

RESOLUTION NO. 25147

A RESOLUTION AUTHORIZING THE CITY OF CHATTANOOGA, DEPARTMENT OF PUBLIC WORKS, TO EXECUTE A CONTRACT WITH ORANGE GROVE CENTER, INC. FOR RECYCLING AND OTHER SOLID WASTE SERVICES.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the City of Chattanooga, Department of Public Works, execute a contract with Orange Grove Center, Inc. for recycling and other solid waste services.

ADOPTED: June 12, 2007

/mms

**Contract for Recycling and Other Solid Waste Services  
between the City of Chattanooga and Orange Grove Center, Inc.**

THIS AGREEMENT entered into this 1<sup>st</sup> day of July 2006 by and between the CITY OF CHATTANOOGA, TENNESSEE, a municipal corporation, (hereinafter "City") and the ORANGE GROVE CENTER, INC. (hereinafter "Contractor").

**1. PURPOSE**

The purpose of this document is to outline the responsibilities of both parties regarding the operation of the City's Refuse Collection Centers, the operation of the City's Recycling Convenience Centers, the Operation of the Recycle Express Program, and the processing and sale of recyclables collected by the City in its curbside collection program.

The underlying principle of this contract is to facilitate the recycling efforts of the citizens and businesses of the City and to provide income and training opportunities for the Contractor.

**2. TERMS**

The Contractor will operate the City's Recycling Convenience Centers, Residential Refuse Collection Centers, Recycle Express program and receive, sort and sell recyclable materials from the City's curbside recycle program from July 1, 2006 until June 30, 2011. This Agreement will automatically renew for successive three (3) year term. Either party may terminate this Agreement either at the end of the *first term* or at the end of any subsequent three year period by giving the other party ninety (90) days written notice prior to the expiration date of the Agreement.

**3. COMPENSATION**

The Contractor will be paid a monthly fee for the operation of the City's Recycling Convenience Centers, Residential Refuse Collection Centers, Recycle Express program, and for the receipt, sorting, and processing of recyclable materials to include paper, cardboard, aluminum cans, steel cans and plastic containers generated by the City's curbside or other collection program(s). The monthly fee paid to the contractor will be \$39,583.33 per month for the first two (2) years. The monthly fee will increase in years three (3) through five (5) by three percent (3%) per year. The Contractor will receive all proceeds from the sale of recyclable materials collected at the Convenience Centers, the Recycle Express Program, curbside recycle collection and the Residential Refuse Collection Centers.

#### 4. LAWS, REGULATIONS, PERMITS, & TAXES

The Contractor shall have and maintain, at its own expense, all licenses, registrations, permits and authorizations necessary for the receiving, handling, sorting, processing, marketing and sale of recyclables. 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.

#### 5. 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 this 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.
- An Automobile Liability Insurance Policy covering owned, non-owned, hired, and lease vehicles. Said policy of insurance shall have minimum limits of \$300,000 bodily injury each person; \$700,000 bodily injury each occurrence (including death); and \$100,000 property damage each occurrence, and shall name the City as an additional insured. The Contractor's insurance policies shall be on an occurrence basis and 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 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 verify 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 Contract.

## 6. OPERATION OF THE CITY'S RECYCLING CONVENIENCE CENTERS

While maintaining ownership, the City will provide for the use of the contractor the real property and equipment at the Recycling Convenience Centers. Contractor is to fully staff the Centers with both staff members and clients and will ensure the centers are adequately manned on a schedule agreed upon between the City and the Contractor. The Recycling Centers will be closed on all recognized City holidays. The Contractor will accept all materials currently accepted at the Center to include paper, cardboard, aluminum cans, glass containers, steel cans and plastic containers. Warner Park, (and the other Centers once they are fully operational), will accept computer equipment, small electronics, cell phones, wet cell batteries and used motor oil. The Contractor will provide monthly reports detailing the types and amounts of material collected at the Center and the dollar value received by the Contractor for such material. The reports may be submitted electronically or in written form to the Director, City Wide Services and are to be submitted along with the monthly invoice for payment for services.

The Contractor will not undertake any modification or changes to the physical site without prior approval of the City nor will the Contractor change the operating hours without City approval. The Contractor is responsible for the maintenance and/or repair of the fiberboard compactors and the City is responsible for the maintenance/repair of the collection containers.

