against all injuries, deaths, losses, damages, claims, suits, patent claims and suite, liabilities, judgments, costs and expenses which may in any way accrue against the CITY as a result of the CONTRACTOR's negligence in receiving, handling, sorting, processing, and marketing of recyclables, or in consequence of the granting of the Agreement or which may in any way result therefrom, or the CITY, or its employees, and the CONTRACTOR shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against the CITY in any such action resulting from CONTRACTOR's negligence, the CONTRACTOR shall, at its own expense, satisfy and discharge the same, provided that the CONTRACTOR shall have no liability to the CITY for any damages or expenses in excess of the amounts paid by the insurance which the CONTRACTOR is required to carry under this Agreement.

ASSIGNMENT

The CONTRACTOR shall not sell, assign, pledge, transfer or encumber the proposal or future Agreement or any part thereof, without the prior written approval of the CITY.

NOTICES

Notices provided for herein shall be sufficient if sent by certified mail, postage prepaid, for the CONTRACTOR, addressed to Executive Director, Orange Grove Center, 615 Derby Street, Chattanooga, Tennessee, 37404 and to Director, City Wide Services, Department of Public Works, 900 E. 11th Street, 37402, or to such other respective addresses as the parties may, from time to time, designate to each other in writing.

EQUAL EMPLOYMENT OPPORTUNITY

The CITY is an equal opportunity employer and during the performance of this Agreement, the CONTRACTOR agrees to abide by the equal opportunity goals of the CITY as follows:

The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability. The CONTRACTOR will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

Prior to the execution of the Agreement, the CONTRACTOR shall provide to the CITY a copy of its affirmative action policy, which shall be filed, with the EEO Director of the CITY of Chattanooga.

CONTRACTOR DEFAULT

If the CONTRACTOR shall become or be declared insolvent, or make an assignment for benefit of creditors, or if proceedings are commenced for appointment of a receiver or CONTRACTOR, or of proceedings for arrangement, reorganization, or composition of creditors under any laws be instituted by or against the

CONTRACTOR, or if CONTRACTOR refuses or fails to perform any other part or portion of its obligations under the proposed Agreement and does not remedy such breach to the satisfaction and approval of the CITY within ninety (90) days (or twenty-four (24) hours in the event of an emergency as determined by the CITY), after receipt of written notice specifying the nature of such breach, the CITY may, at its option, immediately declare the CONTRACTOR in default.

FORCE MAJEURE

In the event of any default by the CONTRACTOR of which written notice is given by the CITY to the CONTRACTOR which is not cured with ten (10) days of such notice the CITY may, in addition to other rights or remedies the CITY may have under any statute or at common law or under any bond filed by the CONTRACTOR all of which are reserved by the CITY, terminate the proposed Agreement and solicit proposals (if circumstances will allow) and award a new Agreement.

Termination of the Agreement shall not affect the CITY's obligation to pay the CONTRACTOR in full for all amounts the CITY may be liable for hereunder.

In the event that either of the parties shall be prevented or delayed from performing any obligations under the proposed Agreement by reasons of acts of God, war, fire, epidemic, civil disturbance, strike, flood, earthquake, interference by a civil or military authority, unusual severe weather, or any other cause beyond its or their control affecting the carrying out of the proposed in the ordinary course of business, such party shall not be liable by reason thereof.

A waiver of any breach of any provision of the Agreement shall not constitute or operate a waiver of any other breach of such provision or any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

CHOICE

This Agreement is entered into and is to be performed in the State of Tennessee. The parties agree that the law of Tennessee shall govern the rights, obligations, duties and liabilities of the parties to the Agreement and shall govern the interpretation of the Agreement.

AMENDMENT

This Agreement may be modified or amended as changing conditions dictate. Such modifications or amendment shall be in writing and approved only by the written Agreement duly executed by the parties hereto or their representatives or current designated representatives.

ENTIRETY

This Agreement contains the entire Agreement between the parties as to matters contained herein. Any oral representations or modifications concerning the Agreement shall be of no force and effect.

IN WITNESS WHEREOF THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED ON THE DATE SET FORTH ABOVE BY THE DULY AUTHORIZED OFFICERS.

ORANGE GROVE CENTER, INC.

By: _____ Date: _____

Title: _____

CITY OF CHATTANOOGA, TENNESSEE, DEPARTMENT OF PUBLIC WORKS

By: _____ Date: _____

Title: _____