The City will provide physical facilities at the Centers to include fences, gates, portable buildings with handicap accessible toilets, compactor and roll-off containers, and will make any necessary repairs to ensure the facilities remain operational. The City will be responsible for utilities such as water, sewer, and electricity. The Contractor is responsible for telephone service as well as the normal safeguarding of the facility during normal business hours to include the intrusion alarm monitoring system at Warner Park during non-business hours. The Contractor acknowledges that entry into and from Warner Park facility is across City property under the supervision of the Department of Parks and Recreation and that such entry from time to time may be affected by activities at Warner Park. The Contractor further acknowledges that they are solely responsible and liable for any accidents, injuries, or other mishaps to their employees occurring within the confines of the facility. 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 contract.

The City will maintain the real property in its current condition subject to fair wear and tear for the life of this contract. The City will provide for the transport of material collected to the

Contractor's sorting facility or other location within the city limits of Chattanooga. The Contractor will provide a minimum of two days notice when transportation services are required.

The City will lease for the sum of one dollar (\$1.00) per year per vehicle the following vehicles to be used in the Recycling Program.

W#	YEAR	MAKE	MODEL	VIN or Serial #	TAG #
WR116	1994	CHEVROLET	FLEETSIDE	1GCEK14Z4RZ274857	GP 9914
WR122	1993	FORD	F350	1FDJF37H5PNA52748	GN 9127
WR156	2007	FORD	F250	1FTSW20P07EB43477	GY 0511
WR156T	2006	DEMPSTER	ALLEY CAT	1D9RP30306B388002	N/A
WR158	2007	FORD	F250	1FTSW20P27EB43478	GY 0512
WR158T	2006	DEMPSTER	ALLEY CAT	1D9RP30386B388006	N/A
WR160	2007	FORD	F250	1FTSW20P47EB43479	GY 0513
WR160T	2006	DEMPSTER	ALLEY CAT	1D9RP30366B388005	N/A
WR162	2007	FORD	F250	1FTSW20P07EB43480	GY 0514
WR162T	2006	DEMPSTER	ALLEY CAT	1D9RP30326B388003	N/A
WR164T	2006	DEMPSTER	ALLEY CAT	1D9RP30346B388004	N/A
WR163	2000	INTERNATIONAL	4700	1HTSCAAM9YH269217	GT 8716

The City is responsible for the routine maintenance of the above vehicles (except WR156, WR158, WR160, and WR162) as well as supplying sufficient fuel to accomplish necessary day-to-day collection activities. It is the responsibility of the Contractor to bring maintenance matters to the attention of the City's Fleet Maintenance garage on 12<sup>th</sup> Street and to provide the vehicles for periodic maintenance when notified by the City.

The Contractor assumes all responsibility for any accidents or damages occurring to said vehicles or to third parties by the operation of said vehicles and shall hold the City harmless for such accidents. The Contractor shall have no liability for any damages or expenses in excess of the amounts paid by the insurance which the Contractor is required to carry under this Contract.

#### 7. OPERATION of the RECYCLE EXPRESS PROGRAM

Under the Recycle Express Program, the Contractor assumes responsibility for the collection of the recyclable materials from City's businesses. The Contractor will maintain an up-to-date list of customers, communicate with the customers regarding any potential changes in service, seek approval from the City before instituting such changes and accomplish the swift and efficient collection of business generated recyclable material. The Contractor will furnish to the City an up-to-date list of all current Recycle Express customers and will provide an updated list every six (6) months.

## 8. OPERATION of the RESIDENTIAL REFUSE COLLECTION CENTERS (RCC)

The City operates three (3) Residential Refuse Collection Centers within the City limits (1) 57<sup>th</sup> Street, (2) Airport Road, and (3) Access Road. The Centers are designed to serve the residents of the City for the disposal of specified items in limited quantities. While maintaining ownership, the City will provide for the use of the contractor the real property and equipment currently existing at the three RCCs. The Contractor will man the Centers with both staff members and clients during the hours specified by the City and will ensure the Center is adequately manned on a schedule provided by the City. The RCCs will be closed on: Christmas Day, New Years Day, and Thanksgiving Day.

The Contractor will accept all materials currently accepted at the Center and will use its best efforts to see that improper materials are not deposited at the Centers, AND (1) customers deposit materials in proper containers, (2) ensure the security of the Centers, (3) maintain a high state of cleanliness within the Centers and their immediate surroundings and to (4) protect against environmental contaminations. The Contractor will immediately notify the City of any problems encountered. The Contractor is responsible for operating the Center in accordance with guidelines issued by the City including any daily checks required under the operating permit and/or procedures. The Contractor will not change the operating procedures or operating hours without the express approval of the City. The Contractor will furnish to the City copies of any and all keys in use at any of the three RCC locations. The Contractor will record and provide to the City, on a monthly basis, records of all customers using the Center. These reports may be submitted electronically or in written form to the Director, City Wide Services and are required to be submitted with the monthly invoice.

The City will provide physical facilities at the Centers to include fences, gates, portable toilets, small office buildings, and will make any necessary repairs to ensure the facilities remain operational. The City provides telephone service and assumes responsibility for all reasonable electrical charges. The City will, on its own schedule, transport all legitimate materials deposited at the Centers and will ensure proper disposal of collected material. The City will transport all scrap metal from the RCCs and ensure the Contractor receives the funds derived from the sale of such material. The City reserves the right, with thirty (30) days notice, to change operating procedures and hours of the RCCs.

## 9. CURBSIDE RECYCLING PROGRAM

The Contractor will provide facilities; equipment, labor and services required for the receiving, handling, sorting, processing, marketing and sale of recyclables collected through the City's curbside collection program. The recyclables which will be collected in a single stream method will include: newsprint, mixed paper, computer paper, cardboard, aluminum cans, #1 and #2 plastics, tin or steel cans, and the recycling collection container (plastic bag).

The Contractor is obligated to accept all recyclables collected by the City or its contractors from the curbside collection program and delivered to the Contractor's sorting facility. The materials will be delivered to the Contractor's current sorting facility in an "as picked up" condition and will be deposited at a location within the sorting facility at the direction of the center 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 facility are protected from the weather. All processing or other optional cost incurred upon or after delivery of the materials to the Contractor's facility is the responsibility of the Contractor. No adjustment is allowed for the moisture content of the material due to inclement weather conditions.

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 law or regulation. The City will at its expense make adequate roll-off containers available for contaminants, residuals and will empty said containers at no charge to the Contractor. The free removal and disposal of residue from the OGC is limited to the actual residue produced from the City's curbside collection program and will at no time exceed the volume of materials generated by the City curbside collection program.

The City shall make reasonable efforts to ensure that only recyclable materials as listed above are brought to the Contractor's processing facility or other receiving site. The City will take reasonable steps to discourage the delivery of non-designated recyclables and other materials through its public education and training campaign, which shall inform residents and collection crews not to place such waste with recyclables. In the event any fines are imposed on Contractor by reason of the delivery to it by the City of hazardous materials, the City shall pay such fines subject to the condition that the Contractor shall have promptly notified the City of the delivery of hazardous materials. The City shall have the right to defend itself at its own expense and Contractor shall fully cooperate with the City in the event of any attempted enforcement of any environmental law concerning hazardous waste. The Contractor shall also have the right to conduct such public education programs as the Contractor may choose.

The City shall cause its agents, including but not limited to crews collecting and delivering recyclable, 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 recyclable 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 sorting facility as well as residual materials consigned to the City provided roll-off containers.

The Contractor shall operate certified weight scales at the processing facility 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 weighed upon entering the Contractor's processing facility or other receiving site. Each loaded roll-off (residual material) vehicle shall be accurately weighed prior to departing the Contractor's facility. The City shall provide to Contractor the weight of such vehicle unloaded with a full gas tank. All weights shall be recorded and imprinted automatically by the scales upon weight slips. The City shall have the right to have City representatives monitor the operation of the scales and the recording of the weight slips, and City representatives shall have the right to inspect the Contractor's facility 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 weighing and off-loading operations. The Contractor shall use its best efforts to see that the maximum total weighing/tipping time from arrival at the Contractor's processing facility or receiving site, to departure from said facility or receiving site, shall not exceed one-half hour per truck.

All recyclable materials will be collected and transported to the Contractor's sorting facility or other receiving site by the City in accordance with existing collection policies and practices and conducted in the best interest of the City. The Contractor shall insure that the processing facility 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 contractors. Residents will be asked only to place their recyclable materials in commercially available, sturdy, translucent plastic bags or containers that can be emptied into the recycling truck. The materials may be collected and transported in a variety of vehicles and will be delivered to the processing facility of the Contractor for appropriate receiving, handling, sorting, processing and marketing.

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 shall make reasonable efforts to maximize revenues from the sales of such materials. The Contractor shall provide evidence that all recyclables have been used or marketed for use for legitimate recycling purposes (e.g. reuse, use in manufacture of a new product) upon request of the City. The Contractor shall assume all responsibility for the proper storage or 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 remain passable without incurring vehicle damage. 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.

An area shall be provided for minimum emergency maintenance requirements of vehicles while at the facility and the Contractor's sanitary facilities shall be available for the use of the City's 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 for such fountain. 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 processing facility 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 report with the monthly invoice for services containing the following items:

- (1) Recycle Convenience Center data including types and weights of each material collected and number of customers visiting each center
- (2) Daily production report for the Recycling plant for each product bailed and prepared for sale.
- (3) Dollar value of materials sold.
- (4) Report of wages paid to Recycling Clients bi-weekly.
- (5) All weight tickets for material entering or leaving the OGC facility

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 (or any of the Contractor officers, agents, employees or subcontractors) 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 or thing whatsoever.

#### 10. OTHER RECYCLING EVENTS

From time to time there may be other recycling events within the city outside of the formal programs listed in this agreement. It is in the best interest of both the City and the Contractor to support such events as resources permit. In such endeavors, the Contractor may use the Alley Cat (recycling trailers) and may request other city equipment as needed. The City, with prior coordination with the Contractor, may also use the Alley Cats in support of such events. Any materials collected by the City during such events will be delivered to the OGC for sorting and marketing with proceeds going to OGC

#### 11. MAINTENANCE of BOOKS & RECORDS

The Contractor shall keep full and complete books of accounts and other records relating to the contract 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 contract, 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 Contract 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.

#### 12. 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 Contract or which may in any way result therefrom, or the City of Chattanooga, 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 Contract.

### 13. ASSIGNMENT

The Contractor shall not sell, assign, pledge, transfer or encumber the proposal or future contract or any part thereof, without the prior written approval of the City.

### 14. NOTICES

Notices provided for herein shall be sufficient if sent by certified mail, postage prepaid, for the Contractor, addressed to John Chamberlin, Orange Grove Center, 615 Derby Street, Chattanooga, Tennessee, 37404 and to Director, CWS 900 E. 11<sup>th</sup> Street, 37402, or to such other respective addresses as the parties may, from time to time, designate to each other in writing.

### 15. EQUAL EMPLOYMENT OPPORTUNITY

The City of Chattanooga is an equal opportunity employer and during the performance of this Contract, the Contractor agrees to abide by the equal opportunity goals of the City of Chattanooga as follows:

(1) 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.

(2) 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.

(3) Prior to the execution of the Agreement, the Contractor shall provide to the City a copy of its affirmative action plan, which shall be filed, with the EEO Director of the City of Chattanooga.

## 16. INVOICES

The Contractor shall submit an invoice and original certified weight slips to the City within ten (10) days after the end of each calendar month to the Director, CWS, 900 E. 11<sup>th</sup> Street, Chattanooga, TN 37402. Certified weight slips shall show date, vehicle's gross weights punched automatically from the scale, truck route numbers and truck identification numbers, time of truck arrival and departure. The invoice shall be on company letterhead showing amount of recyclables delivered by the City and the amount of payment due. The invoice shall also contain 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 City shall pay each such invoice on or before the 10<sup>th</sup> day of the calendar month following the month in which the invoice is received.

## 17. 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 contract 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.

## 18. 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 within ten (10) days of such notice the City may, in addition to a 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 contract and solicit proposals (if circumstances will allow) and award a new contract.

Termination of the contract 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 contract by reasons of acts of God, war, fire, epidemic, civil disturbance, strike, flood, earthquake, interference by a civil or military authority, unusually 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.

19. CHOICE OF LAW

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.

20. 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.

21 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: \_\_\_\_\_

CITY OF CHATTANOOGA, TENNESSEE PUBLIC WORKS DEPARTMENT

By \_\_\_\_\_ DATE: \_\_\_\_\_